PETITIONS

Wednesday, 10 May 1995

The SPEAKER (Hon. J. E. Delzoppo) took the chair at 10.05 a.m. and read the prayer.

PETITIONS

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

Sexual discrimination

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

The humble petition of the undersigned citizens of the state of Victoria sheweth concern regarding the proposed amendments to the Equal Opportunity Act to prohibit discrimination against a person on the grounds of a person's sexual orientation/sexuality.

Your petitioners therefore pray that those proposed amendments not be supported by the members of the Legislative Assembly.

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

By Mr Traynor (64 signatures)

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

The humble petition of the undersigned citizens of the state of Victoria sheweth:

1. The government of Victoria has been provided with a large body of United States research concerning the risks of homosexual behaviour for public health and child safety.

2. That research indicates that homosexual behaviour generated disproportionately high levels of serious diseases, creates a significant risk of transmission of serious diseases, such as hepatitis A and B, from homosexuals to the general community, and poses special risks in occupations such as food handling, child care, and medical care.

3. That research also indicates that homosexuals are about 18 times more likely to involve minors in their sexual practices than heterosexuals are, and that homosexual teachers commit almost half of all molestation of school children in the United States.

4. When the behaviour of a small section of the community (less than 2 per cent) poses a significant and disproportionately high risk to public health and child safety, that section should not receive privileged legal status and protection for its behaviour under Victorian law.

Your petitioners therefore pray that the honourable members of the Legislative Assembly will not permit the Equal Opportunity Act to be amended so as to grant homosexuals privileged legal status and protection under that act.

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

By Mr A. F. Plowman (25 signatures), Mr Perrin (36 signatures) and Mr Maughan (24 signatures).

Laid on table.

PAPER

Laid on table by Clerk:


POLICE: PROJECT BEACON

Mr E. R. SMITH (Glen Waverley) — I move:

That this house commends the Minister for Police and Emergency Services for his support of the police department interim guidelines for dealing with armed or suspected-to-be-armed offenders or suspects.

Since the motion was placed on the notice paper on 6 September last remarkable progress has been made in this area. The motion was prompted by the fact that prior to September somewhere in the vicinity of 22 police shootings had resulted in a great deal of adverse publicity for the Victoria Police Force. As a consequence the Minister for Police and Emergency Services, the Chief Commissioner of Police and various others involved with the police force decided that urgent action had to be taken, including the setting down of some interim guidelines. At the same time advice was sought from both overseas and internal sources. Two overseas and three internal inquiries were undertaken to work out how to address that very serious problem.

The police force sought the opinion of Chief Superintendent Leatherdale of the Royal Canadian Mounted Police. He recommended enhancing what was already in place while stressing certain areas. That was backed up by the FBI through Supervisory Special Agent Pledger. At the same time the Victoria
Police Force, under Chief Superintendent Logie and Superintendent Hagan, made its own recommendations. They said that although the police had a number of satisfactory measures in place, those measures had not been stressed. They believed it was necessary to define how the training of police force members could be carried out so that the force could effectively begin to adopt a different approach. Up until then the Victoria Police Force had frequently adopted a gung-ho attitude. I do not believe that is an unfair criticism, because that culture had been building up over the years.

On arrival at a real or potential crime or a domestic incident — or, going to extremes, a homicide — the former police attitude was frequently that they had to move in quickly. That attitude was already evident to force command, but it was also brought home to the police force by overseas experts. That hero mentally had to be broken down. Extreme measures had to be taken, so as a result Project Beacon was initiated.

In a few months there was a huge turnaround in the gung-ho attitude of many younger police officers. That was achieved through a number of approaches, one of which was five-day training courses involving all the 8500 members of the operational side of the Victoria Police Force. The training course excluded senior members in non-operational roles and others, such as those involved in schools, Neighbourhood Watch and the like.

The course began in December and was completed by the end of March. Some 31 training centres were set up throughout Victoria, 6 being located in the metropolitan area. By the end of the course the turnaround in attitude was remarkable. The most important of the 10 principles outlined during the course was safety first. Over numerous years many police officers had been led to believe they had to take a gung-ho attitude to their work. The course emphasised the need for a policy of safety first, not only of the offenders or suspects but of the police themselves. They had to be taught that risk assessment procedures had to be applied in all operational matters and that they had to effectively take command and control of situations as they arose. The were told operational control was to be carried out through the car radio net before attending the incident.

Under the new procedures, police officers who are sent to incidents that could be critical are instructed to ask many questions about the scenes they are going to and to make assessments of what is about to occur. That has not previously been the case. Those who monitor the police radio net say that since the six-month training period members of the force have adopted more thoughtful and planned approaches as they head towards various incidents. They have been taught about cordons and containment, and unless it is impractical to do so that is now standard operating procedure. Members are taught to avoid confrontation where possible, and they are also taught to avoid force. Force is to be used only where necessary; and forced entry searches are to take place only as a last resort. The safety-first principle may require more complex planning, the deployment of more resources and so on.

Some 250 instructors from the operational side of the Victoria Police Force were chosen based on their experience and their psychological adaptability to carry out the teaching required during the seven-day-a-week courses. When the Minister for Police and Emergency Services, his advisers and I went to one centre at the former Police Club in MacKenzie Street, we were able to see the stage that course had reached.

A typical day one course concentrated on theory. Instructors outlined the theory, after which officers formed discussion groups. Videos commercially prepared by Channel 7 and a number of specialist production units were also shown. They depicted the response of some units, deliberately showing the wrong approach and then the right approach. Again, members formed groups to discuss what they had seen. On the second day the instructors conducted tests, examining members of the force on the theory.

The emphasis throughout the course was on communication. The aim was not to turn police officers into trained psychologists or interventionists but to give them a greater understanding of the situations they could find themselves in. One senior constable of 20 years experience summed up the course well when he said, 'I've just spent the last week getting everything I've learnt over the past 20 years into perspective'. If it had not been for the 22 shootings Project Beacon would not have been initiated. I pay tribute to Assistant Commissioner Ray Shuey and his staff, including Superintendent Carl Hagan, for implementing the project.

The Victoria Police Force is one of the largest police forces in the world. There are only a few that are larger, including the New South Wales Police Force and the London Met, which has about 30 000 members against the Victorian force's 11 000. New
York and Los Angeles also have larger police forces, but most of the world’s police forces are smaller than ours.

In the five-day training course great emphasis was placed on communications. When the police force was examined it was realised that one of its failings was the lack of ability of some police to communicate skilfully. During the first two days they dealt with theory and held discussion groups. They also underwent examination to see how they would fare in different types of situations. On the third day they dealt with such things as avoidance, redirection, cordon and containment — the practical sides of how they would act in a critical incident. They also looked at unarmed combat and the use of the long and extendable batons.

In the past year members of the Victoria Police Force have been introduced to the extendable baton. In the past operational police carried a baton that was approximately 69 centimetres or a bit over 2 feet in length, and for many police it was a cumbersome piece of equipment. It was difficult to carry when they were involved in chases and caused difficulty when getting over fences or even getting out of vehicles. Police were sometimes loath to carry these batons on their belts.

The new extendable baton, which is now approved for introduction into the Victoria Police Force, when fully extended is 55 centimetres or less than 2 feet in length. When compacted it is 19.5 centimetres or about 6.5 inches long. It can easily be held in one’s hand or put in the pocket. Its diameter is approximately the diameter of a 10-cent piece. This baton has been approved for distribution to the criminal investigation branch and when the contracts are filled and stocks become available to all sections of the operational force.

The other weapon that police are examining is the capsicum spray. Currently it is undergoing evaluation by the London Met in England. When the trials have been completed and the recommendations are made it will be evaluated for use by the Victoria Police Force. There are up and down sides to the spray. It is important that it can be used in a way that will not be detrimental to the police officer who is using it, such as when the wind is blowing the wrong way. There are a number of points that must be taken into consideration before the capsicum spray is introduced. It is a positive idea that the force is currently looking at.

On day four the police looked at such things as revolver retention and edged weapons, and for the rest of the day they did scenario training. When the minister and I went to see the scenario training at the former police club it was an enlightening experience. We saw a couple of police officers acting the part of criminals who had broken into premises and were hiding. The other police officers went through the procedure of how to enter a darkened room, using torch drill for their own protection and other necessary procedures.

On the final day they dealt with firearms theory and undertook the qualification shoot at the range. They were then assessed. It is remarkable that only about 100 of the 8500 police officers who did the course failed it. When one of those 100 officers was failing, he or she was back-squadded to go through the course again. A considerable number of those 100 officers were put through a second time. On the third back-squadding there were less than a handful of officers whose futures were in doubt. There was a question of how they would be used effectively within the police force. It was a great achievement to get all but five officers through the course.

Project Beacon did not end on 30 March. It is police policy to have a two-day training course every six months for all members on the operational side of the force. Any officer who is coming back into the operational side, who may have been away on maternity leave or long service leave, will now go through one of the courses that is still running. At the end of a six-month period each officer will be ready to go through again.

We were struck by the positive attitude of the police, which was amazing. We went around to a number of police stations and it was at only one station that we found an officer who felt the course was a waste of time, but when he was questioned a little further his main complaint was that he was already doing these things and he did not need to be retrained. However, the rest of the police, from constables to chief inspectors and even superintendents who wanted to be able to lead their officers effectively, went through the course. It was a non-ranked course so all officers could experience the types of activities that they may have been taught at one stage but had not fully applied in their own policing. As a result of the course they gained a great deal.

One other great advantage was that officers were able to discuss the lessons they had learned in the various seminars in which they took part. They had
the skills but, as a senior constable told us, everything was put into perspective.

The refresher training and communication skills that they picked up on Project Beacon were the types of activities and skills that had to be reinforced and put into the right perspective. When that occurred, every officer gained.

I found in discussions with the police that many of them felt they got back to what policing was about, and that is communicating with the community and being able to rely on the community. The key to good policing is when the police force responds to community needs. In one particular discussion we had it was said that the standards and mores of our society have changed and accordingly the police must adapt to these changes.

It is interesting to note that since Project Beacon came into being there have been more than 120 critical incidents, and all but two of these have been resolved satisfactorily without a great deal of media coverage. The Fawkner incident was handled extremely well by the police. The media reported favourably in their coverage, basically because the police went through the dispute resolution stage and it was only when it was believed the offender would continue on his killing spree that action was taken. The way the police handled the situation was a reflection of the success of Project Beacon.

The other incident of interest was the one at Doncaster, where the police were in a catch-22 situation: in implementing Project Beacon they were faced with the dilemma of either moving in quickly, as they probably would have done in the first place, or taking time to fully reconnoitre the house. The incident was unfortunate, and the government and the Minister for Police and Emergency Services send our heartfelt sympathy to the family members for the tragedy that occurred. That was another case where the Victorian community could see that the police were acting within the constraints of Project Beacon.

It is also interesting that one of the lessons that has come through to force command has been the need for critical incidents to be carefully logged from start to finish. In the past these matters were not put to paper to the extent they are these days, but it certainly is done now.

Previously I mentioned the careful attention the police radio net requires from its D24 sources. For those members who do not know I point out that D24 is the police control network controlling operations from a central point.

Another interesting outcome of Project Beacon has been the pilot scheme that is currently being trialled to provide members of the public who are victims of crime or perhaps informants who will later become witnesses with a feedback program. It requires a great deal of effort on the part of the police. If a person who is to be a witness in a case or is even himself or herself a victim knows where investigations are going on a particular case it is amazing how the morale of that person is helped. That is one of the things that has come out of Project Beacon: it has brought in a new attitude and a new culture versus the old gung-ho culture. The skills have been there all along: now they are brought into better perspective.

The project, set out as I have outlined, is an extremely flexible course: between now and when the two-day course for all members is resumed, if more emphasis needs to be placed on a particular area where a weakness has been isolated, that can be fed into the new two-day course. It is planned that from now on the courses will be held every six months — an enormous drag on police resources.

It was interesting to look at the figures for reported crime and for clear-up rates during the period of Project Beacon. One of the most pleasing aspects is that for the first six months of the new financial year the decrease in the rate of reported crime is holding while the crime solution rate is up 8.3 per cent on the same period last year. That is an extraordinary set of figures: at 42.6 per cent the clear-up rate in Victoria is outstanding by any measure. It means that almost half of the reported crimes are cleared up — a great feather in the cap of the Victoria Police and one that I do not believe is matched by any police force anywhere in the world. That was achieved during the very difficult period of the adverse publicity over the police shootings. While the force has been under intense media and public scrutiny, the average police officer has been getting on with the job and helping to solve nearly half of all reported crimes.

To illustrate the success of the policies introduced in that period I point out that last financial year reported crime decreased by 5.2 per cent, and in the government's first year of office 3.3 per cent. These are straight figures that are based on proper research. They are not figures drawn out of the air: they are figures that make us as a community, on all
sides of the political spectrum, very proud of the Victoria Police Force.

Basically the Beacon course was about theory and conflict resolution. Strong emphasis was placed on handling mentally disturbed people whom the police often have to confront. It was also about how the health department’s resources could be brought in to help the police and to build up at the local level the degree of cooperation that became necessary as a result of the police shootings.

The second area was defensive tactics and unarmed combat, which are necessary to avoid the horrors or tragedies that can occur. It is interesting that a person wielding a knife at a distance of 25 feet can actually be in action up against another person within 2 seconds — a very frightening thought for police. One female senior constable we met the other day said, 'The whole attitude of pulling back is something that very much appealed to me. I am a mother of three, and I don't want to have my kids motherless as a result of some overreaction. If we have to pull back, move into another room and say, "Hold it, mate; we'll talk", that is the path down which we have to go'. That is one of the points that have been stressed: conflict resolution, together with defensive tactics. At the same time the police should become very familiar with the weapons.

It is probably fair to say that in the past in some cases the training might have been haphazard. This course ensures that police have a full appreciation, as soldiers do, of the upside and the downside of the use of weapons.

Finally, the training took us into the professional attitude: the culture that I spoke about before. This attitude was one of the most important aspects of the course. Fewer than 100 people failing the course in the first round, according to the figures provided by the staff of Assistant Commissioner Shuey, is a remarkable figure: fewer than 100 out of 8500 is indeed something to write home about.

During the six-month period the intense Project Beacon was taking place, operational demands on the force were quite extensive. For example, the Moomba festival, which was held from 10 to 19 March, required considerable police presence and the grand prix demonstrations required extensive backup from all the metropolitan and sometimes some of the country stations to provide protection. Other examples were the freeway demonstrations; the Avalon air show from 21 to 26 March; the fruit-picking season in northern Victoria; the holiday and festive season in the coastal regions — remembering that the program went on over the Christmas period; the woodchip logging demonstrations; the Kraft picket lines; the Smorgon pickets; and the World Police and Fire Games from 26 February until 4 March.

The 8500-person training program was indeed a remarkable achievement for Victoria Police. One of the things that had to be examined throughout was the assessment of how the courses were going and whether they were of great value.

Another senior sergeant told us that before he undertook the course he thought it would be what I would describe as a joke, yet after five days he felt it was without doubt the most illuminating course he had completed. Through the course, experienced and trained police officers who over the years have been involved in a wide range of sometimes tragic incidents have been able to get things into perspective, become properly focused and gain from the experience of fellow officers.

The theory segment of the course was presented on the first day. Students received as pre-course reading a comprehensive manual covering force policy and legislation relating to the use of force and planning. To assist with familiarisation the manual was presented in the same format as other police manuals. Planning centres were designed around the force’s standard acronym ICENCIR, which stands for isolate, contain, evacuate, negotiate/communicate, conclude, investigate and rehabilitate. Although people are normally hesitant about adopting acronyms it is amazing how receptive they can be when they are participating in something they know will be successful.

Part of the reason for the success of the course was role playing. It was similar to the situation at the former police club I mentioned earlier, with officers taking part in what might be real, possibly life or death, situations. Before a search takes place the prevailing situation must be carefully considered. The safety-first steps stressed throughout the five-day course were stop, step back, think and make an assessment. Defensive tactics and firearm techniques have not changed but officers are now taught the full range of options available, with the use of force involving weapons being the last option.

Some of the lessons learnt and the future of Project Beacon are discussed in the latest edition of Police Life. In an article headed 'Beacon — the next stop'
the project is discussed in a question and answer format. The first question is:

Why is Project Beacon a necessary change for Victoria Police?

The answer, in part, is:

The objective of Beacon is to enhance and reinforce the culture, practices and capabilities of members to operate effectively with the minimal use of force and risk of harm or injury to any person.

The next question is:

Has Project Beacon reached its goal of training the entire operational arm of the force?

The answer is yes. The next question is:

How has the training differed from the methods that were previously in place?

The answer is:

Well to begin with, we needed to train everybody right from first principles. Previously training updates concentrated on use of firearms, accuracy, some theory and defensive tactics where applicable. Beacon has covered issues such as theory law, procedure, conflict resolution and negotiation, dealing with the mentally disturbed, looking at defensive tactics, training, scenario training and firearms training.

The next question is:

What are the requirements for the members in the future?

The answer is:

Every member must requalify within a period of six months which will be an ongoing requirement. The retraining will be almost a ‘mini Beacon’ course over two days, but it will again highlight scenario training, defensive training and firearms skills.

The instructors were drawn from the operational side of the police force. Members who have completed the course now have a broader education, including an ability to carry out psychological assessments. A further question includes the statement:

In Beacon’s early days, operational equipment such as the expandable baton and capsicum spray were presented as possible inclusions for operational members.

I have explained that the expandable baton will now be part of the equipment normally issued to all operational members of the police force in Victoria and that the capsicum spray is under careful consideration and will be introduced if its assessment in the United Kingdom is satisfactory and it can be adapted for Victorian conditions. The next question is:

Is there an opportunity for members to complete the initial Project Beacon training now that the initial phase has finished?

The answer is yes, it is to be included as an ongoing procedure that will take place each six months. The next question is:

How do you think that this project has been accepted by the general community?

The answer is:

It has been very well accepted. We have received a high degree of publicity and the public awareness of our efforts is also high. At the same time, the community has not suffered a loss of service but has benefited from the quality of our members who have completed the training.

A further question is:

How does this training benefit police going back out onto the streets?

The answer is:

If you ask most members, it’s a feeling of confidence of being able to handle any situation as it comes up, and giving them a number of extra options that they did not perhaps consider before.

They now realise that there is no sin in backing off and calling for reinforcements, regrouping and then tackling the situation again.

That was the biggest message that got through to members of the police force. The answer continues:

Risk assessment is probably the most important factor. There is no such thing as a standard domestic. For instance, situations can range from a simple verbal argument to a homicide. You have to be able to evaluate what type of situation you are heading to and
take the appropriate precautions because it is not often that you get a second chance when a critical situation arises.

The article concludes:

Finally, Project Beacon is not designed or intended to turn members into negotiators or psychologists. Rather its purpose is to enhance communication, operational tactics and planning skills, particularly those of junior or inexperienced members.

I again congratulate the minister, the police command and all others involved in Project Beacon. In particular I congratulate Assistant Commissioner Shuey and Superintendent Carl Hagan, who have succeeded where others have failed. In the past six months they have been able to achieve a remarkable turnaround in the attitude of members of the police force. They were able to obtain the 31 premises necessary for the conduct of the course, some of which were schools the state government was about to sell, and the whole operation was completed at minimal cost because it used police resources.

I hope anyone within the force who has a criticism to make will let us know so that it can be fed back to Assistant Commissioner Shuey so the issues can be taken into account. The people of Victoria want a more effective and interactive police force that has the aim of protecting the community. Following the successful completion of Project Beacon there has been none of the sort of criticism of the police force that followed the 22 shootings in the period since 1988. The community is now confident that its police force is more reactive and ready to serve it.

Mr HAERMeyer (Yan Yean) — I can endorse the closing comments of the honourable member for Glen Waverley, but the opposition is at odds with his motion and the congratulatory tone of his contribution. A government member is congratulating the government — the government congratulating itself — for responding to the crisis created by the police shootings in 1994 for which the government itself was responsible. Again a government minister has had to be dragged kicking and screaming to take action to solve a problem that caused great trauma in the community.

They were traumatic for the police force because individual officers will have to wear the scars of those shootings for the rest of their lives, without their necessarily being to blame over the events. I dare say that anybody who has shot another person will carry that unpleasant knowledge with him or her for the rest of his or her life. It was also traumatic for the police force because of the effect it had on popular regard for the police. I believe Victoria has the best police force in Australia. However, the police shootings last year posed the danger of people starting to question the effectiveness of the force and their respect for it.

Yet again the government is trying to deal with an important problem facing the Victorian community as a media management/damage control issue rather than as a substantive issue. Yet again the government claims a commitment to solving a problem when the only reason it acted at all was that the problem could no longer be ignored. It was starting to make its presence felt in the media and the government had to act; it had to be seen to be doing something. That is always important to this Minister for Police and Emergency Services. He waits until the problem is right upon him and then he has to be seen to be doing something — it does not matter what. We have seen it before with this minister in particular but also from the government in general.

Last year all but one full-time surgeon in the police forensic medicine unit resigned. There was also a mass resignation by a number of part-time surgeons. They resigned over resourcing and funding levels, the administration and structure of the unit, the career opportunities for doctors and other staff and research opportunities. It was widely regarded as an excellent forensic medicine unit and was, I think, the first of its kind in Australia. However, expert and experienced staff were lost to the Victorian community because the minister refused to take the advice given to him. He knew; he was told by Dr David Wells six months in advance that the problem was impending, but he did nothing about it. It took the mass resignation of forensic surgeons to actually provoke the minister into action. He had sat on his hands and done nothing.

The SPEAKER — Order! I direct the honourable member’s attention to standing order 99:

No member shall digress from the subject matter of any question under discussion.

The fact that the motion before the Chair happens to deal with a police matter does not give the honourable member for Yan Yean licence to examine all the failures or successes of the Minister for Police and Emergency Services. The Chair advises the honourable member that his contribution must centre around support or otherwise for the interim
guidelines dealing with offenders or suspects who are armed or suspected to be armed.

Mr HAERMeyer — Mr Speaker, the motion seeks to commend the minister for actions he has taken on the interim guidelines for dealing with offenders who are armed or suspected to be armed. If the motion seeks to commend the minister for taking those sorts of actions, I think it is relevant to examine the minister's history of action in various crises. What I am talking about is material to the motion because the argument I will develop throughout my contribution — —

Mr Cooper interjected.

Mr HAERMeyer — Oh, pull your head in!

The SPEAKER — Order! The honourable member for Mornington is not assisting the Chair one little bit. I ask him to remain silent.

Mr HAERMeyer — The argument I will develop is that on this matter of the police interim guidelines for dealing with armed or suspected to be armed offenders the minister had to be dragged, kicking and screaming, to take action, and there is no reason at all to support him. Relevant to that is the fact that on a number of other issues related to his portfolio the minister has shown a similar tendency to wait until a crisis is upon him before choosing to act. That was certainly the case with the Office of Forensic Medicine, as it was then known, which is very important.

The SPEAKER — Order! I have listened carefully to the explanation given by the honourable member, but I insist that standing order 99 must be observed. The honourable member seems to be of the opinion that because the motion uses the word 'commends' to qualify some other words he can have a general discussion on whether the minister should be commended. That is not the case, and I direct the honourable member back to the terms of the motion. He must debate and take a stand on matters within the terms of the motion.

Mr HAERMeyer — Mr Speaker, as I said, I think the minister's performance in a whole range of other areas is material to this debate, but I will attempt to take your guidance on board.

It is also important to note that we went through a similar exercise in relation to the gun laws. For 12 months the minister sat on the report dealing with the adequacy of Victoria's firearms laws and did nothing about it. He was finally forced to release it under freedom of information and he then decided that he had to be seen to be acting on it. The presence of arms in the community is material to the matter of police dealing with armed or suspected to be armed offenders. The increase in the incidence of armed offenders and suspects in the community is certainly of considerable concern. And the Minister for Police and Emergency Services has been tardy in dealing with that issue.

The minister's tendency to wait until a crisis occurs was also demonstrated in the way he dealt with the staff at Barwon Prison last year. Again, the minister had to be provoked into acting.

Mr Kilgour — On the subject!

Mr HAERMeyer — Pull your head in!

Mr Brown — On a point of order, Mr Speaker, the honourable member for Yan Yean is clearly flouting your ruling, in which you were undoubtedly right. The motion is clear and specific. It commends the Minister for Police and Emergency Services for his support of the police department interim guidelines for dealing with armed or suspected to be armed offenders/suspects. The honourable member is flouting your ruling by continuing to discuss issues that are irrelevant to the motion. What happened at the Barwon Prison has no relevance to this motion.

I suggest the honourable member for Yan Yean either be brought into line or, if he continues wilfully to flout your ruling, he no longer be heard and we move on to the next speaker.

The SPEAKER — Order! I uphold the point of order raised by the Minister for Public Transport. I advise the honourable member for Yan Yean that if he wants to oppose the motion he has to oppose its commendation for the Minister for Police and Emergency Services for his support for police department interim guidelines for dealing with armed or suspected to be armed offenders/suspects. He is compelled under the standing orders to remain within the confines of that narrow motion. He does not have licence to commend or criticise the Minister for Police and Emergency Services except in the minister's attitude to the interim guidelines for dealing with offenders or suspects who are armed or suspected to be armed.

Mr HAERMeyer — I wish the Minister for Public Transport was as relevant in giving answers
at question time as I am on the motion. As I said, the police shootings are extremely serious and they have been traumatic for the Victorian community. The opposition does not believe the problem has cropped up simply over the past two and a half years; it goes back some time. Over six or seven years there have been some 22 police shootings in Victoria, and in 1994 there were 9.

It is important to understand those shootings involve a number of different phases. Firstly, the shootings in 1989 were related to the Walsh Street incident, which had a whole array of events associated with it. It involved police officers coming into contact with some extremely dangerous or suspected to be dangerous people—basically criminal elements or people who had criminal histories. The matters are still being worked through by the courts and I do not wish to comment on them in any way that might prejudice any action in any of those cases.

After that there was a lull or a bit of a hiatus in police shootings. Then we had a sudden outbreak, with nine police shootings in one year. Those police shootings are totally unrelated to the police shootings that had taken place previously; qualitatively they are quite different. The essential nature of the shootings in 1994 was totally different from those of previous years. In 1993 there was one police shooting and in 1992 there were two.

Then, suddenly, in 1994 there were nine police shootings. What made 1994 qualitatively different from earlier years is that previously police shootings had been overwhelmingly of people involved or suspected to have to been involved in some sort of criminal act. Six of the nine people shot by police officers in 1994 were psychologically or emotionally disturbed. That rather disturbing trend started to emerge early in the piece, with the pattern starting to come through early in 1994, after Allison Tully, Edward Hulsman, Brian McKay and Jason Southey were shot by police officers. Those people were not shot in a shoot-out or an armed robbery. Those incidents involved police being called to premises or a location where the person was suspected to have been armed but ultimately was found to have had some psychological problem or to have been motivated by some psychological or emotional disturbance.

Before the end of March 1994 there were four police shootings in Victoria, which was more than there had been in New South Wales over six years. I made the point at the time that what happened cannot be just explained away; it is not one of those things that you can put down just to statistical error. A very definite pattern was emerging.

Some people in the community were saying that the shootings had something to do with the fact that our police officers carry guns. The reality is that our police force is as armed as any other police force in Australia. In New South Wales and Queensland the officers are all armed but they did not have the same problem, so it does not necessarily come to that issue. Nor does it come down to any suggestion that the State of Victoria is an innately more violent society than New South Wales or Queensland. That argument does not hold up. Our crime statistics may vary from time to time but there are no significant qualitative differences between the states on the propensity of citizens to commit violent offences.

What we have here is a uniquely Victorian problem, and we need to flush out its causes. After the third police shooting in 1994 I pointed out to the Minister for Police and Emergency Services that the trend was that police officers were being called out to deal with psychologically or emotionally disturbed people with whom they were not really trained to deal. Police training has always effectively focused on criminal behaviour, which, as undesirable as it is, is usually motivated by some sort of rational action, with the people involved in criminal activity usually behaving predictably. However, police officers were being called out to deal with people who were psychologically disturbed and their behaviour is more erratic. Members of the police force are not properly trained to deal with them, and I am not sure they should be. Perhaps there is an argument for training police officers in that area, but Victoria has specialised units that police can use in such circumstances. I will refer to those units later.

After the 1994 police shootings I called for an investigation, firstly, of police firearms training and, secondly, of deinstitutionalisation and the support available for people with psychiatric disabilities who have been deinstitutionalised. I make it clear that members of the opposition support deinstitutionalisation and have no problem with the policy. But we have a problem with the closing down of psychiatric institutions for the purpose of saving money and then putting people out into the community without providing the support they need. They need community-based support.

After the third police shooting the opposition called for an investigation and the Minister for Police and Emergency Services dismissed the calls. He said
there was no systemic problem with the police and police training was adequate. He also told us that police guidelines for dealing with armed offenders are adequate and assured us that the guidelines provided that the use of firearms would in all cases be the last resort.

After the minister made those very soothing noises another six police shootings occurred. The minister soon realised he had a problem. He was interested not in the problem itself but in its manifestations — in other words, the bad press. He did not tackle the causes. As I pointed out earlier, he saw it as a public relations exercise, treating the media symptoms rather than dealing with the substantive problem. That is very much his wont in handling a number of other areas for which he has responsibility.

This became yet another exercise in crisis management. The minister is not interested in fixing the cause of the problem; he just wants the issue out of the papers. That was particularly evident in October 1994 towards the latter phases of this unfortunate era. The minister signed a letter together with the then acting commissioner, Mal Hyde, advising police officers that they should use their firearms as a last resort. The secretary of the police association saw right through the minister. This is what he was reported as saying on 7 October:

You have a situation where you have all these training initiatives already announced, a minimum of four or five times in two weeks.

Last year the same training initiatives were announced and re-announced to create the impression that the minister was doing something. Mr Walsh then said:

When you see a politician's signature at the bottom of a letter like that it just makes me think that Pat just had to be seen to be doing something.

That was pretty much where things were at. The minister had to be seen to be doing something. After each successive police shooting the minister made more soothing noises. Then there were a succession of knee-jerk, quick-fix responses. In May last year the opposition called for a board of inquiry under the Evidence Act with a wide-ranging brief to examine all the potential issues. We were not attributing blame; we were simply saying there was a serious problem, which would have been evident to any sensible human being. Neither I nor any other member of the opposition claimed at any stage to have all the answers to the problems — I do not think any single individual could possibly have claimed that — but we needed to bring in as much expertise as we could to examine all the issues. I believed some of those issues were interrelated.

The minister continually refused to hold the inquiry the opposition kept calling for. But after each shooting he responded with yet another piecemeal, knee-jerk measure, holding another inquiry that looked at only one narrow aspect of the overall problem. It was very much a case of movement intended to create the illusion of progress. Never mind the facts, just watch the action!

The minister did not at any stage make any attempt to identify and address the potential causes.

The SPEAKER — Order! I have to bring the honourable member for Yan Yean back to the motion. He must relate his remarks to the principle of the motion, saying whether he believes the minister should be commended or criticised for the implementation of police department interim guidelines for dealing with armed or suspected-to-be-armed offenders or suspects.

I have listened carefully to what the honourable member has been saying. I advise him that he must relate his remarks to the motion before the Chair. This is not a general debate. It is not like the debate on the budget, the well-established practice of which says a member can wander wherever he or she wishes. This is a narrow debate on a single issue. If the member wishes to use the facts and figures he is now producing, he must relate them to the motion before the Chair.

Mr HAERMeyer — Thank you, Mr Speaker, I will certainly do that. The interim guidelines for dealing with armed or suspected-to-be-armed offenders are the final government response to the police shootings that occurred last year. The opposition is saying the government's response is inadequate. It is necessary to explain the dimensions of the issue and to say why we believe it is bigger than the question of police firearms training. I should like to canvass a few of those issues.

Last year the minister set up some five or six different inquiries, each a response to a different police shooting. At various stages all sorts of people were brought in, including officers from Scotland Yard and the FBI. We asked the people who sent the tanks into Waco to help us solve the police shootings problem! We also brought in the Canadian mounties. The only people we did not bring in were
the Keystone Cops. The police shootings issue is very complex.

Mr Turner — It is a very serious issue.

Mr HAERMeyer — And it is about time you took it seriously! The shootings have had tragic effects on the families of the victims and on the police officers and their families. As I mentioned earlier, the shootings last year had an enormous impact on the way the community viewed the Victoria Police Force. Unfortunately, a lot of positive police work was put under a cloud, yet the minister’s response was totally inadequate.

The shootings have a number of causes — and I do not believe my list is exhaustive. I am sure experts can help us explain all the factors involved. As I said, the government’s $28 million funding cuts to psychiatric and community services have contributed to the problem.

Mr Turner — On a point of order, Mr Speaker, time and time again you have drawn the attention of the honourable member for Yan Yean to the fact that he is not speaking on the subject of this very narrow debate. I fail to see how the matter he is now raising — budget cuts to another department — has anything to do with the debate. I ask you to draw him back to the issue.

Mr HAERMeyer — On the point of order, Mr Speaker, as I explained earlier when you raised this issue I believe the government’s response to dealing with armed or suspected armed offenders is inadequate. Given that six of the nine shootings last year involved psychiatrically disturbed people, the amount of support that is given to those people is material to the issue, because it helps determine whether or not the response is appropriate.

The SPEAKER — Order! The honourable member for Yan Yean is in a very awkward position, as is the Chair. I have drawn the member’s attention to the standing orders. I shall quote from page 372 of the 21st edition of May:

A member must direct his speech to the question under discussion ... The precise relevance of an argument may not always be perceptible but a member who wanders from the subject will be reminded by the Speaker that he must speak to the question.

That has happened several times this morning.

As I said, the honourable member for Yan Yean is in an awkward position because this is a narrow debate. Although I have allowed him some latitude in the past few minutes, the honourable member should bring the threads of his argument together and address the motion before the Chair, which, as I said, is narrow. I ask the honourable member to direct his remarks to the interim guidelines dealing with armed suspects.

Mr HAERMeyer — The interim guidelines dealing with armed offenders and suspects do not deal with the important issue of support for psychiatrically disturbed people in the community. Human Rights Commissioner Burdekin identified one of the problems as the extent of the cuts and the inadequacy of the support services for those people.

Mr E. R. Smith interjected.

Mr HAERMeyer — The honourable member for Glen Waverley, who says by interjection that that was before Project Beacon, spent 40 minutes talking about the project even though his own motion was moved before it was implemented. The guidelines his motion refers to are different from Project Beacon, yet the honourable member spent the whole time talking about that.

Mr E. R. Smith — On a point of order, Mr Speaker, I made it clear that they were superseded by Project Beacon. That is the point at issue, and that is what we are on about today.

The SPEAKER — Order! There is no point of order. If any honourable member wishes to refute what the honourable member for Yan Yean is saying he or she will have an opportunity to do so later in the debate.

Mr HAERMeyer — I am identifying some of the potential causes of the police shootings, many of which are not addressed by Project Beacon — which has nothing to do with the interim guidelines. The culture and attitudes of the Victoria Police Force should be taken on board. Coroner Hallenstein referred to a culture of bravery or heroism, which is not necessarily an undesirable trait in a police force. Police officers said they felt they had to put themselves in danger to deal with particular situations, and that was a problem. That is closely related to the preparedness of the police to use firearms in any given situation.

The report of Task Force Victor identified a serious issue. I do not deny that some of the initiatives taken
under Project Beacon have been effective in addressing one aspect of this problem, but they do not address the assumptions the police make about the nature of our society.

The Task Force Victor report talks extensively about both the Americanisation of police force training procedures and the practices that are used. We are buying training programs from the American FBI and other American police forces, as well as videos and other training packages. Although some American police forces may be among the most technically advanced in the world in dealing with the use of firearms and various armed responses, unfortunately they also bring with them assumptions about the nature of the society in which each police force operates.

I do not believe it is valid to make assumptions about the Victoria Police Force and Victorian society using the American situation as a basis. We do not have the same regular incidence of drive-by shootings, gang warfare, homicides and serious assaults committed with firearms and other dangerous weapons. It is not valid to have training programs for Victorian police that are based on dealing with people in the streets of south central Los Angeles and other such places. Although we may pick up some overseas technical expertise, it is important to make it clear that Victoria is a different society. Assumptions about the best sorts of responses must be adapted to our own culture and society. We must not import American cultural assumptions into our police force. That is a dangerous trend, which I am pleased to say is identified in the Task Force Victor report. I hope that is addressed.

I do not want to put down the technical expertise of any American police force, but we should use that technical expertise for our own purposes. They should keep their cultural assumptions and we should keep ours, because our society is far more balanced and less violent.

We must also bear in mind the effects that the Walsh Street killings and the Russell Street bombing have had on the attitudes and assumptions of our police force. It is fair to say that until the 1980s the majority of the members of our police force went unarmed. Police have related to me that often the most serious thing police officers were called out for was to stop rumbles at the local pub. The Walsh and Russell Street episodes impressed on many of our police officers the fact that people out there were prepared to shoot at them. They perhaps believed there had been a serious change in the way our society related to police. Until then I do not believe there had been a widespread belief that people would take shots at police officers and commit such atrocities. Those two events had dramatic effects on the attitudes of police officers and may have increased their feelings of anxiety and their readiness to use firearms.

We must address the balance of experienced and inexperienced police officers — and I see the honourable member for Bendigo West nodding his head in agreement. In many instances young police officers go out on patrol without the guidance of more experienced officers. In some cases both officers might be under 21 years of age. When a serious situation occurs, such as a confrontation with an armed offender, someone with experience is able to cool things down far more easily than a young police officer not long out of the police academy. That needs to be dealt with.

The height of police officers is also an issue. It may sound strange, and I do not say it was necessarily wrong to drop the height requirements for police, but after that requirement was dropped perhaps some of the less solidly built officers may not have had confidence in their ability to physically disarm a suspect. I understand that Project Beacon addresses many of those issues, and it is to be commended because it has created a greater degree of confidence among police officers in finding alternative ways to deal with situations by developing their skills and sense of confidence. The first way is trying to talk the situation down by pacifying the person and, if that fails, endeavouring to physically disarm the person without resorting to the use of firearms. I find that aspect of Project Beacon very encouraging.

Last year there were discussions about the suitability of the firearms and ammunition used by the police force. I do not profess to be a ballistics expert, but I believe that is an issue that warrants some consideration.

