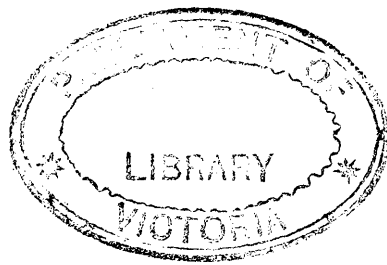


VICTORIA • MINUTES OF THE PROCEEDINGS OF THE LEG. COUNCIL, SESSION 1951 • 52





VICTORIA.



MINUTES OF THE PROCEEDINGS  
OF THE  
LEGISLATIVE COUNCIL.

---

SESSION 1951-52.

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WITH A COPY OF THE DOCUMENTS ORDERED TO BE PRINTED.

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VICTORIA.

LEGISLATIVE COUNCIL.

MINUTES OF THE PROCEEDINGS.

No. 1.

TUESDAY, 13<sup>TH</sup> NOVEMBER, 1951.

1. The Council met pursuant to the Proclamation of His Excellency the Governor, bearing date the seventh day of November, 1951, which Proclamation was read by the Clerk and is as follows:—

PROROGUING PARLIAMENT AND FIXING THE TIME FOR HOLDING THE SECOND SESSION OF THE THIRTY-EIGHTH PARLIAMENT OF VICTORIA.

PROCLAMATION.

By His Excellency the Governor of the State of Victoria and its Dependencies in the Commonwealth of Australia, &c., &c., &c.

WHEREAS the Parliament of Victoria stands adjourned until Friday, the ninth day of November, 1951: Now I, the Governor of the State of Victoria, in the Commonwealth of Australia, do by this my Proclamation prorogue the said Parliament of Victoria until Tuesday, the thirteenth day of November, 1951, and I do hereby fix Tuesday, the thirteenth day of November, 1951, aforesaid, at the hour of half-past Ten o'clock in the forenoon, as the time for the commencement and holding of the next Session of the said Parliament of Victoria, for the despatch of business, in the Parliament Houses, situate in Spring-street, in the City of Melbourne: And the Honorable the Members of the Legislative Council and the Members of the Legislative Assembly are hereby required to give their attendance at the said time and place accordingly.

Given under my Hand and the Seal of the State of Victoria aforesaid, at Melbourne, this seventh day of November, in the year of Our Lord One thousand nine hundred and fifty-one, and in the fifteenth year of the reign of His Majesty King George VI.

(L.S.)

DALLAS BROOKS.

By His Excellency's Command,  
JOHN G. B. McDONALD,  
Premier.

GOD SAVE THE KING!

2. APPROACH OF HIS EXCELLENCY THE GOVERNOR.—The approach of His Excellency the Governor was announced by the Usher of the Black Rod.

His Excellency came into the Council Chamber, and commanded the Usher of the Black Rod to desire the immediate attendance of the Legislative Assembly, who being come with their Speaker, His Excellency was pleased to speak as follows:—

MR. PRESIDENT AND HONORABLE MEMBERS OF THE LEGISLATIVE COUNCIL:

MR. SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY:

I have called you together this day to celebrate the Centenary of Government in Victoria.

One hundred years ago today the first meeting of the Legislative Council of Victoria was held in St. Patrick's Hall, Melbourne.

Victoria acknowledges, thankfully, the debt owed to those who have served with such devotion in this Parliament during the past century.

The achievements of our predecessors inspire us to emulate their work.

It is the earnest hope of my advisors that the next century of Parliament will be marked by wider development of the State, a fuller appreciation of the responsibilities of citizenship and a greater degree of co-operation and goodwill in the community.

My Ministers join with me in thanking the members of the Commemoration Committee and all other citizens associated with the many special events held throughout the State during this year.

The citizens of Victoria were looking forward with delight to the visit next year of Their Majesties the King and Queen and Her Royal Highness, Princess Margaret.

With feelings of profound regret they heard that His Majesty, on the advice of His Physicians, had reluctantly been constrained to abandon the visit.

We rejoice that His Majesty is gaining strength and it is our earnest prayer that soon he will be fully restored to health.

His Majesty has asked Their Royal Highnesses the Princess Elizabeth, Duchess of Edinburgh, and the Duke of Edinburgh to visit Australia and New Zealand next year. Their coming is eagerly awaited.

Arrangements are being made to ensure that as many as possible, particularly school children and young people, will have the opportunity of joining in demonstrations of loyalty and affection.

My advisers will introduce Bills to complete the programme of legislation announced earlier in the year.

Provision was made last session, by temporary Standing Orders of both Houses of Parliament, to enable Bills which were introduced into Parliament but not finally disposed of to be advanced in the present session without further amendment or debate to the stage which they had reached.

These Bills, together with other important measures, will be submitted to you as early as practicable.

I now leave you to your deliberations and pray that under Divine Providence your labours may advance the welfare of the State.

Which being concluded, a copy of the Speech was delivered to the President, and a copy to Mr. Speaker, and His Excellency the Governor left the Chamber.

The Legislative Assembly then withdrew.

3. The President took the Chair and read the Prayer.

4. PRIVILEGE BILL.—LOCAL GOVERNMENT (WARRNAMBOOL) BILL.—On the motion of the Honorable P. T. Byrnes, and after debate, leave was given to bring in a Bill to enable the Council of the City of Warrnambool to sell the Gas Undertaking of the said Council, and the said Bill was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

5. COMMITTEE OF ELECTIONS AND QUALIFICATIONS.—The President laid upon the Table the following Warrant appointing the Committee of Elections and Qualifications :—

LEGISLATIVE COUNCIL—VICTORIA.

Pursuant to the provisions of *The Constitution Act Amendment Act 1928*, I do hereby appoint—

The Honorable William James Beckett,  
The Honorable Gilbert Lawrence Chandler,  
The Honorable Percival Pennell Inchbold,  
The Honorable Sir James Kennedy,  
The Honorable Patrick John Kennelly,  
The Honorable Gordon Stewart McArthur, and  
The Honorable Allan Elliott McDonald

to be members of a Committee to be called “ The Committee of Elections and Qualifications.”