Project Beacon has been a positive move, but it is unfortunate that the government has had to be dragged kicking and screaming to the stage of introducing this project. Other issues that I have touched upon need to be addressed such as those of psychiatrically disturbed people in the community who do not have the support they require on the ground, and the Americanisation of training procedures.

According to immediate evidence Project Beacon seems to suggest that we have arrested the problem,
but I am not sure whether we have dealt with all the potential causes and unless we do we may still be prone to further incidents along the lines of those that occurred last year.

We have to deal with the issue of CAT teams and CSUs. Many police officers that I have spoken to often do not know which is the appropriate unit to call in a given circumstance. I believe both these units should be placed under one umbrella. I do not care whether it is with the police or health, but it ought to be possible to contact them on the one telephone number so that a decision about the appropriate team to send out can be made on the spot.

I shall conclude by dealing with the issue of armed offenders. The number of incidents involving armed offenders in our society is of concern. The government has been tardy in addressing the issue of the illegal possession of firearms, knives and other offensive weapons. Last year we had a debate about offensive weapons. Members of the house can go down to a disposals store in Russell Street and they will see in the window some vicious-looking weapons that can be sold over the counter to any young person. When I attempted to show the house some of the weapons that could be purchased over the counter Mr Speaker said I was not allowed to do that. It is interesting that I could not produce them in the house.

Mr Turner — On a point of order, Mr Acting Speaker, prior to your arrival, time and again Mr Speaker asked the honourable member for Yan Yean to speak to the motion before the house. Obviously the honourable member is again straying. What he believes about weapons — we all hold views on that subject — has nothing to do with the motion. I ask you to bring him back to the motion.

The ACTING SPEAKER (Mr Richardson) — Order! I have been listening intently to the remarks made by the honourable member for Yan Yean. I have noted that he was moving his discussion towards what appeared to be a possible contradiction of the rulings of Mr Speaker and the forms of the house. I am sure he will heed my suggestion that he should not proceed along that path.

Mr HAERMeyer — I was reflecting upon the motion, which commends the Minister for Police and Emergency Services for his support of the police department interim guidelines for dealing with armed or suspected to be armed offenders or suspects. I was making the observation that the incidence of offenders in the community, which is relevant to the issue of the police confronting these types of people, armed with knives or firearms appears to be increasing.

As part of dealing with this situation we can also address the problem of police being called out less frequently to deal with armed or suspected to be armed offenders. The ready ability of young people to buy knives from disposals stores is of serious concern. I also make the point that the Minister for Police and Emergency Services said, 'You can drive a bus through the gun laws in this state'. The minister sat on a report that he commissioned into the adequacy of gun laws and when he released it he said he would do nothing about it.

The government has been tardy in addressing the issue of offensive weapons in the community, which is something most members of the community as well as the police force are concerned about. That is another area that — —

The ACTING SPEAKER — Order! I remind the honourable member of the terms of the motion. It is a narrow motion and the debate is not an opportunity for him to canvass every issue relating to gun laws. I ask him to confine his remarks to the narrow terms of the motion, as he has been requested to do by Mr Speaker.

Mr HAERMeyer — I made the point that the interim guidelines for dealing with armed or suspected to be armed offenders or suspects are only a piecemeal approach to this issue. It also relates to the problem of insufficient support for deinstitutionalised psychiatric patients. The prevalence of guns and knives in the community is part of the problem that needs to be addressed. In 1988 the member for Benalla, now the Minister for Police and Emergency Services, said that all secondary school students should be given basic firearm instruction.

Mr Turner — On a further point of order, Mr Acting Speaker, as you ruled earlier and as Mr Speaker ruled, it is a narrow debate. The honourable member for Yan Yean is again straying from the motion, and I ask that you bring him back to the motion or ask him to sit down and let someone else who wants to talk about Project Beacon and the motion before the Chair do so. Obviously the honourable member has no knowledge of it, so he cannot talk about it.
The ACTING SPEAKER — Order! The question of whether or not the honourable member has knowledge is irrelevant. What is relevant to the debate is the terms of the motion before the house. I understand the Speaker drew the honourable member's attention to that matter on a number of occasions; I have already drawn his attention to it on one occasion. I again ask him to confine himself to the terms of the motion before the house. The honourable member for Yan Yean — and I am starting to get grumpy.

Mr HAERMeyer — Mr Acting Speaker, I have repeatedly explained how these remarks relate to the motion, and I think they relate most pertinently. If the honourable member for Bendigo West could contain his points of order for a few seconds I may even conclude my remarks to give him a chance to speak.

The upshot of all this is that effectively the police department interim guidelines for dealing with armed or suspected to be armed suspects or offenders were put in place prior to Project Beacon. During his speech of some 40 minutes the honourable member for Glen Waverley spoke about Project Beacon, which was not even in existence when he gave notice of his motion. The guidelines were really nothing but a restatement of what had been said time and again in previous assurances by the minister: that training was adequate and that the use of firearms was a last resort. The guidelines being put out suddenly was an admission of his own failure and of the lack of truth in his previous assertions about the issue.

The opposition supports the Project Beacon program but makes the point that it is piecemeal, narrowly focused and based only on training and procedures. The problem is bigger than that: it has more dimensions and it relates to all of those issues I have touched upon. I can see the honourable member for Bendigo West champing at the bit, so I will now allow him the opportunity to enlighten the house.

Mr KILGOUR (Shepparton) — It gives me great pleasure to support the motion of the honourable member for Glen Waverley that the house commends the Minister for Police and Emergency Services for his support of the police department interim guidelines for dealing with armed or suspected to be armed offenders. That is what it is all about.

It is rather unfortunate that the previous speaker had no understanding of what the motion was for.

In my three and a half years in this place I have never heard such a load of drivel, innuendo and lack of understanding of what was before the house.

Although this motion was moved many months ago, it explained that the minister supported the police guidelines for dealing with armed or suspected to be armed criminals. As the honourable member for Glen Waverley said, what developed from those guidelines was Project Beacon.

Since notice of the motion was first placed on the notice paper much has transpired on the issue. Yes, a major problem was identified in 1994 and the structure to deal with it has been put in place. The implementation of the major part of that structure has now been completed, and the minister and particularly the Chief Commissioner of Police must be complimented on what has been done in this area.

By 1988 it was becoming evident that the type of criminal we were seeing out there was becoming more violent: a typical example is the Walsh Street shootings. Police were being confronted by criminals who wanted to take them on, who were mentally deranged and who went out with one thing in mind: to blow a policeman's head off. Therefore we had to have a different type of challenge for our police and a different way for the police to look at it, because it became a 'them and us' situation.

A number of reviews were conducted. We brought in the FBI, the Canadian Mounties and the Institute of Criminology. I think it was most important that we had outside views on the issue, because not enough change could have taken place if we had looked just at internal views.

With three internal and two external reviews looking into the situation, a task force was set up with criminologist Bruce Swanton at the helm and it released a report entitled Police Shootings - A Question of Balance. Some of the terms of reference of the review were to identify factors that directly and indirectly determine shootings of people; to develop strategies designed to make the influence of those factors as beneficial to tactical decisions and actions as possible; to achieve identified outputs; and so on.

The outputs and services to be provided from the recommendations of the report were the creation of a national police shootings database; the production of a bibliography of police shootings; the establishment of the extent, circumstances and patterns of shootings and the identification of factors that influence police members' decisions to shoot;
and the development of a remedial strategy. From the report we finished up with a massive training exercise in the police force which saw Project Beacon in operation.

I fully support and congratulate Assistant Commissioner of Police Ray Shuey, who was at the helm of the devising and operating of the project. It does not surprise me to see Assistant Commissioner Shuey succeed at this because he received part of his education at the Numurkah High School, where I was educated. It is no surprise to see Assistant Commissioner Shuey handle the matter with the ability of somebody who went through Numurkah High School.

Mr Shuey followed his father who, when I was growing up, was an excellent police sergeant in the town of Cobram, some 12 miles away. He followed in the footsteps of someone who — —

Mr Haermeyer — On a point of order, Mr Acting Speaker, although I share the respect of the honourable member for Shepparton for Assistant Commissioner Ray Shuey, I draw your attention to the numerous points of order that were pulled from the other side of the house against me about the narrowness of the debate. I ask for your ruling along the same lines.

The ACTING SPEAKER — This would appear to be something of a quid pro quo. The honourable member for Shepparton.

Mr KILGOUR — Thank you, Mr Acting Speaker. I was getting around to explaining that it was Assistant Commissioner Shuey who came up with the tactical response approach and who must be congratulated on it.

It was a specially developed safety and tactics training course and it was to be completed by all members of the police force. That was achieved by 31 March. That was a tremendous undertaking because of the problems it caused to rostering and so forth in police stations.

It is not easy to change the culture of any organisation let alone the culture of an organisation like the police force. People are resistant to change. Some people in the course questioned the need to change their ways. It was not surprising that some members of the force thought they knew it all and did not need to be retrained. However, it did not take long for them to understand that it was a different focus on police operations. The police, who are facing an ever increasing number of psychologically disturbed people and mentally deranged criminals, understood that a different approach and a broader range of skills were required to handle those sorts of people. They understood that psychologically disturbed people are different from the usual criminals. They understood that psychologically disturbed people react differently from normal criminals to the FBI way of shouting demands and need to be treated differently. They also understood that we were sending out our youngest and least experienced police to be in contact with these dangerous and violent criminals.

The honourable member for Ballarat East, who will follow, has probably come into contact with these types of people and will be able to speak personally on the issue.

The police understood that more and more officers were called upon to make instantaneous judgments in these drastic situations. We would do well to look at the United States system, which keeps some of the more experienced officers on the road in the patrol cars without any loss of remuneration to help young police officers on the way through. That is something we could look at. We should also look at using public servants to free more police for operational duties.

To assess whether Project Beacon was working I spoke with Senior Sergeant Denis Grimes at Shepparton. He advised me that every operational member of the force at Shepparton — in the CIB, the community policing squad, the Traffic Operations Group and Neighbourhood Watch — had completed the one-week course held from Monday to Friday. Although that caused tremendous problems with the roster it was done with the full support of the officers at Shepparton.

The theory component dealt with conflict resolution and communication, including risk assessment, planning responses, containment and, most importantly, avoiding confrontation if possible. Officers had to pass in the four components of the course: theory, defence tactics, firearms, and overall input and professional attitude. Officers at Shepparton displayed an excellent attitude to the course. Although initially some may have doubted whether it was needed, they all quickly adopted the attitude expected of them and provided a positive input to the course.
The red-man suit, which makes its wearer impervious to knife attacks, was the centre of interest, and officers acted out real-life situations. They got stuck into and enjoyed the course.

Officers commented that the course had provided them with another tool to use in day-to-day operations, provided a different perspective to the treatment of people they faced, encouraged them to consider alternatives and to stop, step back and reassess what they intend to do and whether they are doing it correctly. Officers said it taught them to isolate and contain situations.

The officers who carried out the training completed an eight-day training course in Melbourne before returning to their own districts. The excellent training received by officers in O district included an assessment of the part they play in the police force when they are dealing with domestic disputes, traffic problems and so on. It caused officers to think more about the way they work and taught them to communicate more, not only with criminals and members of the public but also with each other. One officer said the course taught him to communicate more with his colleagues in the police force.

Without exception the members I spoke with said their attendance at the course would lead to an improvement in the efficiency of operations. All officers in O district were trained by 31 March and all passed. Officers will now be aware of all options open to them. The course builds on their existing skills and increases their potential to manage violent incidents effectively. Rather than violence escalating when incidents occur, police will handle the situation effectively with a minimum of drama or trauma following a correct assessment of the situation, not on the interim guidelines but on what has developed from those guidelines.

I heard an hour and a half of drivel from the honourable member for Yan Yean, who has no understanding of what Project Beacon is about. Government members have a full understanding of it and in the time remaining will continue to explore what has happened.

I asked a member of the Traffic Operations Group how he felt about the project. He said that after a number of years experience in the police force he probably did not need as much training as younger officers but felt he should have completed such a course years ago. The course is especially useful for younger officers and will improve operational efficiency. Refresher courses will be part of the continuing training program.

The Minister for Police and Emergency Services and the Chief Commissioner of Police should be applauded by the community for recognising the problem, reviewing the situation and initiating and implementing the course. Not only will the police force be better for it, the public will also benefit, particularly mentally deranged individuals who for some reason or other take on the police. Fewer lives will be lost because the police will now take a different approach. Although dangerous and violent criminals will increasingly want to take on the police, members of the police force are now better prepared to tackle any situation that might arise.

I congratulate the minister on the implementation of Project Beacon. The Victoria Police Force will be better for having embraced it.

Ms MARPLE (Altona) — We must not underestimate the importance of the police force and what it does in the community. All honourable members will have had contact with the police force at some level, and some are former police officers.

I have observed a great change in attitudes to the police force from the time of my youth, when the force was part of the community and all young people were encouraged to interact with the police, to the time when I was bringing up my children and told my young son that the less he had to do with the police the better off he would be. I greatly regretted the need to give that warning.

Last year we witnessed the culmination of attitudinal problems that had been growing for many years. I hope that the steps being taken to rectify the problem, including Project Beacon, will result in the police again working hand in hand with the community and lead to greater trust in the police force. We all want that to happen.

I will touch on only a few of the matters that led to the introduction of Project Beacon. The length of time the minister took last year to react is a matter for regret. Two Age editorials of last year say a lot about what we look for in our police force and the concerns in the community about what was happening at that time.

Under the heading 'Police and guns' the Age editorial of 5 January 1994 states:
Twice this week, Victorian police have been involved in fatal shootings — one in Shepparton, the other in suburban Elwood. The two deaths bring to 14 the number of men and women killed by on-duty police in this state since 1987. While every case is different, the pattern of fatalities is deeply disturbing. It raises profound questions about police training and practice in dealing with armed, violent or mentally disturbed individuals.

The editorial talks about the different cases and then states:

What is worrying about both incidents is that the police appear to have used their revolvers as the first, rather than the last, resort.

It continues:

In Victoria, as in other states, the day is long past when one could reasonably call for police to go unarmed.

I do not necessarily believe it is essential that all police go armed, but, as has been pointed out, that is not the subject of today’s debate. The editorial continues:

But if police are to carry firearms, they must be carefully trained not only when and how to use them but when not to do so ... How they react in such circumstances is determined, in part at least, by their training.

It is very important that we examine that training. The editorial goes on to say:

Part of that training must be to distinguish between violent criminals and those suffering acute or psychotic episodes. The police need to be reminded that, at all times, they are accountable to the public, and that reaching for guns is something that can be justified only as a last and desperate resort.

That editorial was published in January last year. No action was taken all year. Public concern was again expressed in an Age editorial on 1 December 1994:

The primary function of a police force in any civilised community is to uphold the law ... When police are no longer respected, the fabric of the society in which they operate is automatically weakened.

It is appalling that the government did not act for a whole year in view of the fatal incidents that occurred during that year. The editorial says the reports released by Dr Perry should set the alarm bells ringing. It talks about the actions of the police in confronting protesters demonstrating against the closure of Richmond Secondary College and at the Department of Conservation and Natural Resources, where the police used tactics that could have caused serious injury, even death. It then states:

Some police involved in both demonstrations had used force against protesters that was 'out of all proportion' to police objectives in the exercise.

The editorial goes on to outline the situation the police minister had allowed to occur:

That reflects the great concern that exists in the community.

It was disappointing that the advice the government brought in was from the FBI. I am sure many people believed there was no need for our police force to be Americanised, for want of a better word. An image that is all too frequently on the front pages of our newspapers is of a paramilitary group dressed in black, wearing caps and being excessively armed, ready to take on what in many cases proved to be imaginary forces that were supposedly going to bring down the police force. In fact, the imagery was all wrong. It was un-Victorian and did not reflect our image of our police force. We expected the
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minister to make some changes, but it took a long time for him to do so. That was one of the concerns.

Although everyone welcomes the training that will bring about some changes of attitude, it is important to reflect on the concerns that have been expressed and to ensure that the police force is brought into line with our society as it is, not the society we imagine it to be. The honourable member for Yan Yean pointed out clearly that we need to examine the training materials used and the transfer from other societies of certain elements that may not be desirable in general police training in Victoria.

I appreciate what has been outlined in the Beacon training program and am pleased to note that communication is one of its highlights, but there is also a need to address general training. The training has improved, but I have always held the view that we ask an enormous amount of our police officers and give them limited training. Their training should be continuing throughout their careers. It has improved greatly over the past 10 to 15 years, and I look forward to further improvement.

Another point that should be addressed in training in line with the Beacon project is communication with young people. During my working life I have worked as a youth training officer in both rural and city areas. Unfortunately, I always found it difficult to put forward a case for a young person because the police officers invariably became defensive. That made communication very difficult. I hope communication with young people will be addressed in future training. It is important that we face up to the problems and do not take as long to address them as it has taken the minister to respond to the fatal shootings.

No-one really wants to talk about the way our young people are dealt with in watch-houses. Many of the young people do not want to make formal complaints; they fear retribution because of the society they live in and the way things work. There is no doubt the culture needs to be changed. I hope that will be taken into account.

Another concern expressed by members of the community is about how we deal with demonstrations and how the police force reflects society's view of that. I also have some real concerns about the introduction of capsicum spray. I was pleased to hear the honourable member for Glen Waverley say that its use has been put on hold for some time while more studies are being done overseas. As he mentioned, capsicum spray is not only a danger to the police officers using it but is also a danger to the people it may be used on. We must make sure that we have the right training for and the right attitudes to not only the use by police of firearms but also their use of other deterents.

Most people are horrified at the thought that we could turn into a society that is ruled by the gun. Until now we have not been, and we must keep that paramount in our minds. We do not live in a society that believes each person has the right to carry firearms or should have firearms, as may be the case in America. In general terms we are not a society that believes people should have firearms in their possession just in case they may need them. There is no doubt — all the evidence shows this — that violence begets violence. It is interesting to note that since police officers have worn guns more frequently there has been an increase in the police use of guns. As a result people want to have guns to counter the effect of police officers having guns.

Over the past 15 years I have watched that culture develop. I remember how strange it was to see police officers wearing guns when they were coming to collect the mail in my rural town. I discovered by talking to them that it was not mandatory for police officers to wear guns, but the attitude that was starting to develop was that a policeman who did not wear a gun was not as manly as one who did and that women police officers who did not wear guns were not as good as the boys — a police officer who did not wear a gun was namby-pamby and was not wanted. I understand there has been discussion, and I endorse it, about the training recognising that on many occasions police officers do not need to have guns, that they are not an important part of police uniform and that plenty of issues can be resolved without guns. Of course, there may be times when officers need to know how to use guns.

It is a sham that the honourable member for Glen Waverley said that the best thing that had happened as a result of the deaths from police shootings — it almost justified them — was the introduction of the Project Beacon training program. He thought that was a plus. Nobody could possibly say that the police shootings should have happened. We should have been able to identify the problem earlier. Perhaps some of the people — I am one of them — who talked about the issues and said that carrying firearms results in their use should have been listened to instead of being reacted to defensively and being put down. Perhaps then we might not have had the consequences we had. No-one will ever know. It is all very well to say so in retrospect,
of course, but it should be noted. That is why I remind honourable members of the concerns expressed over a number of years as well as the concerns expressed after the deaths, reports of which were blazoned across the front pages of our newspapers and shocked Victoria.

I am sorry the Minister for Police and Emergency Services took so long to act. It was blatantly obvious that something was wrong in the ethos of the police force, that there was a problem, that communications were not as good as they could have been and that those issues had to be resolved. Now we have a training program that from all reports will enable members of the Victoria Police Force to be the kind of police officers we wish them to be. I hope the government will make sure that not only this training program but the overall police culture is brought into line with what this society wants. The training should ensure that we do not have a repeat of those disastrous police shootings. Improvements must be made to our watch-houses and young people must feel more inclined to work with the police. I know that is happening in various areas, but only in general terms and not overall.

Let us not take too long or we might lose more lives. Victoria needs a police force Victorians can work with in harmony. Project Beacon is not the whole answer. The government must work with the police to develop a code of conduct based on Victorian society. Then we will return to a culture in which members of the police force work hand in hand with the community and do not use firearms at first instance but as a last resort.

It is important to understand the stress and responsibility imposed on young police officers. I urge the Minister for Police and Emergency Services to ensure that young police officers are given all possible support so that they can have successful careers in the police force and can turn around what has been happening. The Victoria Police has been losing officers because of the enormous stresses and strains they are under and has had to invest even more in training young people. It does not have the necessary flow through of senior officers who are able to support the young officers coming through.

The emphasis on communication skills is important. As I said, it is important also that the police force works hand in hand with the community. None of us should feel that we must tell our sons and daughters not to have anything to do with the police; we should all be able to tell our sons and daughters to go to police officers for support and protection. That will not happen through one training program.

I am pleased that the program outlined has been well received by the police force. That augurs well for the future. We have to take on board the things set out for us in the reports, although I am sure members on both sides of the house have taken them into account. I shall read from the report entitled Police Shootings — A Question of Balance. The chapter headed ‘Toward a Shootings Control Strategy’ says:

There are no quick-fix solutions, although certain measures will provide considerable relief in the short term without addressing more deeply structured issues. Members possessing appropriate attributes (however defined) need to be recruited, they must be suitably trained, equipped and supported.

That must be the basis of any future training for our police force, because there are no quick fixes. Although the Project Beacon training program is a good response to the terrible time we had last year — even if the response was not as fast as it should have been — there is no doubt that we need to be looking much further into the future and examining the deep-seated problems.

Further on the report says:

... most of the measures undertaken within the aegis of Project Beacon are direct.

They probably needed to be, given the situation we were in.

Further consideration will need to be given to longer term indirect measures that will impact many areas of the force, not just shootings.

Although the Chair has said that members must stay within the confines of the motion, which I believe I have, I point out that it is also important to look to the future and consider where we go from here. We need a police force that works hand in hand with the community for reasons of support and protection. We need to establish strong communications with and be able to rely on the police force so that in future the minister will not take so long to act and fewer lives will be lost. That must happen before we can have the police force we so richly deserve.

Mr TRAYNOR (Ballarat East) — It gives me great pleasure to join the debate on the motion. I have
I thought the shot may have been fired at us, but in all honesty it was probably fired in the air just to scare us. I heard the offender coming from the back of the factory so I waited for him. I had my baton and my fists. As he put his head around the corner I went whack with the baton and he went down. He had .22 rifle. He was handcuffed and taken away. I remember how frightened I was when I heard the gunshot, but the decision I made to send the other member of the van crew away and to capture the offender was for the best.

On another occasion, a Sunday afternoon, I remember driving with another officer to what we had been told was a heavy domestic involving firearms. We were confronted by a 50-year-old man armed with a .22 rifle. He had been to the happy hour at the football club, had got drunk and had started to beat his wife. He pointed the gun at my offside. I had a firearm. I could see he was not aware of me. As he turned the firearm away for a split second I hit him with the magic baton. It was the greatest thing a policeman ever had! The man went down and we took him to the police station. When I look back on what we were taught at the police academy, I may have been justified in taking out my firearm. But those are the sorts of decisions you make.

The unfortunate thing about this day and age is that when young police officers are confronted on the street they are damned if they do and damned if they don't! We have heard a lot of emotional things said about police shootings. They are certainly newsworthy; the reports usually appear on the front pages of most newspapers and on the television. So a terrible amount of stress is being placed on young police officers today, and we do not have the answers.

I take up a point raised by the honourable member for Altona, who said that some police officers should not be armed. In the last five years of my career as a police officer I did not carry a firearm. I still relied on my 1967 attitude, which was that I could beat them with my fists or my baton. I must have been lucky; I was either a good talker or good with my fists!

The Project Beacon manual outlines the policy guidelines. The key issue is the need for police officers to plan what they will do when arriving at a hostage scene or a domestic violence situation, for example. The manual contains seven main guidelines police officers must follow. The first thing young police officers must do when they attend a
hostage or domestic violence situation is to isolate the area. In the past many young officers, having in mind the image of being tough and heroic, rushed in and grabbed the offenders. That attitude has now changed. Under the new guidelines the officers in the first response car to the scene must isolate the area by diverting traffic, erecting barricades and informing residents of what is happening.

The next step is containment. That is a must when an officer is confronted by an offender who in attempting to escape may try to jump the back fence or take a hostage. The area must be cordoned off and contained, and residents should not be alarmed about what the offender may do.

The next step is evacuation. I have learnt that somebody with experience is needed to oversee the evacuation of the scene. It is no use saying to a mother holding a baby that because an armed offender is nearby the area must be evacuated. That only causes problems. Residents should be safely evacuated to a community hall or somewhere else where it is safe, and it must be done without making them fearful. That has been a problem in the past, but I am pleased to say evacuations are now being carried out by experienced people.

The next point involves negotiation and communication. The police force has trained negotiators. At times it is inappropriate for uniformed police officers to attend scenes at which agitated persons are present. The sight of people wearing uniforms and carrying batons and guns can make things worse. Now a plain-clothes policeman or policewoman negotiator attends the scene. On many occasions police have been their own worst enemies when attending scenes such as those in uniform.

Communication is also important. I witnessed a siege in Queensland where the police hooked up a special telephone to talk to the offender, but the media, other police, relatives and neighbours were able to block the line. When you are trying to negotiate with an offender or somebody affected by alcohol there is nothing worse than having reporters and television crews trying to get a story. It also gives the offender the chance to make a name for himself by seeking publicity. Now dedicated telephone lines are installed for use by the negotiators. All those positive measures have come from Project Beacon.

I refer to rehabilitation. Once when an offender was arrested or taken away the police were reluctant to tell people that the offender had been captured. They turned up, did their job and took away the offender — and the residents were left to their own devices. Under the new guidelines people must be reassured that it is safe to return to their homes. Police officers may even go through residents' homes to ensure they are safe and secure.

There has been a turnaround in police attitudes. Project Beacon has been the best thing that has happened for a long time. Something had to be done, and I support what is happening. But we must be realistic. Police shootings will continue given the nature of the community. We are well on the way towards helping the community health people and other support groups to alleviate many of the problems. We do not want to have an Oklahoma-type situation happen here.

Nevertheless, I am biased. I am still proud to have spent 26 years as a police officer, but I am realistic enough to say that people will sometimes be shot by police. It is simplistic to say that if criminals laid down their arms police would lay down theirs. That will not occur.

We have taken the initiative in rectifying the situation and have tackled it in a positive way. The community has expressed its support, but we do not have all the answers. Someone could be shot tomorrow, after which there will be headlines in the newspapers saying that Project Beacon is a failure. At the end of the day operational decisions have to be made by the police officers at the scene. There are always armchair critics who are ready to knock anything.

I support some of the comments made by the honourable members for Yan Yean and Altona. We need to consider having experienced police officers in police vans. However, when I look back to my training in 1966 I remember that I was sent out to Fitzroy at 21 years of age, knowing virtually nothing. I was in a police van with two other young constables and we managed to get through without using firearms, perhaps because we were taught a different way. We were taught to throw punches and use our batons.

Society has changed. I support what the government is doing. We are on the right track to achieving our goal. I totally support the minister and all those who have supported the motion.

Mr CARLI (Coburg) — Firstly, I recognise the importance of the Victoria Police Force and the
The police shootings that occurred in 1994 shocked the community. Project Beacon is part of the solution, but our problem is that it is only part of a broader solution. We need to consider other elements that will bring about an attitudinal and cultural change in the police force, contribute to community measures and ensure that the role of the police is eased. Much of this should be centred on the whole issue of deinstitutionalisation. The 1994 shootings were directed primarily against a community group who are psychiatrically and emotionally disturbed and not hardened criminals. As a society, we must find measures to avoid such occurrences but also we must integrate and support these disturbed people.

Project Beacon is a welcome part of a broader scheme, but we need to look at various measures to deal more profoundly with the whole issue. The opposition is concerned about the slowness of the minister to deal with the issue of the police shootings in 1994. After the first three shootings occurred they were seen not as a systemic problem but as pure coincidence. It was only after further shootings occurred that it was realised something had to be done. Experts were brought to Australia, and Project Beacon was seen as one way of solving the problem. Something was wrong, and it is important to look at what that was and whether it was an underlying systemic problem with the police force.

The issues have been stated, restated and widely publicised. They include the effects of cuts to psychiatric services and the issue of deinstitutionalisation. That program was supported by this government and the former government. There is a need to create the necessary support structures to allow psychiatrically and emotionally disturbed people to live in the community.

The attitudes of members of the police force are also of concern not only with regard to the shootings but also with regard to other incidents that occurred in 1994 that shook public confidence in the police force. They include the policing of the Richmond Secondary College incident, the Tasty Nightclub incident and the use by police of pressure point methods to remove demonstrators.

The other issue touched upon by the honourable member for Ballarat East was the effect of changes in society on the police force, particularly the effects of the police assassinations in October 1988 and the bombing in Russell Street in 1986. Clearly these incidents created a sense of fear and outrage in the broader community, and that was magnified even more within the police force. They were rightful fears, but at the same time they have had an effect on the culture of the organisation. These issues need to be considered to ensure that the police force can confront the changes without overreacting.

Although we recognise the legitimate grounds for some of the fears of police, we are concerned about the substantial increase in the number of police shootings. The honourable member for Yan Yean said that in 1992 there were two shootings, in 1993 there was one, and in 1994 there were nine shootings. However, it was the type of shooting that occurred and the people involved that was of concern. In 1994 it was concentrated on people who were psychiatrically and emotionally disturbed, which is a major problem. It is one thing to have hardened criminals involved in shoot-ups, but it is another thing when people with long histories of disturbances and of being threatening when confronted by police end up in tragic circumstances. There is a problem with the support mechanisms that are in place.

The way the community relates to the police force is another issue. There was a lot of concern during 1994 about the response by police. An article in the *Herald Sun* of 27 September 1994 stated that a number of families who had severely emotionally and psychiatrically disturbed members claimed they were too scared to call for police assistance in moments of confrontation with those family members. The article states:

Firstly, they think by calling the police their loved ones will be seen as criminals and now there is a fear about what is going to happen if there is a violent confrontation.

Obviously, if we are going to have the police involved in cases where psychiatrically disturbed people need to be confronted and there is a growing fear that as a result of the 1994 shootings the police will overreact, it goes beyond the issues dealt with by Project Beacon. This is about attitudes and building relationships between the community and the police so that people can feel confident about calling the police, because the way of dealing with those incidents is known. Clearly this involves
training but it also involves an educational process in terms of culture and attitude not only within the police force but also in the community so that families who provide enormous support for their loved ones feel confident about policing methods.

We have seen a step in the right direction, but a lot more needs to be done to improve community policing methods. It is necessary to ensure that staffing levels are adequate and that senior police are involved in dealing with these incidents. Younger police will find confrontational situations more difficult. As the honourable member for Ballarat East said, there is a realisation among younger police that the world is more dangerous, and if they must deal with dangerous situations early in their experience they may have more violent reactions. We should ensure that there are well-defined systems of conduct and that members of the police force and the community are familiar with the new practices. Project Beacon is moving in the right direction, but it has been slow.

I turn to the issue of the general support services for deinstitutionalisation. The process of deinstitutionalisation has been undertaken by both governments over a decade. It is to some extent still a learning experience; it is still a process of knowing where to put adequate housing and support services for disturbed people and how to involve the community in them. You cannot put such people into the community and expect them to be looked after or have their hands held the whole time.

There is also the process of educating the broader community about how we integrate those people, ensure that others relate to them effectively and break down the barriers. In this case it is not simply a police issue: it is a much broader community issue. However, it is one that we all have to confront. The process of deinstitutionalisation really demands that the barriers in the community be broken down. It is an area where I think both parties can see common ground.

The 1994 incidents, regrettable though they were, were a systemic problem and part of a problem the police force has had to confront. We have been and are critical of the minister's reluctance to take that issue head-on after the first shootings: clearly, the process was undertaken after a delay. However, there have been improvements: there have been a series of recommendations and Project Beacon was undertaken.

As was said by the honourable member for Yan Yean, the use of firearms is not the problem: it is a combination of experience, firearms, training and attitudes — they all work together. The fact that there was such a reaction towards the Victorian police nationally about the incidents indicates that the solution must be holistic. It is not a question of simply taking away the firearms or conducting concentrated training; it is really about how you change the system or reorganise it so that the use of firearms is not excessive and how you ensure that, in the cases of psychotic or emotionally disturbed people, mechanisms are in place to handle any violent outbursts.

The other incidents that occurred at around the same time which also damaged the credibility of the police force and need to be taken into account on the question of change in attitudes and culture and the improvement of community police interaction were the policing methods used at the Richmond Secondary College and the concerns about them.

Mr Turner — On a point of order, Mr Deputy Speaker, on a number of occasions it has been ruled by both the Speaker and the Acting Speaker that this is a narrow debate. I certainly fail to see what the Richmond Secondary College has to do with armed offenders or suspects. I do not wish to stifle the debate, because I have been very interested in it, but I ask that you bring the honourable member back to the issue at hand, the motion, which says nothing about the Richmond Secondary College.

The DEPUTY SPEAKER — Order! I uphold the point of order. I understand that before I came to the chair the Speaker and the Acting Speaker ruled on the point of order. I believe the motion is specific in saying that it is dealing with armed or suspected to be armed offenders or suspects. My understanding is that the people involved in the picket lines at the Richmond Secondary College were not armed; therefore, I do not think they necessarily fall within the ambit of the motion. If the honourable member has made a passing reference to it, I suggest that he move on to the substance of other matters in his speech.

Mr CARLI — I will conclude my contribution to the debate by saying simply that Project Beacon is a move towards improving community support and, obviously, improving policing methods. In that sense, it is a welcome move. Although we have made a number of criticisms of the minister and of his delays in moving in that direction, we certainly welcome that measure.
Mr TURNER (Bendigo West) — I am pleased to be able to make a short contribution to the debate. I have listened intently to the other speakers from both sides of the house.

We are dealing with a very important issue here. Like the honourable member for Ballarat East, I consider myself fortunate to have spent some time in the Victoria Police Force. When I joined the police force in 1965 we lived in a far different world to the one we live in today. When I left the force in 1981 we lived in a different world from the one we lived in when I first joined the police force in 1965.

Without any shadow of doubt we will see changes take place in future generations. I think all members of the house would recognise the fact that the role of policing in Victoria is a difficult one and one which will probably continue to throw up new challenges and new problems in the way the police go about policing.

From moving about my constituency, which is in a rural area, I have no doubt that the general public has complete faith and confidence in the Victoria Police Force and the way it does its job. Having said that I point out, as the honourable member for Bendigo East pointed out, that he had some problems with the way our police were confronting people in particular situations and the way the problems were solved. I, too, have those problems and I am extremely pleased to see the minister act so quickly to support Project Beacon.

What we must realise is that the operational problems and exercises within the police force are tackled primarily by the police force itself. However, the minister has wholeheartedly supported the department in the introduction of this project. I am told that as of today approximately 8700 operational members of the Victoria Police Force have partaken in Project Beacon and been trained under the new guidelines. That is basically the whole operational side of the police department except for those people who during that period were on leave or in other areas. In the short period from December last year until now we have seen the operational side of the police force take part in the very worthwhile program, Project Beacon.

The other point I would like to raise which was raised by the honourable member for Altona is the relationship between the police and the community, in particular our young people. In my electorate of Bendigo West I have been fortunate to have a close association with the Police in Schools program which, I am sure the honourable member for Yan Yean will agree, is fantastic. Like the honourable member for Altona, I support any such program that can bring our police and young people closer together in solving some of the problems that we have in society.

It is a different society from that of a few years ago. When I was a youngster nightclubs did not operate until 5, 6 and 7 a.m. It seems to me that by and large things do not get under way for young people until about 3 a.m. Some of us have problems with that, but we live in a different world and we have to treat and attend to its problems the best way we can.

In the short time I have left I will say that I think much of the problem that some people spoke about this morning comes back to risk assessment. However, we must realise that in a split second we are putting young members of the police force into dangerous situations. I certainly concur with the honourable member for Yan Yean that we have problems with the age of police officers and with their general experience.

I thank the house for giving me a short time to contribute to this debate. I would like to talk more about risk assessment, because I think that is the real problem faced by young people in the police department. However, I do not have the time to do that, so without any further ado I thank the house for enabling me to contribute to the debate.

Motion agreed to.

Sitting suspended 1.00 p.m. until 2.05 p.m.

DISTINGUISHED VISITORS

The SPEAKER — Order! It is my pleasure to welcome to the Speaker's gallery a study tour group from Vietnam. The group is led by Mr Hoang Cau and Mr Nguyen Kinh Hoan. Mr Hoan is a member of the Hanoi People's Committee — in other words, he is a fellow member of Parliament. You are all very welcome.

ABSENCE OF MINISTER

The SPEAKER — Order! I advise the house that the Deputy Premier will be absent during question time today because of government business. The Minister for Industry and Employment will handle any matters concerning the Deputy Premier’s portfolios.
Wednesday, 10 May 1995

QUESTIONS WITHOUT NOTICE

ASSEMBLY

QUESTIONS WITHOUT NOTICE

Automatic ticketing machines

Mr BRUMBY (Leader of the Opposition) — I refer the Premier to the comment made by the Minister for Public Transport on 18 March this year that the government’s contract for automatic ticketing with the Onelink consortium was being reviewed and that the review would be completed within two or three weeks. What was the outcome of the review and what is the timetable for the introduction of automatic ticketing on Melbourne’s public transport system?

Mr KENNETT (Premier) — I think the Leader of the Opposition was requesting details from the Minister for Public Transport. I am not aware of the details subsequent to that answer — —

Mr Brumby — No timetable?

Mr KENNETT — I thank the Leader of the Opposition for his question. Following the appearance of this week’s Melbourne Weekly I would not have thought he would have wanted to raise any issues of substance let alone that one. As part of his new leadership role I understand he has been over at the Imperial Hotel today having his photo taken eating pizza for a major publication that is to appear shortly. The great new leader was over at the Imperial at lunchtime sitting on his own eating pizza. I feel sorry for the pizza!

I can only suggest to the Leader of the Opposition that I am his best supporter. I am worried that he will shoot himself in the foot. I do not want him to go. I want him to stay. I think he is doing a fantastic — —

The SPEAKER — Order! The Premier must answer the question, and the answer must be relevant.

Mr KENNETT — Mr Speaker, I try to give him the best advice I can. If he does not want to listen to it and instead spends all day having his photograph taken with pizza dribbling down his face, what chance have we got? If the Leader of the Opposition wants an answer to the question he should direct it to the appropriate minister, my colleague the Minister for Public Transport.

Federal budget: company tax

Mr SPRY (Bellarine) — Will the Premier inform the house of the impact on Victorian business of last night’s federal budget?

Mr KENNETT (Premier) — The honourable member for Bellarine will remember that on 21 March this year we disclosed to the house the contents of a letter from Russ Gorman, the federal member for Greenway, stating that company tax would be increased from 33 to 36 per cent. At that stage I expressed my concern, firstly because of the inconsistent manner in which the federal government was altering the company tax scales. That led those who had made investments or were planning to make investments to feel insecure about the underlying basis on which their investments would attract tax.

Secondly, I was concerned because the Prime Minister himself has said on so many occasions — the latest being at the CeBit fair in Germany on 7 March — that if investors come to Australia they will find one of the lowest company tax levels in the world and a generous depreciation allowance on plant and equipment. But if you look at taxation scales at the moment you will see that Australia is almost at the top of the tree.

New Zealand has a tax rate of 33 per cent. We all know that New Zealand is competitive in the way it attracts business not only from the rest of the world but also from Australia. Singapore has a tax rate of 27 per cent; Hong Kong, 16.5 per cent; Malaysia, 32 per cent; and Thailand, 30 per cent. So we have now actually gone to the top of the tree in this region. I can say that not only will that act as a disincentive for investment in this country but, without a doubt, it will have an impact on the opportunity to continue to lower — —

Mr Micallef — The Treasurer is embarrassed. Look! The Treasurer won’t even come in.

The SPEAKER — Order! The honourable member for Springvale will be embarrassed if he continues in that vein.

Mr KENNETT — At least the Treasurer does not hide behind his beard. He shaves. Come in, Alan. Have a seat. He is a good Treasurer, too, the best Treasurer in Australia — that is well recognised — not like the former Treasurer, who sits over there, shrinking violet that he is.
QUESTIONS WITHOUT NOTICE

ASSEMBLY Wednesday, 10 May 1995

The SPEAKER — Order! The Premier is now straying from the question. I ask him to return to it.

Mr KENNETT — The increase in company tax rates will, as I have said, further remove incentives for industry to invest in Australia at a time when we are involved in a very competitive market. It also makes a mockery of the Prime Minister's own comments in March this year, only two months ago. Therefore, it will also impact heavily on job opportunities in this community.

Mr Brumby interjected.

Mr KENNETT — You go have another pizza! The decision last night to — —

Mr Micallef interjected.

Mr KENNETT — in the dining room with you. Were you there in the dining room?

The SPEAKER — Order! The level of interjection is too high and conversation across the table is unparliamentary. The Premier, concluding his answer.

An honourable member interjected.

Mr KENNETT — You can't even hold your preselection. This increase in company tax is not in the interests of this country. It is certainly not in Victoria's interest. As you know, Mr Speaker, we have been very successful in attracting new industry to this state in recent years. We need consistency of policy applied not only by state governments around the country but also by the federal government. I fear that this aspect of the federal budget presented last night will be very costly to Victoria. More importantly, it will be very costly to this country in both the short and medium terms.

Director of Public Prosecutions

Mr MILDENHALL (Footscray) — In light of the fact that the Attorney-General talks with her Crown Counsel, Greg Craven, virtually every day, has she now asked Mr Craven whether he stated at the meeting on 6 October 1993 that the reasons for the DPP bill were that Mr Bongiorno was a megalomaniac, that he tried to sue the Premier for contempt and that there were problems with the police shootings matters; and if such statements were made will the Attorney-General agree that contempt matters generally and the police shootings matters specifically have now been compromised by the appearance of political interference?

Honourable members interjecting.

The SPEAKER — Order! Did the Attorney-General hear the question?

Mrs WADE (Attorney-General) — Mr Speaker, I had some difficulty in understanding how the police shootings came into the question.

The SPEAKER — Order! Does the Attorney-General want the question repeated?

Mrs WADE — Yes, Mr Speaker.

Honourable members interjecting.

The SPEAKER — Order! A couple of members of the government are causing the Chair some concern. The honourable member for Doncaster is one. I have to say to the honourable member for Mordialloc that yesterday was a perfect day — he was absent.

Mr MILDENHALL (Footscray) — In light of the fact that the Attorney-General talks with her Crown Counsel, Greg Craven, virtually every day, has she now asked Mr Craven whether he stated at the meeting on 6 October 1993 that the reasons for the DPP bill were that Mr Bongiorno was a megalomaniac, that he tried to sue the Premier for contempt and that there were problems with the police shootings matters; and if such statements were made will the Attorney-General agree that contempt matters generally and the police shootings matters specifically have now been compromised by the appearance of political interference?

Mrs WADE (Attorney-General) — The answer is no.

Medicare: levy increase

Mr DOYLE (Malvern) — Will the Minister for Health advise the house of the impact the increase in the Medicare levy announced in yesterday's federal budget will have on the number of Victorians with private health insurance?

Mrs TEHAN (Minister for Health) — I thank the honourable member for his question and his understanding of the impact the 7 per cent increase in the Medicare levy will have on the number of Victorians with private health insurance who will now be forced to drop that insurance. It is an
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increase in the Medicare levy from 1.4 to 1.5 per cent, but it is effectively a 7 per cent increase and the second or third increase in a very short time.

It also indicates quite clearly that the federal health minister, Carmen Lawrence, was not able to carry the argument when the budget was being prepared because she said quite definitely in February that she did not support an increase in the Medicare levy. She may have understood that it would not only have a tax impact for all Australians but would have a deleterious effect on the number of people with private health insurance.

We estimate that approximately 50,000 Victorians will drop private health insurance in the next three to six months as a direct result of the increase in the Medicare levy. Victorians will say, 'We have to pay a compulsory levy, we have to pay high premiums and we often still have to pay out of our pockets', and when they get their pay packets and see that 7 per cent increase in the Medicare levy they will drop their private health insurance.

Not only is this increase an impost and a tax, but it adds to the burden of the single biggest issue facing the Australian health system: the decline in private health insurance and the demand being placed on the public system. We estimate that the cost of those 50,000 Victorians dropping private health insurance will be approximately $25 million, which will be an additional expenditure requirement of the public hospital system in Victoria. But, more importantly, it will add to the waiting lists that are now beginning to show through in Victoria.

Over the past two years we have treated an additional 100,000 patients in the public hospital system and reduced the waiting lists quite markedly. But with the decline in private health insurance we are seeing a constant move to dependence on the public system, and that is being reflected in our waiting lists. There is a direct correlation between the decline in private health insurance and the growth in waiting lists. No matter how quickly we are able to treat patients, more people are dropping out of the private health system and coming into the public system.

This increase in the Medicare levy not only fails to address the biggest issue facing Australians and their health system but also shows that Carmen Lawrence has no control or influence in the health area. The 7 per cent increase in the Medicare levy has an effect on the whole system and creates demand on the public system for which there is no commonwealth funding. It has a severe impact on the Victorian health system and we ask the commonwealth to consider again what this single measure is doing in taking away the opportunity for Victorians to choose private health insurance and be independent in their choice of hospital system.

Attorney-General: FOI defence costs

Mr MILDENHALL (Footscray) — In light of the Attorney-General's alleged concerns about supposed cost blow-outs in the budget of the DPP through paying outside counsel to work for the prosecution, how does the Attorney-General justify briefing Mr Ray Finkelstein, QC, and a junior barrister to appear for her at a mere directions hearing for an FOI case last Friday, and what was the cost involved in that matter?

Mrs WADE (Attorney-General) — Counsel for that directions hearing were briefed by the Victorian Government Solicitor, and I understand they were briefed in accordance with the normal practice.

Federal budget: airports

Mr PHILLIPS (Eltham) — Will the Minister for Industry and Employment inform the house of the government's reaction to statements in yesterday's federal budget regarding the future of Australia's airports?

Mr GUDE (Minister for Industry and Employment) — I thank the honourable member for his question because, unlike members opposite, government members are interested in the outcome of the sale of Melbourne airport. What we have again seen in the federal budget is just how committed to Sydney the Prime Minister and the Minister for Sydney, Laurie Brereton, have really become. The federal budget provides some $762 million for the construction of Sydney West Airport — that is, some $456 million for the construction of the actual airport and, surprise, surprise, something in the order of $260 million for road linkages.

When you look at that you really have to ask yourself just how cynical those two people and the federal government can be. In Victoria this government is proposing to widen the inadequate Tullamarine Freeway. What does the federal government say? It says that's no good. It says there's got to be a railway line. Will the federal government pay for it? The answer is no, it will not. In Sydney will the federal government pay for it?
The answer is yes, it will pay for the road and it will pay for the railway. You have to ask yourself why Victoria is being treated that way. I think it is simply a matter of the bias that exists in the federal government, particularly with Minister Brereton.

This sorry tale does not stop there. Mr Brereton proposes a 2900-metre runway at Sydney West and says:

The [new] airport will provide a curfew-free destination for Sydney and capacity to handle major domestic and international jet aircraft, thus relieving the pressure on Sydney (Kingsford Smith) airport.

I have done some checking and what I find is that if the temperature in Sydney gets higher than 15 degrees — Sydney people claim they have nearly the best weather in the world, so presumably it is above that on many, many days of the year — a fully loaded 747-400 would not be allowed to take off from that runway. Indeed, it is aeronautically impossible for one to do so. What we have — —

Mr Batchelor — Mr Speaker, I raise a point of order concerning the provision of accurate information to the house in the Minister’s answer. Will the minister give details on when he actually asked for a rail link with Tullamarine?

The SPEAKER — Order! There is no point of order. The minister is in order.

Mr Gude — The reality is that the road proposed for the new airport is just a diversion. Clearly, what is proposed by the federal government is to reroute all the domestic traffic out to Badgerys Creek. I know how Melbourne business people feel now when they go to Sydney. It takes them about an hour to get out to the airport; the plane is usually delayed in Melbourne because of problems at Sydney airport; by the time they get to Sydney, with another flip around in the air, they are looking at a 2-hour flight. If domestic traffic is rerouted to Badgerys Creek it will take another 2 hours to battle your way back into Sydney. This approach is typical of the federal government. It is a government that single-mindedly pushes for Sydney and is negative about the rest of Australia. It is about time the Prime Minister and the federal Minister for Transport started governing for all Australians, not just the people of Sydney?

**Director of Public Prosecutions**

Mr Mildenhall (Footscray) — In light of the Attorney-General’s expressed concern about the supposed blow-outs with the budget of the DPP, can she advise the house of the legal and administrative costs involved in defending the recent FOI case in which the Attorney-General released virtually all the documents last Friday and this week in order to avoid giving evidence and telling the truth at the AAT?

The SPEAKER — Order! The reflection on the Attorney-General is out of order.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Springvale used an unparliamentary expression. It was a reflection on the Attorney-General. I ask him to withdraw.

Mr Micallef — I said, 'It's only Parliament. You can lie'. That's the truth. I withdraw.

Honourable members interjecting.

Mrs Wade (Attorney-General) — Mr Speaker, the honourable member for Footscray has asked for information that I suggest would be more appropriately dealt with by way of a freedom of information application.

Honourable members interjecting.

**Federal budget: forest agreements**

Mr Ryan (Gippsland South) — Will the Minister for Natural Resources inform the house of the implications for Victoria of the federal budget allocations in relation to the national forest policy and regional forest agreements?
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Mr COLEMAN (Minister for Natural Resources) — Those who stayed in Australia over Christmas and New Year would have watched the federal government cannibalise itself on the question of woodchip licences. The issue occupied much of the latter part of December and most of January. Members of the federal government argued among themselves as to how best to put in place legitimate export arrangements for products for overseas companies, particularly woodchips. One outcome of that public debate was that overseas customers drew some adverse conclusions about reliability of supply, which from Australia’s viewpoint is a critical.

Last night’s federal budget includes a $53 million allocation for the environment, and Victoria expects to participate in the spending of about $10 million of that. One of the issues to be addressed in that proportion of funding is the dedication of funds to accelerate the implementation of the National Forest Policy Statement, which was signed by Victoria some time ago now. Included in the statement was a requirement to develop regional forest agreements.

Victoria is willing to participate in those regional forest agreements. As long ago as last October we told the federal government we were willing to participate in developing regional forest agreements to give the industry some security about outcomes and supply arrangements. To that end Victoria has developed its East Gippsland forest management plan. We have implemented an old growth study of East Gippsland forests that aims to ensure the continuation of the industry.

One of the outcomes of the federal government’s attempts to solve its woodchip licence dilemma is a new criterion requiring preliminary reserve analyses of the areas proposed to be included in the regional forest agreement process. That new criterion is mentioned only in the national forest policy statement. It represents a further delay in the implementation of the regional agreement process.

Soon after Christmas, in the latter part of January, the Prime Minister said the states had taken a recalcitrant attitude to working on the regional agreements. In providing that $53 million allocation the commonwealth has now recognised the need to accelerate the implementation process — as well as acknowledging that it had not been funding the process. Victoria has expended significant funds in keeping its end of the bargain. We now have a database that is substantial enough to make rapid progress on both the preliminary reserve analysis and the regional forest agreement process. That gives the clear indication that Victoria was a willing signatory to the national forest policy statement.

The provision of dedicated commonwealth funds shows that at that time the federal government was not in a position to carry out its part of the arrangement — because it was not in a position to fund it. Only now, late in the day and after using preliminary reserve analyses to stall the process, has the commonwealth found the necessary funds to undertake the work, which is significant for Victoria.

Victoria has a vibrant and valuable value-adding forest industry. The forest industry is a very significant employer. It is also the second largest part of our manufacturing sector, and for that reason alone it needs protecting. The health of Victoria’s secondary industries was jeopardised by what occurred over Christmas and New Year. Honourable members should realise that Victoria exports only 6 per cent of its woodchips. The whole of our industry has been put in jeopardy by that factor.

Automatic ticketing machines

Mr BATCHELOR (Thomastown) — I refer the Minister for Public Transport to his repeated statements that the cost of the contract with the Onelink consortium for the automatic ticketing system was approximately $300 million. How does the minister reconcile this with the fact that two months after the contract was signed officials from his department told the opposition at a budget briefing that the real cost of the contract would be $400 million, not the stated $300 million?

Mr BROWN (Minister for Public Transport) — It is interesting that this question comes from the party that initiated the MetTicket. The question comes from the party that printed and pulped nearly $60 million worth of scratch tickets. It comes from the party that bought nearly $1 million worth of conversion equipment for W-class trams yet sold it to a scrap metal dealer for only $1500 just before the last state election. They have the gall to ask questions about prices!

The contract was decided by an open public process. The accepted tender was by far the cheapest. I think it is now on the public record that the difference in tender prices was in the vicinity of $100 million. This man, the member for Thomastown, would be the most unbelievable person in this house if not the state. I do not accept his word that somebody said it
would cost $400 million. The contract price was in the vicinity of $300 million.

ELECTRICITY INDUSTRY (AMENDMENT) BILL

Introduction and first reading

Mr S. J. PLOWMAN (Minister for Energy and Minerals) introduced a bill to make further amendments to the Electricity Industry Act 1993 and certain other Acts and for other purposes.

Read first time.

ELECTRICITY INDUSTRY (ELECTRICITY CORPORATIONS) BILL

Introduction and first reading

Mr S. J. PLOWMAN (Minister for Energy and Minerals) introduced a bill to amend the Electricity Industry (Amendment) Act 1994 and the Electricity Industry (Further Amendment) Act 1994 and for other purposes.

Read first time.

WATER (AMENDMENT) BILL

Introduction and first reading

Mr COLEMAN (Minister for Natural Resources) introduced a bill to amend the Water Act 1989 to provide further for water entitlements and water trading and for other purposes.

Read first time.

GOVERNMENT EMPLOYEE HOUSING AUTHORITY (AMENDMENT) BILL

Introduction and first reading

Mr I. W. SMITH (Minister for Finance) — I move:

That I have leave to bring in a bill to amend the Government Employee Housing Authority Act 1989 and for other purposes.

Mr LEIGHTON (Preston) — Will the minister give a brief explanation of the bill?

Mr I. W. SMITH (Minister for Finance) (By leave) — The bill will enable the Government Employee Housing Authority to transfer the ownership and control of houses to other departments and authorities.
Motion agreed to.

Read first time.

SUPERANNUATION ACTS (GENERAL AMENDMENT) BILL

Introduction and first reading

Mr L. W. SMITH (Minister for Finance) introduced a bill to amend the Hospitals Superannuation Act 1988, the Local Authorities Superannuation Act 1988, the Public Sector Superannuation (Administration) Act 1993, the State Superannuation Act 1988, the State Employees Retirement Benefits Act 1979 and the Transport Superannuation Act 1988, to repeal the State Casual Employees Superannuation Act 1989 and for other purposes.

Read first time.

PUBLIC TRANSPORT COMPETITION BILL

Introduction and first reading

Mr BROWN (Minister for Public Transport) introduced a bill to improve the operation of road-based public transport by providing for the accreditation of operators and implementing a system of service contracts for certain types of transport service, to amend the Transport Act 1983 and for other purposes.

Read first time.

ROAD SAFETY (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Mr BROWN (Minister for Public Transport) — I move:

That I have leave to bring in a bill to amend the Road Safety Act 1986, the Transport Act 1983 and the Marine Act 1988 and for other purposes.

Mr BATCHELOR (Thomastown) — Will the minister give a brief explanation of the bill?

Mr BROWN (Minister for Public Transport) (By leave) — The bill makes a number of important road safety amendments to the Road Safety Act. Among a number of things it closes a loophole in the breath-testing provisions, makes the conditions on interstate licences enforceable in this state, enables prompt action to be taken on licences held by persons who are medically unfit to drive, provides for zero blood alcohol limits for taxidrivers, rationalises access to Vicroads information and provides greater safety measures for passenger vehicles operating in hazardous areas. It also continues the reform of the passenger vehicle industry by transferring responsibility for hire cars, restricted hire vehicles and special purpose vehicles to the Victorian Taxi Directorate. I cannot remember the other aspects of the bill.

Motion agreed to.

Read first time.

WATER INDUSTRY (AMENDMENT) BILL

Second reading

Mr COLEMAN (Minister for Natural Resources) — I move:

That this bill be now read a second time.

This bill contains a range of amendments to the Water Industry Act 1994. It will facilitate future extensions of the licensing system that applies in the Melbourne metropolitan area to other parts of the state. It also streamlines a number of the act's procedural requirements to ensure that all water industry licensees can provide the most efficient services possible. As well, the bill facilitates certain operations of Melbourne Parks and Waterways and enables the closure of the Rural Water Corporation.

SERVICE CHARGE

As part of the national moves towards micro-economic reform the Council of Australian Governments has endorsed a strategic framework for the reform of the Australian water industry. At its February 1994 meeting COAG agreed to the adoption of pricing regimes based on the principles of consumption-based pricing, full-cost recovery and, desirably, the removal of cross-subsidies which are not consistent with efficient and effective service, use and provision.

In relation to urban water services, COAG agreed to the adoption by no later than 1998 of charging arrangements for water services comprising an access or connection component together with an...
additional component or components to reflect usage where this is cost effective.

Such a pricing system, which has a combination of service — access — charges and usage charges, is already in use for other utilities such as electricity and telephone services. The Water Industry Act currently provides that licensees may charge usage fees or other fees only for services provided.

In the Melbourne metropolitan area, Melbourne Water Corporation continues to charge a rate-based service charge. However, some of the non-metropolitan urban water authorities have already reduced or eliminated their reliance on property-based rates. Barwon Water has a fully functional service and usage pricing structure. This charging structure is authorised under the Water Act 1989. In order for such a structure to continue outside the metropolitan area after issue of a licence it is necessary to amend the Water Industry Act to allow a service charge to be levied by a licensee. Licensees will only be allowed to levy the service charge if and when they are able to move off the rate base.

The service charge may be calculated by reference to objective criteria such as the extent of the service available, for example, by connection size as is done by Barwon Water or by simply charging a flat fee. There may be both a water and a sewerage component of the service fee. The price freeze on water and sewerage charges in the Melbourne metropolitan area will not be affected by these amendments.

WATER TRADING

Another important development introduced by this bill is the concept of system access. This concept will, within technical limits, enable water licensees and large water consumers to purchase water entitlements and to have those entitlements delivered to them via any existing water supply infrastructure. Delivery of the entitlements will necessarily be subject to the payment of charges for the use of licensees' infrastructure, with the level of those payments regulated by the Office of the Regulator-General.

MELBOURNE PARKS AND WATERWAYS

The bill completes the transfer of regulatory powers to Melbourne Parks and Waterways, which will now have the power to grant leases over land under its control. It will also have control over the use of metropolitan watercourses. Ownership of all watercourses, including the Yarra River, will be vested in the Crown to ensure that Melbourne Parks and Waterways and Melbourne Water Corporation respectively can provide management functions in respect of the same watercourses. The necessary powers of management and control can then be conferred on Melbourne Parks and Waterways by an order in council in accordance with the existing provisions in section 133 of the Water Industry Act 1994.

RURAL WATER CORPORATION

The five regional boards of the Rural Water Corporation became separate authorities on 1 July 1994, with responsibilities for rural service delivery. On 1 July 1995, some of these rural water authorities will take over the remaining operational functions of the Rural Water Corporation and become regional wholesalers of water. The establishment of regional wholesalers will facilitate the process of rationalising the operational and capital expenditure of wholesale services. As a result of these changes the government is in a position to conclude the role of the Rural Water Corporation, and provisions of this bill will dissolve the corporation. All of its remaining operational functions and assets will be distributed between existing authorities. Residual public policy functions will transfer to the Department of Conservation and Natural Resources.

GROUNDWATER

One of the important roles of the Rural Water Corporation has been ongoing management of groundwater. The government will now establish a skills-based State Groundwater Council to provide comprehensive advice on groundwater management generally and the cost recovery needed to sustain regulatory and monitoring services.

Accumulated recurrent costs of $3 million held in the Rural Water Corporation will be absorbed in the finalisation of that corporation. For the next two years existing charges attributable to groundwater licensing and extraction will be held at current rates, pending the outcome of a review involving the State Groundwater Council.

I now refer to some of the provisions of the bill in more detail.

Part 2 of the bill contains the provisions establishing the service charge, providing system access and completing the transfer of powers to Melbourne Parks and Waterways. There are also a large number
of technical amendments to the Water Industry Act 1994 including powers for licensees to levy sanitary service charges — in lieu of Melbourne Water Corporation — providing that the Governor in Council may issue the initial licence in any area, permitting licensees to enter properties at night in the event of emergencies and ensuring licensees are not liable for reasonable releases of water from dams. Licensees will now provide consolidated information statements for any property, including information in respect of Melbourne Water Corporation and Melbourne Parks and Waterways.

Part 3 of the bill contains amendments to the Water Act 1989 which concern the closure of the Rural Water Corporation and the reallocation of its functions, assets and staff. There are also provisions broadening the minister's powers to regulate the construction and operation of dams and to appoint the chairperson of any authority.

Part 4 of the bill covers amendments to the Melbourne Metropolitan Board of Works Act 1958. There are provisions which mirror the system access provisions to be inserted into the Water Industry Act 1994. There is also provision for operation of works outside the metropolitan area.

Other amendments will permanently fix the base for the calculation of Melbourne Water Corporation rates on the 1990 municipal valuation of properties. Melbourne Water Corporation will purchase supplementary valuations that will be factored back into 1990 equivalent valuations by means of equalisation factors issued by the Valuer-General. This is part of the government's commitment to a price freeze on water and sewerage charges until 1 January 1997. It is consistent with eventual moves away from property-based rates, in accordance with the COAG agreements, and will also result in considerable savings to Melbourne Water Corporation by eliminating the need to purchase the general municipal valuations.

Part 5 of the bill contains amendments to the Melbourne Water Corporation Act 1992 including provisions which subject the corporation's directors to the same duties as are applicable to directors of state business corporations. There are also amendments which give the Treasurer and the minister a joint role in setting the corporation's corporate plans.

Part 6 of the bill contains miscellaneous provisions primarily concerned with the abolition of the Rural Water Corporation, amendments to the Residential Tenancies Act 1980 to pick up the new terminology of sewage disposal charge, and an amendment to the Weights and Measures Act 1958 to exempt licensees from complying with that act.

I commend the bill to the house.

Debate adjourned on motion of Ms MARPLE (Altona).

Debate adjourned until Tuesday, 23 May.

AUSTRALIAN FOOD INDUSTRY SCIENCE CENTRE BILL

Message from Council relating to amendment considered.

Council's amendment:
Clause 12, after line 9 insert —

"(4) If a director is a member of the Legislative Council or Legislative Assembly, the director is not entitled to the payment of any allowances or expenses under this Act."

The DEPUTY SPEAKER — Order! A statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1975 and the second and third readings of this bill have been passed with an absolute majority. In the light of the uncertainty of the meaning of the word 'passed' in section 18(2A) of the Constitution Act 1975, I am of the opinion that this amendment also needs to be agreed to by an absolute majority.

Mr W. D. McGrath (Minister for Agriculture) — I move:

That the amendment be agreed to.

I will give a brief explanation of the amendment. It is the result of debate in the Legislative Assembly when some concern was expressed that clause 14 did not adequately prevent the opportunity for payment to be made to a member of Parliament if he or she were to take a position on this board. Subsequently I raised the issue with parliamentary counsel, who agreed that amending clause 12 in the manner contained in the amendment would prevent any payment being made to a member of the Legislative Council or the Legislative Assembly who may serve on the board of the Australian Food Industry Science Centre.

Dr COGHILL (Werribee) — I thank the minister and the government for recognising the dangers of
TREASURY CORPORATION OF VICTORIA (HOUSING FINANCE) BILL

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the bill in its original form, because it did affront and directly challenge a long-standing constitutional principle that a member of Parliament should not hold an office of profit under the Crown and thereby be subject to influence or manipulation, albeit in the person of the executive government.

I place on record my appreciation of the minister's action in taking up the matter and the acknowledgment that was given to my role in the matter in the debate in the other place yesterday.

I draw to the attention of the house the fact that I am advised that there was one previous bill in which such a provision did go through unchallenged. Now another bill has been introduced that includes an even more offensive provision of that nature. I hope that the government and parliamentary counsel, having been alerted to the fundamental constitutional issue concerning this bill, will now recognise the issue and prepare an amendment for the other bill, which is awaiting debate in this house, and that no such further provisions appear in any future legislation.

The DEPUTY SPEAKER — Order! The question is that the amendment be agreed to. As there is not an absolute majority present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

TREASURY CORPORATION OF VICTORIA (HOUSING FINANCE) BILL

Second reading

Mr STOCKDALE (Treasurer) — I move:

That this bill be now read a second time.

The purpose of the bill is to transfer the capital market liabilities of the home opportunity loans scheme to the Treasury Corporation of Victoria and to transfer the remaining assets and liabilities of the scheme to the director of housing. The amendments will provide a greater degree of flexibility for the director of housing to manage the assets and liabilities and the scheme's financial risks.

The scheme was established in 1987-88 to facilitate the previous government's home purchase assistance scheme. The structure of the scheme, which was designed to fall outside the then global limit, is, however, complex and involves a number of private sector companies and trusts. The roles of the entities are narrowly defined and preclude discretion or flexibility. Of particular concern is the fact that the documentation and the structure prevent the director of housing from managing the financial risks within the scheme.

As it is agreed between the states and the commonwealth that funds raised for housing programs are outside the loan council allocation, it is proposed to terminate the structure under which the scheme was established. The existing home purchase assistance programs will, however, continue through the director of housing pending the completion of the review of the role of government in these programs.

The bill continues the process of centralisation of the capital market debt of Victorian authorities which has already occurred in relation to the debt of the former State Electricity Commission of Victoria, Melbourne Water and the Gas and Fuel Corporation of Victoria.

The bill will operate to:

(i) transfer the capital market liabilities of Victorian Housing Bonds Ltd under the scheme to Treasury Corporation of Victoria. The director of housing will assume responsibility for servicing its liability to Treasury Corporation of Victoria;

(ii) transfer the assets and liabilities of the scheme (excluding capital market liabilities) to the director of housing; and

(iii) facilitate the consequential termination of the scheme's structure.

Following the transfer of the assets and liabilities it is proposed that the private sector companies and trusts be wound up.

Last year the Minister for Housing authorised a restructure of the scheme's mortgages. The restructure was necessary as a consequence of the significant number of prepayments made during a period of falling interest rates, which increased the mismatch between the scheme's assets and liabilities. As a result of this restructure the present value of the costs to the scheme through to 1999 have been stabilised at around $60 million to $80 million. It is essential that the director of housing be able to implement a risk management strategy if he
is to manage the assets and liabilities better and to contain and reduce the costs of the scheme. The existing arrangements are not sufficiently flexible to enable this to occur.

The termination of the structure will also enable the director of housing to manage the scheme's assets and liabilities as part of the director's aggregate portfolio. As at 31 December 1994 the total assets and liabilities were approximately $1.5 billion. The scheme's assets and liabilities represented slightly more than half of the director's aggregate housing finance portfolio. The aggregation of the portfolios to some extent mitigates the mismatches between assets and liabilities and assists the task of risk management.

In dismantling the structure the government has been careful to preserve the interests of the private sector participants affected by the legislation. The government has received an advance opinion from the Australian Taxation Office that the transfer of bonds from Victorian housing bonds to Treasury Corporation of Victoria will not, under the Income Tax Assessment Act, have any adverse tax consequences for bondholders. The terms and conditions applicable to Home Opportunity Loans Ltd home loan mortgages will also remain the same and borrowers will not be affected by the bill.

I reiterate that this legislation is in keeping with the government's policies of improving the financial management of the state's assets and liabilities; centralising its public sector liabilities and achieving greater transparency in its financial arrangements.

I commend the bill to the house.

Debate adjourned on motion of Mr LEIGHTON (Preston).

Debate adjourned until Wednesday, 24 May.

APPROPRIATION (PARLIAMENT) (INTERIM 1995-96) BILL

Second reading

Debate resumed from 2 May; motion of Mr STOCKDALE (Treasurer).

Dr COGHILL (Werribee) — I have pleasure in resuming the debate on the appropriation for the Parliament of Victoria for the first four months of the financial year. The principle of having separate appropriation legislation for the Parliament is soundly based but unfortunately was not recognised in the Victorian Parliament until 1992, when it was adopted as a consequence of a comprehensive review of the administration of the Parliament initiated by me as Speaker and by my colleague the Honourable Alan Hunt, then President of the Legislative Council.

You will recall from your own interest in the matter, Mr Deputy Speaker, that we commissioned a strategic management review of Parliament which was undertaken by Professor Russell and Professor Foley. The review was an excellent document which highlighted the issues of principle affecting the administration of Parliament and the way it was managed. Among other things it recommended a separate appropriation for Parliament and that Parliament's appropriation should not appear simply as one item within a general appropriation bill and be subordinate in the sense of its budget's being determined by the executive in the person of the Treasurer rather than being under the control of the Parliament, which under our system of government should be the superior institution in that system.

As a consequence of the process initiated and developed during that period in the life of the previous Parliament, the first separate parliamentary appropriation bill was introduced in August 1992, prior to the 1992 general election. I am pleased to note that the principle has been upheld and respected since that time by the current government and its Treasurer.

It is important to say a number of things about how the system is currently operating. It was my view as Speaker that it was important to involve the Parliament in the development and execution of budgetary proposals rather than simply leaving it to the presiding officers and their staffs.

It is important and reflects modern management practice to involve those who are affected by decisions in the making of those decisions. It was in that context that in 1992 the House Committee was actively involved in reviewing the expenditure of and allocations to Parliament and reviewing proposals to be put to the government for inclusion in the parliamentary appropriation, particularly for the 1993-94 year. I will not criticise my successor for not following that practice, but it has significant advantages for the operation and management of Parliament. It would be of considerable assistance to honourable members to know they had an opportunity to become involved in the framing and
expenditure of the parliamentary appropriation. Unfortunately, for whatever reason, neither the House Committee nor any other committee or body of members of this House or the other place has since 1992 been involved in the development and implementation of parliamentary appropriations.

Mr Weideman interjected.

Dr COGHILL — The honourable member for Frankston interjects that the Public Accounts and Estimates Committee, of which he is chairman, has had some role through its public hearings process and its deliberations. That is something for which we can all be thankful. However, it is unfortunate that the committee that is charged with major aspects of the administration of the institution of the Parliament and its properties is not being involved in the way it could be and is empowered to be under the provisions of the act that establishes it. That is not a criticism of the presiding officers; rather it is a constructive suggestion as to how the institution of Parliament can be helped to be better administered.

In some ways Parliament is like a company. Just as one would expect the board of directors of a company to be involved in determining the annual budget for the administration of the company rather than simply leaving it to the chairman of directors or the managing director to make a decision relying solely on the advice of accountants and other administrative staff, and just as in the corporate world there is an advantage in including the directors in major decisions, there is also an advantage in involving members of Parliament through a committee such as the House Committee in the development and application of appropriations for the conduct of Parliament.

I move now to the structure of the bill as set out in the schedule, which comprises a table of single line items headed 'Parliament votes'. The clauses of the bill deal with mechanical aspects of how money is to be applied and how alterations can be made, such as shifting an item of expenditure from one heading to a different heading. Those provisions have been in place for a year or so now. Although they are a welcome advance on what applied prior to 1992, it is important to put the Parliament votes on the public record. The information contained in the schedule will assist the presiding officers and the parliamentary administration in using funds made available to Parliament.

The table provides the following information: for program 103, Legislative Council, $779 000 for recurrent services expenditure, $0 for works and services expenditure, total expenditure of $779 000; for program 104, Legislative Assembly, $758 000 for recurrent services expenditure, $0 for works and services, total expenditure of $758 000; for program 105, Parliamentary Library, $340 000 for recurrent services expenditure, $0 for works and services, a total of $340 000 thousand; for program 106, Parliamentary Debates, $502 000 for recurrent services expenditure, $0 for works and services, a total expenditure of $502 000.

One hopes the absence of a provision for works and services expenditure in some departments reflects the fact that there is no pressing requirement in those departments for upgrading of equipment, new construction or other facilities.

Program 107 contains allocations for parliamentary support services. As the name suggests, it is concerned with a whole range of support services for the institution of Parliament. It is separate from electorate support services. It has a total recurrent services expenditure of $953 000 and a works and services expenditure of $320 000, making a total of $1.273 million. Program 108 is parliamentary printing, with $720 000 provided for recurrent services expenditure. As one might understand, no works and services expenditure is provided for or is likely to be needed.

Program 109 is of great concern to honourable members because it relates to electorate support services and enables us as individual members to be provided with electorate offices and the staffing and equipment that go with them. The recurrent services expenditure is $4.355 million and works and services expenditure is $80 000, making a total of $4.435 million. Finally, program 110 contains the allocation for departmental performance audits, which is a consequence of the new arrangements for the funding of audits. The allocation for recurrent services expenditure is $200 000 and zero for works and services expenditure.

The totals for all those programs are: recurrent services expenditure, $5.607 million; works and services expenditure, $400 000; and total expenditure, $5.907 million. One can see that a major part of the expenditure is related to electorate support services. From my experience as Presiding Officer I well understand and well recall the point made by the Legislative Council and Legislative Assembly departments in particular, that that figure in a sense distorts the way people might look at the total appropriation for Parliament.
Although electorate support services are absolutely crucial to our roles as representative members — they enable us to represent the interests of our constituents and to pursue the matters they raise both inside and outside the house and to undertake related political and campaign activity — the expenditure allocated for them does not relate directly to the way the institution of Parliament operates in its law-making function.

In that circumstance it is not surprising that senior officers of the Parliament regard the expenditure for electorate support services as somehow distorting the consideration of parliamentary appropriation. It has to be recognised that, after all, the Parliament’s role is as a representative body. One of its responsibilities as a representative body is law making, but the other very important responsibility relates to the representations we make on behalf of the people we represent in this place. Certainly we represent them in order to undertake law making, but it is also extremely important to recognise that we represent them to take up their grievances.

Historically, those grievances were pursued as much in the house as in any other place. However, because of the changing nature of government, communications, the executive government and the public service that supports it, many of the grievances we pursue and the matters on which we make representations are now taken up outside the house. The house’s time is taken up predominantly but not overwhelmingly with law making, and there is relatively little opportunity to use the forum of the house for taking up grievances and making representations on behalf of individuals or, for that matter, individual electorates.

In that sense the provision of electorate support has enabled us to represent our areas much more effectively and thoroughly, but it has also enabled us to make representations additional to those we bring to the house. We take them directly to ministers, public servants and other agencies. It is important that that be understood and recognised when the bill now before the house is being considered.

I come now to other matters concerning the way this Parliament, and this house in particular, operates. It is generally acknowledged very widely, including privately by many members of the government, that this house and this Parliament are not functioning as effectively as they could and should according to proper parliamentary principles.

I have to say that one of the grossest illustrations of that is the contempt with which the Chair is treated from time to time by the actions of the Treasurer and the Premier. I will not make reflections on those persons, but the actions we have seen from both of them in recent times have been a gross affront to parliamentary principles and have indicated to the house and the public their contempt and total lack of respect for the authority of the Chair. That is ultimately not in the interests of good government, although it might be nice to score a few points this week, this month or maybe even this year. In the end, as other governments in other places have found, those matters rebound; they come back to haunt people, whether it be the Treasurer or the Premier in person, the government as a whole, or maybe even the institution of Parliament as a whole. As soon as the authority of the Chair is treated with contempt, as it has been by some actions of the Treasurer and the Premier, the effectiveness of the whole institution starts breaking down and public respect for it declines.

Today we saw yet another indication of the contempt with which this institution is treated by at least some government members. Mr Deputy Speaker, you and other honourable members will recall that a question was asked of the Attorney-General. She responded by saying to the honourable member who had asked the question that he could seek the information by making a request under the Freedom of Information Act. That is grossly improper. Parliament is the institution to which the Attorney-General is responsible and it is the Parliament in which she is obliged to answer when a question is addressed to her.

Unfortunately, question time has been utterly subverted in this Parliament, the federal Parliament and probably in most, if not all, parliaments throughout Australia. Question time is not now a time at which a member can expect an answer to a question. Rather, a member can just expect a bit of theatre, cut and thrust and contempt for the individual and the institution.