Given under my hand this thirteenth day of November, One thousand nine hundred and fifty-one.

CLIFDEN EAGER,

President of the Legislative Council.

6. TEMPORARY CHAIRMEN OF COMMITTEES.—The President laid upon the Table the following Warrant nominating the Temporary Chairmen of Committees :—

LEGISLATIVE COUNCIL—VICTORIA.

Pursuant to the provisions of the Standing Order of the Legislative Council numbered 160, I do hereby nominate—

The Honorable Sir William Angliss,  
The Honorable Gilbert Lawrence Chandler,  
The Honorable Paul Jones, and  
The Honorable William MacAulay

to act as Temporary Chairmen of Committees whenever requested to do so by the Chairman of Committees or whenever the Chairman of Committees is absent.

Given under my hand this thirteenth day of November, One thousand nine hundred and fifty-one.

CLIFDEN EAGER,

President of the Legislative Council.

7. LEAVE OF ABSENCE.—The Honorable F. M. Thomas moved, by leave, That leave of absence be granted to the Honorable William Slater for three months on account of urgent private business.

Question—put and resolved in the affirmative.

The Honorable I. A. Swinburne moved, by leave, That leave of absence be granted to the Honorable William MacAulay for three months on account of urgent private business.

Question—put and resolved in the affirmative.

8. PAPERS.—The Honorable P. T. Byrnes presented, by command of His Excellency the Governor—

Education—Report of the Minister of Education for the year 1949-50.

Ordered to lie on the Table.

The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—

Motor Car Acts—Amendment of Regulations.

Motor Car (Third-Party Insurance) Act 1939 and Workers' Compensation Act 1928—  
Report, Profit and Loss Account, and Balance-sheet for the year 1950-51 of—

State Accident Insurance Office.

State Motor Car Insurance Office.

Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances—

Professional Division—Department of Agriculture.

Technical and General Division—

Department of Chief Secretary.

Department of Health.

Temporary Employees—Department of Health.

Railways Act 1928—Report of the Victorian Railways Commissioners for the quarter ended 30th June, 1951.

Road Traffic Act 1935—Amendment of Regulations—Major Streets.

Teaching Service Act 1946—Amendment of Teaching Service (Teachers Tribunal) Regulations (two papers).

Workers' Compensation Acts—Amendment of Workers' Compensation Regulations 1942.

9. SPEECH OF HIS EXCELLENCY THE GOVERNOR.—The President reported the Speech of His Excellency the Governor.

10. ADJOURNMENT.—The Honorable P. T. Byrnes moved, That the Council, at its rising, adjourn until Tuesday next at half-past Four o'clock.

Question—put and resolved in the affirmative.

And then the Council, at fifty-eight minutes past Eleven o'clock in the forenoon, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*





# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 1.

TUESDAY, 20TH NOVEMBER, 1951.

NOTICES OF MOTION :—

*Government Business.*

1. The Hon. P. T. BYRNES : To move, That Tuesday, Wednesday and Thursday in each week be the days on which the Council shall meet for the despatch of business during the present Session, and that half-past Four o'clock be the hour of meeting on each day ; that on Tuesday and Thursday in each week the transaction of Government business shall take precedence of all other business ; and that on Wednesday in each week Private Members' business shall take precedence of Government business ; and that no new business be taken after half-past Ten o'clock.
2. The Hon. P. T. BYRNES : To move, That the Honorables the President, Sir William Angliss, W. J. Beckett, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, C. P. Gartside, T. Harvey, W. MacAulay, and R. C. Rankin be members of the Select Committee on the Standing Orders of the House ; three to be the quorum.
3. The Hon. P. T. BYRNES : To move, That the Honorables Sir William Angliss, P. T. Byrnes, E. P. Cameron, P. Jones, and G. J. Tuckett be members of the House Committee.
4. The Hon. P. T. BYRNES : To move, That the Honorables the President, P. L. Coleman, P. P. Inchbold, R. C. Rankin, and W. Slater be members of the Joint Committee to manage the Library.
5. The Hon. P. T. BYRNES : To move, That the Honorables the President, G. L. Chandler, J. W. Galbally, C. E. Isaac, J. F. Kittson, Sir George Lansell, W. MacAulay, C. E. McNally, R. C. Rankin, and F. M. Thomas be members of the Printing Committee ; three to be the quorum.
6. The Hon. P. T. BYRNES : To move, That the Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters be members of the Statute Law Revision Committee.
7. The Hon. P. T. BYRNES : To move, That he have leave to bring in a Bill to amend the Law relating to the Geelong Harbor Trust.
8. The Hon. I. A. SWINBURNE : To move, That he have leave to bring in a Bill to make Further Provision with respect to the Service of Process in certain Cases in Courts of Petty Sessions.
9. The Hon. P. T. BYRNES : To move, That he have leave to bring in a Bill to amend Section Nine hundred and one of the *Local Government Act 1946*.

*General Business.*

1. The Hon. J. W. GALBALLY : To move, That he have leave to bring in a Bill to amend the Law relating to Contributory Negligence and for purposes connected therewith.
2. The Hon. A. M. FRASER : To move, That he have leave to bring in a Bill to amend the Law relating to Civil Liabilities and Rights of the Crown and to Civil Proceedings by and against the Crown, and for other purposes.

ORDER OF THE DAY :—

*Government Business.*

1. LOCAL GOVERNMENT (WARRNAMBOOL) BILL—(*Hon. P. T. Byrnes*)—Second reading.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

### SESSIONAL COMMITTEE.

ELECTIONS AND QUALIFICATIONS.—(Appointed by Mr. President's Warrant, 13th November, 1951).—  
The Honorables W. J. Beckett, G. L. Chandler, P. P. Inchbold, Sir James Kennedy, P. J. Kennelly, G. S. McArthur, and A. E. McDonald.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 2.

WEDNESDAY, 21ST NOVEMBER, 1951.

### *General Business.*

#### NOTICES OF MOTION :—

- \*1. The Hon. F. M. THOMAS : To move, That he have leave to bring in a Bill to amend the Police Offences Acts and for other purposes.
- \*2. The Hon. SIR JAMES KENNEDY : To move, That he have leave to bring in a Bill relating to the Legislative Council.
- \*3. The Hon. A. G. WARNER : To move, That he have leave to bring in a Bill to amend the Landlord and Tenant Acts.