The fact is that under proper parliamentary principles, Westminster or otherwise, when a minister — whether it be the Attorney-General or anyone else — is asked a question that minister has an obligation to and should provide an answer to the best of his or her ability. The obvious exceptions to that are when major issues of public policy would be compromised by the provision of the information sought — for example, if it were a national security matter or related to a criminal investigation. No-one
would argue against that, but those are the very limited sorts of exceptions which apply at Westminster, which we read about in May, and which should be applied to answers to questions on notice or questions without notice in this house. Today this Parliament was treated with contempt and a member elected to this house on equal footing with all other members was treated with contempt by a refusal to provide an answer to a question and the suggestion that the member could pursue the matter by way of a freedom of information request.

It may suit the government to think smugly that this is just one of the prices members have to pay when they are in opposition. That in itself shows contempt for the institution of Parliament and the principles of good government. Good government is not about elective dictatorship. It is not about any sort of dictatorship; it is about the parliamentary institution operating so that it provides better government. It can provide better government by ministers respecting its forms and by individual members of the institution of Parliament knowing that if they raise a matter seeking information that information will be provided to the best of the executive's capacities and that the information will be refused only if to provide it would jeopardise the greater public good — not jeopardise the interests of the individual minister or the executive, which are generally political interests rather than the interests of good government.

Unfortunately we have yet to see any sign that this Treasurer, this Premier and, by today's performance, this Attorney-General understand that fundamental point. It is nice to have a big white car and to be fawned over and have people falling at your feet as the Premier, the Treasurer and others might have at the moment. But those things are transient. What is important to this society is that we have good and accountable government in Victoria, where the executive is truly responsible to the Parliament.

I was privileged to be invited to attend the Australian Governance in the Global Society conference in Canberra at the weekend. A wide range of Australians were present, some prominent in public life, some unknown in public life, ranging from tertiary level students through to people who serve Australia proudly in the Supreme Court and even higher offices. One of the major issues considered by that conference was how our system of government can not only function better but function with greater public respect. Again it came through that the way question time operates is one of the key reasons why the parliaments of Australia are not respected. When the people lose that respect they are alienated from the institution of Parliament, which should be there to serve its citizens.

There is good evidence that significant sections of the Australian community, including many young people, are alienated from our system of government. They do not believe it is functioning well. They do not believe it is delivering to society the benefits it could and should deliver. In fairness, one would have to say that in difficult economic times it is hard for any government, any leader and any system of government to retain the confidence of its community. That is not to say it cannot be done, but it is difficult.

On the subject of leadership, it is said by those more expert than I that people who are regarded as good leaders are people who are leading organisations that are successfully meeting their objectives. So it is not necessarily the personal qualities of the leader that are considered to reflect good leadership but the fact that the members of the organisation believe the organisation is successfully meeting its objectives. I suspect that that might well apply to systems or institutions of government. Where the community or society is satisfied with the outcomes and satisfied that its values, which may include the economic growth rate or the standard of living, are being successfully achieved, people will be satisfied with the system of government. Where they see unacceptably high unemployment, if that is their major concern, or unacceptable divisions within society or unacceptable distributions of income, people will be less satisfied with their system of government — less satisfied, in our case, with their Parliament.

There are a number of things Parliaments can do to alleviate those sorts of concerns and the sort of alienation that is evident in Australian society, both nationally and at the state level. That is not to say that any of the proposals I am about to put will miraculously wipe away such alienation as there might be, but these concepts can contribute to people's confidence in their system of government and, more importantly, can contribute to good government and to better decision making by government.

A lot of it turns on the way in which the Parliament makes its decisions. As you would be aware, Mr Deputy Speaker, most of the decision making we now undertake is predominantly a matter of some initiative being taken, almost always by the executive government, that is a minister, introducing
a bill and adversarial debate about the legislation then being conducted across the chamber. In 90 per cent of cases the legislation goes through with the support of both sides of the house, but in 10 per cent or so of cases there is division, sometimes severe division, about the legislation, very often on ideological grounds. It is not always on ideological grounds; sometimes it may hinge simply on the interpretations of whatever evidence the two sides of the house might have decided to look at.

It is worth looking at alternative ways of dealing with such matters. Alternatives are used in virtually all parliamentary democracies other than those in Australia. I refer particularly to effective committee structures. If you go to New Zealand or Britain or any of the other European parliaments you will find a committee structure related to portfolio areas. In the case of some of the large departments, a committee might be related to an individual department; it might be related to a group of departments, such as those in the social services area.

The committees perform a number of functions. One of them is to monitor the administration and performance of the departments to which the committee is related. Let us take the Department of Agriculture, Energy and Minerals. There might be a committee of this house that would not only look at legislation coming from one or other of the ministers responsible for agriculture or energy and minerals but would also have regular briefings on the allocations and expenditure relating to those portfolios, the policies being implemented and the administration of the department. In that way the committee is able to develop expertise and can make constructive suggestions in reports to Parliament on the way in which the department is being administered.

As I understand it, it is a fairly general experience — this certainly reflects the experience of our committees — that at that level members work together on a cooperative rather than an adversarial basis, and on that cooperative basis they are able to achieve much better outcomes than might be the case in a purely adversarial situation, which is the typical situation we see in the debates in both houses of this Parliament.

My fundamental proposal — it has wide support within Australian Parliaments — is that the committee system be expanded and developed as it has been in other modern parliamentary democracies. We must recognise that Australia has fallen badly behind in this area.

Both the House of Representatives and the Senate have started to move in this direction. But I suggest that even they have some way to go because they are a long way behind New Zealand, where such a system has been in operation for a number of years. In virtually every case legislation introduced into the New Zealand Parliament is referred to the relevant departmental committee. That committee invites submissions and public comment and very often conducts public hearings at which expert witnesses and people with strong views on the legislation air their views. The committee then makes its report to Parliament.

My understanding of the New Zealand experience is that even though they are chaired by government members — three of the five members of each committee belong to the government — it is not at all unusual for committees to propose changes to legislation that have significant policy implications rather than appearing to just fiddle at the edges. Victoria — and Australia for that matter — should learn from that example and take up the opportunity to establish portfolio or departmental committees. The committees could monitor related portfolio areas and review all relevant legislation other than urgent legislation.

I have heard members of the coalition say that a chairman who was responsible for a committee report that commented adversely on government legislation might find himself in something of a career backwater. There is good reason to believe international experience gives the lie to that. Whenever a chairman of a committee has demonstrated strength and integrity he has enhanced his political career; whereas a chairman who believes himself to be a puppet of the government of the day is likely to be seen as not particularly strong and not worthy of promotion to ministerial rank.

For all those reasons it is highly desirable that Victoria examine a system of committees that enables members of Parliament to develop specialist expertise and ensure better government by monitoring particular portfolio or policy areas, scrutinising relevant legislation and making appropriate and periodical reports to Parliament.

Treaties are a topical issue. A departmental committee could examine not just international conventions and treaties — treaties between Australia and other countries — but the intergovernmental agreements that the Victorian government enters into. Parliament is kept very
much in the dark. The government does not report to Parliament on the intergovernmental agreements that are signed by the Treasurer or the Minister for Education or the Minister for the Arts or any other minister. A minister may make some reference to an intergovernmental agreement when introducing a bill that implements it, a good example of which is the trade measurement legislation. But as a general rule the government does not report to Parliament on intergovernmental agreements affecting Victoria, the other states and the commonwealth. No attempt is made to even formally table agreements entered into on behalf of the Crown by the executive government or individual ministers. That ought to be the case as a matter of democratic principle. As a mark of courtesy the Victorian Parliament should be informed and have the opportunity to comment on any intergovernmental agreements that bind the state of Victoria.

The same principle should also apply to international treaties. Last week the Premier proudly told us about the support all the states had given to a proposal that was to be put to the Senate committee inquiry on the handling of treaties entered into by the Australian government. The Premier told the house that the states were of the unanimous view that all treaties should be ratified by the federal Parliament. He did not go on to tell us that as a rule the states are consulted on those treaties — but the states do not consult or inform their own Parliaments. There is a real contradiction. This government and its predecessors have said a parliamentary step should be added to the approval of treaties between Australia and other nations, but they have been totally silent on consulting and informing their own Parliaments about the same matters. If Victoria is asked for input into a proposed treaty or to ratify a treaty, the Victorian Parliament should be informed and given the opportunity to comment. It should not be a matter for the Crown to decide through the executive government.

All of these things take time. The Victorian Parliament has been constrained by the small number of sitting days provided by the government in both this house and the other place. That is also true historically — although one would have to say we have always done a lot better than the Legislative Council. If Parliament is to function effectively and play its part in providing better government for the people of Victoria, it must be given the time to perform those functions. I suggest the autumn sitting should have been extended by at least a couple of weeks.

In the early weeks of the sittings the government did not have its legislation ready. Some sort of log jam developed while the coalition members sorted out their attitude to amendments to the Equal Opportunity Act and various other amending bills that all of a sudden have come flooding into the chamber. The breakdown in the process reflects a breakdown in the successful cabinet procedure I helped to establish in 1982. Although the procedure is still in place, it is apparently not being used as well as it was in previous years.

Not enough sitting days are provided given all the matters Parliament should consider. The issue of the treaties proposed to be ratified by the Australian government is one illustration of that. There is no opportunity to have those matters reported on much less discussed or debated.

Western Australia has already established a committee the statutory responsibility of which is to review proposed intergovernmental agreements involving the Western Australian government. Western Australia is well ahead of other states and, for that matter, the commonwealth. It is time the Victorian Parliament was given that opportunity. I urge you, Mr Speaker, to take the initiative. You have some access to the leaders of the government, which we on this side do not have. You have an opportunity to play a leading role in enhancing the operation of Parliament and our system of government. I urge you to propose the establishment of a committee similar to or even better than the Western Australian committee. It may be possible to convince the government that the establishment of a committee such as that would be in the best interests of good government not only in Victoria but in Australia.

In Western Australia informal proposals have been made to establish a parliamentary committee to review international treaties. In that case there may be some merit in having the intergovernmental agreement review committee carry out that function — but that is entirely a matter for the Western Australians. In Victoria's case, it would be logical for the one committee to examine not only intergovernmental agreements but treaties and other international agreements.

Establishing a committee such as that would give Victorians a wonderful opportunity to participate in government decision making. Instead of having the limited opportunity of voting once every four years — or slightly earlier if there are early elections — Victorians would have the chance to
play an ongoing part in the democratic process. Some of our parliamentary committees have already done that in examining particular references. For example, the Scrutiny of Acts and Regulations Committee, of which I am a member, held public hearings as part of its review of the equal opportunity legislation. Those public hearings and the invitations for submissions that preceded them were of enormous benefit. They gave Victorians the feeling that they were not alienated from the institution of Parliament, that they could have input into and influence the government’s decision.

I have no doubt that the final form of the equal opportunity legislation reflects the contributions and submissions from and the thinking of the wider Victorian community as much as it reflects the thoughts, ideas and personal views of the members of the Scrutiny of Acts and Regulations Committee. The government has an opportunity to show leadership and to enable the Victorian Parliament to do its bit in overcoming the extent to which sections of our community feel alienated from our system of government. They believe the only political right they have is to cast a vote at periodic elections and that in between times they have no real role to play in what should be regarded as their government.

I now refer to a different aspect of the role of Parliament — that is, the scrutiny of subordinate legislation. I refer in particular to the report tabled in Parliament today by the Scrutiny of Acts and Regulations Committee on the Environment Protection (Scheduled Premises and Exemptions) Regulations 1994. It is the committee’s seventh report to Parliament on subordinate legislation.

This major report arose from the committee’s concern about the quality of the regulatory impact statements in the renamed Environment Protection Authority regulations, which affect the powers and procedures of the authority. I strongly urge members and interested parties to read the report thoroughly. It highlights the dangers in bodies for which ministers are responsible honouring only the letter and not the spirit of legislation that requires regulatory impact statements. Those statements are important in ensuring that regulations are soundly based and well justified and have benefits that are at least equal to the burdens they impose on the community, whether they are cost burdens, environmental burdens, restricting access to resources or whatever.

In this case, the EPA had snubbed its nose at the principle involved and had undertaken only a perfunctory RIS process. It had not carried out a soundly based and substantial review of the costs of the regulations. More than that, it had not examined whether the regulations were the most cost effective or whether they were the most effective means of providing a sound regime of environmental control for scheduled premises.

The full committee and its subordinate legislation subcommittee was given strong evidence that the approach taken by the EPA did not meet either the spirit or the letter of the legislation. We were told that the authority had subverted the process by attempting to set up a straw man, claiming it had been through the process, developed the regulations and done all that was required under the act. I do not want to spend a lot of time on this, but I should like to read into the record the final position adopted by the committee, as recorded on page 11. The report states:

35. Final position. The committee is still concerned that a prosecution arising from these regulations may fail because of an inadequate RIS. In the circumstances, however, it appears that little will be achieved by the EPA undertaking the RIS process for these regulations again.

That is on the basis that the evidence before us is that the regulations are probably sound regulations notwithstanding the deficiencies in the RIS process. I shall come back to that later. The report continues:

36. The regulations themselves do not appear to engender widespread controversy, and redoing the RIS would appear not to alter the scope of regulations greatly, if at all. The committee does not accept that the level of resources necessary to remake the RIS is inordinately high, but is prepared in the single instance, to allow the EPA regulations currently under review.

It had been put to the committee that the resources required of the EPA to prepare a new RIS would be crippling and would be an enormous diversion of resources away from its primary responsibility. That was one of the grounds on which it was resisting, but its main resistance appeared to be a reluctance to comply with the spirit of the legislation. The report continues:

37. The committee does not wish this to be construed by other departments and agencies as allowing lower standards for regulation review, or for regulatory impact statements.

38. The EPA has agreed to develop a state-of-the-art protocol for the preparation of RISs for future regulations. The committee will not recommend...
disallowance of SR no. 200/1994 but intends to place EPA's plans for a guideline document on the public record by highlighting its plans in this report. The committee does not wish to be seen as giving its approval to an RIS which does not adequately assess costs of compliance, but is prepared to accept that recent work and discussions have brought about a desirable future-orientated resolution of the matter.

39. The committee believes that if EPA had put as much effort into preparing an adequate RIS in the first place as it has given to arguing the adequacy of the RIS and defining its position before the committee over recent weeks, then no problem would ever have arisen. However, the committee is pleased that its investigations and correspondence have resulted in the commitment expressed in the document forwarded to the chairman of the committee. It believes that the committee has served its purpose, both for the Parliament and to the general public, in protecting the rights of persons affected by government regulation.

40. By way of concluding remark, the committee is attracted by a notion being floated currently of triennial audits of regulations, under which agencies themselves would assess the impact and adequacy of regulation. Although this would be a costly exercise, these Environment Protection (Scheduled Premises and Exemptions) Regulations 1994 may well be an appropriate target for such review.

It is my understanding that that proposal has been floated within, if not by, the Office of Regulation Reform. I shall not read appendix 8 to the report, but it is important that the public be aware that it is a letter jointly signed by the Chairman of the Environment Protection Authority and the National Chief Executive of the Australian Chamber of Manufactures and it is on Australian Chamber of Manufactures letterhead. The document sets out the undertakings that were referred to in paragraph 38 of the committee's report.

It is important that that now be on the public record. Its significance is not just in the action that the EPA has now agreed to undertake and the processes which it will follow in the future: this is an important precedent for the entire Victorian public sector and for every Victorian body, institution and minister associated with making regulations that might require an RIS. They should take careful and thorough note of this latest report of the Scrutiny of Acts and Regulations Committee because it is not good enough for Parliament to be confronted with an RIS that is merely perfunctory and does not meet the objectives that Parliament had in mind when it passed the legislation and then amended it only a few months ago. If Parliament allows that sort of thing to occur, ultimately Parliament and the system of government will lose further respect.

It is important for all agencies and persons concerned with RISs in Victoria to note this report and its impact. Of course it will be important not only for those agencies proposing regulations but also for those who wish to review regulatory impact statements. One would have to say that some of the input from industry which is recorded in the report is also inadequate. For example, one company wrote a letter that suggested the cost of complying with certain regulations should be calculated in a particular way which indicated the total cost of new machinery, new installations and new procedures that might be necessary to meet a particular environmental standard.

Unfortunately, the company was not honest enough to acknowledge that if things were to stay as they were the existing costs should be subtracted from the new costs that might be involved in complying with new standards. In other words, the figure that was presented in the letter as the cost of compliance was a gross figure and not a net one. Therefore it was at least a deficient if not dishonest document. However, I suspect it was deficient rather than dishonest.

With those comments I indicate the opposition supports the Appropriation (Parliament) (Interim 1995-96) Bill. However, I urge the house to give serious consideration to the suggestions I have made for improving the way in which Parliament operates, including suggestions that, as in the past, the House Committee or some similarly constituted committee, be consulted and involved by the Presiding Officers in the preparation of budgetary proposals.

Mr COOPER (Mornington) — I welcome the opportunity to contribute to this debate. I know there are a handful of members in this place who regard this debate as important. It is a shame that it is only a handful of members who queue to speak on this type of legislation each time it comes before the house.

This is usually an even-handed and impartial debate. I suppose that is one of its major attractions. In the past I have heard some interesting contributions from members on both sides of the house on the question of the appropriation for
Parliament. I know that the honourable member for Werribee is one of those people who, because of the length of his tenure in this house and particularly the time he spent as a Presiding Officer, takes an interest in this matter. His contributions are always well thought out and worth listening to.

However, the honourable member for Werribee let himself down today because he did not seem to be able to allow himself to speak in an impartial way. He had a shot at the Premier, the Treasurer and the Attorney-General. In cricketing terms he sledged them about what he perceived as their behaviour in the house. He said that question time has been subverted and that it had become a meaningless charade.

What I found interesting about that comment was not so much that the honourable member made it, but that he failed to go on in an even-handed way. Although I might not agree with them, he is entitled to his views. I thought it would have been honest — certainly not hypocritical — for him to have talked about how things were when his party was in government between 1982 and 1992 and, to have brought it even closer to home, during the term when he was Speaker in this place.

I remember being one of the members who raised complaints, both verbally and in writing, with the honourable member for Werribee when he was Speaker about the way ministers acted in the house and the way some government members operated their electorate offices. Without exception, the complaints made to the honourable member for Werribee when he was Speaker were ignored, or the behaviour of the ministers or members concerned was cravenly accepted by him.

It would seem that losing preselection has turned the honourable member for Werribee into a sensitive new age democrat. His view now of the Parliament appears to be very different from the view he held when his own party was in power.

I trust that during this debate we will also hear another contribution from the honourable member for Williamstown. I notice he has not been in the house so far, but I hope he is on the speaking list for the opposition. Most honourable members will recall the debate on the Appropriation (Parliament) (Interim 1994-95) Bill last year when the honourable member for Williamstown stood up and made an impassioned plea for more staff, resources, computers, faxes and phones for MPs. I assume he was interested in surfing the Internet. He wanted more staff for the opposition, more stamps for MPs and his home phones fully paid for, and pleaded with great passion for a fully subsidised dining room here in Parliament House. Considering the history and the fact that at the time the honourable member for Williamstown had virtually just walked into the place, all of those things were really amazing. Here he was demanding that more money be spent on members of Parliament, when successive governments have been trying to keep that expenditure under control.

There would be no members of this house who would not like more and better resources, but we understand the realities of the world, particularly the financial sector world of Victoria. These things just cannot be provided: no matter how good or how worthwhile they may be, the money is simply not there.

During the debate in October last year when I followed the honourable member for Williamstown, I accused him of being the leader of the snouts-in-the-trough faction. I would like him to come back in here and contribute to this debate so we can see whether he has abandoned his leadership of that faction and started to come to grips with reality.

I applaud some of the things currently happening around this place because they are long overdue. The repairs to the stonework of this historic building are certainly well overdue, and I am delighted to see that that work is now taking place. I am also delighted to see the refurbishing of that deserted structure over the road in Macarthur Street, because I know that when that work is completed next year a lot of the occupation of this place by parliamentary staff will be relieved: the chook shed out the back will be demolished and the parliamentary gardens returned to their full glory, and the staff who have to be in this building will perhaps be given better accommodation which we hope will result, as a spin-off, in better accommodation for members of Parliament.

What is now needed from the government is a firm commitment that construction of the proposed north and south wings, the uncompleted parts of this building, will be put on the agenda — I think Agenda 21 would be the appropriate one — and that the building will be completed. I said last year when I spoke in the debate that I saw that as a high priority, not for me as a member of Parliament or for most of the people in the building, but because if a commitment is made, the project is put on the
agenda and the north and south wings are built, by the time they are completed most of the people who are now members of this Parliament will not be members of Parliament. However, at least we will be doing something for the future of the state by completing an historic structure, one that should have been completed many decades ago. I believe that would be a worthwhile contribution by this Parliament to the end of this century, so that in the next century the Victorian Parliament House building will be complete and will be completed to the greatness that its architects and our forebears planned for it.

I am not suggesting that it be completed in its entirety with the dome, as originally designed, but I believe we should at least prepare Parliament House for the next century. The accommodation for the members and staff of Parliament should be here in this building; people should not have to be sent across the road to McArthur Street.

I again say to the government that that commitment needs to be made; it is not good enough for any government to put that proposal on the backburner or in a pigeonhole. The people of this state will not bite a government that is prepared to commit itself to a major public works project of the magnitude and importance attributed to the symbol of democracy in this state: the Parliament House building.

This building is the grandest Parliament House in Australia, there is no doubt about that; it deserves to be completed and Victorians deserve to have it completed. I hope at the earliest possible opportunity the government will move that way and make a commitment before the next election.

I turn to a matter that I have raised briefly in the past and which, as it impacts significantly upon this Parliament and upon this state, needs to be aired again. I have done a little bit of work on this, but I do not regard the research work that I have done as being all-embracing or necessarily 100 per cent correct. The figures that I will quote are my estimation of what I believe is true. As the figures I am about to quote are ballpark figures, I stand to be corrected if some of them are out.

As all honourable members are aware, Victoria has a system of one vote, one value. The constitution of this house is 88 members. The 1992 statistics showed that there were 2.8 million voters in Victoria. If you divide that number by 88, by my rough calculation you come up with just over 32 000 voters per electorate.

I take the view that we should always be willing to examine our institutions and be prepared to advance reforms where they are necessary and reasonable. The house is well aware of the recent reforms to local government to which Parliament agreed. We may not have agreed on the methods but we certainly have agreed on the principle, which is that as we had far too many municipalities in the state a reform was needed and this has taken place and the number of municipalities has been reduced dramatically. By and large, the reduction in the number of municipalities has been accepted very well by the community. We have far too many elected representatives not only in this Parliament but throughout the country.

Victoria has often been at the leading edge of reform. It should again take up that role in deciding the number of members of state Parliament we need. How many people should each member of the house represent? Given the resources that are or could be made available, a figure of 32 000 electors is ridiculously low.

Each member of the federal Parliament has an electorate office and three staff members and generally represents somewhere between 70 000 and 80 000 electors. Each member of this house has an electorate office and one member of staff and represents slightly more than 32 000 electors. If each member of the Legislative Council were given an extra staff member he or she could easily handle the workload of representing 30 per cent more electors — that is, a total of approximately 42 000. We could probably do it without extra staff members!

That change would reduce the number of Legislative Assembly seats from 88 to 68. If the same mathematics were applied to the Legislative Council the number of provinces could be reduced from 22 to 17 — and the total number of state parliamentarians could be reduced from 132 to 102. I estimate that that reduction in the number of members would generate minimum savings of $6 million a year. Given that that would be offset by the $4 million that would be needed for the additional electorate officers I mentioned earlier, net savings of $2 million a year could be achieved. The annual cost of providing and maintaining electorate offices is approximately $13 million, and members' salaries and on-costs account for a further $17 million. That adds up to a total of $30 million, or
$205 000 per member. That is why I say reducing the number of members of Parliament by 30 would create savings of $6 million.

What would the benefits be? Firstly, it would mean lower costs for taxpayers without any reduction in services for electors; and secondly, it would reduce the cost of accommodating members in Parliament House because there would be fewer of them to accommodate. In taking that step Parliament would send a message to the community that it had a meaningful commitment to reducing the size of government whenever the opportunity presented itself. It would also send the message that Parliament was prepared to examine its role and make any changes that benefited the community.

We are not here to benefit ourselves or our political parties; we are supposed to be here to benefit the people of Victoria.

Mr Micallef interjected.

Mr COOPER — The honourable member for Springvale is jabbering away because in his usual small and mean-minded way he has immediately interpreted my proposal as a threat to his position — and he may be correct. It may also threaten my position. Nevertheless, I repeat for the benefit of the honourable member for Springvale that we are supposed to be here to benefit the community that elects us, not to benefit ourselves or our parties. We are here to do the best thing by the electors. If fewer members of Parliament can give them the same level of service, why would we not adopt the proposal? The only reason would be if we were intent on looking after ourselves and justifying our existence in this place. I do not think that would be good enough!

We must also examine the significant capital costs involved in providing better accommodation for members of Parliament and the bureaucracy that supports them. I do not know how much it would cost, but the figure would be significant. The significant savings that would be generated by a reduction in the number of members would benefit the people of Victoria. All honourable members should support the proposition because the money saved could be used to provide the community with more and better services. Another aspect is the longer than necessary sitting hours of this house and the Legislative Council, which create more work for all the parliamentary staff, including Hansard. Savings would be generated in that area if we had fewer members.

I turn to the reform of Parliament, particularly the Legislative Council. We need to make the role of the Legislative Council more meaningful. Although I do not mean to criticise the other house, at present it is nothing more than a mirror image of this place. It requires a more meaningful legislative role and greater involvement in committees. Members of this house should be so busy with their electorate duties and the other matters that always engage them that they should have no time to be members of joint parliamentary committees. Those committees should comprise only members of the Legislative Council but should report to both houses of Parliament. If that change were adopted, the role of the Legislative Council would be unique and more meaningful, and its members would be occupied full time during the year. That would be a significant reform.

Some honourable members will say this is all just rhetoric, that these are pie-in-the-sky proposals that will never happen because members of Parliament will never have the fortitude to reduce their numbers by voting either themselves or some of their colleagues out of office.

I remind the house that not very long ago the Premier announced his intention to enact legislation to reduce the size of this Parliament. If people believe the Premier was just mouthing off, I suggest they think again. Today I am putting forward some views on the subject of the Premier's statements, which I support wholeheartedly.

The Premier touched on something that will be accepted and applauded by the community: a reduction in the number of people that constitute this Parliament. Not only will that be applauded by the people of Victoria, it will also signal the other states and the commonwealth that they need to have a look at their parliamentary structures as well. It is not good enough for us simply to say that what we have here is perfect and does not need reform. It is not good enough for us to say that as the population of the state grows we should add to the number in Parliament, as was done just in time for the 1985 general election. We should be looking at the job we do and seeing whether it can be done better. We should be trying to see whether or not it can be done smarter and by a smaller number of people. I remind the house that the benefits we always have to consider are the benefits to the community, not the benefits to us as individuals or the parties we represent.
In concluding my remarks I congratulate you, Mr Speaker, on the way you have administered the house. Yours is a difficult role and some of us do not always make your job easy. In that you continue the fine traditions of your predecessors, whose job was not made easy for them, either. In saying that I acknowledge the presence in the house of the honourable member for Werribee.

I hope your overtures, Sir, and those of your colleague, the President of the Legislative Council, concerning the future of this building pay dividends and that you are able to persuade the government to construct the north and south wings to complete Parliament House. I regard that as being a matter of importance, and I will raise it every time I get an opportunity to speak on a parliamentary appropriation bill. I will keep nagging away, not at you, Mr Speaker, but at the government of the day, to try to get it to acknowledge that the completion of Parliament House is an important public works project that ought to be put on the state's agenda.

I support the parliamentary interim appropriation bill and I wish it godspeed.

Mr THOMSON (Pascoe Vale) — I am able to support the honourable member for Mornington at least in his call for a change in the role of parliamentary committees. He suggested they should comprise only members of the Legislative Council because Legislative Assembly members do not have the time to devote much energy to parliamentary committees.

I lament the decline of parliamentary committees since this government came to office in October 1992. Prior to that time at least some of the committees were opposition controlled. I was a member of the Legal and Constitutional Committee, which was one such committee. The committees were active and dealt with many significant issues, but under this government parliamentary committees have degenerated into vehicles of patronage for the committee chairmen, whose allowances have been doubled, and junkets for the members of Parliament who are members of the committees. Many committees are now working on what are effectively Mickey Mouse projects for years at a time in a glorified make-work scheme for the MPs concerned.

Last year I pointed out that to study road safety problems the Road Safety Committee travelled to Perth on the Indian Pacific, and that perhaps it was studying level crossing problems on the Nullabor or jaywalking in Eucla! I was then told by the Premier that the committee intended to go to Darwin — presumably to study the problems caused by crocodiles crossing the road and their implications for road safety in Victoria.

I will turn now to some of the other committees. The Crime Prevention Committee was given a reference to inquire into the increase in rape and other sex offences cited in the Victoria Police report for 1992-93. An examination of the latest Report of Progress on Investigations by Joint Investigatory Committees reveals that deliberations on the committee's first report commenced in April. During August last year the committee undertook investigations in the United States of America, Canada, the Netherlands and the United Kingdom and visited at least 16 cities. Yet so much later we are still waiting for the committee to come up with a report. No doubt when that report is finally tabled it will be met with the response that it is out of date because it has taken so long to produce it. The inquiry is simply an opportunity for members of the committee to head off overseas.

In turn now to the Economic Development Committee. In June last year it was given a reference on the export of traded services. It is still working on that reference. Its program of future activities includes 'overseas research to be undertaken in July-August'. A year later that is the extent of the committee's contribution on the issue of the export of traded services.

In September last year the Law Reform Committee was given a reference to inquire into jury service. Its program of future activities includes a 'fact-finding mission' to the United States of America, Canada, the United Kingdom, the Republic of Ireland and Hong Kong to be undertaken in June and July! For that committee to be inquiring into jury service is simply fiddling while Rome burns. Confidence in equality before the law, the impartial rule of law and the administration of justice in Victoria has never been at a lower ebb. No ordinary person who has been charged or is under investigation by the Director of Public Prosecutions or the police can go to the Attorney-General and ask her to invite the DPP around for a glass of wine to talk about the pending charges, but it is a different story altogether if you are the Premier! That is the real issue relating to the administration of justice in Victoria today, yet the Law Reform Committee is looking at jury service.

In March 1993 the committee was given a reference regarding directors and managers of insolvent
corporations. That is a particularly important issue, and at the time I supported the Premier in initiating the reference. While the committee has come up with an interim report, it is still working away on that issue.

No legislation has been introduced to give effect to the issues involved, so companies can still simply declare themselves insolvent, go bankrupt and avoid their liabilities, and the directors can waltz off and start another business under another name. The result is that the workers in those companies are exploited and ripped off.

Dr Coghill — And the Pyramid depositors.

Mr THOMSON — Yes. You have rogues and charlatans like Neil Thomas, with his self-styled church that he uses to avoid creditors, and you even have the Premier’s friend, Mr Peter Boyle, winding up a company to win an industrial dispute with his workers.

The liberal government gave the committee a reference in March 1993, yet we are still awaiting any recommendation arising from the committee’s deliberations.

I should refer also to the Public Accounts and Estimates Committee, on which I serve. It was an important committee during the life of the previous Parliament, but all that committee has really been able to do in recent times is to function as a kangaroo court, investigating an alleged leak and seeking to point the finger at an opposition member for allegedly committing the unpardonable sin of telling members of the press about investigations by the Auditor-General.

Mr A. F. Plowman interjected.

Mr THOMSON — Heaven forbid that the committee should do something of interest to the wider community! A reference about outsourcing is languishing at the bottom of the committee agenda. That is an important reference given the Natbus contract and it warrants investigation, but because the committee is government controlled and some of the investigations might prove embarrassing to the government that does not happen.

Even at estimates meetings of the committee government members ask Dorothy Dixers of the Minister for Education, the Minister for Health and others to get the minister off the hook. So the Public Accounts and Estimates Committee has also slipped into a state of decline. That committee has a most important function to perform in this state at this time, but the performance of its functions is impaired because it is government controlled and government members are seeking to avoid any genuine scrutiny.

During the debate on a similar bill last year I referred to the Public Bodies Review Committee and the amount of work it was doing. In the report on the progress of investigations in May last year under the column headed ‘Subject matter of inquiry’ reference was made to one matter only — the Industrial Supplies Office. In the right-hand column, headed ‘Summary of progress’, it said, ‘Withdrawal of reference being sought’. So the reference was overwhelming! At the time I said:

I look forward to its tackling something less meaty than the Industrial Supplies Office, something it is able to get its teeth into.

It was not so much what it was able to get its teeth into as what it was able to get its lips into, because the next reference it received related to the Liquor Licensing Commission. If we read the report of what it has done so far we find that in February this year it was able to conduct inspections of licensed clubs in New South Wales and regional wineries in north-eastern Victoria.

So if we look at what the committees are actually doing overall we find a lamentable picture of a committee system that is falling into decline and disrepute. It is nothing more than a vehicle for patronage and junkets. It reflects the government’s idea of hardship for the general community and good times for those who are in this place. It is sad that many of the references given to parliamentary committees are effectively mickey mouse projects. They are simply designed to make work for members of Parliament. The Public Accounts and Estimates Committee ought to be doing more important and serious work than it is. There is no point in participating in committees that are engaged in mickey mouse work and not endeavouring to engage in genuine scrutiny of public policies in Victoria and ensure sound financial management and accountability by this government.

As has been said, the opposition does not oppose the bill in general, but it is important that we take this opportunity to make some remarks about what is happening in relation to the Parliament in Victoria and parliamentary committees, which have fallen
into decline and disrepute. The gravy train in Victoria has a special carriage marked 'Parliamentary committees'.

Dr VAUGHAN (Clayton) — Some people in our community hold the view that the colonial boundaries drawn in the 19th century might not be appropriate for Australia in the 21st century. Others would say that perhaps state governments are no longer appropriate. So long as there are states and a commonwealth and for as long as there is a State of Victoria, the Parliament of Victoria has to be one of the most important institutions in the Commonwealth of Australia.

This most important institution in the State of Victoria is treated by the Premier of the State of Victoria with raw contempt. As recently as question time today we witnessed his abuse of the Parliament, his abuse of the traditions of the Parliament and his abuse of the culture of respect and tolerance of debate that once existed in the Parliament. Since the election in October 1992 we have seen constant attacks on what was the culture of parliamentary democracy in this state and on the institution of the Parliament itself.

In the early days of the Kennett government we saw such petty moves as the reduction of the salary of the Speaker of this house, which was a calculated mark of disrespect for the Parliament of Victoria. We have seen the absolute corruption of the parliamentary system as we knew it. As the honourable member for Pascoe Vale, the next federal member for Wills, said, the parliamentary committee system, which should be a very important part of the Parliament of Victoria, has been abused and brought into disrepute. The committees are just creatures of the executive government, as this Parliament is letting itself become a creature of the executive government.

I will return to that argument shortly but turning to the Appropriation (Parliament) (Interim 1995-96) Bill, I recall that in 1992 I first observed, as did this house, an attempt to introduce a separate appropriation bill for the Parliament. If I recall the history correctly, there was an unsuccessful attempt and then the first appropriation bill for the Parliament was subsequently carried by Parliament. I am critical of the means by which the parliamentary interim appropriation bill is developed because the process remains a creature of the executive government without due respect for that fundamental principle of our parliamentary democracy: the separation of powers.

In his excellent address on the bill on behalf of the opposition the honourable member for Werribee referred to the model he attempted to follow when he held the high office of Speaker of this house in taking to the House Committee, which he chaired, a draft from which to develop a suitable bill for the purposes of debate by the house.

I want to take further one aspect of that model. This proposal to establish a joint parliamentary committee, probably chaired by the Speaker, to develop a parliamentary appropriation bill is I believe the correct one. Parliament should have an appropriation bill that is separate from the appropriation bill developed by the executive for the purposes of governing Victoria.

Ideally a parliamentary committee such as that would call the Treasurer of Victoria and his or her advisers to give evidence, as well as other key witnesses, with the aim of developing a parliamentary appropriation bill for purposes separate from those of the executive. I would like to see the government give that model further consideration.

Just as it is appropriate for the Parliament to develop its appropriation bill, the development of a judicial appropriation bill is long overdue. Since its election in October 1992 the government has constantly interfered in the affairs of the judiciary. In 1991 the then Leader of the Opposition, our current Premier, said publicly and for the ears of any would-be Chief Justice that if he did not like the person appointed to be the Chief Justice of Victoria he would sack that individual when he became Premier. If that did not send a message to the judiciary, I don't know what would! Mr Kennett has continued in that vein since being elected as Premier. He constantly sends subtle or not-so-subtle messages to the judiciary, that arm of government that should be separate from both the executive and Parliament, intimidating it, influencing it and at times sacking its members. Since the last state election the government has sacked a number of judges and persons who have held an equivalent judicial office.

I shall share with the house the impressions I gained at a national conference in Canberra in November last year entitled Courts in a Representative Democracy. Every judicial jurisdiction in Australia was represented at the conference, which was also attended by legal academics, members of the legal profession, members of Parliament and others. As is the case with any conference, the most important —
Mr Pescott — On a point of order, Mr Deputy Speaker, this bill relates to an appropriation for Parliament. Although the subject the member is discussing is a hobbyhorse of his, it is relevant not to parliamentary appropriations but to a separate appropriation. I ask you to bring him back to the point of the bill.

Dr VAUGHAN — On the point of order, Mr Deputy Speaker, the minister has not given me time to develop my argument. I am referring to a parliamentary committee doing a job for Parliament. There is no point of order.

The DEPUTY SPEAKER — Order! I will not uphold the point of order at this time. I will be interested to hear the honourable member for Clayton make his comments relevant to the bill.

Dr VAUGHAN — I was making a passing reference to the courts. At the Courts in a Representative Democracy conference in Canberra last year members of the judiciary from every jurisdiction in Australia expressed their abhorrence of the attempts by Victoria's executive government to nobble and influence the judiciary and to corrupt the principle of the separation of powers.

A parliamentary committee funded under a parliamentary appropriations act could develop a judicial appropriation bill. In that way we could separate the executive government from the funding of the judiciary, protecting its independence and keeping it safe from the executive's Machiavellian hands. All governments try to stretch the rules, but this particular government knows no bounds.