#### ORDER OF THE DAY :—

- \*1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading.

### *Government Business.*

#### NOTICES OF MOTION :—

- \*1. The Hon. P. T. BYRNES : To move, That he have leave to bring in a Bill relating to the Borrowing Powers of the Melbourne Harbor Trust Commissioners.
- \*2. The Hon. P. T. BYRNES : To move, That he have leave to bring in a Bill to postpone the time for taking the Poll on a Proposal to adopt Rating on Unimproved Values in the Shire of Woorayl, and for other purposes connected therewith.
- \*3. The Hon. P. T. BYRNES : To move, That he have leave to bring in a Bill to repeal Section Thirty-four and Sub-section (2) of Section Thirty-eight of and the Second Schedule to the *Licensing Act 1928*.

#### ORDERS OF THE DAY :—

- 1. LOCAL GOVERNMENT (WARRNAMBOOL) BILL—(*Hon. P. T. Byrnes*)—Second reading.
- \*2. GEELONG HARBOR TRUST (AMENDMENT) BILL—(*Hon. P. T. Byrnes*)—To be further considered in Committee.
- \*3. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.
- \*4. FIREARMS BILL—(*from Assembly—Hon. P. T. Byrnes*)—To be further considered in Committee.
- \*5. CHARITABLE TRUSTS BILL—(*from Assembly—Hon. P. P. Inchbold*)—To be committed.
- \*6. FIREARMS OFFENCES BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
- \*7. WORKERS COMPENSATION BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading.
- \*8. HEALTH (RADIOLOGICAL EXAMINATIONS) BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

### SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—(Appointed by Mr. President's Warrant, 13th November, 1951).—The Honorables W. J. Beckett, G. L. Chandler, P. P. Inchbold, Sir James Kennedy, P. J. Kennelly, G. S. McArthur, and A. E. McDonald.
- STANDING ORDERS.—(Appointed 20th November, 1951).—The Honorables the President, Sir William Angliss, W. J. Beckett, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, C. P. Gartside, T. Harvey, W. MacAulay, and R. C. Rankin.
- HOUSE (JOINT).—(Appointed 20th November, 1951).—The Honorables the President (*ex officio*), Sir William Angliss, P. T. Byrnes, E. P. Cameron, P. Jones, and G. J. Tuckett.
- LIBRARY (JOINT).—(Appointed 20th November, 1951).—The Honorables the President, P. L. Coleman, P. P. Inchbold, R. C. Rankin, and W. Slater.
- PRINTING.—(Appointed 20th November, 1951).—The Honorables the President, G. L. Chandler, J. W. Galbally, C. E. Isaac, J. F. Kittson, Sir George Lansell, W. MacAulay, C. E. McNally, R. C. Rankin, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—(Appointed 20th November, 1951).—The Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters.

\* *Notifications to which an asterisk (\*) is prefixed appear for the first time.*

## VICTORIA.

## LEGISLATIVE COUNCIL.

## MINUTES OF THE PROCEEDINGS.

## No. 2.

TUESDAY, 20TH NOVEMBER, 1951.

1. The President took the Chair and read the Prayer.
2. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—
  - Adult Education Act 1946—Report of the Council of Adult Education for the year 1950-51.
  - Dairy Products Acts—Report of the Victorian Dairy Products Board for the six months ended 30th June, 1951.
  - Gas Regulation Act 1933—Gas Regulation (Emergency Powers) Regulations (No. 104).
  - Motor Car Acts—Amendment of Motor Car Regulations 1931.
  - Public Service Act 1946—
    - Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances (ten papers).
    - Report of the Public Service Board for the year 1949-50.
  - Soil Conservation and Land Utilization Act 1947—Report of the Soil Conservation Authority for the year 1950-51.
  - State Development Act 1941—Report of the State Development Committee on—
    - National Parks.
    - Tourist Facilities—Tourist Authority and Accommodation.
3. POSTPONEMENT OF NOTICE OF MOTION.—Ordered—That the consideration of Notice of Motion, Government Business, No. 1, be postponed until after Notices of Motion, General Business.
4. STANDING ORDERS COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables the President, Sir William Angliss, W. J. Beckett, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, C. P. Gartside, T. Harvey, W. MacAulay, and R. C. Rankin be members of the Select Committee on the Standing Orders of the House; three to be the quorum.
 

Question—put and resolved in the affirmative.
5. HOUSE COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables Sir William Angliss, P. T. Byrnes, E. P. Cameron, P. Jones, and G. J. Tuckett be members of the House Committee.
 

Question—put and resolved in the affirmative.
6. LIBRARY COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables the President, P. L. Coleman, P. P. Inchbold, R. C. Rankin, and W. Slater be members of the Joint Committee to manage the Library.
 

Question—put and resolved in the affirmative.
7. PRINTING COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables the President, G. L. Chandler, J. W. Galbally, C. E. Isaac, J. F. Kittson, Sir George Lansell, W. MacAulay, C. E. McNally, R. C. Rankin, and F. M. Thomas be members of the Printing Committee; three to be the quorum.
 

Question—put and resolved in the affirmative.
8. STATUTE LAW REVISION COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters be members of the Statute Law Revision Committee.
 

Question—put and resolved in the affirmative.

9. GEELONG HARBOR TRUST (AMENDMENT) BILL.—On the motion of the Honorable P. P. Inchbold for the Honorable P. T. Byrnes, leave was given to bring in a Bill to amend the Law relating to the Geelong Harbor Trust.

The Honorable P. P. Inchbold moved, pursuant to the Temporary Standing Order for the Restoration of Lapsed Bills, That this Bill be advanced to the stage it had reached in this House in the previous Session, viz.:—That the Bill had been committed to a Committee of the whole.

Question—put and resolved in the affirmative.

On the motion of the Honorable P. P. Inchbold the Bill was read a first time and ordered to be printed, and was read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin reported that the Committee had made progress in the Bill, and asked leave to sit again.

Resolved—That the Council will, later this day, again resolve itself into the said Committee.

10. JUSTICES (SERVICE OF PROCESS) BILL.—On the motion of the Honorable P. P. Inchbold for the Honorable I. A. Swinburne, leave was given to bring in a Bill to make Further Provision with respect to the Service of Process in certain Cases in Courts of Petty Sessions.

The Honorable P. P. Inchbold moved, pursuant to the Temporary Standing Order for the Restoration of Lapsed Bills, That this Bill be advanced to the stage it had reached in this House in the previous Session, viz.:—That the Bill had been agreed to and ordered to be transmitted to the Assembly and their concurrence therein desired.

Question—put and resolved in the affirmative.

On the motion of the Honorable P. P. Inchbold the Bill was read a first time and ordered to be printed, and was read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be transmitted to the Assembly with a Message desiring their concurrence therein.

11. LOCAL GOVERNMENT (IMPORTED HOUSES) BILL.—On the motion of the Honorable P. P. Inchbold for the Honorable P. T. Byrnes, leave was given to bring in a Bill to amend Section Nine hundred and one of the *Local Government Act 1946*.

The Honorable P. P. Inchbold moved, pursuant to the Temporary Standing Order for the Restoration of Lapsed Bills, That this Bill be advanced to the stage it had reached in this House in the previous Session, viz.:—That the Bill had been agreed to and ordered to be transmitted to the Assembly and their concurrence therein desired.

Debate ensued.

Question—put and resolved in the affirmative.

On the motion of the Honorable P. P. Inchbold the Bill was read a first time and ordered to be printed, and was read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be transmitted to the Assembly with a Message desiring their concurrence therein.

12. WRONGS (CONTRIBUTORY NEGLIGENCE) BILL.—On the motion of the Honorable J. W. Galbally, leave was given to bring in a Bill to amend the Law relating to Contributory Negligence and for purposes connected therewith.

The Honorable J. W. Galbally moved, pursuant to the Temporary Standing Order for the Restoration of Lapsed Bills, That this Bill be advanced to the stage it had reached in this House in the previous Session, viz.:—That the Bill had been agreed to and ordered to be transmitted to the Assembly and their concurrence therein desired.

Question—put and resolved in the affirmative.

On the motion of the Honorable J. W. Galbally the Bill was read a first time and ordered to be printed, and was read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be transmitted to the Assembly with a Message desiring their concurrence therein.

13. CROWN PROCEEDINGS BILL.—On the motion of the Honorable A. M. Fraser, leave was given to bring in a Bill to amend the Law relating to Civil Liabilities and Rights of the Crown and to Civil Proceedings by and against the Crown, and for other purposes, and the said Bill was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
14. DAYS OF BUSINESS.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes, moved That Tuesday, Wednesday, and Thursday in each week be the days on which the Council shall meet for the despatch of business during the present Session, and that half-past Four o'clock be the hour of meeting on each day; that on Tuesday and Thursday in each week the transaction of Government business shall take precedence of all other business; and that on Wednesday in each week Private Members' business shall take precedence of Government business; and that no new business be taken after half-past Ten o'clock.

Question—put and resolved in the affirmative.

15. ADDRESS IN REPLY TO SPEECH OF HIS EXCELLENCY THE GOVERNOR.—The Honorable C. E. McNally moved, That the Council agree to the following Address to His Excellency the Governor in reply to His Excellency's Opening Speech:—

MAY IT PLEASE YOUR EXCELLENCY—

We, the Legislative Council of Victoria, in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the gracious Speech which you have been pleased to address to Parliament.

Debate ensued.

Question—put and resolved in the affirmative.

The Honorable P. T. Byrnes moved, That the Address be presented to His Excellency the Governor by the President and such Members of the Council as may wish to accompany him.

Question—put and resolved in the affirmative.

16. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled "*An Act relating to Long Service Leave for Officers and Employés of the Metropolitan Fire Brigades Board and the Country Fire Authority*" and desiring the concurrence of the Council therein.

On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time.

The Honorable I. A. Swinburne moved, pursuant to the Temporary Standing Order for the Restoration of Lapsed Bills, That this Bill be advanced to the stage it had reached in this House in the previous Session, viz.:—That it had been read a second time.

Question—put and resolved in the affirmative.

On the motion of the Honorable I. A. Swinburne, the Bill was ordered to be printed, and was read a second time.

Ordered—That the Bill be committed to a Committee of the whole on the next day of meeting.

17. FIREARMS BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled "*An Act to amend and consolidate the Law relating to Firearms*" and desiring the concurrence of the Council therein.

On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time.

The Honorable P. T. Byrnes moved, pursuant to the Temporary Standing Order for the Restoration of Lapsed Bills, That this Bill be advanced to the stage it had reached in this House in the previous Session, viz.:—That the Bill had been committed to a Committee of the whole.

Question—put and resolved in the affirmative.

On the motion of the Honorable P. T. Byrnes, the Bill was ordered to be printed, and was read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable W. MacAulay reported that the Committee had made progress in the Bill, and asked leave to sit again.

Resolved—That the Council will, on the next day of meeting, again resolve itself into the said Committee.

18. CHARITABLE TRUSTS BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled "*An Act relating to certain Charitable Trusts*" and desiring the concurrence of the Council therein.

On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time.

The Honorable P. P. Inchbold moved, pursuant to the Temporary Standing Order for the Restoration of Lapsed Bills, That this Bill be advanced to the stage it had reached in this House in the previous Session, viz.:—That it had been read a second time.

Question—put and resolved in the affirmative.

On the motion of the Honorable P. P. Inchbold, the Bill was ordered to be printed, and was read a second time.

Ordered—That the Bill be committed to a Committee of the whole on the next day of meeting.

19. **FIREARMS OFFENCES BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to make provision with respect to Offences involving the Unlawful Use of Firearms or Imitation Firearms and for other purposes*” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. T. Byrnes for the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

20. **WORKERS COMPENSATION BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to consolidate the Law relating to Compensation to Workers for Injuries arising out of or in the Course of their Employment*” and desiring the concurrence of the Council therein.