The leaders of government in this state have not always been good parliamentarians. I have witnessed the performances of a few Premiers and it is difficult to find a real parliamentary reformer among them. It is difficult to find a Premier among the five I have known since I have been a member of this place who is or has been really committed to renewing the institution of the Parliament. I will deal with each of the five in reverse order. The current Premier of Victoria treats the Parliament with contempt, demeans the institution by his daily behaviour and has totally corrupted the parliamentary committee system. My view of his contribution to parliamentary reform is clear. His immediate predecessor has some runs on the board.

I recall the Honourable Joan Kirner making a ministerial statement on parliamentary reform during her time as Premier. I also remember her efforts to modernise the Parliament and to re-establish a culture of democracy appropriate to our times. Her immediate predecessor, the Honourable John Cain, was not much of a parliamentarian. He was a very good Premier and an honest and genuine soul. He served the Victorian community very well but had no real commitment to parliamentary reform. He frequently treated the parliamentary committee system with contempt.

His immediate predecessor, the Honourable Lindsay Thompson, was a parliamentarian. I cannot recall a great deal of parliamentary reform occurring during his brief reign, but he was genuinely interested in Parliament as an institution. He must be disgusted by the way Parliament is treated by the current government. His immediate predecessor, the Honourable Dick Hamer, had a genuine interest in Parliament. He was first a member of the Legislative Council and later a member of this place, and he served on parliamentary committees, as did Lindsay Thompson. Perhaps their service on parliamentary committees gave them a deeper understanding of what Parliament needs to perform its duties adequately.

This institution needs to nurture a culture of parliamentary democracy and tolerance. We must develop a preparedness to listen to views that we do not agree with and to forgo indulging in invective across the floor of the house at every opportunity. The behaviour in this place since October 1992 has disgusted me at times. The abuse that comes out of the mouth of our Premier demeans every one of the 88 members of this place, and it particularly demeans the person in the chair.

Mr McArthur — On a point of order, Mr Deputy Speaker, I am concerned about the line the honourable member for Clayton is taking. He is saying he has been disgusted by the behaviour of this house since October 1992. As I understand it, the control of the house is in the hands of the Chair. The honourable member is reflecting on the performance of Parliament and therefore on the performance of the Chair.

Dr VAUGHAN — On the point of order, Mr Deputy Speaker, I thank the honourable member for Monbulk for his point of order. I suggest I am saying what the occupants of the Chair frequently think.

The DEPUTY SPEAKER — Order! The honourable member for Clayton should not attempt
to involve the Chair in the debate by guessing at what he may or may not think.

Mr Pescott interjected.

The DEPUTY SPEAKER — Order! The minister should be careful about the aspersions he casts on the Chair. Although the honourable member for Richmond has from time to time called me a gentle flower, I am not at all damaged by the comments made by the honourable member for Clayton. I do not uphold the point of order so long as the honourable member relates his comments to the bill.

Dr VAUGHAN — I hope I have made my point adequately. What can we do to restore a culture of parliamentary democracy to this institution, and how can we measure our performance as members? I suggest we use the model that other parliamentary and commercial institutions use — that is, a benchmark process to judge the quality of democracy in our jurisdiction.

I shall explain what I mean by that. If we examine Westminster Parliaments in other countries and other parts of Australia we find many models to study. For example, we can study at least seven other jurisdictions in the commonwealth and the Parliaments of the Canadian provinces, as well as the federal Canadian Parliament. We can also study the New Zealand Parliament and the mother of Parliaments, Westminster. We could benchmark the quality of our parliamentary democracy by comparing it with those in other countries and other states with which we prefer to be compared. If we indulged in that exercise we might learn a great deal about our deficiencies. The Commonwealth Parliamentary Association does play a role by enabling that to occur informally. But there is a need for rigorous academic work to quantitatively benchmark parliamentary democracy in Victoria and elsewhere.

There is more to parliamentary democracy than regular, free and fair elections. The Westminster system of government is supposed to protect minority rights, minority views and minority opinion. One could not say that protection is evident in Victoria, given the way Parliament has been conducted since October 1992. One could be critical of the 10 years before that and the 27 years before that. I am not saying the former Labor government did not miss opportunities for parliamentary reform. Although I believe many opportunities were missed, much was done, especially when the honourable member for Werribee was the Speaker of this house and he chaired the Standing Orders and House committees. A great deal of reform was undertaken at that time, but there is more to be done.

When we observe such abuses of Parliament as the theft of grievance days and fewer opportunities to discuss general and opposition business, we know that a benchmarking process would show that, compared with parliamentary democracies in other states and countries, the opportunity to express minority views in this place is being removed — or the potential exists to remove it. The potential abuse of the principle is bad enough. The Victorian parliamentary committee system no longer functions adequately. The way certain debates are conducted in this place, the lack of opportunities to discuss general business, the lack of opportunity for opposition business and the inability of members to debate a whole range of important issues, which the honourable member for Werribee highlighted during his contribution, are all matter of concern.

The failure of previous governments to encourage Parliament to renew itself does not excuse this government’s backward steps. The benchmarking of our performance could be done with rigorous academic work, research and a clear identification of the components of a Parliamentary democracy and how they are exercised in our jurisdiction. We would get a zero score under some headings and score well under others. This place would score well on its ability to entertain robust debate from time to time. That is part of the tradition of the Victorian Parliament that the election of October 1992 has not destroyed. A member can still get up in this house and express a view robustly, even though he or she is sometimes irritatingly interrupted by trivial points of order and requests for withdrawal.

What will happen if we fail to be mindful of the need to encourage the culture of parliamentary democracy? With what jurisdiction can we compare ourselves? Is there a state where for many years people did not care about Parliament as an institution? To answer that all one has to do is follow the example set by many Victorians since the election of the Kennett government — go to Queensland.

What happened in Queensland during the dying years of the premiership of Joh Bjelke-Petersen? I will not condemn the Queensland National Party for what happened during its early years in government because I am not familiar with the circumstances. But it is to be judged more harshly for its latter years. The then Premier, Joh Bjelke-Petersen,
showed a contempt for parliamentary democracy. They had it all in Queensland — corruption of the judiciary, corruption of the police force and corruption of the public service, as well as everything else the executive government touched. All that was exposed by the Fitzgerald inquiry.

Mrs Wade interjected.

Dr VAUGHAN — It convinced me. I was an abolitionist, but the Fitzgerald royal commission convinced me of the need for an upper house — a house of review — in Victoria.

I do not know how the New Zealand Parliament copes, except that it has a parliamentary committee system that acts almost as a house of review. It acts as a check on the one house of Parliament. I do not understand how it works: perhaps New Zealand has unique features which do not require that added protection.

I am no longer an abolitionist, although I do seek reform of the Victorian Legislative Council. I believe it is an important issue. I thank the Attorney-General for her interjection because I meant to get to that point and this was a useful juncture to do so. I am no longer an abolitionist; but I want to see a Legislative Council that is no longer a rubber stamp.

I am surprised to find that I agree with the honourable member for Mornington. I was surprised by the remarks made by the honourable member, but he was right when he said that we need to reform the Legislative Council to turn it into a real house of review and not a rubber stamp for the executive government. I do not believe an original thought has come from the Legislative Council — perhaps I should not be saying this in this debate — since October 1992!

In the brief time still available to me I shall mention, particularly as the Attorney-General is in the house, the importance of retaining the culture of parliamentary democracy in Victoria and of having other institutions at work. I do not believe Parliament and the parliamentary committee system are sufficient to pursue the work of law reform in Victoria. I greatly regret the decision made by the Attorney-General during the early weeks of the Kennett government to abolish the Law Reform Commission. I know it had been criticised in many quarters, but I believe the process of law reform in Victoria has not been advanced but in fact has gone backwards as a result of that decision. I regret that the body of work being undertaken by the Law Reform Commission has not been adequately picked up by what the Attorney-General suggested were the successor bodies. I know the parliamentary Law Reform Committee, of which I am a member, has not had referred to it the outstanding references from the Law Reform Commission. I understand that the minister's law reform advisory committee has not canvassed the LRC's outstanding work. I gained that impression from its first annual report. I am sure the work done by the law reform advisory committee is good, but it is not the same as having a law reform body that each day drives the process of law reform.

If there were some reference that I would like to be sent to the Law Reform Committee it would be for an inquiry into the priorities of law reform in this state. At the top of the list of those reforms we would discover from expert witnesses would be concepts such as the separation of powers, the independence of the judiciary, the independence of the Director of Public Prosecutions and similar matters. They are all important issues on which perhaps in private members on both sides of the house would not disagree.

There are members sitting opposite me who agree that the independence of the judiciary is fundamentally important and that there needs to be an independent Office of the Director of Public Prosecutions. There is probably not much disagreement about that view across the chamber. However, in the past couple of years there has been a corruption of those concepts.

Earlier I mentioned corruption in Queensland. The end result of an abuse and lack of respect for parliamentary democracy in Queensland was corruption. We are seeing the thin end of the wedge occurring in Victoria. People of goodwill on both sides of the house need to get up and shout that this is unacceptable because we regard our parliamentary institutions as fundamental and of the greatest importance.

Mr RYAN (Gippsland South) — I shall make a brief contribution to the debate on the bill. I do so firstly to provide general support for the constructive comments made by the honourable member for Mornington about the legislation and its impact upon the conduct of Parliament and the innovations and initiatives which he suggested for the purpose of reformation of the way this place discharges its onerous responsibilities. I have always admired the respect with which the honourable member for Mornington views the fundamental
structures of this place. What he had to say is best borne in mind by us who are serving our respective constituencies.

What also brought me into the chamber to make a contribution was the comments made by the honourable member for Pascoe Vale and, more particularly, the references and reflections he made upon the operations of the parliamentary committee system under this government. I address my comments to the manner in which he denigrated the work of the committee system. I took particular exception to the comments he made concerning the efforts of the Law Reform Committee and the various investigations that it is currently undertaking. The honourable member was scathing in his comments about the work of the Law Reform Committee, particularly its inquiry into the jury system in Victoria. I thought that unfortunate from a number of points of view.

Firstly, and not least, he was speaking of a parliamentary committee, and when I say that he was denigrating the work of that committee I mean that by its nature the parliamentary committee comprises members from all parties in the house, so it is unfortunate that in making his comments he belittled not only by implication but by his own statements the work being undertaken by his fellow party members.

In the time I have worked on that committee, the contribution made by all members to its work has been of great benefit to the deliberations, irrespective of the party background of its membership. For the honourable member for Pascoe Vale to make the comments he did, which directly reflect upon his own parliamentary colleagues, is most unfortunate.

Secondly, the honourable member for Pascoe Vale has little idea of the functions of the Law Reform Committee. He told us in his contribution that he is a member of the Public Accounts and Estimates Committee. Whatever work is undertaken by that committee, so be it, but for him to use the basis of the conduct of the committee of which he is a member to reflect on the efforts of the Law Reform Committee is pathetic and does not deserve on any rational view to be considered accurate.

Thirdly, the honourable member reserved some of his most caustic comments for the inquiry into jury service in Victoria. Those comments were unfortunate. The honourable member for Pascoe Vale comes from a most competent legal background.

I may be proven wrong, but I believe him to be an honours graduate in law. For him to cast these sorts of aspersions upon the operation of the jury system in Victoria and its significance to the people of the state is terribly unfortunate.

The honourable member may like to know that after the reference was received in about September last year and considerable input was received from the committee membership and its secretariat, an issues paper was developed and distributed to the community at large. He may be interested to know that we have had about 80 responses to that paper from people from all walks of life within the community. We have had representation not only in the form of submissions, but also from many of the authors of the reports. Many of those people have appeared before us at formal committee hearings and given evidence which has been recorded by Hansard and which is ultimately available for the public to look at. We have had input from all areas of the community into this very important topic.

As the inquiry has proceeded the necessity has evolved for us to travel overseas to investigate the operation of jury systems in other parts of the world. As a member of the committee I assure the honourable member for Pascoe Vale that that was not the original intention of the all-party committee: it really is something that has transpired as the hearings have proceeded. Yes; next month we will travel overseas to America, the United Kingdom and Hong Kong for the purpose of hearing evidence from people who wish to have some input into this important issue.

I said important, and I will highlight the significance of it. In our community the operation of the jury system is an imperative. I do not believe anybody would denigrate that statement.

In so far as the issues paper is concerned, comments have been brought before us concerning; for example, the presentation of evidence in the course of trials; the effect of jury service upon our ethnic communities; the question of interpreters and the important part they play in jury trials; the question of jurors' facilities; the issue of the impact of jury service upon those who undertake it; the question of expert juries and whether we should have them; and the question of whether those charged with criminal offences should have the option of choosing, as apparently occurs in the Canadian system, whether
to be tried by a jury at all. Although we have an
equivalent system to that, in a sense, in South
Australia, in the general sense it has not been
explored here in Victoria.

There is a common theme in the committee's work
of the importance it attaches to the work being
undertaken and to the significance of the overseas
investigations. The common theme running through
the evidence that we have heard from witnesses
who have appeared before us from other
jurisdictions is that we should go and look at the
operation of the systems in other nations around the
world, so we will do that.

It is important that the honourable member for
Pascoe Vale recognise — and I should have thought
that with his background he would — that we had
better, in such an important issue as this, go slowly
and get it right, because recommendations will be
made from this committee, as indeed are made from
other committees in the system, which are important
from the point of view of our communities here in
Victoria.

In closing, the best advice I can give the honourable
member for Pascoe Vale is that, as I understand he
has been preselected for a federal seat and he will be
off to Canberra — and I wish him well in his
endeavours — when he gets there, in the event that
he can make some sort of a contribution to
Parliament, he does it in a more constructive fashion
than he has unfortunately demonstrated here today.

Mr DOLLIS (Richmond) — It is with particular
pleasure that I speak on this bill because it will give
me an opportunity to argue what the House
Committee has been arguing for some time: the need
to alter the current act that governs the workings of
that committee.

This is an important appropriation bill because it
deals not only with those of us who make up
Parliament; it deals with the way we represent our
constituencies and our ability to make those
representations worthwhile. It also gives us an
opportunity to manage a large amount of money,
which currently is in the hands of the Presiding
Officers.

The Presiding Officers have been doing a fine job,
but if the members are to get appropriate
representation the resolution, which went to the
Premier, made at the last meeting of the House
Committee asking that the current act of Parliament
that governs the committee be altered to make it like
any other parliamentary committee should be
carefully considered.

I hope the minister at the table, the
Attorney-General, will take the message to the
government that this bipartisan proposal that comes
from every member who constitutes the House
Committee calls on the government to consider
altering the current act so that the members of that
committee will be given an opportunity to
determine and rule their own budget. The minister
should also remind the Premier that he has received
a letter from the House Committee informing him of
the bipartisan nature of the committee and the desire
of every member of it for such an alteration.

As the committee comprises a group of responsible
individuals, it is ridiculous that it has to work under
the current rules that govern the way it acts. It is
quite appropriate for us to be in charge of the
flowers in the gardens: it is very interesting to
observe the four seasons coming and going in this
wonderful state of ours; but it is absurd for us to
limit ourselves to the current colour of the grass that
has grown in the parliamentary gardens.

It would be considerably more appropriate for the
budget of the Parliament to be in the hands of
parliamentary members and to be determined in the
order that every other matter before other
committees is determined: by agreement or vote of
those on the committee. After all, the government of
the day will always have a majority and it will be
possible to reach a decision by taking into
consideration current government policy. However,
what has been particularly interesting about the
House Committee is that most matters, as they
concern members of Parliament, have been dealt
with in a bipartisan way.

This bipartisan way forward is one that we would
like to see: we hope that by the next session of
Parliament the government, with the assistance of
the Presiding Officers — and they have a very
important role to play in this matter — will come to
this house and to the other place with a bill that will
give us, from the next budget onwards, the capacity
to determine, work and create our own budget.

In that regard, for the first time we will move to
have an independent Parliament in the sense that
the members will be in control of their own destiny.
The question of priorities — and ministers, in
particular the Treasurer and the Premier of the day,
are lobbied all the time — will at least be determined
by members, and the items that the members
consider to be the most important for the function of this place will be democratically determined.

My small contribution is meant to continue the push for the need to change the current act — a push that was supported by every member of the House Committee. I hope that in the near future the Premier, with the assistance of the Presiding Officers, will make such an amendment to the act and give us an opportunity to deal with the matter.

By far the majority of the parliamentary appropriation goes to electorate support services, which affect the day-to-day running of electorates for the benefit of our constituents, the people who pay our wages and expect the democratic system to operate properly.

The House Committee has sent a letter to the Premier asking that the government consider introducing an appropriate bill that will receive bipartisan support and allow us get away from party politics.

I ask the Attorney-General, who is at the table, to take a message to the Premier: I hope by the time we come back for the next sessional period the government will be willing to introduce a bill to amend the act that currently governs the operations of the House Committee of Parliament.

Mr WEIDEMAN (Frankston) — I support the proposition put forward by the Deputy Leader of the Opposition. I served on the House Committee with the honourable member for Werribee for a number of years and I recognise the importance of this Parliament being the master of its own affairs. I am sure all honourable members believe in the separation of powers between the executive arm of government, Parliament, the law and the church. Some people in the community do not understand what that means but honourable members who have been here for any length of time will understand how important that is for the people of Victoria, particularly in times of crisis.

I do not think we have had a real crisis since those that occurred between 1976 and 1982. That important time in Parliament taught me respect for the law and for Parliament. I was happy to abide by decisions made at that time. We have had no motivation since that time to come to terms with what Parliament is all about.

I congratulate the honourable member for Werribee on the work he did at an earlier time. He gave us the opportunity of considering the budget appropriation of Parliament, of going through the items and giving advice and making recommendations on them. I remember being invited to be part of a delegation to the then Treasurer and his offsider. It was two against the rest of us, who were trying to get an appropriate level of funds. The honourable member for Werribee is nodding, I imagine because he remembers the occasion well. We sought as a team to get the best benefits possible for Parliament.

Although we can all come up with issues in a bipartisan way in those sorts of meetings, our vision is sometimes dimmed when we get out into the real world of politics and are influenced by what we believe people will say. Shortly I will speak about my surprise at what the honourable member for Pascoe Vale said in his contribution.

The Honourable Bill Landeryou, a former minister and member of the Legislative Council, is a rugged individual whose intelligence one has to admire. He was passionate about Parliament when he was here and I learned from him to understand that passion and also to be passionate about Parliament.

Parliament is important for the people of Victoria: it is the only defence they have. Its functions and the way it functions are particularly important. Over the past couple of years we have at least had an appropriation bill for Parliament which provides information to Parliament's committees and officers and to the Presiding Officers about where funds are spent.

The Deputy Leader of the Opposition suggests that where the money is spent should also be determined by this Parliament after lengthy debate. As Chairman of the Public Accounts and Estimates Committee I have been in favour of Parliament putting together a budget and audit committee whose responsibility would be to review the budget and internal audit functions of the Parliament with its officers and members.

It is important that we look at many of the issues that have come to haunt us in recent years. The introduction of a level of risk management would enable us to look at issues that might affect Parliament. It would be a shame if this Parliament were not ready for what will take place in 2001. It seems reasonable that at the next election the people of Victoria would accept the view that Parliament should be responsible for its own affairs. The 95 000 who visit this house each year — I regret that as a
child I never visited Parliament — are impressed by this place.

It is a shame that the only occasion since 1860 on which Parliament has been provided with a sum of money by the federal Parliament was in 1928. I always believed that money was granted for the construction of the first and second floor dining rooms. In fact, the money was provided to the state with no strings attached. The parliamentarians of the day decided to grab the money and build the facilities we now have. If those facilities had not been provided very little would have been added to the building in 100 years.

To the credit of recent holders of the office of Speaker, some money has been spent. We will all be grateful if the old agricultural laboratories building in Macarthur Place is redeveloped to accommodate committees and the chicken coop is demolished.

It is difficult in this debate to criticise the opposition in the way it will criticise the government.

I remember in 1982, after being out of Parliament from 1982 to 1985, the first thing I was greeted with on my return was the then honourable member for Coburg, the Honourable Tom Roper, who was then the Minister for Transport, telling me that as a member of the opposition I had no rights, did not exist and that he would in no way cooperate with me.

An honourable member interjected.

Mr WEIDEMAN — 'Snappy Tom' was the interjection. My electorate of Frankston was surrounded by Labor-held seats and he had adopted the view that I did not exist. On one occasion Labor people met at Frankston railway station, filled up a bus with local councillors and went to look at the transport facilities in the area. That can happen and a member has to accept that as part of the system. I have never supported that approach. I have always tried to be as fair-minded and even-handed as possible, to defend my party as best I can and to raise sensible matters in Parliament.

The honourable member for Mornington expressed well a suggestion that should be considered. I represented the seat of Frankston from 1976 to 1982, when there were 53,000 voters. Now there are two seats, Frankston East and Frankston. In between we had the seats of Frankston North and Frankston South. I had no difficulty in looking after 50,000 people in the Frankston electorate. The unfortunate thing is that I could not count, and as honourable members know in 1982 I lost by 30-odd votes! So the only embarrassment I had with my 50,000 voters was that I was quite miffed when I lost by that narrow margin of 30 votes. In the early stages of the count I was first past the post, home by 3000 or 4000 votes, but the Democrats directed their preferences and those votes disappeared.

The SPEAKER — Order! The Chair is having difficulty relating the honourable member's remarks to the bill.

Mr WEIDEMAN — The honourable member for Mornington raised the issue of how many voters a member can represent. I believe it is quite easy to look after some 50,000 people, as we did in earlier times. Without going into the details of what he said, I support his notion of making savings.

I joined the debate because the honourable member for Pascoe Vale took it upon himself to malign the parliamentary committee system and attack committee members. It is unfortunate that he did that; if he had not done so I would not say the words I will now say. He is leaving us, seeking what he considers to be higher office in another parliament.

Mr Hamilton — The pay's a bit better.

Mr WEIDEMAN — Yes, and he can get three staff, a car and a few more perks. I am the Chairman of the Public Accounts and Estimates Committee. The honourable member for Pascoe Vale came to me recently saying he believed he could not attend committee meetings as frequently as he had done because he had more to do. As a colleague I understood and accepted that and told him we could carry on with the work. Recently he has found it possible to come only to public hearings where ministers are on display and the opposition can ask probing, direct questions. Yet the honourable member said committee members ask only dotty dixers.

The committee has a job to do in ascertaining what is happening in government departments, where the money is being spent and so on. It draws up the questions needed to get the information it requires to produce a report for Parliament. It is the right of opposition members to get information from union colleagues and other people outside this place and to ask probing and important questions on different issues, but the honourable member for Pascoe Vale said the committee is not doing any work and is not making a valuable contribution to this place.
From 1982 to 1992 the committee system comprised five committees with funding of more than $2 million. I do not know what the funding of the other committees was, but the funding for the public accounts committee was about $550,000. Because there are now nine committees the funding for the public accounts committee is approximately $260,000 or $270,000; the amount of money has been halved. The Public Accounts and Estimates Committee is the result of melding the functions of two committees—a development committee and an estimates committee—into one. The committee of nine members—four from the opposition and five from the government—is carrying on with three staff. It has been lucky to second one or two people on different projects.

In the 10 years of the previous government the committee had more than nine staff members, and one or two were seconded as well—so it had more staff and a larger funding base. During those 10 years the committee produced 31 reports, an average of about 3 a year. That is not a bad effort when you consider the committee had some 9 or 10 staff. The Public Accounts and Estimates Committee has an office manager, a research officer and an executive officer—a research person who does most of the work and directs the work of the committee. The committee is now into its 14th report; so by the end of the year we will be able to say that the committee has completed 15 major reports as well as some minor ones. In other words, in 2 years it has accomplished what the previous committee did in 5 years, and its reports have been of a high standard. Michael Norman has commented on the quality of the work we have done, as have people out in the community. We have a mailing list of some 200 people to whom we send reports, so our work is subject to criticism.

We have also produced an annual report, which is a first in the committee system so far as I am aware. The committee members believe that because it is a public accounts committee and receives funding it should be audited and should do exactly the same as other organisations in the community are expected to do; it has to set the standard. It has also actively promoted other projects.

The committee has been away once, to New Zealand, a trip the Auditor-General recommended. It is unusual for the Auditor-General to suggest that a committee take the opportunity to travel so that it can examine accrual accounting and whole-of-government reporting and budgeting. Honourable members will recognise that there has been a big change in New Zealand’s approach to public accounting. It has changed the departmental system and has been funding outputs and outcomes rather than funding individual departments. It would require another debate to discuss how New Zealand has approached the issue and what has taken place in that country.

The committee has played an active role in taking the issue to the departments and demanding that they face up to accrual accounting and accrual budgeting so that future budgets and the budget process will be accrual based. That is the government’s policy and its edict. The committee has been belting each department over the head with that edict until the culture changes—so much so that the Auditor-General said in his report to us that we accomplished more in eight months than he has accomplished in a decade of trying to get acceptance of accrual accounting. We regard it as a sort of badge of honour that we have been able to achieve that and promote something we believe to be important.

The honourable member for Pascoe Vale said the committee does nothing. I have just pointed out that the committee has done twice as much as the earlier public accounts committee did under the previous government. The honourable member for Pascoe Vale then talked about the leaking of Auditor-General documentation to the press and the time spent on that matter. He has not attended any of those meetings, so he would not know what took place. In fact, we appointed a subcommittee of two to deal with it—me as chairman and the executive officer—so there was no extra cost to the committee. The work was done outside the committee’s normal hearings; the normal committee work took place, but the honourable member did not take the opportunity of attending. I will talk privately with the honourable member for Pascoe Vale because he has never mentioned or raised this issue before.

The opposition said it has no control of the committees. I agree that in most countries around the world public accounts committees are chaired by the opposition. I am not opposed to that, but I am chairman and the honourable member for Sunshine was appointed as deputy chairman. He is a very able deputy and has chaired some of the meetings. He has also chaired one investigation because I was involved in work for a local institution. I sat on the committee but I did not chair its meetings. I believe that was appropriate, and the honourable member for Sunshine did a first-class job.
The Honourable David White in another place has not missed a meeting of the committee. He is also passionate about Parliament and the way to get the processes, accountability and risk management of government right. He does not want to see a repeat of the mistakes made in the past decade. He is adamant that the process of the performance audits must be followed and that departments should have objectives and benchmarks or parameters and that they get their act together and know how they are spending their money and why. That approach is stimulating and the Honourable David White has been a significant contributor to the work of the committee.

I find it offensive that one or two members of the committee who have taken it upon themselves not to attend meetings should criticise the work of the committee. I refer to a member of the upper house who had information that was leaked to the press and the member who has taken the opportunity to criticise the committee in this house. If the honourable member for Pascoe Vale feels he should criticise the committee, I invite him to raise the matter with me at a convenient time. I would be happy to have that discussion with him.

Members of the committee spent a long time considering the matter of documentation being leaked to the press when it was outside the jurisdiction of the committee.

An Opposition Member — Who leaked it?

Mr WEIDEMAN — If you wait long enough you might find out. The issue of leaks to the press is always serious. In September 1993 the committee had a problem when a letter to the Auditor-General was leaked to the press. When we went to the standing orders we found ourselves in a difficult situation because we had to decide when a document becomes confidential. We formalised our approach so that it could not happen again — or so we thought. We passed a resolution to the effect that documents cannot be commented on or shown to anyone by committee members because they were held in confidence until they got to the committee table, and then it was up to the chairman of the committee or the executive officer to declare the status of the documents. The rider to that resolution was that nobody was to discuss any document until it had been to the committee. It was very straightforward.

A document posted on 24 March was received by the committee on 28 March. It was listed for the next committee meeting on 10 April. On 9 April the agenda and all the documents were delivered or posted to all committee members. One member received his copy in his hand and the others did not receive theirs until the Monday. The matter was reported in the press on the Sunday. One member of the upper house was involved in that. We took up the matter with the officers of Parliament. They directed us to the chapter in May headed ‘Committees in the House of Commons’, which suggests that in those circumstances a committee should follow certain procedures:

1. The committee should carry out its own investigation to try to discover the source of a leak, particularly by formally asking all members of the committee and the committee’s staff if they can explain how the leak came about;

2. The committee should decide whether or not the leak constitutes substantial interference, or the likelihood of such, with the work of the committee, with the select committee system or the functions of the house;

3. It should inform the liaison committee, so that it may take a view;

4. In the light of the views of the liaison committee it should make a special report to the house to that effect, outlining the action it has taken and the conclusions it has reached;

5. Such a special report would automatically be referred to the Privileges Committee without a debate in the house: it is then for that committee to consider the matter and make a report to the house, whereupon the house will consider its recommendations.

The committee went through that process. It established that the leak had occurred and that it affected the workings of the house, and it presented a report to the house. In the end we said that it is very difficult to establish a breach. All we could do was come up with the fact that one person had the document and that that member of the upper house explained to the house what might have happened. He admitted to the committee that he had the letter on the Friday and discussed it with other advisers and his secretary, which is contrary to the committee’s resolution. No member was to talk about a document until it had been discussed by the committee.

In this case it was a letter addressed to me which I had not even seen, yet it was in the Financial Review and then on the Monday and Tuesday in the Australian and the Age. The articles said the
document was leaked by the opposition, and in their conversations with members of the committee members of the press agreed that that was the case. What disturbed me was that a member felt he had a right to discuss the matter with his staff. He took it upon himself to discuss the document with his staff, including his secretary. He then said in explanation, with an apology, that he had left the door to his office open when the document was on his desk and therefore it was possible that someone could have interfered with the document.

As I said, the member apologised. I accept that apology. What I do not accept is the procedure we had to go through. I understand this is the first time this procedure has been followed. Every other time, as all honourable members would be aware, the gentlemanly way of the Parliament in either house has been to write to the Speaker or the President and say it is believed that a matter of privilege has arisen and explain the circumstances. If the Speaker or the President decided there was a case to answer, the member would be asked to rise in his or her place and put the explanation before the house.

In this case we followed May and did exactly what we were advised to do — and ended up with a conundrum. We do not have a satisfactory answer to our problem. The issue has not been debated. I took it from May that a liaison committee would be formed, the Public Accounts and Estimates Committee was not to make a decision but to find the facts, which it did and which we put in the report that was put before the house. Unfortunately, no procedure is set down for what should happen to a document in the class I have described.

I suggest to the house that the issues I have raised could perhaps be addressed through the Standing Orders Committee or some other process and a procedure that is in accord with the standing orders could be established because some serious issues do not have the backing of standing orders or the committee system. We found almost a page of references to what committees are able to do. I could go through a number of issues that relate to the powers of committees and what can be done with documents, but all those powers are irrelevant if there is no sanction. Currently any document sent to a parliamentary committee is public property after the hearing and there is no guarantee that the committee can maintain the confidentiality of the document. The only sanction is that a member can be asked to rise in the house and apologise, but that is the end of the matter. That is unsatisfactory. As chairman of a committee I find it difficult to come to terms with that.

The Public Accounts and Estimates Committee has taken formal advice from the Auditor-General. Under an act of Parliament it has been charged with the responsibility of giving advice on which performance audits will be undertaken. The committee has had discussions with the Auditor-General on issues that came out of the report presented this year. The Audit Act and the audit process have been changed. Any discussions with the Auditor-General should be frank, open and confidential. I now have difficulty with that. I do not know how I can overcome that problem and carry out the duties of chairman or how members of the committee are to carry out their duties and have the frank discussions required by the act.

Finally, I refer to what the committee has done in the past two and a half years while the committee has been operating with the six or seven members of Parliament who have regularly attended meetings and have committed themselves to a considerable level of work to help Victoria. One of the first issues we took on board was that all Victorian departments must conduct internal audits. That requirement arose particularly because of what had happened with Pyramid as well as other problems. To ensure that it is effective, the internal audit is to be chaired by an external chairman. The committee is now in the process of asking each department how it is using the available management skills and information.

The only way Victoria will secure its future is if the government is accountable and adopts risk management strategies. It must report to the house and to the people of Victoria in comprehensive and sensible ways. I do not think any one of us would say that one-line appropriations provide enough information because they do not compare apples with apples; it is as though they compare apples with pears or with new and exotic fruit. I have heard each and every Treasurer describe his budgets as the clearest documents ever provided to Parliament.

One of my colleagues is laughing. He has heard that many times before — and he has always had difficulty in understanding them.

Our committee, which examined the Nieuwenhuysen report, pointed out errors. In other words, a committee of this Parliament corrected a staff of some thousands that was charged with providing information. As Mr Justice John Phillips said, our public accounts committee can be used as a
weapon to keep the state accountable and honest. The very fact that such a committee can and will use its powers is enough to keep the state accountable, which is important.

I thank all those involved in our conference in January. The honourable member for Pascoe Vale seems to have forgotten that we were able to run a very significant conference in Victoria with the aid of the Speaker — and some funding!

Mr MICALLEF (Springvale) — I promise I will not be as long as the previous speaker, who is an impassioned supporter of committees. I have sat on a few committees with him and I commend him on the way he operates. Some of the issues he raised need to be responded to.

I am a great supporter of the parliamentary committee system, which has been responsible for some of the most productive experiences of my parliamentary career. I am a member of the former Social Development Committee, now the Community Development Committee. The honourable member was speaking nonsense when he said he had done more in 18 months than others had done in 10 years. Committee references vary, and what you get out of the committee system depends on how much you put into it.

The work done by the previous committees is shown by the number of written reports they produced. It is difficult to assess the current committee system because under the previous system there were only five committees. The staff were better and more able to probe, research and gather submissions and evidence to produce reports. In that sense they were better equipped. As other speakers have said, three of those five committees were chaired by Labor government members and two by opposition members, whereas all nine of the current committees are chaired exclusively by the members of the government. The government's claim that allowing members of the opposition to be deputy chairmen and to occasionally take over the chair demonstrates its bipartisanship and its commitment to democratic processes is absolute nonsense.

Each committee chairperson pockets $10 000 a year. By way of comparison, every so often, every couple of weeks or so, a member of the opposition gets an opportunity to chair a meeting. Fair's fair. We are all grown-ups. We should see things as they are and not as figments of somebody's imagination! I have heard the rumours that come from that committee. If members are indiscreet, we could have a witch-hunt. There were some leaks over the weekend before our committee report was tabled. If I had been on time I would have raised it at our meeting, because we have a fair idea where the leak came from. Without naming names I can say it was a government member. If we decide to go tit for tat we will open ourselves up to ridicule, because the only people who will get comfort from it will be the members of the media — and they will lose sight of the issues the committees are dealing with. We ought to be more mature about the way we handle things. We ought to look at the issue very seriously before deciding to go down that road.

Committee members can develop a high degree of mutual respect. The dying with dignity inquiry, of which I was a member, resulted in a unanimous report on the controversial topic of euthanasia. That report is acknowledged throughout the world as one of the best reports on euthanasia that has ever been published. If committee members from a range of philosophical, religious and cultural backgrounds can approach the task with goodwill and develop teamwork their committee can achieve excellent results. That is one of the best achievements of the Parliament. But if we go down the road of retribution we will cut across that good work. It will mean tit for tat and open warfare, which would be disastrous for the Parliament and the community. We need to look at that carefully.

In the early days the community development committee had problems with its inquiry into children's services. We took longer than we should have, but we eventually came out with a good report. I commend everybody on that committee on the work they did to finish the report. We realised our reputation was on the line and that if we did not quickly finalise the report we would all look pretty silly.

Comments have been made about electorate offices. That has not always been a situation of comparing apples with apples. The standard of offices and the equipment they contain varies enormously. I inherited a pretty run-down office, which I had until two and a half years ago. At that time many offices were much better equipped and better located. The Speaker's file contains a letter of mine asking that I be relocated, but I was knocked back because there was not enough money. There were three new offices in an expensive shopping strip in Centre Road, Bentleigh. I could not understand that and responded accordingly. There have been some problems over the years in equality in member facilities.
There has also been a problem with equipment. I was critical of my own government when in power for not standardising equipment and cannot understand that it has not been standardised. Coming from a technical background, I could not understand why we did not all have uniform, and the latest, equipment. With bulk buying and so on, we could have upgraded on a fairly regular basis. In 1986 I bought a superseded IBM for about $7000. At that time I resented that I had to purchase that type of equipment.

Like many other MPs, I have done my own research on computers and am capable and qualified. Even though I am not a computer expert, I know what I want out of a computer and I know the software and other equipment I need, but it is unfortunate that at the time we did not take the opportunity to introduce standardised equipment as is done in the offices of federal members. There is absolutely no comparison with federal equipment and staff.

The reduction from two to one staff member has been a real problem from the point of view of the safety of officers. I have had to resort to having a safety beeper for my staff because they have felt threatened a few times. The other day I was speaking to another electorate officer who had had the same experience. A range of people telephone me from time to time because of my background in occupational safety. I can pick up on the concerns in the field.

A safety beeper is no substitute for having a second person on the premises. That can be soothing when somebody comes into an office in an aggressive mood. We all know that people have problems with bureaucrats and bureaucracies. When your office is across the road from the Department of Social Security office or Commonwealth Employment Service, there will be occasions when people take out their frustration on your electorate staff.

Once or twice when my staff have been threatened, I have walked into the reception area and suggested that people go out, knock on the door and come in again and that then we might be able to start in a more civilised way and get on with the problem. I am able to handle that with my staff, but unfortunately my staff are not able to take that approach because they do not have the status. Often women staff are intimidated. It is a bad situation. Reducing from two to one the number of electorate officers is a backward step that has caused extra stress.

Also, if officers want to attend a meeting, the office has to be locked. We have got to the stage where we are relying on volunteer labour to back up and support regular staff while at the same time being required to deal with a more complex set of issues in the community.

I have recently taken on a person under the Jobskills program. That has been a help. It is an excellent commonwealth labour market program. But it is important that such positions be seen for what they are meant to be — staff in addition to but not taking the place of electorate staff. It is a means of upgrading and training people at the same time.

It is sad that the commonwealth government treats its MPs in a more bipartisan way in the allocation of resources while here the opposition is treated in a disgraceful way. Speaking professionally from an occupational health point of view, a dog would not be put in our offices. It is an absolute disgrace, an indictment of this great institution, that people are allowed to work in a dog box even as we approach the year 2000. When the history of this place is written, people from time to time will talk about — —

An honourable member interjected.

Mr MICALLEF — I am not saying it is entirely this government's fault. All governments over the past 15 to 20 years have to bear the responsibility for that. I took the matter up when I was caucus secretary and tried to negotiate a reasonable position. I spoke with opposition leaders Alan Brown and later Jeff Kennett in trying to get decent conditions for my staff. We can learn a lot from the other states.