On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

21. **HEALTH (RADIOLOGICAL EXAMINATIONS) BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to make Provision with respect to Radiological Examinations for Pulmonary Tuberculosis*” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

And then the Council, at two minutes past Ten o'clock, adjourned until to-morrow.

ROY S. SARAH,  
Clerk of the Legislative Council.

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### No. 3.

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WEDNESDAY, 21ST NOVEMBER, 1951.

1. The President took the Chair and read the Prayer.

2. **PAPERS.**—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—

Land Act 1928—Schedule of country lands proposed to be sold by public auction.

Marketing of Primary Products Act 1935—

Proclamation declaring that Potatoes shall become the property of the Potato Marketing Board for a period of two years.

Regulations—

Amendment of Egg and Egg Pulp Marketing Board Regulations 1941.

Onion Marketing Board—Fortieth period of time for the computation of or accounting for the net proceeds of the sale of onions.

3. **POLICE OFFENCES (AMENDMENT) BILL.**—On the motion of the Honorable F. M. Thomas, leave was given to bring in a Bill to amend the Police Offences Acts and for other purposes, and the said Bill was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

4. **THE CONSTITUTION (LEGISLATIVE COUNCIL) BILL.**—On the motion of the Honorable Sir James Kennedy, and after debate, leave was given to bring in a Bill relating to the Legislative Council, and the said Bill was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

5. **LANDLORD AND TENANT (AMENDMENT) BILL.**—On the motion of the Honorable A. G. Warner, leave was given to bring in a Bill to amend the Landlord and Tenant Acts, and the said Bill was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

6. **POSTPONEMENT OF ORDER OF THE DAY.**—Ordered—That the consideration of the Order of the Day, General Business, be postponed until the next day of meeting.

7. **MELBOURNE HARBOR TRUST BILL.**—On the motion of the Honorable P. T. Byrnes, leave was given to bring in a Bill relating to the Borrowing Powers of the Melbourne Harbor Trust Commissioners, and the said Bill was read a first time and ordered to be printed and, by leave, to be read a second time later this day.

8. **WOORAYL (UNIMPROVED RATING POLL) BILL.**—On the motion of the Honorable P. T. Byrnes, leave was given to bring in a Bill to postpone the time for taking the Poll on a Proposal to adopt Rating on Unimproved Values in the Shire of Woorayl, and for other purposes connected therewith, and the said Bill was read a first time and ordered to be printed and, by leave, to be read a second time later this day.
9. **LICENSING (MILDURA) BILL.**—On the motion of the Honorable P. T. Byrnes, leave was given to bring in a Bill to repeal Section Thirty-four and Sub-section (2) of Section Thirty-eight of and the Second Schedule to the *Licensing Act* 1928, and the said Bill was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
10. **POSTPONEMENT OF ORDERS OF THE DAY.**—Ordered—That the consideration of Orders of the day, Government Business, Nos. 1 to 4 inclusive, be postponed until later this day.
11. **CHARITABLE TRUSTS BILL.**—This Bill was, according to Order, committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable R. C. Rankin reported that the Committee had made progress in the Bill, and asked leave to sit again.  
Resolved—That the Council will, on the next day of meeting, again resolve itself into the said Committee.
12. **FIREARMS OFFENCES BILL.**—The Order of the Day for the second reading of this Bill having been read, the Honorable I. A. Swinburne moved, That this Bill be now read a second time.  
The Honorable W. J. Beckett moved, That the debate be now adjourned.  
Question—That the debate be now adjourned—put and resolved in the affirmative.  
Ordered—That the debate be adjourned until the next day of meeting.
13. **MELBOURNE HARBOR TRUST BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill with an amendment, the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.  
Ordered—That the Bill be transmitted to the Assembly with a Message desiring their concurrence therein.
14. **CHARITABLE TRUSTS BILL.**—The Honorable P. T. Byrnes moved, by leave, That the proposals contained in this Bill be referred to the Statute Law Revision Committee for consideration and report.  
Question—put and resolved in the affirmative.
15. **POSTPONEMENT OF ORDER OF THE DAY.**—Ordered—That the consideration of Order of the Day, Government Business, No. 7, be postponed until the next day of meeting.
16. **HEALTH (RADIOLOGICAL EXAMINATIONS) BILL.**—The Order of the Day for the second reading of this Bill having been read, the Honorable P. P. Inchbold moved, That this Bill be now read a second time.  
The Honorable W. J. Beckett moved, That the debate be now adjourned.  
Question—That the debate be now adjourned—put and resolved in the affirmative.  
Ordered—That the debate be adjourned until the next day of meeting.
17. **WOORAYL (UNIMPROVED RATING POLL) BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable P. Jones having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be transmitted to the Assembly with a Message desiring their concurrence therein.
18. **ADJOURNMENT.**—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.  
Question—put and resolved in the affirmative.  
The Honorable P. T. Byrnes moved, That the House do now adjourn.  
Debate ensued.  
Question—put and resolved in the affirmative.

And then the Council, at thirty-two minutes past Eight o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*





MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 3.

TUESDAY, 27<sup>TH</sup> NOVEMBER, 1951.

### *Government Business.*

#### ORDERS OF THE DAY:—

- \*1. LICENSING (MILDURA) BILL—(*Hon. P. T. Byrnes*)—Second reading.
2. FIREARMS OFFENCES BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading—*Resumption of debate (Hon. W. J. Beckett)*.
- ✓ 3. WORKERS COMPENSATION BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading.
4. HEALTH (RADIOLOGICAL EXAMINATIONS) BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading—*Resumption of debate (Hon. W. J. Beckett)*.
5. LOCAL GOVERNMENT (WARRNAMBOOL) BILL—(*Hon. P. T. Byrnes*)—Second reading.
6. GEELONG HARBOR TRUST (AMENDMENT) BILL—(*Hon. P. T. Byrnes*)—To be further considered in Committee.
7. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.
8. FIREARMS BILL—(*from Assembly—Hon. P. T. Byrnes*)—To be further considered in Committee.
9. CHARITABLE TRUSTS BILL—(*from Assembly—Hon. P. P. Inchbold*)—To be further considered in Committee.