I do not believe we should be duchessed or have silver service, but being a member of Parliament is a strenuous job. It is a seven-day-a-week job for those who take it seriously. I accept that members on both sides of the house in the majority take their job seriously. If MPs are to be expected to serve the community, they have to be given the appropriate equipment and support to do so.

Whether there are too many politicians has been raised. Maybe three levels of government is one level of government too many. That is something to be decided by the community in the longer term. We may end up having only two levels of government in Australia, but if we are to have state politicians serving the community they should be appropriately staffed and supported and be given proper working
conditions so they can do their job properly and have a reasonable quality of life. The people who support politicians, in the main their staff and in many cases partners — wives or whatever — do much backup work and are not given any recognition or acknowledgment.

Mr McLellan (Frankston East) — I had no intention of joining debate this afternoon, but quite a few matters have been raised that should be responded to. Committee work has been mentioned. I am a member of the parliamentary Road Safety Committee and take that work seriously, as do the chairman, the honourable member for Forest Hill; the deputy chairman, the honourable member for Derrimut; and other members of the committee. Our work is important. Road safety is probably one of the most important subjects one can speak on in the Parliament. It has to do with how people lead their lives — indeed, whether they live to do so.

The Road Safety Committee inherited from the Social Development Committee a report on motorcycles. It completed that report. It has also completed a report on the demerit points system and has recently reported on the appropriateness of speed limits in Victoria. I am sure all members of the committee believe that work is important, should be continued and should not be denigrated by anybody in the Parliament. If that work involves travelling, so be it. I do not know of anybody who learns anything without talking to people, reading or researching. I have great difficulty accepting that a committee that does such work should be glued to its home base and not travel at all.

Other members of the house who have contributed to debate, including the honourable members for Mornington, Werribee and Frankston, have all spoken about reform of the operation of this place. I have to agree that it is desirable to take on board such reform.

The honourable member for Mornington spoke about a reduction in the number of members of this place. I have long been an advocate of that. I suggest an easy way of proceeding with such a reform would be simply to take the two state seats and put them into the one federal seat. There being 36 federal seats in the state, that would have the immediate effect of reducing by 16 the number of members in this place and by 4 the number of members in the other place. It would save taxpayers considerable money and show the public we are fair dinkum about reform. We have reformed the public sector and local government; why not reform this place? I hope that will happen in the near future. It is a necessary reform that would show the public we are willing to reform ourselves.

Other speakers in the debate have also mentioned something I would like to speak about — that is, the standard of debate this afternoon. I have heard the honourable members for Pascoe Vale and Clayton and several other members speak. This is an appropriation debate, but the tone of debate seems to me to be that of a grievance debate. Some of the things that have been raised are incredible. We have gone from Melbourne to Brisbane, Sydney, Adelaide and Perth; we have gone all over the place. But nobody has spoken about the appropriations or the way this place operates.

Those honourable members do this place a disservice when they talk along those lines. They should be talking about what happens in Parliament and the reforms that are needed. Week in and week out, month in and month out, we have heard talk of corruption. In my 52 years on this earth it has been my experience that those who speak most about corruption are those who are closest to the subject. The opposition should look at how it performs in this place and concentrate on making a positive contribution. Unless members of the opposition have concrete proof of corruption in the operation of this house or the Parliament, they should change tack and become useful members of this place. The reform of Parliament is necessary for all the reasons I have mentioned.

Mr Hamilton (Morwell) — We have had some wide-ranging and interesting debates in this place, but this tops them all. We have gone from Machiavelli to Mornington and from ministers to committees — and much has been said about what may happen.

I want to bring the debate back to the grassroots, as it were, because the parliamentary appropriation determines the working conditions of members and the staff. We often talk about our staff, not only those who work in our electorate offices but the staff who work in this place. This is an opportunity to recognise the efforts of all of them — and I include my own electorate officer at the top of the tree because she works extremely hard. The vast majority of the staff are not well paid. Compared with conditions elsewhere they are relatively poorly paid. That is doubly sad because they have not had a salary increase for some time. It is an issue that we parliamentarians should take seriously.
Despite the tenets of the Westminster system, in effect the executive runs Parliament because it makes the decisions. When members become ministers resources are suddenly made available to them. I admit that they have a lot of responsibility but they end up in nice new ministerial offices with plush leather seats, dozens of staff and unlimited access to telephone and other technical resources — and they also have access to the bureaucracy.

Sometimes it is all too easy for ministers, no matter which party is in government at the time, to forget their grassroots and their times as backbenchers. Life on the back bench can be cold and bleak at times. I support those members who asked that a number of matters be addressed by Parliament and, in particular, by the House Committee, the first of which is the standardisation of offices and equipment for both members and staff. When one becomes a member of Parliament one finds the offices of certain members reflect their history rather than the best design. One would think members’ office equipment should be of a standardised design.

As a country member I support the remarks made by the honourable member for Springvale. The stresses and strains placed on electorate officers while Parliament is sitting — the same is true of the staff of every country member — are of concern because the only means of communication we have during the parliamentary sittings is by telephone or fax. Their responsibilities are great. I am sure all of us appreciate the wonderful work that is done on behalf of honourable members by their electorate officers, especially those in the country.

When we become members of Parliament none of us knows about the correct procedures of this place. No emphasis has been placed on an orientation program for members, including an explanation of the conduct that is expected of a member. We are all well trained in matters political but not in what happens in Parliament itself.

In this great institution relatively small amounts have been allocated to the training of members. We should introduce an information or training system. When one walks down the race one bows to the Chair as a mark of respect. Once one has been in this place for some time that becomes a habit. But when one first comes into this place those things can be bewildering.

I believe the working conditions of electorate officers and members and staff in this place are inadequate. Today I led a deputation to a minister whose office is cramped and inappropriate.

Mr Weideman interjected,

Mr HAMILTON — We are not here to attribute blame, we are here to look to the future. The walls of the chookhouse at the rear of Parliament House are paper thin. One does have to worry about whether one should answer one’s own telephone or the telephone of one’s neighbour. Unfortunately parliamentary staff also work under those conditions — and that is not good enough.

As I said, we are not here to attribute blame, we are here to look forward. It will be interesting what record this government leaves behind when it goes, as it inevitably will. I give an assurance that I will not continue to carp and whinge about what it did and did not do when in government because that will be on the record. But the government can do a number of things to earn a reputation.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Mr PERTON (Doncaster) — I have pleasure in contributing to the debate and suggesting some positive reforms of Parliament and this chamber. It is probably worthwhile because far too often in Victoria and elsewhere in Australia politics involves posturing rather than positive suggestions on ways to improve the parliamentary processes.

I shall discuss some of the reforms I have thought necessary as a member of Parliament. The first relates to the voting practices in this chamber. It is archaic that the house wastes up to 10 minutes, and sometimes even longer, when voting at various stages of a bill’s progress. Honourable members will be aware that a number of Liberal members of Parliament recently visited central Asia. Even the Parliament of Kazakhstan, hardly a place where one expects state-of-the-art parliamentary technology, has introduced electronic voting. That is the norm in many Parliaments around the world. Electronic voting technology is not expensive and the benefits are enormous. It is about time that you, Mr Deputy Speaker, and Mr Speaker thought about improving the processes of the chamber by the introduction of a simple device like electronic voting. It is not difficult. All one needs is an identity card of some kind. The chamber is already wired.
Mr PERTON — The honourable member for Morwell asks whether honourable members would still need to come into the chamber. Although honourable members would still have to enter the chamber to vote, electronic voting would improve the efficiency of Parliament.

Ms Marple interjected.

Mr PERTON — The honourable member for Altona refers to the archaic nature of the chamber. Although the New South Wales Parliament still has its historical facade, its facilities are much improved. The facilities in this Parliament are a disgrace. Young people and tour groups often enter the offices in which I work on the third floor of the building and are amazed at the inadequate accommodation. They cannot believe three members of Parliament share an office and may be using its three telephones at the same time. We share two fax machines, which we have purchased ourselves just so that we could work more efficiently.

It is not just the backbench members of Parliament who are treated shabbily. The basement offices of ministers are also inadequate. For example, the Minister for Public Transport has to share his office with his advisers.

Mr Hamilton interjected.

Mr PERTON — I remind the honourable member for Morwell that the Minister for Public Transport administers his ministry with one-tenth the advisers of former Labor ministers. The Minister for Community Services has a cell-like office that is not conducive to good decision making. We are all disadvantaged by the facilities.

Honourable members' budgets for telecommunications equipment fail to take into account the changes in technology. The introduction of the mobile phone means businesses spend more money on telecommunications. Yet members of Parliament are expected to adopt modern telecommunications without having their budgets increased. All members of Parliament would have experienced their fax machines being clogged up by press releases from ministers and constituents. It is foolish for us to continue to maintain a telecommunications system in our offices that reflects the thinking of the 1970s or 1980s rather than the 1990s. Why should we have ministerial press releases clogging up our fax machines and creating extra filing duties for staff when, by entering on-line word searches, modern businesses can find any information they require? We should be implementing the modern communications systems found in business offices or even the parliamentary library. Parliaments in the United States of America and many European countries, including New Zealand, encourage constituents to contact their members of Parliament through e-mail.

Mr Hamilton interjected.

Mr PERTON — It is true. Maybe Australian parliamentarians are among the most accessible parliamentarians on earth. I will come back to that in a moment.

We must move forward to meet the needs of our communities, which are changing rapidly. Schoolchildren are using computer technologies. They do not watch the news programs and they often do not read newspapers. If we are to communicate with young people, we have to use the media they want to use such as computer technology, Internet, e-mail, CD-ROM and multimedia.

Mr Brown interjected.

Mr PERTON — As the Minister for Public Transport says, the education system under this government has adopted satellite communication and interactive teaching methods. We are looking at putting schools on line. These are the things that are happening. If we want our community to compete with the growing Asian economies we have to encourage our children to be adept in the use of modern technologies to acquire information and knowledge.

The honourable member for Morwell talked about the accessibility of Australian and Victorian members of Parliament. It is extraordinary! People often comment on the fact that we do not need bodyguards. The Premier wanders around Parliament and on the street. Even the Prime Minister, Mr Keating, is a relatively accessible person. That is one of the wonderful features of the Australian political life.

Mr Loney interjected.

Mr PERTON — Yes, it is one of our greatest strengths. Constituents feel able to telephone their local members. I asked one of my constituents who telephoned me this morning about a federal matter, 'Why have you approached me?', and she said, 'Because you seem to be accessible'. I do not believe
I am unique in that way. I see the honourable member for Eltham, the Minister for Public Transport and all the other members currently in the chamber, even the honourable member for Rodney, against whom I once campaigned.

One of the wonderful things about Australian politics is the accessibility of parliamentarians and our relative freedom to communicate and to interact with constituents. Of course, at times there are threats. Two years ago I received a death threat, and in that circumstance I had to call the police, but it was one of those instances where a person with a mental imbalance felt that that was the way to behave. That will happen in any system and in any country.

I will now address a few comments about attracting people to politics. One of the sad features of Australian politics is the low esteem in which parliamentarians in general are held. However, when constituents are asked what they think about their local members of Parliament, their answers are quite different. Normally they relate to their local members because they know someone who has been assisted by a local member. There is generally a good relationship built up with local members of Parliament, but in general we are held in relatively low esteem.

Our incomes are low when compared with those of public servants. There is much to be said about the difficulty of attracting suitable members of Parliament. Many parliamentary secretaries work 80 to 100 hours a week in the service of the government on salaries that in some cases are 25 per cent of those of the public servants who are answerable to them. We have reached a ridiculous stage where parliamentarians are paid 25 per cent of the salaries of public servants and where the Premier is paid less than two-thirds of the salary of his head of department.

Most of the members I see around me in this chamber are probably capable of earning three or four times their current incomes in the private sector. We are doing it for political and philosophical motives because we care about our society, but there are many people who also care about our society who have young children, children in schools or other family responsibilities who cannot afford to leave their high incomes to work in Parliament. That is a sad feature of political life in this country.

That leads me to the next question about attracting people to politics, and that is the ridiculous hours we continue to sit. It is absurd that on Wednesdays we sit from 10.00 a.m. often until 11.00 p.m. or midnight. What sort of lifestyle is that for the staff who service members of Parliament, for the members and for their families? It is crazy! One reason why we do not attract women to politics is the fact that most normal, ordinary women still have children and have the responsibility of caring for them while in their 20s, 30s and early 40s. Who can afford to pay for child minding on the salaries that we are earning? Indeed, most women members of Parliament here have husbands who also have busy professional lives and who also cannot take over the role of child minding every evening that Parliament is sitting. If we truly want a Parliament that attracts talented women who have families before their early 50s we have to come to a sensible arrangement about hours as the federal Parliament has done. Perhaps we should sit five days a week during the session, from 9.00 a.m. until 5 p.m. or from 10 a.m. to 6 p.m. to allow people to undertake their family responsibilities.

I turn my attention to an area that the public sees least, and that is the cooperation between the political parties. One of the achievements of this government was the change of the parliamentary committee structure to allow for nine parliamentary committees. Almost all committees are engaged in productive and beneficial work for the community. The Law Reform Committee does wonderful work. The Public Accounts and Estimates Committee, chaired by the honourable member for Frankston, also does a wonderful job holding the government accountable. The Road Safety Committee is making new recommendations to improve the situation on our roads. The Crime Prevention Committee does fine work to try to reduce the impact of crime in our society and make people feel more secure.

It is a terrible thing that in Australia we actually have a low crime rate when compared with other jurisdictions, but older people live in fear almost in a fortress-like environment, parents are scared to let their children wander the streets in the evening or at night and they are fearful about the safety of their daughters. The work of the Crime Prevention Committee, which deals with these matters, is important.

I turn my attention to the Scrutiny of Acts and Regulations Committee and I pay tribute to its staff. They work very hard indeed. Helen Mason, Tanya Coleman, Dominique Sanders, Helen Roberts
and Richard Kings all do a tremendous job for the democratic institution in which we work. They work long hours analysing legislation — nitpicking and painstaking work. We members of Parliament come within the ambit of the work of the committee and we are nitpicking and painstaking.

It is very hard work for the workers on that committee and I pay tribute to them tonight. I also pay tribute to the members of the committee. I am very fortunate because I have four very dedicated members of the coalition who work with me. They include the Honourable Bruce Skeggs, from another place; the Honourable Louise Asher, from another place; the honourable member for Sandringham, who is in the chamber with us and who does tremendous and painstaking work and makes a great contribution to the work of the committee; the honourable member for Murray Valley from the National Party, again making a contribution as a long-standing member of Parliament.

I also pay tribute to members of the Labor Party who are on the committee, that is, the honourable member for Werribee, who is a meticulous worker in this area, the honourable member for Coburg, the honourable member for Melbourne North, and the honourable member for Albert Park, all of whom make valuable contributions.

Mr Deputy Speaker, the work of this Parliament requires support for the work that you do, the Speaker does, the presiding officers do and the staff who are answerable to you. They include the attendants, the clerks, the staff of the library, Hansard and staff of the various offices. We have to make sure that the conditions they work in are satisfactory.

As members of Parliament we complain about the state of our offices and the like, and one of the things I still find puzzling is the extent to which our attendants have to undertake very menial work. Many of the housekeeping tasks they undertake is a little bit beyond the pale. People who make a great contribution to parliamentary life should not be polishing brass and vacuuming the carpets!

Mr Paterson interjected.

Mr PERTON — The honourable member for Barwon South makes a very good point. When you look at the budget for members of Parliament you see there is now an incentive for us to sack our cleaners and clean our own offices, as the honourable member for Barwon South apparently does. There is something wrong with our system when honourable members like the honourable member for Barwon South feel that as a result of budgetary constraints they have to do that sort of work and cannot employ a cleaner to do it. The fact that our staff have to undertake menial tasks as well also says something about the primitive way in which we regard this house.

I conclude my remarks with the comment that the needs of the 1990s require not only a forward-looking government but also a forward-looking Parliament. If the Parliament is falling out of kilter with the executive, we are reaching an absurd position. The honourable member for Sandringham has passed me a note to remind me to thank the clerks of the house. I thought I had already done that, but to the extent that it has not been noted, I say they do a tremendous task.

As I said, we are reaching a point where the executive arm of government is paying high salaries to its chief public servants, moving quickly in electronic communications, and moving quickly to modern management techniques. The facilities of the executive arm of government are being improved dramatically. One only has to see the renovation work that is taking place outside this building. Yet we have a Parliament that is living with the facilities of the 1860s, with many of the trappings of the 1860s, and it is time that we had a good look at ourselves and moved towards the 1990s.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

FINANCIAL INSTITUTIONS DUTY (AMENDMENT) BILL

Second reading

Debate resumed from 27 April; motion of Mr I. W. SMITH (Minister for Finance).

Mr LONEY (Geelong North) — The opposition is not opposing the Financial Institutions Duty (Amendment) Bill. As I understand the bill, it makes fairly simple amendments to the principal act. These amendments do not in any way, in the opposition's view, affect the principal act to the point where it
would have great concerns about it. It sees no particular way the measures being introduced in the bill would bring about any disadvantage or non-benefit to any particular person or persons. Therefore, it is the opposition's wish to not delay the house greatly in the consideration of this bill.

However, I should refer to some sections of the bill, namely, the amendments to sections 3 and 12 of the principal act. Clause 4(a) of the bill states:

In section 3(1), in the definition of "financial institutions duty" for "21 or 32" substitute "or 21 or an amount payable under section 32(1)";

That clarifies the intent that of the bill and is more easily understandable than the former wording, which does not specifically provide the amount referred to in the act. The other amendment of that part of the act is to substitute the word 'law' for the word 'code', which is self-explanatory — the word 'law' is more compelling and specific than the word 'code'. The amendment to section 38 clarifies the intent and causes the opposition no great problem. We have said that —

Mr Gude interjected.

Mr Loney — Yes, we have said that. Had the minister been here earlier he would have known. The opposition does not oppose the bill.

Mr Bracks (Williamstown) — I am sorry for the delay, but the Employee Relations Commission was handing down an interesting finding that will be the subject of debate tomorrow.

The opposition does not oppose the Financial Institutions Duty (Amendment) Bill. In fact, it supports the sensible amendments to the principal act, which are mainly technical. They clarify authorisations and self-assessment systems for exempt bank accounts and remove the anomaly of the obligation to file annual returns for small amounts — a sensible technical reform that the opposition supports. We also welcome the easing of the system and recognise the need to remove unnecessary regulatory burdens, which is the intent of the amendments to the bill.

The amendments also give what amendments to other bills do not give: the right of appeal to the Administrative Appeals Tribunal for debits and credits missed in oversight, an important reform which is supported by the opposition. It is a rare example of the right of appeal being given to those affected by decisions and consequential decisions made pursuant to an act, and it is one that we would like to see extended over time to other acts and amendments to acts of Parliament.

Although the opposition supports the amendments contained in the Financial Institutions Duty (Amendment) Bill, I will place on record some contradictory actions of this government in relation to financial institutions duty and bank account taxes. As the house would no doubt remember, in 1991-92 when the Labor government was in power it sought to increase FID rates, bank account taxes to the same rates as those of New South Wales and Queensland so that the eastern seaboard would have a common tax regime and deposits would not be transferred interstate because of the different regulatory regimes and tax rates.

Although this opposition supports these amendments, the then opposition — now the government — opposed sensible increases to the financial institutions duty which would have allowed duties and rates to be comparable with those of New South Wales and Queensland. To hike up the financial institutions duty now when it opposed it in 1991-92 shows this government's inconsistency. Nevertheless we support the amendments as they make sensible changes to the FID amounts.

In relation to the previous changes made to the Financial Institutions Duty Act, the events of late last year that occurred in relation to retrospective legislation should not go unnoticed: they were criticised by staff and members of the State Revenue Office who administered and collected the financial institutions duty.

I refer to an article in the Herald Sun of 15 November 1994 on the financial institutions duty in which Stephen Mayne reported that there was significant opposition from former State Revenue Office staff for retrospective legislation which changed the nature of tax collection retrospectively on the financial institutions duty. The article states:

A recently departed senior manager at the State Revenue Office (SRO) yesterday —

the day before 15 November —
Mr Derek White, —

previously of the State Revenue Office —

now a tax consultant with Deloitte Touche Tohmatsu, yesterday said the government had used retrospective legislation to avoid paying refunds and this was 'simply outrageous'.

Mr White said the SRO recently received legal advice from the Victorian Solicitor-General that taxpayers were not obliged to pay FID when interest was directly credited to their accounts.

He said this meant taxpayers should have received refunds running to 'considerable millions of dollars'.

In supporting the amendments and the right of appeal to the Administrative Appeals Tribunal for disputes about the financial institutions duty due to businesses it is worth noting that retrospective legislation was proposed by the government as early as late last year.

When we look at the government's treatment of bank account taxes we see that it does not have a clean record on the matter: when in opposition it opposed sensible changes that would have increased the duty to make it comparable with that of New South Wales and the eastern seaboard states.

These technical amendments — the clarification of authorisation for self-assessment system for exempt bank accounts; the removal of the obligation to file annual returns for small amounts, a sensible small amendment, and the right of appeal to the AAT for debits tax — are supported by the opposition and we think they will improve the legislation and the collection of financial institutions duty by the State Revenue Office.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

RETAIL TENANCIES (AMENDMENT) BILL

Second reading

Debate resumed from 27 April; motion of Mr W. D. McGrath (Minister for Agriculture).
the National Party firmly in check. The opposition contends that many areas of the act need reforming in order to protect retail tenants, as was envisaged at the time of the passage of the 1986 bill. It also suggests that to date the government has baulked at doing just that. The opposition would say that many Liberal Party members have never had a firm and real commitment to this type of legislation. It is not surprising that the government has not been keen to introduce the changes which retailers are seeking which they need.

If that is the case with some members of the Liberal Party, where on earth are the National Party members who very strongly supported the 1986 bill and put forward a number of questions at that time?

Mr Gude interjected.

Mr LONEY — Proportionately, we are probably holding up better. The National Party has claimed small retail tenancies as its constituency. It supported the original legislation and the suggestion that the review period be less than the five years allowed. Where are those voices today? It will be interesting to hear about the role played in this by National Party members who were in the chamber in 1986 and who played a leading role at the time. I mention the honourable members for Murray Valley and Warrnambool.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! It might be interesting for the members who are speaking across the chamber, but it is extremely difficult for the honourable member for Geelong North to concentrate on what he is saying.

Mr LONEY — As I said, one of the lead speakers for the National Party in 1986 was the honourable member for Warrnambool.

Mr Perton — Not a great authority.

Mr LONEY — I am not sure if that is a reflection on the Chair, Mr Deputy Speaker. I will be most interested to hear what National Party members say about the fact that almost nine years on from that original legislation no general reform of this act has taken place because the reviews have not been completed, they have not led to firm recommendations for change of legislation and they have not led to the introduction of new clauses into this place. However, I recall from reading the debate in Hansard that the National Party position at that time was that the review period should be reduced to three years rather than the five years provided for in the bill.

If the National Party view had been taken up at that time we would be coming into the third review period. The fact is that we have not yet completed the first.

Mr Perton — Terrible Labor government.

Mr LONEY — I take up the point raised by the honourable member for Doncaster because the review process which was required after five years was initiated by the former Labor minister in 1991. It is that review that to date has not been completed and acted upon. I am surprised that the normally alert honourable member for Doncaster did not know that. We often have the claim that this is a can-do government, but it seems that in reforming this particular legislation we have a won't-do government. It simply will not address the problems that retail tenants across the length and breadth of Victoria are asking to be addressed.

Today the opposition intends to put the minister, the Liberal Party and the National Party to the test on this particular matter and to offer a challenge to them. That challenge is to give them the opportunity to enact those reforms. In order to do that, I move:

That all the words after 'That' be omitted with the view of inserting in place thereof the words 'this bill be withdrawn and redrafted to provide protection of lessees in line with the recommendations of the March 1993 report of the minister's working party particularly the recommendations relating to — (a) deficiencies in the processes of valuation; (b) the application of the act to franchises and public corporations; (c) extension of the regulation of rent reviews; (d) supply by landlords of disclosure statements; (e) extension of compensation rights for changes in tenancy mix in retail shopping centres; and (f) controlling unconscionable clauses in leases and behaviour by parties to leases - and that the redrafted bill be introduced and debated prior to the conclusion of the autumn 1995 sittings.'

The amendment provides the government with the opportunity to place on record its view and commitment to the reforms recommended by the minister's own 1993 working party report, and it clearly indicates the government's commitment to the legislation.

From this point on will we hear more of the same tired old rhetoric or will there be a real commitment
to necessary reform? The debate also provides National Party members with an opportunity to step forward and show that they still support what they said when the principal legislation was passed in 1986.

Before dealing with the broader matters raised in the reasoned amendment I will place on the record the opposition's attitude to the bill, which has four elements. It extends the prohibition on key money; improves professional immunity for panel members; validates the decisions of panel members in the event of defects or irregularities in their appointments; and introduces conciliation prior to arbitration.

The opposition supports all those amendments as steps in the right direction — and if the reasoned amendment is defeated will support them at the subsequent vote. The amendment of the key money provisions is absolutely necessary to clarify the situation that has arisen as a result of the decision in Burke v. Gillett, which meant the intent of the principal legislation with regard to key money was given a far narrower application than was envisaged. That point was raised in the minister's 1993 working party report and was the subject of recommendation 4.3(b). At page 13 the working party report states:

The key money provisions were seen as most important and in need of extension to cover all situations where capital payments may be sought in return for benefits provided by a landlord and it was submitted by the REIV, for example, that there should be a penalty for demanding key money equal to the amount demanded.

The working party report went on to recommend that:

... the key money provision of section 9 should be extended to apply to all payments in the nature of a premium which may be sought in respect of any tenancy transaction.

The amendment goes a long way towards picking up that recommendation. I particularly welcome proposed new section 9(1)(b)(i), which states:

a provision in a retail premises lease is void to the extent —

(i) that it requires or has the effect of requiring the payment of any key-money or consideration for goodwill ...

That wording is significant and seems to be based on similar provisions in the 1994 New South Wales legislation.

The amendment to part 3 of the principal act dealing with the determination of disputes also addresses an area of considerable concern — the cost of access to dispute resolution. As it is now practised the determination of tenancy disputes can be both lengthy and costly for both parties and is of concern to those in the retail community. The opposition has no problem with the concept of a cost-efficient alternative dispute resolution. In fact, the Labor government did a great deal to promote alternative dispute resolution procedures. Unfortunately the coalition government has not honoured that commitment in other areas. However, the opposition welcomes the amendment.

The provision of conciliation as a first step in the resolution of disputes will greatly assist retail tenants by allowing conciliators to be chosen by mutual agreement, thereby introducing an element of good faith into proceedings. The clear statement that anything said or done in the course of conciliation is not admissible elsewhere removes the disincentive to full and frank discussions, and to that extent the opposition believes it is worth while.

We hope that under this process many if not most retail tenancy disputes will be resolved speedily and effectively and more cheaply than is currently the case. However, we have a number of small concerns with the wording of the conciliation section, which I should like to raise with the minister. If conciliation is to be successful it requires trained and skilful negotiators. There is no mention in either the bill or the second-reading speech of panel members being trained in conciliation techniques.

Subsection (2) of proposed new section 22 allows a conciliator to refer a matter back to the prescribed person saying that he or she believes conciliation is not appropriate, thereby protecting the rights of those who may wish to take urgent injunctive action. However, it is unclear whether the referral must be made prior to the commencement of the conciliation or may be made at any time during the conciliation. We need to determine the exact powers of the conciliator, especially whether he or she can take that action at any time during the conciliation process or whether the referral must be made prior to the commencement of conciliation.

Subsection (1) of proposed new section 22B, which deals with the provision of written agreements,
contains no time requirements. Perhaps the phrase 'as soon as practicable', which is used elsewhere in part 3, could also be used in this case so that there is a definite requirement for written agreements to be produced with reasonable speed and efficiency. In its existing form the provision does not appear to require the conciliator to deal with a matter expeditiously.

In its submission the Building Owners and Managers Association (BOMA) also raised concerns about that part of the bill. In particular it hopes the minister will comment on whether pursuant to proposed new section 22B(1)(a) it is absolutely necessary to have a written record of the agreement prepared by the conciliator or the parties. The association suggests it should be enough for the conciliator to prepare the written agreement and that it should then go to the parties for checking and signature. I am sure the minister has received that submission during the course of the debate, and we seek a response from him on that matter.

The amendments providing for improved professional immunity for panel members and the validation of the decisions of panel members in cases of defects or irregularities in their appointment are unexceptional and apply in many other jurisdictions. The intent of the provision is to put arbitrators on a footing similar to those enjoyed by people in comparable positions in other jurisdictions.

They will have the effect of ensuring panel members are immune from liability action so long as decisions are made in good faith and so long as that, in removing technical grounds as reasons for overturning the decisions of the panel, the grounds have nothing to do with the dispute or soundness of the decisions and therefore create unnecessary expenses and protracted disputes for the parties.

The opposition notes this is yet another bill which varies section 85 of the constitution. In so far as it maintains the limitation of the court’s jurisdiction at the same level as the current act and the intention is to reduce the costs of resolving retail tenancy disputes, the opposition does not oppose the variation.

I also refer further to matters raised about this bill by BOMA. The association would like to know about clause 20(1) which states:

This Part applies to any dispute between a landlord and a tenant arising under a retail premises lease, other than a claim by the landlord solely for the payment of rent or a dispute...

BOMA suggests that consideration should be given to the inclusion of the word 'money' so the provision would read, 'for the payment of rent or money'. Another alternative is to change the word from 'rent' to 'money'. BOMA would like the minister to comment on its suggestion.

BOMA also referred to the clause which varies the constitution so far as jurisdiction is concerned. However, as I have already said, I understand there will be no variation of the act. The inclusion of that clause is simply to rewrite the relevant section. It does not change any current circumstance about jurisdictions. The minister may wish to say whether that is so.

In concluding his second-reading speech the minister described this bill as extremely innovative legislation. The opposition contends that is not the case, that it is hold-the-line or minimalist legislation. It is the least that could be done by way of reforming the 1986 act. The government has neatly sidestepped most of the big issues which now need to be addressed and which the industry has repeatedly called to have addressed. That is why the opposition felt it necessary to move the reasoned amendment.

The opposition is concerned that this bill does not do the whole job and that a job half done is a job not done at all. This bill does no more than tinker at the edges when a lot more is required. There is a clear and well-established need for major reform of the act. As Peter Best, a Victorian barrister practising in retail matters, said in an article in the Law Institute Journal of April 1993 entitled 'The Retail Tenancies Act: an overview':

Since coming into force over five years ago the Retail Tenancies Act 1986 ... has been the subject of considerable litigation. There is little doubt that its construction by the courts has altered the perspective and perhaps intent of the legislation.

The opposition concurs with the view that considerable litigation since the enactment of the 1986 legislation has altered its intent. In the article Mr Best details the deficiencies that have arisen in the act, particularly because of court interpretations, and refers to matters concerning floor areas and shared operating expenses, among other things. He concludes by saying:
What is certain is that the legislature (and any subsequent committee reporting to it) must do more than tinker around the edges if the act is to give any comfort to disputants over the next five years.

The opposition certainly holds that view; Mr Best is not alone there.

At the 1993 properties law conference, Mr Derry Davine, Chairman of the Leases Committee of the Law Institute of Victoria, delivered a paper on problems arising from the interpretations of the current act and the March 1993 report of the minister’s working party. He notes in the report the change of approach to reform by the government.

The working party was set up in the last days of the Kiner government as one of the recommendations of the final report of the Retail Tenancies Act review. The role of the working party was to assist in the implementation of the recommendations of the review.

However, when the Kennett government came to power the working party’s brief was changed from one of implementation to that of a further review of the act. The working party was assisted in its work by an excellent working paper prepared by Michael Redfern which addressed virtually all of the drafting, jurisdictional and other issues which had arisen in the operation of the act.

Most would agree that the Redfern report was a comprehensive work at picking up the issues outstanding in relation to retail tenancies matters still to be addressed.

In a recent letter I received from the Executive Manager of the Furnisher’s Society of Victoria, Mr Peter Judkins, a man with extensive experience particularly with small retail leases, had this to say about the bill:

Firstly, the amendments in our view don’t go far enough in that they do not prevent the situation whereby a landlord refuses to renew the lease or issue a new lease and thereafter continues to operate the business of his former lessee. This practice has been referred to as ‘goodwill capture’ and we find it repugnant. There is no good reason that we know of as to why the minister would not have sought to amend the act to provide that a landlord compensate a lessee when the business has been captured.

The second matter we think should have been addressed is the issue of when the tenant is advised that an option is required to be exercised. It was originally Parliament’s intention that the landlord be obliged to remind the tenant within three and six months of the date for taking up the option. What has happened in practice is that the ‘reminder’ is now provided in the schedule to the original lease. Clearly the drafting of the act has a severe shortcoming and this should have been corrected.

Probably the most important omission is the redrafting of the definition of retail floor space. This is surprising given the fact of conflicting judicial interpretations and the essential nature of this definition in relation to the entire act. The need for this redrafting has been a principal recommendation in at least two substantial inquiries into the act.

As well as the push from people like Derry Davine, Peter Judkins and others, horrific stories now abound about problems tenants are having with leases. They relate to large shopping centres, particularly those affected by expansion, and even more recently — as the minister would appreciate — markets.

Market stallholders are experiencing more and more problems in places like the Prahran Market. Without wishing to prejudge, I point out that a number of serious tenancy disputes have recently occurred at a number of large shopping centres such as Box Hill, Ringwood and Broadmeadows and at Prahran Market, Moonee Ponds Market Place and so on. In spite of the acceleration of disputes all we have had from the government has been inaction.

The government’s record on this matter since October 1992 can be described only as total procrastination. As I pointed out earlier, the review required under the act was under way at the time of the election. It had been initiated and was progressing. As noted by Mr Derry Davine, the minister changed the focus of the working party to undertake further review. The working party reported to the minister in 1993 but the report was not tabled in Parliament until September that year. Since that time the government has taken no action to implement the recommendations.

I recognise that another working party is still examining the matter. It is made up basically of representatives of the retail sector, so it is not a ministerial committee but an industry committee. I understand the minister is hopeful it will come to as close to unanimous agreement as possible on the required changes to the legislation. However, the opposition believes this sort of disputation cannot be allowed to continue. There is an urgent need for
major reform of the legislation. We are now almost at the due date for the second five-yearly review, yet the first review has not been completed and acted upon.

In the meantime Victoria has gone from having the best retail tenancy legislation of any state to having arguably the least effective protection. That point is noted by Margaret Lyons in the *Business Review Weekly* of 4 July 1994:

> Although New South Wales has been criticised for being the last mainland state to introduce protection for small retail tenants, recent reports from other states indicate that the NSW law will be more effective than Victoria and South Australia.

I am sure many parts of the Victorian retail sector would be quite happy for the New South Wales legislation to be picked up almost in toto and enacted in Victoria. Although the New South Wales legislation was enacted by a Liberal government, in fact it was forced on the Fahey Liberal government by the passage of a private member’s bill introduced by the then shadow minister, the Honourable Bryan Vaughan, a Labor member of the upper house, which the Liberal government did not control. The passage of the private member’s bill forced the government to introduce its own retail tenancy legislation in the lower house, and that brought about effective change. The New South Wales Liberals did no more than pay lip-service to looking after the small business retail sector and reacted only when they were forced to do so. As in Victoria, the Liberals preferred to look elsewhere and look after others rather than the small retail sector.

Many honourable members who are now in government contributed to the debate on the 1986 bill, and some of them are now on the government’s front bench, including the honourable members for Prahran, Hawthorn, Bulleen, Ivanhoe — the minister in charge of the bill — and Frankston South. The former honourable member for Doncaster, whose contribution is certainly worthy of some comment, also spoke in the debate.

Reference to the 1986 debate clearly reveals the disarray that existed in the Liberal Party over the rights of retail tenants. It illustrates plainly why nothing has happened on reform of the retail tenancy legislation, and I suggest it is unlikely to happen during the term of this Parliament. During the 1986 debate the current Minister for Small Business stated in no uncertain terms his belief that it would be preferable for the free market to operate and that regulation was anathema. He told the house:

> I have no doubt that the bill is a clear indication of the direction the government intends to take with its involvement in the private sector. I wish to put on the record that I am totally opposed to governments becoming involved in areas in which they should not be involved —

this area obviously being one. He continued:

> I wish to know when the government will stop becoming involved in the private sector ... Honourable members have a direct choice: either the marketplace should be allowed to become competitive, or it should be so influenced by government that it will cost the taxpayer so much money that it will never be able to overcome the problems it faces ... By introducing bills such as the Retail Tenancies Bill (No. 2) into the house, Parliament is simply condoning inefficient business operations in our state.

At that time the minister was clearly putting on the line his view about the need for any sort of retail tenancy legislation. However, if anyone needed a clearer explanation it came shortly afterwards from another honourable member who is still in Parliament. The honourable member for Bulleen made an interesting contribution on a clause of the bill dealing with the prohibition of key money. He is recorded in *Hansard* as having said:

> It worries me that regulations that have never been in operation before and are now being introduced into the business area ...

I suggest that retail tenancy leases are not entered into by anyone but adults. Juniors and minors, and people with no legal capacity, are unable to secure leases. Surely, the conclusions reached by adults coming together to form a retail lease should predominate.

The honourable member then spoke specifically about key money:

> The bill also refers to key money and premiums on leases. I should like to make some comment on those matters because, from time to time, I have been involved in preparing commercial leases, as I describe them, and retail tenancy leases would also fall into that category. Quite often, key money and premiums on leases are useful for businesses to pay in order to get into a centre.

Mr Hamilton — Who said that?
Mr LONEY — The honourable member for Bulleen said that on 12 November 1986, I wonder whether he will come into the chamber tonight to support the minister’s move for a total prohibition on key money. I am interested to see whether the passage of some nine years has altered his thinking. The passage of time does not seem to have altered his views on other things.

He then goes on to say:

I am particularly concerned about the rent control aspect of the bill.

Given the tenancy problems that have emerged at Westfield Shoppingtown in Doncaster in recent days it will be interesting to see whether the current member for Doncaster enters the debate to speak for the protection of the rights of retail tenants in the same vigorous manner as did his predecessor. The former member for Doncaster spoke at length and with some vigour during the 1986 debate. The attitudes of the honourable member for Bulleen and the honourable member for Ivanhoe, who is now the minister, seem to be clear. It is also clear when you consider the total contribution of the Liberal Party at that time that its members did not fully support the bill. They reluctantly did not vote against it in 1986. There was no support, apart from one or two individual members, coming out of the Liberal Party for retail tenancies legislation. I suggest that is the reason why the reform process has stalled. Those elements in the Liberal government simply do not want it to occur. If the minister, and indeed other members of the government, wish to argue that this is not so the challenge is before them to accept the opposition’s reasoned amendment.