### *General Business.*

#### ORDERS OF THE DAY:—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading.
- \*2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
- \*3. THE CONSTITUTION (LEGISLATIVE COUNCIL) BILL—(*Hon. Sir James Kennedy*)—Second reading.
- \*4. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—Second reading.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

### SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—(Appointed by Mr. President's Warrant, 13th November, 1951).—The Honorables W. J. Beckett, G. L. Chandler, P. P. Inchbold, Sir James Kennedy, P. J. Kennelly, G. S. McArthur, and A. E. McDonald.
- STANDING ORDERS.—(Appointed 20th November, 1951).—The Honorables the President, Sir William Angliss, W. J. Beckett, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, C. P. Gartside, T. Harvey, W. MacAulay, and R. C. Rankin.
- HOUSE (JOINT).—(Appointed 20th November, 1951).—The Honorables the President (*ex officio*), Sir William Angliss, P. T. Byrnes, E. P. Cameron, P. Jones, and G. J. Tuckett.
- LIBRARY (JOINT).—(Appointed 20th November, 1951).—The Honorables the President, P. L. Coleman, P. P. Inchbold, R. C. Rankin, and W. Slater.
- PRINTING.—(Appointed 20th November, 1951).—The Honorables the President, G. L. Chandler, J. W. Galbally, C. E. Isaac, J. F. Kittson, Sir George Lansell, W. MacAulay, C. E. McNally, R. C. Rankin, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—(Appointed 20th November, 1951).—The Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters

\* *Notifications to which an asterisk (\*) is prefixed appear for the first time.*

By Authority: J. J. GOURLEY, Government Printer, Melbourne.

MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 4.

WEDNESDAY, 28TH NOVEMBER, 1951.

### *Question.*

- \*1. The Hon. E. P. CAMERON: To ask the Honorable the Commissioner of Public Works—
- (a) What sum was expended in the year 1950-51 on renovations and additions to improve conditions at the Kew Mental Hospital.
  - (b) What sum does the Government propose to spend at the institution in the year 1951-52, and for what purposes.

### *General Business.*

#### ORDERS OF THE DAY:—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading.
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
3. THE CONSTITUTION (LEGISLATIVE COUNCIL) BILL—(*Hon. Sir James Kennedy*)—Second reading.
4. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—Second reading.

### *Government Business.*

#### NOTICE OF MOTION:—

- \*1. The Hon. P. T. BYRNES: To move, That so much of the Sessional Orders as provides that the hour of meeting on Thursday in each week shall be half-past Four o'clock be suspended during the remainder of this year and that during the remainder of this year the hour of meeting on Thursdays shall be Eleven o'clock.

#### ORDERS OF THE DAY:—

- \*1. FRIENDLY SOCIETIES (AMENDMENT) BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
- \*2. STATUTE LAW REVISION BILL—(*from Assembly—Hon. T. Harvey*)—Second reading.
- \*3. PUBLIC WORKS LOAN APPLICATION BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
- \*4. RAILWAY LOAN APPLICATION BILL—(*from Assembly—Hon. T. Harvey*)—Second reading.
5. LICENSING (MILDURA) BILL—(*Hon. P. T. Byrnes*)—Second reading—*Resumption of debate—(Hon. Sir James Kennedy)*.
6. LOCAL GOVERNMENT (WARRNAMBOOL) BILL—(*Hon. P. T. Byrnes*)—Second reading.
7. GEELONG HARBOR TRUST (AMENDMENT) BILL—(*Hon. P. T. Byrnes*)—To be further considered in Committee.
- \*8. SOLICITOR-GENERAL BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
- \*9. REVENUE DEFICIT FUNDING BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
- \*10. JUSTICES (SERVICE OF PROCESS) BILL—AMENDMENTS OF THE ASSEMBLY—To be considered.
- \*11. MELBOURNE AND METROPOLITAN BOARD OF WORKS (BORROWING POWERS) BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
12. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.
13. FIREARMS BILL—(*from Assembly—Hon. P. T. Byrnes*)—To be further considered in Committee.
14. CHARITABLE TRUSTS BILL—(*from Assembly—Hon. P. P. Inchbold*)—To be further considered in Committee.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

## SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.**—(Appointed by Mr. President's Warrant, 13th November, 1951).—The Honorables W. J. Beckett, G. L. Chandler, P. P. Inchbold, Sir James Kennedy, P. J. Kennelly, G. S. McArthur, and A. E. McDonald.
- STANDING ORDERS.**—(Appointed 20th November, 1951).—The Honorables the President, Sir William Angliss, W. J. Beckett, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, C. P. Gartside, T. Harvey, W. MacAulay, and R. C. Rankin.
- HOUSE (JOINT).**—(Appointed 20th November, 1951).—The Honorables the President (*ex officio*), Sir William Angliss, P. T. Byrnes, E. P. Cameron, P. Jones, and G. J. Tuckett.
- LIBRARY (JOINT).**—(Appointed 20th November, 1951).—The Honorables the President, P. L. Coleman, P. P. Inchbold, R. C. Rankin, and W. Slater.
- PRINTING.**—(Appointed 20th November, 1951).—The Honorables the President, G. L. Chandler, J. W. Galbally, C. E. Isaac, J. F. Kittson, Sir George Lansell, W. MacAulay, C. E. McNally, R. C. Rankin, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).**—(Appointed 20th November, 1951).—The Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters.

MR. PRESIDENT TAKES THE CHAIR AT A QUARTER PAST ELEVEN O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 5.

THURSDAY, 29<sup>TH</sup> NOVEMBER, 1951.

### *Government Business.*

#### NOTICE OF MOTION :—

- \*1. The Hon. P. T. BYRNES: To move, That so much of the Sessional Orders as provides that the hour of meeting on Tuesday and Wednesday in each week shall be half-past Four o'clock be suspended during the month of December and that during the month of December the hour of meeting on Tuesdays shall be Three o'clock and on Wednesday Two o'clock.