The matters brought forward in the reasoned amendment are those which the minister has had before him for more than two years — two years and still nothing has been done! They are matters which the retail traders of this state want addressed and which should have been brought into this place directly from the working party review. The only reason that has not occurred is that the government has no desire to do it in this term of Parliament.

The reasoned amendment addresses a number of areas in need of reform and I shall now examine each of them. The first is deficiencies in the processes of valuations. As the March 1993 report to the minister states: valuations under the act have caused real concerns. These concerns have come about largely because the act provides no guidelines on how valuers are required to carry out their market rental valuations.

I am pleased to see the honourable member for Doncaster arrive.

Mr PERTON — I have come to respond to your cowardly attack.

The ACTING SPEAKER (Mr Cunningham) — Order! The honourable member for Doncaster is out of his place and disorderly.

Mr Loney — The honourable member for Doncaster is always welcome in the chamber.

As a consequence of the fact that no guidelines have been given for the way market rental valuations are to be carried out there is very little room for challenge to the valuation where it is believed an error may have been made.

Further, as there is no requirement to provide a speaking valuation, the parties are left in the dark as to how the valuation was arrived at and are powerless to make a demand for such detail. If valuations carried out under the act are to be credible and acceptable to all parties, this openness of the process is necessary.

Valuations are consistently contentious and a source of tension between tenant and landlord and failure to address this issue will only be a source of greater problems in the future. The review working party saw this as a matter of great urgency. It said:

To a similar extent the act contains real deficiencies in respect of the important processes of valuation and the working party is of the view that this matter in particular ought to be given priority.

The second issue is the application of the act to franchises and public corporations. Since the adoption of the 1986 act there has continued to be a phenomenal growth in franchises. These days when you walk into a large retail centre anywhere in the state, whether it be in Doncaster or Corio, you get the feeling that it is the same one you were in earlier down the road. The same franchises are spread out across the whole of the shopping centre.

Franchises have almost completely taken over to the extent that one is left to ponder whether the traditional family retail store has run its course.

Mr Richardson — Put a bit of life in it!
Mr LONEY — I shall leave thespianism to those who do it better!

The continued exclusion of franchises from the provisions of the act means that a very large sector of retailing is left without the protection that it ought to have. That is quite a problem of some concern, and one that will continue to grow. Coverage under the act will obviously be of benefit to them in dealings with landlords and should occur as soon as possible.

The extension of the act to public corporations was also deemed to be desirable by the working party. It is probably of a less straightforward nature than the argument for inclusion of franchises, and may well be held to be extending the scope of the act beyond retailing.

However, in making the recommendation to include public corporations members of the working party had given it a great deal of thought and determined that the problems flowing from non-inclusion were such that public corporations should be included.

It should be noted further that the working party looked directly at the question of expanding the floor space limitations of the act particularly to allow larger motels to come within its compass. It decided against an increase in the floor area, although it recommended that the requirements should apply to the total leased area instead of the floor space. It put forward the view that larger premises such as motels should be covered by the act through a special provision. As I am quite sure the minister is aware, moteliers as a group have been particularly vociferous about the provisions of the act.

An article in the Herald Sun of 11 July last year under the heading 'Motel lessees unhappy over act' states:

Motel lessees are being squeezed by unfair leases according to the Motel Lease Holders Association.

Association president Mr Peter Teggelove said his members were frustrated by the state government's decision not to amend the Retail Tenancies Act ... Mr Teggelove said the act did not cover the majority of motels, 'that is the nub of the problem'.

It certainly is. The article continues:

Mr Teggelove, a member of the review panel, said there was unanimous agreement that motels should come under the act regardless of their floor space, because they were single-purpose businesses.

It was considered by all people on the review panel that motels were a special category, the reason being that motel leases are long-term leases, generally for 15-25 years.

The articles concludes:

'We have had lots of people go broke in leasehold motels and dozens of people have been forced out in cases where rents have become astronomical,' Mr Teggelove said.

The honourable member for Frankston, who was then the member for Frankston South, showed a rare gift for forecasting the future when during the 1986 debate he questioned whether the act would effectively limit the ability of landlords to ensure that rental reviews could result in only an upward movement, which is an important point that has arisen since that time. We are quite aware that the intention of the act was not that all rent reviews should result in only an upward movement.

Minister Fordham's response to the questions and comments of the then honourable member for Frankston South was that it was patent that the legislation was aimed at precluding that. While ratchet clauses in leases have been held to be illegal, we had the unusual award no. 4 in 1991, when an arbitrator held that a clause in a lease which provided that a reviewed rent could not be less than $1 less than the rent payable prior to the review did not contravene the act. That extraordinary decision by an arbitrator seems to be totally inconsistent with the original intent of the act and it has led to fairly widespread use of similar clauses in other leases. It has not since been tested in the courts, even though it seems a clear breach of the intention of the act. It should be dealt with by legislation to ensure that the early intent of the act is applied. The result is that ratchet clauses have come in by stealth.

Mr Weideman interjected.

Mr LONEY — That is precisely what I was saying. I said that the then honourable member for Frankston South showed remarkable foresight in his contribution to the 1986 debate.

As a result of the now fairly widespread application of this type of ratchet clause, Victorian retail tenants are being subjected to demands for excessive rentals at times of lease review. That was commented on by Wayne Gannon when he was Acting Executive Director of the Retail Traders Association of Victoria, as reported in the Southern Cross of 4 July
1994. An article headed 'Group warns of retail tenancy law' says:

The state government's refusal to iron out inequities in retail tenancy laws could help send more small businesses in Prahran's shopping strips to the wall, a traders' lobby group has warned.

The Retail Traders Association acting executive director Wayne Gannon said that under existing law, landlords held the balance of power over retail tenants ...

'Rents used to be about 6 to 10 per cent of retail turnover. They have gone up to the extent that in some cases it's about 18 to 25 per cent as a proportion of shop turnover,' Mr Gannon said. He said there was a strong risk that more shops will close as landlords held the upper hand. Despite economic indicators of recovery there had only been cautious growth in retailing, Mr Gannon said. Once a shop closed there was often a follow-on 'ghost-town effect', he said.

He was also quoted in the Business Review Weekly of the same date giving his view on the New South Wales legislation and the comparable position of Victoria in relation to rent review. The article says:

Wayne Gannon, Acting Executive Director of the Victorian Retail Traders Association, applauds the breadth of the NSW act. He regrets that his own state's Retail Tenancies Act (1986) has failed to protect small retail tenants from ruthless landlords. Although the act prohibits ratchet clauses, the rent cannot be set at more than $1 below the previous rent. 'Basically the rent can't go down,' he says. 'And when the rent is going up the landlord can choose the method of assessing the rent that will lead to the greatest increase.' Gannon says he is disappointed by the Victorian government's recent decision not to review the Retail Tenancies Act. 'Rent is one of the greatest concerns of the small retailer. Rent should average no more than 7 per cent of total turnover but often it is more like 20 per cent and in some cases even higher.'

Victoria's other leading retail organisation, the Combined Retailers Association of Victoria, has been to the minister with a request to conduct an urgent review of the act to give more protection to tenants. Mr Tony Christakakis, the Executive Director of the Combined Retailers Association, is concerned about crippling rent increases at places like Ringwood Square Shopping Centre. He is quoted in the Ringwood Mail of 30 November 1994 as saying that:

... traders were becoming disposable commodities for shopping centre managements and the situation 'was one of the greatest injustices and the greatest squeezes middle Australia has had to endure'.

'People are losing 10 to 20 years of business activity virtually overnight,' he said.

Only a week later the Ringwood Mail highlighted the plight of traders at Ringwood Market who said that crippling rents would bankrupt them:

Ringwood Market traders are appealing for urgent rent relief to survive.

Last week the traders hit out at centre management practices, saying unaffordable rents were sending them broke ... It was only a matter of time before some traders would declare themselves bankrupt, they said.

'We are just about to go bankrupt — we will lose our house, our shop and everything. We can't pay the rent and it will be worse after Christmas.'

All those groups have sought action from the government to protect them, and all have been disappointed. In stark contrast to that, the New South Wales act now removes the law of the jungle in relation to rent reviews and forces landlords to take account of the sorts of rent concessions that are generally offered to new tenants. They cannot factor in goodwill generated by the existing tenant and must treat the premises as vacant for the purposes of reviewing the rent.

This has quickly led to genuine reform in the marketplace where several large property owners have now revamped the standard leasing contract.

Lend Lease was among the first of those to undertake that reform. The standard contract now introduced in New South Wales by Lend Lease is much improved, reduced in size and simplified compared with the previous document. It is good to see that companies like Lend Lease have picked up the provisions of the act in New South Wales, taken the challenge from it and cooperated with it to produce a better deal all round, to improve the situation for landlord and tenant and to use the opportunity of standard leases to reduce the amount of disputation that will arise in relation to retail tenancies.

A further important recommendation of the working party is that reviews should be able to be limited by either party on renewal, thus providing proper protection to the tenant, particularly if the issue of underpinning clauses is addressed. Without this
right the removal of underpinning clauses would be of little effective help.

Much heartache is brought about in retail centres over the way landlords distribute outgoings. Tenants are often frustrated at their inability to determine how the outgoings related to their particular premises have been arrived at. There has been a reluctance on the part of landlords to supply disclosure statements in relation to outgoings, and little that tenants can do about that reluctance. The working party recommended that the act should be amended to provide that the supply of a disclosure statement in the terms required by section 7 shall be mandatory unless the parties agree in writing to the contrary. This change would be of great value to tenants.

An interesting dimension to the issue of disclosure of outgoings is outlined in the paper delivered by Terry Davine at the 1993 property law conference to which I referred earlier. He raises the possibility of problems that could arise for tenants as a result of the privatisation of electricity generation and supply in Victoria and points out the following:

There is a move towards deregulation of electricity generation and supply and so, in the future, electricity will not necessarily be provided to a complex by the SEC but may be provided by a private contractor. It may be that the cost of supply to the landlord is reduced below the level charged by the SEC.

In this connection there are a couple of points to watch:

- the landlord should be obliged to pass on electricity charges at cost; and
- the tenant should be entitled to inspect all records which form the basis of outgoings recovery to ensure that this is done.

One of the common complaints of tenants is that they have been told on entering into a lease that a certain retail mix will apply in the centre. It is important to them on entering the lease to know in precise detail what types of other retailers will apply for premises in the centre and what level of competition they will have rather than finding after commencing operation that a similar business has been allowed to open nearby. Their rental has been calculated on the basis of a presumed turnover in a situation of no competition, and they are then in an intolerable position.

One such case is recorded in an article in the Ringwood Mail of 7 December 1994 which states:

Mrs Christophrorou said she was 'made to believe' business was good when she signed up for her shop four years ago.

'What they didn't tell me was that they were signing up someone else who sold exactly the same produce as me — I saw figures that did not take into consideration direct competition.

The only reason I haven't gone under is my husband works and pours everything he has into this business'.

Examples come from all over. The Business Review Weekly reports on a Ms Gilbert who operates on behalf of retail tenants:

One of Gilbert's clients was told that her business would turn over up to $20,000 a month, and the rent was set on that basis. Woolworths, the anchor tenant, then set up a rival speciality division just metres from her door, and she is now lucky to turn over $12,000 a month.

So the issue of tenancy mix is a very important one and has been tackled head-on in the New South Wales legislation. It is time it was also tackled here. Under the New South Wales act landlords in large shopping centres will be required to give tenants written assurances on factors such as tenant mix and refurbishment and must ensure that promises made to tenants are fulfilled. When assurances are not met the act allows tenants the right to terminate the lease at any time within three months of signing.

Unfortunately, in the past it has been the practice of some landlords to offer prospective tenants inducements which they have no intention of fulfilling. Landlords who do this must be held accountable for their promises and the act can provide the vehicle to do it.

Controlling unconscionable clauses in leases and unconscionable behaviour by parties to leases — —

Mr Perton — On a point of order, Mr Acting Speaker, it is a longstanding tradition in this house that speeches not be read, and there is in fact a rule against the reading of speeches. This has been an interminably long and boring speech. I have great difficulty believing that the member wrote it himself. If he did, it is a sad reflection on him, but it is quite clear to me, sitting in my position, that he has a written speech in front of him. While he may occasionally look up and make eye contact with other people, he is not deviating from the script in front of him. I ask you, Sir, to rule that he is out of
order and should therefore cease his contribution to the house.

The ACTING SPEAKER (Mr Cunningham) — Order! The honourable member for Doncaster has made a point of order regarding the reading of speeches. I have been watching the member for Geelong North for a period of time now. He did not read his earlier comments. From time to time he is referring to copious notes, which I think is what the honourable member for Doncaster is referring to. At this stage I am not prepared to uphold the point of order.

Mr LONEY — Thank you, Mr Acting Speaker. Certainly there have been deviations, and there will continue to be deviations for the benefit of the member for Doncaster. It is a pity that the member for Doncaster chose to make the point of order when I was about to address a particularly important point for retail tenants.

Unconscionable clauses and unconscionable behaviour by either party in relation to retail leases is something of great importance and should be addressed. Last year I received correspondence from a tenant with a problem. I believe the minister received similar correspondence. In that case a tenant was faced, upon review, with a demand for a 62 per cent rental increase. The demand came a month after the due date for rent review and was in the form of a demand notice backdated one month. The tenants told the agent that they could not afford to pay an increase of this amount. After considerable argument a counter-offer was made by the agent that the rent increase could be reduced to 44 per cent — still quite a staggering amount.

The tenant then took some advice from his own solicitor and other parties, only to find that the landlord — he did not know whom he was before as he had acted through an agent — was a barrister, who threatened him with defamation should he continue to talk to third parties about his lease. The implication was that the landlord could take the matter to court as a defamation action and it would not cost him much at all as he was a practising barrister, however the tenant would be faced with significant legal costs.

The minister wrote back to this person, as I did, describing this case as outrageous. I thoroughly concur with the minister. That is an example of the sort of thing we mean by unconscionable behaviour by parties to a retail tenancy lease.

An honourable member interjected.

Mr LONEY — I am not sure who the barrister was. I can exclude you. It is important that such instances can be dealt with in another way. That person could go nowhere to resolve that problem.

It may well be argued, as some do, that tenants caught in this situation have access to the general law, but I suggest to the minister that that seems to defeat the intention of the original act and the amendments in the bill, which are aimed at decreasing the cost of dispute resolution. The act is now very much the vehicle for the resolution of disputes. The amendments brought forward by the minister today take that further by making clear that the act should be the vehicle for the resolution of disputes. It now seems appropriate that wherever possible issues that arise from such tenancy arrangements should be able to be dealt with under those provisions.

While the opposition's reasoned amendment lists a number of matters, that list is not exhaustive. Other matters arising from the working party report should also be dealt with. One such matter is dispossession due to unilateral determination of the lease.

Many successful small business people have been placed in the position that, having invested all they have — having invested their savings, mortgaged their house, set up a business and worked hard for five years, turning it into a successful business; for many their superannuation is what they can make on selling that business — they find at the end of the lease period the landlord unilaterally will not renew the lease. Suddenly, they have nothing. The issue of dispossession needs to be dealt with.

Mr Tony Christakakis estimates the total loss to Victorian small businesses through dispossession at around $150 million a year. That is a tremendously significant loss, one those people should not have to suffer and that should be addressed immediately. An article in the Herald Sun of 30 May, headed 'Small retailers cry foul', puts some light on this practice. It relates the story of a number of tenants who have suffered from dispossession but in particular that of Mrs Clare Hofmann. It states:

Mrs Clare Hofmann, who for the past 4½ years has run a tobacco shop at Box Hill Central, sees herself as a typical victim. When she took over the five-year lease she was assured as long as she paid her rent on time she would be granted another lease.
As landlords in shopping centres rarely give options to renew leases, Mrs Hofmann accepted the lease, assuming that when the time came to renew it there would be no trouble.

But in February she was told her lease would not be renewed and that the matter was not open to negotiation.

She cannot sell her business as her lease runs out in June, and thus cannot realise the value of the goodwill she has built up in the business.

'The reason you go into business is to build something up to the point where you can sell it and make a profit,' she said ...

She believes some landlords had a 'hidden agenda' — to retain the small individually owned stores through the recession and replace them with franchised chains, which attract people to the centre through big advertising budgets, in the recovery.

The minister has now had the working party's report for more than two years, and nothing has been done. He has been consistently contacted by retail organisations asking him to do something. He has had the plight of small retailers brought home to him day after day, yet the government has taken no action.

There has also been almost a year to contemplate the changes in New South Wales, changes that have given retail tenants in that state the best legislation yet available in Australia. In spite of there being a model act and of knowing the importance of amendments to our act, all we have had is essentially another review. The act requires that a review take place every five years. In fact, the honourable member for Murray Valley at the time tried to reduce the review period to three years. We are nearly into that second period but still nothing has been done.

The opposition's reasoned amendment stands as a challenge to the minister, Liberal Party members and particularly those members of the National Party who so ardently supported retail tenancies legislation in 1986. They have the opportunity today to stand up and vote for what they know to be right or, unfortunately far more likely, to succumb to the dictates of their majority partner in government, which has never paid more than lip-service to looking after small retail tenants.

The government cannot hide behind an argument that legislation cannot be prepared soon enough. We know from the urgency with which a new DPP bill could be prepared and taken to cabinet how quickly the government can prepare legislation when it wants to; so it is only a matter of will.

Small retailers see the government as having a huge credibility gap, a gap created by the government's rhetoric and failure to deal with such matters. It can today do something about restoring that credibility by grabbing the opportunity the opposition is giving it, or it can simply continue to ramble on about the free market and government not being involved in business.

The retail community is waiting to judge the government's response. The general fear is that the government is not committed to reform and that nothing will be done in this Parliament. Consequently, Victoria's retail tenants will be left to suffer under Australia's worst legislation. If, on the other hand, the government is prepared to take up the challenge, the opposition is prepared to ensure that when the government returns with legislation that reflects the working party's recommendations it will have speedy passage through the Parliament.

Mr THOMPSON (Sandringham) — The next time the Minister for Small Business calls a meeting of opposition members to discuss small business matters, he will need to book more than the telephone booth out the back. The contribution of the honourable member for Geelong North has been more lengthy than a Chinese telephone book. More space will need to be allowed. Noting that the honourable member for Geelong North serves as the timekeeper for the Geelong football club, if such generous latitude in timing had been applied in the 1989 grand final, Geelong may not have lost by six points!

The object of the Retail Tenancies (Amendment) Bill is principally to establish a procedure for the conciliation of disputes and to extend the prohibition on the receipt of key money by landlords or people on their behalf. Professor Lance Endersbee, the former Pro-vice Chancellor of Monash University, has commented on a number of occasions that Australian industry and business has too many on-costs and that there are too many dollars going to the service sector, to the legal, accounting and insurance side, rather than to the engine room of production. Endeavours by the government to contain costs, as outlined in this legislation, should be commended.
RETAIL TENANCIES (AMENDMENT) BILL

Wednesday, 10 May 1995  
ASSEMBLY 1431

The ACTING SPEAKER (Mr Cunningham) — Order! The time being 10 o'clock I am obliged by sessional orders to interrupt the honourable member for Sandringham.

Sitting continued on motion of Mr GUDE (Minister for Industry and Employment).

Mr THOMPSON (Sandringham) — This bill will go a long way towards addressing a number of grievances and concerns that people in the retail trade have with the retail tenancy legislation.

Small business has been a springboard for new entrepreneurial talent. It has been an engine room of development for innovations and inventions that capture a share of the market. Furthermore, small business provides the catalyst that enables people to compete against larger enterprises. People who start small businesses in their lounge rooms one day may be renting premises the next and factories a year or two later. Through that process of innovation, initiative and the development of new products, Victoria's level of economic activity and the size of its manufacturing base have improved significantly over the past decade, and they will continue to improve.

This state needs people who have an appetite for risk and who are willing to go out into the marketplace and put their creativity and vision to the test to achieve futures for themselves, their families and the wider community in the long term.

Honourable members may be interested to know that small business accounts for 96 per cent of all businesses in this state. Victoria has some 200 000 small businesses, which employ 760,000 employees, all of whom are helping to drive the economy. In the past two years alone some 30,000 new jobs have been created in the small business sector. Some 74 per cent of all businesses selling to overseas destinations are small businesses.

What is a typical profile of a small business? One can go to any suburban shopping centre and observe the mix of shops, from the baker and the newsagent to the real estate agent and the clothing shops. The people who run those businesses invariably pay rent to landlords, but the managers of many second-generation businesses own the premises from which they operate. When setting up a business a tenant has to pay for such things as goodwill, the electricity bond and the stock. In addition a prudent tenant who has evaluated his options has to pay the associated legal costs and accountancy fees.

In 1989 the Labor government proposed a goodwill tax on the purchase of a small business. An ad valorem provision was to apply so that a person who bought a small business to the value of $100,000 would be obliged to pay some $2,500 in stamp duty on the value of the goodwill of the business. A number of speakers on the other side have said this government has not addressed all their concerns. Did they consider the effects on small business of the impost the Labor Party was proposing in the late 1980s? The shadow Treasurer of the day described it as a vicious impost, and fortunately it did not proceed.

In examining the wider purposes of the bill, which include the setting up of a conciliation process, I shall first examine the concept of key money. Under the Retail Tenancies Act key money means:

(a) money that a tenant is to pay; or
(b) any benefit that a tenant is to confer —

by way of a premium or something of a like nature in consideration of or agreeing to grant a lease or the renewal of a lease or the consenting to an assignment of a lease or to the sub-leasing of the premises to which a lease relates ...

When a tenant has built up a business to a reasonable level and proposes to on-sell it, the value of what he has to sell, or the goodwill, includes the period for which any prospective purchaser can trade on that site. It is therefore important that if a lease has four years to run it be extended with two further options of four years — or, if it is a three-year lease, two further options of three years. That is something the vendor provides to the purchaser, so if a reasonable period can be provided the vendor consequently commands a higher sale price for his business.

Clause 5 refers to the prohibition of key money. Proposed new section 9(1)(a) states:

a landlord, or a person on behalf of a landlord, must not request, receive or retain the payment of —

(i) any key-money; or
(ii) any consideration for the goodwill of the business carried on at the retail premises; and

(b) a provision in a retail premises lease is void to the extent —
that it requires or has the effect of requiring the payment of any key-money or consideration for goodwill;

I shall give the house the background to the extension of the prohibition on the payment of key money. Principally it comes from a 1994 Supreme Court case referred to as Burke v. Gillett, which the honourable member for Geelong North referred to. In that case the Full Court found that section 9(1) of the Retail Tenancies Act did not prevent the landlord from retaining the key money because under the relevant provision in the lease the tenant chose to pay the key money as distinct from making the payment in accordance with an obligation to do so under the lease.

The effect of the Full Court's decision limited the scope of section 9(1) to rendering void only those provisions in leases which entitled landlords to get key money or goodwill payments. As a consequence of the Full Court's interpretation of that section tenants were not protected from being required by landlords to make key money or goodwill payments upon entering into or renewing leases.

The decision in Burke v. Gillett has other consequences that are germane to the debate. The former lessee publicans of the Shamrock Hotel about 7 miles out of Ballarat were forced to put their livelihood on the line. The Burkes acquired the Shamrock Hotel in 1972 and ran the business for some seven years. They then leased the business and the premises to Mr and Mrs Gillett in 1979, with an option for a further four years. In 1987 or thereabouts, after they had built up the goodwill of the business, the Gilletts proposed to sell it. In order to do so they required a further term, which was initially refused. They went to the landlords and asked for a further term. Shortly thereafter the Burkes agreed to a further option, saying, 'You will need to pay us the sum of $35 000'. A contract for $100 000 was entered into. The Gilletts understood that if they sold the business for $100 000 they would have to give the landlords the sum of $35 000.

They were concerned about that obligation and as a consequence they contacted their local member of Parliament. He referred them to the government small business agency. The Gilletts were told they might have a claim and were referred to private legal practitioners. Their objective was to recoup the $35 000 that had been paid in key money. The County Court ruled in their favour and they were awarded $35 000. However, the landlords appealed to the Full Bench of the Supreme Court, which ruled against the Gilletts and, as a consequence, they bore the legal costs of both the County Court case and the Supreme Court appeal. However, the Burkes had also joined their solicitor in the proceedings for possible negligent advice. So instead of enjoying the fruits of their seven or eight years work in running a small business and walking away with $100 000, the husband and wife country publicans incurred legal costs of around $150 000. To the extent that the legislation will make clearer the operation of section 9 of the Retail Tenancies Act, it is good legislation. I hope it will address the anomaly where people are led into court on legal advice and their life savings and houses are put on the line.

I now refer to some of the provisions of the bill relating to dispute resolution. Part 3 refers to the determination of disputes generally rather than disputes about rental payments. Proposed new section 21 establishes the procedure for commencing the dispute resolution process and proposed new section 22 provides that the conciliation must commence as soon as practicable after a matter has been referred to a conciliator. The cost of conciliation is to be borne equally by the parties. If conciliation does not settle the matter, it can be referred to arbitration.

As the honourable member for Geelong North correctly noted, the bill includes a section 85 provision limiting the jurisdiction of the Supreme Court with the intention that individuals do not resort to legal processes. As a former lawyer I have some reservations about outside bodies having matters referred to them for resolution. However, one need only remember the practical example of the hard-working Gilletts, who incurred legal costs of $150 000, to appreciate that an alternative dispute-resolution mechanism may be more satisfactory.

I look forward to observing the operation of the conciliation procedures. However, conciliation will not solve all disputes. Recently a dispute arose in Dandenong when the tenant of a milk bar was concerned about rent reviews by the landlord. A legal practitioner, Mr Scott Whitechurch of J. N. Martin and Partners, referred the matter to my office. In that case each of the parties was required to pay $2500 to an arbitrator, but the legal practitioner felt the $5000 fee was too onerous in light of the issues in dispute. So even though a dispute-resolution mechanism is in place, some people will continue to find the cost to be a burden. Nonetheless, the cost would be much higher if disputes were taken to the County or Supreme
Wednesday, 10 May 1995

Re: Retail Tenancies (Amendment) Bill

I support the bill and look forward to its operation in the days ahead.

Mr THOMSON (Pascoe Vale) — I support the reasoned amendment moved by the honourable member for Geelong North. I do so because the problems experienced by retail tenants are one of the great unresolved issues of our time and one of the many failures of the government. The changing patterns of retail tenancies reflect the changing patterns of shopping and the development of shopping centres. Many corner stores and strip shopping centres have closed. Many retailing operations are now confined to large shopping centres and the options of retail tenants are greatly reduced when compared with times past. As a result retail tenants have increasingly found themselves at the mercy of a handful of shopping centre owners. I contrast the lack of regulations in this area with the elaborate regulations for residential tenancies and the establishment of the Residential Tenancies Tribunal. Those measures were introduced to stop landlords and tenants acting inappropriately.

Some of the examples brought to my attention involve retail leases of approximately $200 000 to $250 000 and the loss of family homes and life savings. Those catastrophic events are just as significant as anything that might happen to residential tenants. Yet this government, which claims to protect small business, and this minister, who claims to be a small business minister, have done nothing to protect retail tenants. In the process the government has revealed itself to be a fraud. It is the tool of big business and a handful of wealthy shopping centre owners. That is why the minister has been sitting on his hands when what is needed is action and legislation to protect retail tenants. Although this bill is okay as far as it goes and the opposition will support it, it does not go far enough. As the shadow minister said, it is minimalist legislation — as if all we need is tinkering at the edges. From my experience and the cases brought to my attention, it is a jungle out there.

I refer honourable members to the Star Deli at the Moonee Ponds Market Place, which was purchased by Joe Bruzzaniti in 1989. Mr Bruzzaniti paid $210 000 plus stock when purchasing the lease of Star Deli. The manager of the shopping centre told him that the centre was to be refurbished and he expected strong growth resulting from the refurbishment. None of that happened. Over time the owner of the lease sought a buyer for the lease. In January 1994 he eventually found one and accepted an offer of $55 000, which was a significantly reduced price. However, the shopping centre owner at the time, the Sussan group, would not guarantee the continuation of the lease. It would not provide long-term leases or indicate whether long-term leases would be signed. Eventually the buyer pulled out, rendering the business worthless. Other owners of leases were in exactly the same position. They spent amounts in excess of $200 000 but were bound by the refusal of the shopping centre owner to issue new leases. Their businesses were also rendered worthless.

Notwithstanding the fact that the Sussan group had said that no long-term leases would be signed, it issued a new five-year lease to a fishmonger who bought into the market in February 1994. He paid in excess of $200 000, but once again because of the action taken by the management his business has the potential to be wiped out by the stroke of a pen.

In the period from February 1994 through to March this year the Star Deli and other businesses at the Moonee Ponds market have made constant requests for a reduction in rent in line with the drop in their turnover, but the landlord has refused to allow that. The landlord has refused to provide any long-term leases or rent reductions or to allow any traders experiencing hardship to surrender their leases.

Earlier this year I went to see the new owners of the Moonee Ponds market when it was sold by the Sussan Corporation to Adam Co. I spoke with the owner about the circumstances of the tenants and on most of the issues the answer was, 'No, no, no! We are not going to reduce rents. We are not going to issue leases'. But it did say it would allow tenants who wanted to get out of their leases to do so without penalty. I communicated that to the retail tenants concerned but recently I learnt that when they went to Adam Co. to seek relief and surrender their leases, Adam Co. reneged on my understanding with it and it said, 'Anyone who does not pay the rental as per the leases will be liable to be sued'. That demonstrates the kinds of problems retail tenants of shopping centres are experiencing. It represents a breach of an undertaking given to me.

It is about time there was freedom of association for retail tenants in shopping centres to make the owners accountable and stop the lies, misrepresentations and dirty tricks that are sending retail tenants broke. It is time we altered the retail tenancy legislation to put an end to the intimidation that has occurred.
Many tenants of the Moonee Ponds market have lost substantial amounts of money. One person who bought a delicatessen two years ago for $250 000 has found that his income has been reduced from $12 000 to $7000 a month and he is liable to lose his house to enable him to pay the $250 000. It is a matter of great concern to the tenants of the Moonee Ponds market that the past management appeared to have no intention of supporting the market because of its concern that it not become a threat to its own Food Court centre at Highpoint. It had allowed the market to deteriorate: it was not well maintained or promoted. It has had 10 managers in six years, which has been to the detriment of the market. The situation at the Moonee Ponds market has been most unsatisfactory.

The situation at the Box Hill Central shopping centre is also unsatisfactory. Mrs Mary Caruana contacted me recently to advise me that she has been served with a writ for $156 000 and the likely consequence of that is that she will lose her house. She has been paying rent of $11 000 a month but was not allowed any rent reduction notwithstanding a drop in the takings of her business, a restaurant, which were much less than she had been given to understand. She has been forced out of the Box Hill Central shopping centre and the premises she was renting are now being leased for only $600 a month. The centre got new tenants who are paying 50 per cent of the rent the centre insisted Mrs Caruana pay. The owners of the Box Hill Central shopping centre have been bleeding her dry because they knew she had the assets and ultimately they would get their money. This is appalling treatment of retail tenants.

Some people might say that it was a bad decision on her part or on the part of the other people who found that their income did not match their expectations, but many of these decisions were based on lies and misrepresentations about the takings and circumstances of leases. Furthermore, when retail tenants are successful the shopping centre management mops up the goodwill and tells tenants that this is a good way of building up their capital. That was what was said by the management of Moonee Ponds market in a circular to its tenants. When tenants are successful the management mops up those profits by increasing the rents and in other ways.

Some other tenants at the Box Hill Central shopping centre were able to pay the rent. The company of Ms Clare Hofmann, who was referred to by the shadow minister, during her four-year tenancy at Box Hill Central shopping centre at no time contravened the terms of its lease. However, in January 1994 the company entered into a contract to sell the business to a large South Australian company. The contracts were signed and exchanged and the South Australian company applied to the landlord for a transfer of the lease, but Ms Hofmann was advised that the application to transfer the lease had been refused. Instead, the centre management doubled the rent. When tenants have their rent increased by 120 per cent they know the owner is telling them the owner wants to get rid of them. In this case the management entered into a side deal with the prospective purchaser of the business. The centre management would not transfer the lease and increased the tenant's rent as a way of mopping up the goodwill the tenant had been able to accrue as a result of hard work.

The same fate befell John Papadopoulos, who operated in the Box Hill Central shopping centre for 10 years as Station Take-a-Way. His lease expired in November 1993 and was not renewed. He had approached the centre management 12 months earlier to have the lease renewed and was told there would be no problem; however, he was given four weeks notice to quit with no explanation. He took out an injunction seeking the right to trade for another six months, but the centre management told the prospective purchasers that they should not negotiate further with the tenant because legal action was pending. Each prospective purchaser was effectively turned away so the business, goodwill and livelihood of that enterprise was lost. After the tenant had spent $15 000 in legal fees, he eventually walked away from a $200 000 property with some $35 000. That is the kind of thing that has been going on at the Box Hill Central shopping centre. I am glad Max Moar lost his bid to set up the Prahran Market because of the despicable way he has treated tenants at Box Hill Central.

I shall now refer to some comments made by Clare Hofmann about the bill, given the nature of her experiences. She says that the current practice for landlords, rather than accepting key money, is to request substantially higher rental. She says that conciliation does not work very well and is a tool for landlords to aid the delay and often time runs in favour of the landlords in such disputes. Therefore, she believes enforced arbitration seems to be more realistic. Clare Hofmann goes on to say:

The amendment as proposed seems to present itself as a 'red herring' to steer attention away from the real problems currently causing havoc in the retail sector. Small retailers in shopping centres nationally are
coming together to voice their objections to the business dealings of their landlords — and the cry is not being incited by key money.

The cry is being caused by:

- increasingly higher rents being demanded by landlords — at a time when sales figures generally are down.
- lack of rent relief.
- and the new replacement to key money
- abolition of the goodwill factor — landlords retaining goodwill by refusing to grant lease renewals.
- landlords upgrading asset value of their centres at the expense of tenants by demanding excessive fitouts in exchange for granting leases.

She says she believes these are the current practices that are key money in disguise. I share her view that the amendment before the house does not go to the heart of the real problems with retail tenancies.

I want to suggest a number of policy changes that would help. It is important that we have something in the nature of a retail tenancies tribunal that is able to hear and deal with disputes in the way that the Residential Tenancies Tribunal does. We also need to look at the way the present legislation allows for totally unfair leases — for example, leases that contain relocation clauses.

At the moment relocation is at the will of the landlord and at the expense of the tenant. I can remember some years ago talking in this place about the experience of a florist at Altona Gate who was relocated effectively under the staircase. That was pretty well the end of his business. Relocation can be used by landlords as a way of victimising tenants.

Refurbishment clauses also need to be looked at. At the moment there are refurbishment clauses where a landlord is not liable for any damage a tenant may suffer, and tenants are being instructed to renovate using only tradespersons supplied by the landlord.

We should do something about those sorts of provisions.

Rental reviews should be market based — that is, based on the business. Often rents go up without regard to the business turnover, which can be declining. They go up without regard to CPI, which does not look anything like the landlord’s cost.

Therefore, we need appropriate revision of rental reviews.

We ought to have some provisions to ensure freedom of association. It is certainly my experience in relation to Box Hill, Moonee Ponds and other places that landlords will not talk to tenants more than one at a time. That provides an opportunity for intimidation, victimisation and deceit. Tenants ought to have the capacity to get together and to speak collectively to landlords about issues that are of concern to them. You hear a lot of outrage from the government side of the house on things like closed shops, but you never hear a whisper about freedom of association for retail tenants.

I also believe tenants should be given a say on outgoings, such as cleaning, maintenance, promotion and so on. At the moment the standard clause says that the money for outgoings will be disbursed at the lessor’s discretion. Tenants have no say in how that money is spent, so that is a matter that needs to be revised as well.

Centre performance ought to be made accountable so that if the centre does not perform rents can be reduced and tenants can be allowed out of their leases. I point out that some of the centres have not been managed well and as a result have not performed well. Landlords and tenants have to be a linked partnership rather than a relationship where the commercial decisions of landlords adversely affect tenants without tenants having any right to compensation.

Some of the other policy issues that have been raised by the tenants concern things like the lack of notification requirements for a termination of a lease and an inadequate disclosure of outgoings. In the Box Hill example outgoings increased by up to 26 per cent when inflation during the four-year period was under 2 per cent. Further policy issues included, as I said earlier, having no legal right to form trade organisations in centres or putting new tenants next to successful stores and not providing any compensation. This can have an adverse affect on the small business and is an area that requires reform.

I note that there have been some changes in New South Wales and that those changes have apparently improved matters substantially there. The New South Wales act makes changes concerning rent reviews and forces landlords to take account of the sorts of rent concessions that are generally offered to new tenants. It means that landlords cannot factor in goodwill generated by the existing tenant and treat the premises as vacant for the purpose of reviewing
the rent. That is a very important reform, and I strongly support it.

Tenants have to have a greater ability to be involved in determining how outgoings relating to their particular premises are arrived at and are spent. At the moment you do not have disclosure on your outgoings, and there is little tenants can do in those circumstances.

The shadow minister also referred to the issue of changes in the retail mix because changes in the retail mix can adversely affect tenants. I point out that where a tenant’s rental is being calculated on the basis of a presumed turnover in a situation of no competition, a change in situation can be quite intolerable. The issue of tenancy mix has been addressed in the New South Wales legislation; I believe it is time it was introduced here.

We also have to have some controls on both unconscionable clauses in leases and unconscionable behaviour by parties to leases. Earlier there was some reference to the federal Trade Practices Act concerning unconscionable clauses. I know some retail tenants who endeavoured to use that legislation and found it very difficult to get action from the Trade Practices Commission under that legislation. It would be appropriate to have established in legislation some controls over unconscionable clauses in leases. We would then have a fairer situation on landlord-tenant issues than we presently have.

The minister himself indicated concern about some of these matters when in November 1994 he wrote to Mary Caruana concerning the management programs at Box Hill Central. He said:

The wider issue of the alleged abuse of power of landlords of major shopping centres over their small business tenants also causes me continued concern.

I welcome his display of concern; he went on to say:

... I have expressed my concern to the centre manager ...

However, we do not see any reflection of the minister’s concern as expressed in that letter in the legislation before the house. Although it takes the steps of reinforcing the prohibition on key money, the essentially unequal situation that now applies between shopping centre owners and retail tenants will continue until much stronger and more progressive legislation is introduced to give retail tenants some real rights.

If you look at the history of the legislation you will see that the Labor government introduced the original legislation in 1986. It is clear that as a result of changes in trading patterns and retail tenancy arrangements generally there is a need for the legislation to be strengthened considerably. Other states have done that: between 1986 and the present they have passed us by. The previous government set up a working party to review the legislation, but essentially its recommendations have been sat on. We have not had a fair dinkum government commitment to addressing these issues, nor does the legislation reflect a fair dinkum government commitment to addressing them.

For that reason I strongly support the shadow minister’s amendment. I believe there is a need for the legislation to be beefed up considerably. If the government wanted to do that, it could have the legislation back in a short time and could look forward to the support of the opposition and the legislation passing quickly.

For people to set up retail tenancies in good faith in shopping centres and other locations only to find that not only do their business ventures collapse but their life savings, their homes and their other assets are forfeited is most unsatisfactory. It reflects a failure of government policy and community will to address the issue. It is high time it was given more serious consideration.

Mrs ELLIOTT (Mooroolbark) - I will make a relatively brief contribution to the debate on the Retail Tenancies (Amendment) Bill. I find it rather strange to see the opposition posing as a champion of small business, particularly the honourable member for Pascoe Vale, who will have to translate himself to a broader scene in Canberra. Many of the measures in last night’s federal budget were specifically targeted to knock small business — the ratcheting up of the tax bill for companies from 33 to 36 per cent, the hike in the cost of non-luxury cars and the tax to be paid on hardware and building items, let alone the hike in provisional tax. None of them will help small business. Therefore it sits rather ill for opposition members to be posing as the white knights of small business.

In the rather narcoleptic speech of the honourable member for Geelong North he constantly focused on the shopping centres in Ringwood, which is in the area I represent, although not in my electorate. He did not mention his own electorate at all. The electorate I represent, Mooroolbark, consists almost wholly of small business, with the exception of the
Chirnside Park shopping centre, which I think could be described as medium to large. My constituents are small business people who are largely independent and family owned. I also grew up in that area: my parents were the proprietors of a shop in Ashburton for about a quarter of a century.

The honourable member for Geelong North constantly referred to speeches made by current government members when they were in opposition up to 10 years ago. Things have changed since then. Now people obviously want to shop at the large shopping centres like Eastland and Chadstone; I can well remember the day that Chadstone opened. People fight to take up businesses in those shopping centres because that is where many retailers want to be.

This government, which is a free-enterprise government, believes in not overregulating small business, but letting small business get on with what it does best: making a profit.

When I was in Moscow 12 years ago I visited the GUM department store. GUM is architecturally an extremely beautiful building, rather on the scale of this house and this Parliament building. However, in a socialist society it was overregulated and at that time there was very little to buy there. If you could find something you wanted to buy you had to queue to get the goods, you had to queue to pay for them and you had to queue again to get them wrapped. The whole effort was hardly worthwhile. In those countries where free enterprise is supreme and where the government does not get on the backs of small business, business thrives and makes a profit.

The whole aim of the Retail Tenancies (Amendment) Bill is not to overregulate business but to correct some anomalies in the original act.

The honourable member for Geelong North went through a whole range of associations and umbrella bodies associated with business and said that at various times they had all written to him wanting changes to the act. However, when the Redfern review to which he referred, which was commissioned by the previous government and continued by the current government, came out with its recommendations, it could be seen that of the 78 recommendations there was consensus on only five. This government rightly said to bodies like the Small Business Advisory Network, the Combined Retailers Association of Victoria, the Building Owners and Managers Association and the Australian Centre for International Commercial Arbitrators, ‘Go away, do a broader review of the bill and, when you have some consensus, come back to us and we will look at your recommendations favourably. But you are the ones who should decide what you want and come to some agreement about it’.

This is a minimalist bill, it is a sensible bill and it is designed to give everybody a fair go, both landlords and tenants. The provisions relating to key money are designed to correct an anomaly in the original act which was brought to light by the full bench of the Supreme Court in the case of Burke v. Gillett. It was shown that where leases are signed on the subject of key money, key money or goodwill money could in fact be demanded of tenants. That is obviously unfair and was not the intention of the original bill. This amendment is designed to correct that.

Obviously the thrust of the bill is to set up a compulsory system of conciliation before arbitration and is designed to reduce the cost of arbitration both to landlords and tenants in cases of dispute and also to cut down lengthy procedures which consume the time and money of landlords and tenants.

The provisions of the bill are very fair. They allow landlords and tenants to agree on a conciliator, to share the costs of conciliation and their own costs equally, except in the case of vexatious litigants, and to go to arbitration if conciliation does not work. It is an eminently sensible provision. Equally, it indemnifies arbitrators against being sued, which would put their own property at risk. Where people who are holding the sort of office in which they have to make decisions fear that they may be sued and put their own personal property at risk, it is very hard for them to make objective and correct decisions. To give them that sort of indemnity is rightly in line with previous decisions of governments.

I will conclude to allow the minister to wind up debate on this bill. The long, rambling and unfocused speeches of the two opposition speakers on this bill show very little real concern for what business wants, which is independence and a chance to get on and make a profit.

The debate has given the opposition a chance to grandstand to special interest groups. It has not shown that they champion the cause of small business, or business in general, at all. The history of the Labor Party as a whole is not one of the champion of business.
The government obviously consults widely with business, which is a natural constituency of the coalition, and government intervention is designed to be the very minimum. When business can reach some consensus on what it wants the government will be all ears to see how it can further the interests of business. Business is basically the same whether it is small or large — it is people selling something that other people want to buy and taking a reasonable profit from it, and tenants and landlords negotiating for the best outcomes for both.

During all the years my parents were in small business they never had a dispute with their landlord. Business has obviously changed and big shopping centres have altered the situation, but in the end market forces must prevail and they can prevail only in an atmosphere of freedom and in the absence of overregulation. That is what this bill is designed to promote, and I wish it a speedy passage.

Mr LEIGHTON (Preston) — The Retail Tenancies (Amendment) Bill has four main features: to extend the prohibition on payments of key money; to introduce conciliation prior to arbitration of disputes; to provide improved professional immunity to panel members; and to validate the decisions of panel members in the event of a defect or irregularity in their appointment.

If the opposition’s reasoned amendment is defeated, it will not oppose the passage of the bill. However, as the honourable member for Mooroolbark correctly pointed out, it is a minimalist position. This bill should go a lot further. The Minister for Small Business should have picked up the recommendations of the 1993 working party report instead of issuing a further report and instigating yet another review. The second five-year review period will have started before we have dealt with the first review. To that extent it is not a bill that protects small business.

The responsible minister should be referred to as the Minister for Big Business. Tonight I have seen his former Heidelberg councillor and Liberal Party mate, the executive director of the Building Owners and Managers Association (BOMA), around the place giving the minister his directions. It seems to me that the minister is taking his directions from big business representatives such as BOMA rather than protecting the interests of small business.

I do not intend going over the contribution made by the shadow minister for small business, the honourable member for Geelong North. The Law Institute of Victoria has raised a number of concerns regarding the compulsory private arbitration provisions of the 1986 act. It is concerned about the excessive cost of arbitration and believes arbitrators are not necessarily conversant with retail tenancy issues. If a party needs to seek legal advice, the cost is added to the party’s bill.

The Law Institute of Victoria also believes there is no competition in the rates charged by arbitrators and that those who charge less do not seem to be appointed to the panels. The institute further believes compulsory private arbitration is often more costly than going to court. I put those concerns on the record.

I will now focus on two concerns: motel lessees and some matters relating to my own electorate of Preston with respect to suburban markets. Despite the 1993 report recommending that the government deal with the concerns of motel lessees in legislation, the minister has made no attempt to pick up the recommendations of that report. The report pointed out that there was provision for exempting certain enterprises from the effects of the act. However, the recommendation also suggested there should be provision to write in certain businesses.

I do not think anybody is suggesting we should go too far in widening the floor space, but to pick up the concerns of motel lessees, a more practical way would be to write in special provisions that apply to motels. Many motel lessees are operating at the margin, and they can be held to ransom and can lose their lease when they expire. Motel owners can charge $2000 or $3000 up front to bring in a new lessee and then charge the rent on top of that.

In the debate on the original bill National Party members such as the honourable members for Murray Valley and Warrnambool were very enthusiastic in their support. It is a shame they have not contributed to the debate tonight. I would have liked to hear some members representing country areas, especially National Party members, express a view. We have not had a contribution from the National Party tonight because it knows the bill does not deliver the goods to its constituency and does not meet the needs of the people it represents, such as lessees of small country motels. The National Party has been conspicuous by its absence.

I urge the minister to say something about his attitude to motels in his response. Some time in the middle of 1993 the minister received what can be described only as a pleading, begging letter from
Mr Tegelove, the President of the Victorian Motel
Lessees Association. I will not attempt to read the
entire letter, but it starts by saying:

Dear minister,

This is our final plea to you for legislative coverage to
provide minimum legal protection for the motel
leasehold industry which is in desperate trouble.

The minister obviously knows about this letter. He
has had it in his possession but has not responded to
it. Despite receiving recommendations from the
working party, he has remained silent on motels and
there is nothing about them in this bill. All he has
done is put it out for further review. I would like to
hear his attitude towards motels. I believe they can
simply be roped in through a special provision in
the same way as the principal act excludes some
enterprises.

I am also concerned that the bill does nothing to
help many stallholders of suburban markets. The
Preston Market is in my electorate, and it is a vibrant
market despite the fact that during the past few
years it has had to struggle to cope with the impact
of Northland shopping centre. Many stallholders
have found that their operations have been marginal
and that after paying rent, other charges, their staff
and the cost of the produce they are selling, they are
barely making a profit. During 1993 and 1994 a
steady stream of stallholders came through my
electorate office.

It was not surprising that we were getting headlines
in the local paper such as 'Climate of fear at market'.
It seemed that any stallholders who spoke out lost
their leases very quickly, and in losing their leases
they lost their livelihoods. One of the basic problems
was that the ownership of the Preston market had
changed hands a number of times and at that time it
was owned by a syndicate that had clearly paid
many millions of dollars too much and was seeking
to recoup that money from the stallholders.

Many of the stallholders were left swinging because
they had taken out five-year leases. The five-year
option has expired and in what I believe was very
shabby treatment the owners of the market just left
them swinging with one-month leases. It is
impossible to run a business, order stock and so on
when you have a one-month lease and do not know
from one month to the next whether you will still
have possession of that stall.

On top of that, the owners of the Preston Market
could not decide how to use the south block of the
market in future and rumours circulated about the
development of a supermarket, while all the time
stallholders were left swinging on one-month leases.
Any stallholders who spoke out found they were
quickly turfed out.

I know of families who had paid a fortune for a lease
and goodwill, with family members mortgaging
their houses, yet if the market owners decided to
take the stall back they received no compensation
for goodwill. As the honourable member for
Geelong North said, the goodwill was captured and
the owners were free to put in another tenant.
Similarly stallholders were not compensated for any
changes in the usage of stalls around their stall.

One fruit and vegetable stallholder, Mr John Wong,
who had been at the Preston Market for 23 years,
was eventually forced to vacate. A press article on
the issue states:

Mr Wong said he had paid $3100 a month — $775 a
week — rent for his double stall and that he and his
wife made no profit after paying overheads totalling
about $1400 a week. The overheads included rent, fruit
and vegetables, a truck and wages for their children
who also worked in the stall.

Eventually he had to walk away from his stall
because he could not make a go of it. I believe there
should have been a greater attempt to provide
protection for people in suburban markets who not
only invest their life savings but also take out
mortgages and can have everything taken away
overnight.

In a letter concerning the rental review of
commercial premises the proprietors of another local
business, Line Electronics, of factory 9, 1 Bell Street,
Preston state:

We are writing to you to inform you of what we see as
an urgent matter which impacts on the very existence
of many small businesses. It concerns the manner in
which rents are reassessed annually.

Regrettably it is difficult to be brief in this matter but
we shall put the facts as we see them.

A little over a year ago we entered into a lease for a
factory unit, having operated from home for three
years. We agreed the rental and other costs with the
managing agents and signed the lease for a
four-plus-four period. We have sought to be
responsible tenants and have met the conditions as required. Imagine our alarm when we were presented with a demand for a 62 per cent increase in our rental amount. The manner in which this was handled was in our opinion most unprofessional in that the demand was made one month after the rental review was due to be negotiated and implemented. In other words, the agents had missed the date and had simply backdated the enormous rise. We advised the agents that the magnitude of the increase was unacceptable to us and that we were concerned with the manner in which the process had been followed. This resulted in the increase demand being modified to a figure nearer 44 per cent. This we advised to the agents was still quite unacceptable.

Meanwhile we made representations to the Minister for Small Business in Victoria, Mr Heffernan. We received a response from Mr Heffernan describing the increase as 'outrageous'. At the same time we contacted a solicitor to advise us on what the situation might hold for us. Their view was that although the rental increase amount was extremely large there appeared to be little that could be done in so far as the rental review was to be conducted at 'market value'. This caused us to contact a professional valuer who further advised us that the increase could indeed be of the magnitude that had been requested by the owner and the agent. What is most upsetting about this is that at the outset of negotiating the lease we were advised that increases were of the order of the published CPI or perhaps just a little extra. On that basis we assumed a worst case and budgeted 10 per cent. We believe that we were deliberately misled and we have witnesses to the discussions in question. The situation has been variously described by other professional parties as 'avaricious', and we are not in disagreement with that view.

The legislation on this matter allows for an independent valuer to be appointed by the President of the Real Estate Institute of Victoria and that procedure is now set in train. We are not confident in the light of professional advice thus far that the outcome will be any better than the 44 per cent demand that we are presently beset with.

I regard the next point as one of the most serious aspects:

What was further alarming to us was the threat of a defamation action against us if we persisted in discussing the matter with other parties to seek their views. We simply cannot believe that this is the way to conduct business affairs. However, the situation became a little clearer to us when we undertook a company search of the ASC registers. It appears that the owner of the factory that we presently let is a barrister by profession.

This barrister was threatening to drag them into court, win or lose, and bankrupt them in defamation proceedings. The letter continues:

This makes the situation for us a very serious one indeed in so far as if the matter were to proceed to the courts we feel that we would be at an extreme disadvantage in that the costs would be an impossible burden on our very limited resources, while the owner(s) would in truth have very little impost upon them. We are further dismayed that such a senior member of the legal profession would seek such a punitive increase. We are further alarmed at the possibility that by the nature of the owner's profession any professional valuer appointed to review the rental increase will be known to the owner and that the guideline of impartiality simply cannot be met.

They ended up paying a 30 per cent increase. I do not know how a small business could budget for such an increase.

In conclusion, the bill goes nowhere near far enough. The minister has not picked up the recommendations of the working party. I ask the minister to respond to the concerns of motel lessees and to advise whether this is the end of the matter or whether he will be introducing further legislation following yet another review.

Mr HEFFERNAN (Minister for Small Business) — I thank the honourable members for Geelong North, Preston, Pascoe Vale, Sandringham and Mooroolbark for their contributions to the debate on what is a reasonably sensitive matter in the small business sector. I want to clear up a few matters before closing the debate.

Firstly, it was terribly important that the working party actually reached agreement. That is generally what a working party is all about. However, it failed to reach unanimous agreement, agreeing to only 5 of 78 recommendations. It is all very well to be a hero and to bring the bill into the house, but the industry sector has fought the government on every single issue. The matter has been referred back to the working party for further consideration to see what can be done to get some sort of unanimity.

That leads me to the reasoned amendment moved by the honourable member for Geelong North. If the working party cannot agree, it is a dangerous
precedent to accept opposition amendments without their first being referred to the relevant people in the industry. The amendments should first go to the working party, together with a letter I have received from the Building Owners and Managers Association, for its consideration and eventual report back to me on where it stands on the matter.

The honourable member for Geelong North mentioned the stand I took on the original Retail Tenancies Bill introduced by the former government. There is no utopia in the retail tenancies area! It is on record that I warned the former government that once you start going down the path of trying to build utopia in a free market situation you will eventually run into trouble. Consequently we had a bill that was not workable.

The amendments I have introduced in the form of the bill before the house at least allow us to go down a path of making the current act workable. I thank the honourable member for Geelong North for supporting the four basic amendments. I have not gone further.

The submission from BOMA and the proposed amendments will be forwarded to the review panel for its consideration. I could debate many areas of this legislation tonight. One concerns goodwill. Where is the goodwill? Who owns the goodwill? Do developers who build the large retail complexes and attract the people to use the large car parks and facilities generate goodwill or is it one of the 178 or sometimes 220 shopkeepers with small businesses? Do they benefit? Do they build up goodwill at the hands of the retailers? Those questions are unanswered.

It is not for the government to get involved in the marketplace. In time the opposition will see it is promoting the regional shopping centres to the detriment of the strip shopping centres which are suffering. As we go down the path to introducing legislation and becoming involved in protecting the retail market, the strip shopping centres will suffer. One can walk down any such shopping centre and move from one side of the street to the other to find retail outlets available at low rents. One can screw the landlords to get cheap rent; in fact, they will normally give you a lease without payment of any rent just to have you take over the shop! That is an example of the marketplace reacting.

The opposition says we should get into the regional shopping centres and tell them what to do or how to run the centres. I warn the opposition: continue down this path and you will meet disaster. No government has ever gone about fixing a free enterprise industry. For heaven’s sake, this bill will amend the act to allow it to work! The government will now have something to attract the key money providers to act.

I have said to the working party that it is up to them. I have told them to come back to me. Until they agree, we cannot do anything. We will have members of the industry fighting among themselves. I say to the retail purchasers of Victoria: you may choose to go to the regional shopping centres, but how about supporting the strip shopping centres? Don’t come running to me to fix the problem. The public has to take action, and the opposition has to get the message. When will it ever learn to get out into the market and have a look?

House divided on omission (members in favour vote no):

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Amendment negatived.

Motion agreed to by absolute majority.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

Remaining business postponed on motion of Mr GUDE (Minister for Industry and Employment).

ADJOURNMENT

Mr GUDE (Minister for Industry and Employment) — I move:

That the house do now adjourn.

Tambo cheese factory

Mr HAMILTON (Morwell) — In raising a matter for the attention of the Minister for Agriculture I point out that this will be a short contribution — perhaps unlike the answer! I refer to the future of the Tambo cheese factory situated on the east side of Traralgon. The company has had a rather short but chequered history. It was established as a cooperative among a number of farmers. After a relatively short time it suffered some financial difficulties and in 1990 or thereabouts the business was rescued by an entrepreneur from Sydney, Dennis Bancourt, who bought it and put it on a much sounder footing.

The cheese company has operated satisfactorily for the past three or four years. It has produced some excellent Italian-type cheeses, including mozzarella, which is a very important cheese in the pizza-making business. About nine farmers were supplying milk to the factory. The company has proved to be not only a good cheese-making establishment but also a tourist attraction. However, I have been advised that in recent days the company has lost its milk supply. The farmers have decided to take their milk to the Bega company via a somewhat circuitous route. Although the company can no longer make cheese it can still sell it because it has 200 tonnes in storage. The jobs of the people who work at the factory and people associated with the industry in the Latrobe Valley have been put at risk.

I ask the minister to investigate helping this small business to survive and to maintain the factory jobs, which will assist growth in the Latrobe Valley. I hope the minister can come up with a survival kit for the company.

Goulburn Valley: Aboriginal sports facilities

Mr KILGOUR (Shepparton) — I refer the Minister responsible for Aboriginal Affairs to facilities for Aboriginal sportsmen and sportswomen in the Goulburn Valley, where Aboriginal land is currently being made available. We have been working towards developing facilities so that Aboriginal people can hone their skills and improve their sporting abilities.

The Goulburn Valley has a history of developing champion Aboriginal sports people. Pastor Doug Nicholls played football in the Goulburn Valley before he went to Melbourne and became a Fitzroy champion in the former VFL. Glenn James, also from the Goulburn Valley, was the first Aborigine to umpire a VFL grand final. His brothers Lance, Carey and Des all played football in the Goulburn Valley. Gundy James has been one of the top golfers in the region for many years.

Three Aboriginal footballers have won the best and fairest award in the local league: Dowie Bux, Gavin Saunders and Geoff Cooper. Jim Murray was also a famous Aboriginal footballer. Paul Briggs, who is looking after the Rumbalara Aboriginal Cooperative, was a great footrunner. There have been plenty of champions for the young Aboriginal people to emulate.

The Rumbalara cooperative has put together a proposal for the promotion of Aboriginal sport. It wants to provide facilities for Aborigines to train and be involved in sporting activities. A piece of land in North Shepparton adjacent to the McEwen reserve sporting complex has been acquired. It
would be of great assistance to the community to have a sports pavilion and oval where Aboriginal people could train for football, netball, cricket, athletics and other sports. If the facilities were built on the land, the cooperative would control their operation. Will the minister consider the Rumbalara community’s proposal to provide young Aboriginal sportsmen and sportswomen with facilities that will assist their sporting interests in the future?

North Shore Primary School

Mr BRUMBY (Leader of the Opposition) — I direct the attention of the Minister for Education to the North Shore Primary School in Geelong, which I visited earlier this year. I received a letter signed by parents on the school council, which states:

On behalf of the North Shore Primary School Community, we wish to protest over the appalling staffing levels under which this already disadvantaged school is expected to operate.

Currently, five children who have been assessed by a DSE guidance officer as eligible for integration assistance have been refused funding by the DSE.

We believe this school represents a special case situation which is sorely being neglected by bureaucratic indifference.

The consequences for children and staff will be devastating. Continued lack of support by the DSE will have not only a detrimental effect on the educational development of our children and increased stress levels on teachers.

Many of these children live in families which suffer from both financial and emotional hardship.

Reading tests have shown that in all years, 25-40 per cent of students displayed reading delays of two or more years.

The parents conclude by saying:

The school community deserves a better deal, with DSE consultants attesting to the fact of no school within the Barwon/South Western Region having comparable needs.

On 10 April I visited the North Shore Primary School with the honourable member for Geelong North. I want to praise and put on the record the magnificent job teachers and parents do at that school. There are 14 pupils who are eligible and qualify for integration assistance. Of those 14, 6 are unable to obtain it.

Mr Honeywood interjected.

Mr BRUMBY — I point out to the honourable member for Warrandyte that the parents had the courage to raise the matter and there is a genuine need. I visited the school and it is appropriate that the matter be raised in Parliament for the attention of the minister. It is a very close-knit school community. The parents are providing outstanding support, as are the teachers. There are children at the school who clearly qualify on all the objective criteria for integration assistance but are unable to get it. The minister and the DSE have reviewed the matter once and the outcome has been unsatisfactory. I ask the minister to review the matter again. There is a genuine case, a genuine need. The students deserve the assistance, and I hope the minister is able to provide it.

Nillumbik: fire hydrant maintenance

Mr PHILLIPS (Eltham) — The matter I raise for the attention of the Minister for Natural Resources follows a letter I have received from Alan S. Prentice, the Manager of Infrastructure Planning at the Nillumbik Shire Council. It expresses the council’s concerns about the maintenance of fire hydrants in the Nillumbik shire, which takes in the electorates of Eltham and Yan Yean.

Councils are now liable to pay for the maintenance of fire hydrants, although they have no input into that maintenance. The liability involves large sums of money. There has been a dispute between the Nillumbik Shire Council, which was formerly the Eltham council, and what was formerly Melbourne Water in relation to an amount of $7767.50, which has been negotiated down from $16 000. As late as 11 April the council resolution recommended:

1. That Yarra Valley Water be requested to provide a clear indication of council’s total commitment up to 30 June 1995 and for the coming financial year before the outstanding account of $7767.50 is approved for payment.

2. That the MAV be advised of the latest example of the unsatisfactory arrangements with the water authorities regarding fire hydrant maintenance and requested to continue to seek a review of these arrangements and desirably a total removal of council’s involvement in this activity.

Nillumbik shire is obviously very diverse and has a mixture of urban and non-urban areas. Much of the
ADJOURNMENT
ASSEMBLY Wednesday, 10 May 1995

area is fire prone, so the maintenance and installation of fire hydrants is very important. Councils are asked to fund the maintenance of fire hydrants, which previously was carried out by Melbourne Water's own staff but has now been taken over by contractors. Since the contractors have been doing the maintenance, the costs to the municipality have escalated from what it believed to be reasonable to an amount it cannot budget for in one financial year.

In addition, the shire cannot get a firm, fixed yearly price on which to budget. It has asked to have the matter negotiated and resolved. It has been going on for 12 months, so I ask the Minister for Natural Resources to examine it. It is not applicable only to the Nillumbik shire.

Employee Relations Commission

Mr BRACKS (Williamstown) — I raise for the attention of the Minister for Industry and Employment his replies to the two annual reports presented to the Parliament by the President of the Employee Relations Commission — the annual report of the president for the year ended 30 October 1994, which was tabled in Parliament late last year, and the annual report of the president to the end of 1993. I ask the minister what has happened to the significant recommendations made by the president. What advice has the minister received from his department about the recommendations? I refer in particular to the president's request in both the first and second annual reports that the commission be able to scrutinise employment contracts and check that they have been undertaken without duress and according to a set of model rules?

The president of the commission went on to highlight three other substantive points. I ask the minister to clarify how he intends to respond to them. The president has asked that the Employee Relations Commission be given, firstly, compulsory powers of conciliation and arbitration; secondly, proper mediation powers so that disputes can be settled before they escalate; and thirdly, the power to address proven cases of unfair dismissal other than by sending the employees back to their workplaces — and she has sought compensation powers similar to those available in other states. The president has raised those four matters of substance, and she has had to raise one a second time in her second annual report.

I ask the minister what advice he has received from his department about responding to those substantive matters and how he intends to respond. In introducing the amendments to the Employee Relations Act late last year the minister made no attempt to address the substantive issues raised by the president in the two successive annual reports. I urge the minister to take seriously the independent conclusions of the president of the commission and in deference to her wishes give those matters a considered response. She has twice sought a response from the minister on ensuring that the act works in accordance with the minister's second-reading speech. She has twice sought to advise the minister on how to make the act work, but has yet to receive a reply. The minister has an obligation to treat the president's requests seriously.

Mount Bogong tourism licences

Mr A. F. PLOWMAN (Benambra) — I ask the Minister for Natural Resource to direct to the attention of the Minister for Conservation and Environment in another place a tourist group operating from the Mitta Mitta township. The group runs horseriding tours over Mount Bogong using two different routes — approaching the Bogong area via the Granite Flat Spur and coming back via the Long Spur. It is the only tourist group that uses that access route to Bogong. Other tourist operators take horseriding safari groups up over Bogong but they come in from the other side of Mount Beauty. This group is probably the only tourist group to do so and is one of the very few small businesses in Mitta Mitta. The group has been going for nine years, and on average it conducts seven tours a year in parties of 50 to 60 — or maybe a few more.

The point I make is that in an area like Mitta Mitta small business is very limited. This business has a viable future, but at the moment it is restricted by the department's desire to close some of those access tracks to horse traffic.

Mr Spry interjected.

Mr A. F. PLOWMAN — I do not think there are many camels there — two-legged ones, maybe. In that area there are quite a few brumbies.

An honourable member interjected.

Mr A. F. PLOWMAN — They are voracious eaters. The area is open to bushwalkers, four-wheel drive vehicles and so on. It seems inequitable that one of the few small businesses in the area is being denied access to an area it has had a permit to use for the past nine years.
I suggest that the minister may choose to review the policy whereby a small operator like this is being denied an opportunity that gives access to one of the most beautiful areas of the state. I should like to see the opportunity for that small tourist operation to continue.

Youth: training wage

Mr CARLI (Coburg) — I raise with the Minister for Industry and Employment the government’s submission concerning the Employee Relations Act and youth wages. My concern is that around 50 000 young people trapped in Victorian awards, if the government’s submission is accepted, will be exposed to excessive exploitation by means of a poverty wage for young people that makes no attempt to include or enforce any training component.

The submission fails to acknowledge the importance of training and developing young people. According to the government’s submission, those between 16 and 20 years of age will be earning between 50 per cent and 90 per cent of the proposed adult minimum wage. The wage could be as low as $4.30 an hour for a 16-year-old or as high as $7.70 an hour for a 20-year-old. That is very much a poverty wage; more importantly, it exposes youth to great exploitation. We are talking about young people trapped at the bottom end of the labour market.

I ask the minister to reconsider the youth wage in the context of the training wage, a more contemporary position that has been taken on board by the federal government. A training wage is about youth wages being tied to a training component and a more cooperative relationship between workers and employers, with there being a level of negotiation, union involvement and young people being given opportunities not only to earn an income but, more importantly, to have the training they will need in the future.

The move towards a training wage is preferable to a poverty wage as is currently outlined in the government’s submission. It is a much more beneficial prospect for our society because we need better trained young people. I ask the minister to reconsider the government’s submission in light of three considerations: firstly, the level of exploitation, with the youth wage being as low as $4.30; secondly, the importance of defining a training component in any youth wage; and thirdly and more importantly, the government’s election commitment that no Victorian worker would lose a dollar in wages or lose conditions under the coalition government. In the context of those three considerations, it would be worth while for the government to reconsider its submission on youth wages and to try to tie that in with contemporary debate on training wages.

Board of Studies: industrial dispute

Mr MICALLEF (Springvale) — Following the recent boast of the Minister for Industry and Employment that there has been a drop in industrial disputation in Victoria — he was extremely proud of that at question time the other day — I raise a dispute currently taking place at the Board of Studies.

I understand a number of members of the SPSFV and the CPSU voted to stop work today because of a breakdown in negotiations on wages and conditions that have been going on for several months. The industrial disputation was finally decided on by the workers and the unions involved at the Board of Studies because of their frustration about the breakdown of negotiations on a collective employment agreement. If the government were serious about resolving disputes it would have encouraged those negotiations to proceed.

In December last year the Directorate of School Education entered into an agreement with the union to negotiate employment conditions and to consent to arbitration if the negotiations broke down. It seems that the negotiations have broken down and the Directorate of School Education has backed away from its earlier agreement. A letter from Karen Batt, the General Secretary of the SPSFV, to the Employee Relations Commission states:

The parties have met together with Commissioner Burke on two occasions since the dispute was notified. On the second occasion the commissioner sought the view of the parties on the use of the dispute settlement provisions included in schedule 5 of the Employee Relations Act. While the federation was (and is) fully supportive of the use of those provisions in the matter, DSE objected to their use stating that they did not see a need for it.

If the government is serious about resolving the number of industrial disputes in this state, I ask the minister to oversee the other ministries and departments to ensure that they comply with the spirit of the act, which I believe is being undermined.
Buses: V/Line passengers

Mr BATCHELOR (Thomastown) — The matter I raise for the attention of the Minister for Public Transport concerns a disgraceful incident in which four female passengers on a V/Line service to Mildura were abandoned at 10.55 p.m. at the Geelong railway station. I am informed that they were to take their reserved bus seats for the journey from Geelong to Mildura but were told that their seats had been taken by people who got on the bus at Melbourne and therefore no room was available for them.

The solutions suggested to them by the driver were to either make another booking, catch another bus or take a taxi to Ballarat. What they were to do once they get to Ballarat I do not know, but the cost of a taxi from Geelong to Ballarat would be about $150. When they found all those suggestions unacceptable the bus driver simply drove the bus from the depot leaving them in the dead of night with no suitable or satisfactory alternative arrangements having been made for them, despite their pleas for the bus driver to use the mobile communications system on the road coach. The complaint from Mrs Suzy Joseph sums up the issue. She is reported as saying:

Bring back the train is what I say because I have not been impressed at all with the bus service.

I have never heard a greater understatement. I ask the minister to investigate the matter, offer an apology to the four women concerned and honour the commitment given by the Premier to reinstate the Vinelander service to ensure an adequate passenger rail service is provided to rural commuters. This is the most disgraceful abuse of the travelling public I have heard, yet government members laugh!

Responses

Mr W. D. McGrath (Minister for Agriculture) — The honourable member for Morwell raised concerns about the Tambo cheese company in Gippsland. The company was established in 1991 by a group of dairy farmers in the region. In fact, the Premier, opened it. The factory was taken over in 1993 by a Sydney-based company named Thornbolt Pty Ltd. Approximately nine farmers, with properties located between Traralgon and Swan Reach, supplied about 4.1 megalitres of milk annually to the cheese company which, as the honourable member for Morwell said, specialises in Italian-style cheeses such as mozzarella and pecorino.

The farmers supplying the factory became nervous when the milk payments started to slow down and they asked the Victorian Dairy Industry Authority to intervene. The authority made arrangements with the Tambo cheese company to pay one base payment and two pool payments directly to the suppliers during the months of February and March this year. That still did not satisfy the dairy farmers, so they made a deal with the Bega cooperative, which is close to the Victorian border. As the honourable member rightly said, it left the Tambo cheese company without suppliers. It has a stockpile of cheese and, although the employees still have their jobs, it would be a pity if the factory went out of business because of its liquidity problems. However, honourable members should bear in mind that if the company buys milk from dairy farmers it must pay for it.

I will do more work with my department on this issue. I know the Minister for Industry and Employment takes an active interest in these issues, but at the end of the day the company must demonstrate its business acumen by ensuring it not only produces cheese but also sells it and pays its suppliers. The honourable member for Morwell rightly referred to the jobs on the people who have a specific interest in the factory. I shall make further inquiries and, if the honourable member has more information, I shall be happy to receive it.

Mr John (Minister responsible for Aboriginal Affairs) — The honourable member for Shepparton raised the need for adequate sporting facilities for young Aboriginal people in his city. I have visited the local Rumbalara Aboriginal Cooperative in Shepparton on a number of occasions, and it represents one of the largest Koorie communities in Victoria, with a population of about 4000 to 5000 Aboriginal people. Tonight am pleased to announce that I have approved a grant of $886 000 for the construction and development of a sports oval, club rooms and change rooms in Shepparton to help service the cultural and sporting needs of the local Aboriginal community.

The local Aboriginal elders and leaders of the Rumbalara cooperative have displayed a great deal of initiative in attracting government interest to this project. ATSIC, the commonwealth body, has contributed capital funding of $170 000 to acquire the site, which abuts the sports precinct in North Shepparton. The $886 000 worth of state government
funding will complete a marvellous community sporting complex in a city with a large Aboriginal population and where hitherto there were inadequate sporting facilities.

I pay tribute to the honourable member for Shepparton for his interest and support. He has been especially supportive of this project and he works hard to accommodate the needs of the local Aboriginal community in his electorate. I am sure the new sports complex will be of great value to Aboriginal and non-Aboriginal people alike in the coming years.

Mr COLEMAN (Minister for Natural Resources) — The honourable member for Eltham referred to the costs attributable to the maintenance of fire hydrants in the Nillumbik shire. Section 81 of the Water Industry Act deals with this issue and, as I understood it, there was general agreement between the Municipal Association of Victoria and Melbourne Water as to the way the matter would proceed.

I agree that much of Nillumbik shire is fire prone. There is no charge for water that is used from hydrants for fire purposes, but there is a charge for water used for street cleaning activities simply because the litter that is removed through that process finds its way back into the waterways and requires further attention. I understood the matter was resolved, but given that it has been raised again by the Nillumbik shire I shall re-examine the issue to see what difficulties have developed in the interim.

The honourable member for Benambra referred to tour groups of horseriders gaining access to Mount Bogong. Obviously, it is a matter that is dealt with under the National Parks Act, which provides opportunities for the minister to make agreements, which include alpine tourism licences. I presume that when the licence was renewed the conditions were reviewed. On that basis I will refer the matter to the Minister for Conservation and Environment for his attention.

Mr GUDE (Minister for Industry and Employment) — The honourable member for Williamstown referred to reports of the Employee Relations Commission and certain recommendations contained in those reports. At the outset I make the point — it may come as a riveting surprise to the honourable member for Williamstown — that the government makes the policy and the Parliament passes the laws. Independent tribunals have a statutory responsibility to carry out those laws. We have received the reports, we have given them consideration and we have responded to those suggestions through legislative change and in other ways. I have no quarrel with the independence of the commission, nor the commission's endeavours to seek to make recommendations. That is something that I would always encourage and will continue to welcome.

The honourable member for Coburg raised for my attention a matter concerning youth wages. He made a particular plea about the training wage concept that is being introduced by the federal government. I make the point that Victoria is the first state to have met the national training wage requirements and has been recognised as such on a number of occasions by the federal minister, who has held up Victoria as an example that others perhaps should have followed.

The submission put forward by the Victorian government to the Employee Relations Commission is just that: a submission put on behalf of the government. Other submissions were put by employers, unions and others, and the commission will make its independent assessment. It is worth noting that the junior rates proposed are not exactly identical but are close to being a mirror image of the junior rates that apply in the federal government's metal industry award, an award opposition members often extol the virtues of. I find it difficult to understand how members on that side of the house can find the government's submission so far out of whack when it is very close to being a replica of the federal wages system that is presently in place.

The Honourable member for Springvale raised for my attention a matter concerning the industrial dispute at the Board of Studies. He referred to negotiations. I am not sure whether he read from a letter or a document. If he is prepared to make it available I will be happy to follow the matter through with the Director of School Education and the Minister for Education. The process the government adopts is that each agency conducts its own industrial relations in a general sense, and certainly that is going on. However, I will be happy to look at the matter in due course.

The Leader of the Opposition raised for the attention of the Minister for Education the North Shore Primary School and made particular reference to 14 young students who need integration assistance. He said that six of the students are still not receiving the benefit of the integration program. He said there had been a review but, from his perspective at least
and presumably from the perspective of parents and people in the school system, the review had not brought about a satisfactory outcome. I will draw the matter to the attention of the Minister for Education, and I am sure he will follow it through. It is a concern when young students need a special service, and it is certainly the government's intention that they be given every opportunity to have the best education available.

Finally, the honourable member for Thomastown raised for the attention of the Minister for Public Transport the saga of four female passengers being left unceremoniously at a station in Geelong very late at night. Obviously, I do not know anything more than the details the honourable member related. It is a disconcerting circumstance, and I will direct it to the attention of the Minister for Public Transport to see what can be done.

Motion agreed to.

House adjourned 12.05 a.m. (Thursday).
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