#### ORDERS OF THE DAY :—

1. LICENSING (MILDURA) BILL—(*Hon. P. T. Byrnes*)—Second reading—*Resumption of debate*—(*Hon. Sir James Kennedy*).
2. GEELONG HARBOR TRUST (AMENDMENT) BILL—(*Hon. P. T. Byrnes*)—To be further considered in Committee.
- \*3. JUDGES AND PUBLIC OFFICERS SALARIES BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading.
4. LOCAL GOVERNMENT (WARRNAMBOOL) BILL—(*Hon. P. T. Byrnes*)—Second reading.
5. SOLICITOR-GENERAL BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
6. REVENUE DEFICIT FUNDING BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
7. JUSTICES (SERVICE OF PROCESS) BILL—AMENDMENTS OF THE ASSEMBLY—To be considered.
8. MELBOURNE AND METROPOLITAN BOARD OF WORKS (BORROWING POWERS) BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
- \*9. WHEAT INDUSTRY STABILIZATION (AMENDMENT) BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
10. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.
11. FIREARMS BILL—(*from Assembly—Hon. P. T. Byrnes*)—To be further considered in Committee.
12. CHARITABLE TRUSTS BILL—(*from Assembly—Hon. P. P. Inchbold*)—To be further considered in Committee.

### *General Business.*

#### ORDERS OF THE DAY :—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading—*Resumption of debate*—(*Hon. W. J. Beckett*).
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
3. THE CONSTITUTION (LEGISLATIVE COUNCIL) BILL—(*Hon. Sir James Kennedy*)—Second reading—*Resumption of debate*—(*Hon. W. J. Beckett*).
4. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—Second reading—*Resumption of debate*—(*Hon. W. J. Beckett*).

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

TUESDAY, 4TH DECEMBER.

*Government Business.*

ORDER OF THE DAY:—

1. PUBLIC WORKS LOAN APPLICATION BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading—Resumption of debate (Hon. P. J. Kennelly).

ROY S. SARAH,  
Clerk of the Legislative Council.

CLIFDEN EAGER,  
President.

SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—(Appointed by Mr. President's Warrant, 13th November, 1951).—The Honorables W. J. Beckett, G. L. Chandler, P. P. Inchbold, Sir James Kennedy, P. J. Kennelly, G. S. McArthur, and A. E. McDonald.
- STANDING ORDERS.—(Appointed 20th November, 1951).—The Honorables the President, Sir William Angliss, W. J. Beckett, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, C. P. Gartside, T. Harvey, W. MacAulay, and R. C. Rankin.
- HOUSE (JOINT).—(Appointed 20th November, 1951).—The Honorables the President (*ex officio*), Sir William Angliss, P. T. Byrnes, E. P. Cameron, P. Jones, and G. J. Tuckett.
- LIBRARY (JOINT).—(Appointed 20th November, 1951).—The Honorables the President, P. L. Coleman, P. P. Inchbold, R. C. Rankin, and W. Slater.
- PRINTING.—(Appointed 20th November, 1951).—The Honorables the President, G. L. Chandler, J. W. Galbally, C. E. Isaac, J. F. Kittson, Sir George Lansell, W. MacAulay, C. E. McNally, R. C. Rankin, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—(Appointed 20th November, 1951).—The Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters.

## VICTORIA.

## LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS.

## No. 4.

TUESDAY, 27<sup>TH</sup> NOVEMBER, 1951.

1. The President took the Chair and read the Prayer.
2. PUBLIC WORKS LOAN APPLICATION BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to sanction the Issue and Application of Loan Monies for Public Works and other Purposes*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
3. RAILWAY LOAN APPLICATION BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to sanction the Issue and Application of Loan Moneys for Works and Purposes relating to Railways, and for other purposes*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable T. Harvey, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
4. FRIENDLY SOCIETIES (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend Section Five of the ‘Friendly Societies Act 1928’*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
5. STATUTE LAW REVISION BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to revise the Statute Law and for other purposes*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable T. Harvey, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
6. MELBOURNE AND METROPOLITAN BOARD OF WORKS (BORROWING POWERS) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to increase the Borrowing Powers of the Melbourne and Metropolitan Board of Works*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
7. JUSTICES (SERVICE OF PROCESS) BILL.—The President announced the receipt of a Message from the Assembly returning this Bill and acquainting the Council that they have agreed to the same with amendments and desiring the concurrence of the Council therein.  
Ordered—That the amendments made by the Assembly in this Bill be considered later this day.
8. WRONGS (CONTRIBUTORY NEGLIGENCE) BILL.—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to this Bill without amendment.

9. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—

Apprenticeship Acts—Amendment of Regulations—

Aircraft Trades Regulations (No. 1).  
 Boilermaking Trades Apprenticeship Regulations.  
 Boot Trades Regulations.  
 Bread Trade Apprenticeship Regulations.  
 Bricklaying Trade Regulations (No. 1).  
 Butchering Trades Apprenticeship Regulations.  
 Carpentry and Joinery Regulations (No. 1).  
 Cooking Trade Apprenticeship Regulations.  
 Dental Mechanic Trade Regulations (No. 1).  
 Electrical Trades Apprenticeship Regulations.  
 Electroplating Trade Regulations (No. 1).  
 Engineering Trades Apprenticeship Regulations.  
 Fibrous Plastering Trade Apprenticeship Regulations.  
 Ladies' and/or Men's Hairdressing Trades Regulations (No. 1).  
 Motor Mechanics Trades Apprenticeship Regulations.  
 Moulding Trades Apprenticeship Regulations.  
 Painting Trades Apprenticeship Regulations.  
 Pastrycooking Trade Apprenticeship Regulations.  
 Plastering Regulations (No. 2).  
 Plumbing and Gasfitting Trades Regulations.  
 Printing and Allied Trades Apprenticeship Regulations.  
 Printing Trades (Country) Apprenticeship Regulations.  
 Sheet Metal Trade Regulations (No. 2).  
 Watch and/or Clock Making Trades Regulations (No. 1).

Country Fire Authority Acts—Amendment of Regulations (two papers).

Explosives Act 1928—Orders in Council relating to—

Classification of Explosives—Class 3—Nitro-Compound.  
 Definition of Explosives—Class 3—Nitro-Compound.

Gas Regulation Act 1933—Gas Regulation (Emergency Powers) Regulations (No. 105).

Land Act 1928—Certificates of the Minister of Education relating to the proposed compulsory resumption of land for the purposes of schools at Clayton and Sandringham.

Local Government Act 1946—Proposed amendments of the Uniform Building Regulations.

Motor Car Acts—Amendment of Motor Car Regulations 1931.

Poisons Acts—Pharmacy Board of Victoria—Proclamations amending—

Second Schedule to Poisons Act 1928 (two papers).  
 Sixth Schedule to Poisons Act 1928.

Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances (two papers).

Public Works Committee Acts—Fifteenth General Report of the Public Works Committee.

Town and Country Planning Act 1944—

Latrobe Valley Sub-Regional Planning Scheme 1949.  
 Report of the Town and Country Planning Board for the year 1950-51.

10. LICENSING (MILDURA) BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable P. T. Byrnes moved, That this Bill be now read a second time.

Debate ensued.

The Honorable Sir James Kennedy moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and resolved in the affirmative.

Ordered—That the debate be adjourned until the next day of meeting.

11. FIREARMS OFFENCES BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put, was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.



12. **WORKERS COMPENSATION BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
The Honorable I. A. Swinburne moved, That the words “amend and” be inserted before the word “consolidate” in the Title of the Bill.  
Question—put and resolved in the affirmative.  
Question—That the Title of the Bill be—  
“*An Act to amend and consolidate the Law relating to Compensation to Workers for Injuries arising out of or in the Course of their Employment*”—  
put and resolved in the affirmative.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same with an amended Title and desiring their concurrence therein.
13. **HEALTH (RADIOLOGICAL EXAMINATIONS) BILL.**—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was, after debate, read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
14. **REVENUE DEFICIT FUNDING BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to sanction the Issue and Application of Loan Monies for Transfer to the Consolidated Revenue to meet the Deficit therein for the Year 1950-51*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
15. **SOLICITOR-GENERAL BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act relating to the Office of Solicitor-General*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
16. **LOCAL GOVERNMENT (IMPORTED HOUSES) BILL.**—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to this Bill without amendment.
17. **WOORAYL (UNIMPROVED RATING POLL) BILL.**—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to this Bill without amendment.

And then the Council, at fifty-three minutes past Ten o'clock, adjourned until to-morrow.

ROY S. SARAH,  
Clerk of the Legislative Council.

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No. 5.

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WEDNESDAY, 28TH NOVEMBER, 1951.

1. The President took the Chair and read the Prayer.
2. **JUDGES AND PUBLIC OFFICERS SALARIES BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act relating to the Salaries of Judges and certain Public Officers*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

3. WHEAT INDUSTRY STABILIZATION (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend the ‘ Wheat Industry Stabilization Act 1948, and for other purposes’* ” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

4. MELBOURNE HARBOR TRUST BILL.—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to this Bill without amendment.

5. CROWN PROCEEDINGS BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable A. M. Fraser moved, That this Bill be now read a second time.

The Honorable W. J. Beckett moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and resolved in the affirmative.

Ordered—That the debate be adjourned until the next day of meeting.

6. CROWN PROCEEDINGS BILL.—The Honorable P. T. Byrnes moved, by leave, That the proposals contained in this Bill be referred to the Statute Law Revision Committee for consideration and report.

Question—put and resolved in the affirmative.

7. POSTPONEMENT OF ORDER OF THE DAY.—Ordered—That the consideration of Order of the Day, General Business, No. 2, be postponed until the next day of meeting.

8. THE CONSTITUTION (LEGISLATIVE COUNCIL) BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable Sir James Kennedy moved, That this Bill be now read a second time.

The Honorable W. J. Beckett moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and resolved in the affirmative.

Ordered—That the debate be adjourned until the next day of meeting.

9. LANDLORD AND TENANT (AMENDMENT) BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable A. G. Warner moved, That this Bill be now read a second time.

The Honorable W. J. Beckett moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and resolved in the affirmative.

Ordered—That the debate be adjourned until the next day of meeting.

10. ALTERATION OF SESSIONAL ORDERS.—The Honorable P. T. Byrnes moved, That so much of the Sessional Orders as provides that the hour of meeting on Thursday in each week shall be half-past Four o'clock be suspended during the remainder of this year and that during the remainder of this year the hour of meeting on Thursdays shall be Eleven o'clock.

Question—put and resolved in the affirmative.

11. FRIENDLY SOCIETIES (AMENDMENT) BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable W. MacAulay having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

12. STATUTE LAW REVISION BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable W. MacAulay having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

The Honorable T. Harvey moved, That the words “ and amend ” be inserted after the word “ revise ” in the Title of the Bill.

Question—put and resolved in the affirmative.

Question—That the Title of the Bill be—

“ *An Act to revise and amend the Statute Law and for other purposes* ”—

put and resolved in the affirmative.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same with an amended Title and desiring their concurrence therein.

13. PUBLIC WORKS LOAN APPLICATION BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable P. T. Byrnes moved, That this Bill be now read a second time.

Debate ensued.

The Honorable P. J. Kennelly moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and resolved in the affirmative.

Ordered—That the debate be adjourned until Tuesday next.

14. RAILWAY LOAN APPLICATION BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

And then the Council, at thirty-two minutes past Ten o'clock, adjourned until to-morrow.

ROY S. SARAH,  
Clerk of the Legislative Council.

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## No. 6.

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THURSDAY, 29<sup>TH</sup> NOVEMBER, 1951.

1. The President took the Chair and read the Prayer.
2. MARKETING OF PRIMARY PRODUCTS (EGG AND EGG PULP) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to Re-constitute and make further Provision with respect to the Egg and Egg Pulp Marketing Board, and for other purposes*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
3. STATUTE LAW REVISION COMMITTEE—CHARITABLE TRUSTS BILL.—The Honorable P. T. Byrnes brought up a Report from the Statute Law Revision Committee on this Bill.  
Ordered, after debate, to lie on the Table and be printed.
4. PAPERS.—The following Papers, pursuant to the direction of an Act of Parliament, were laid upon the Table by the Clerk:—  
Constitution Act Amendment Act 1928—Part IX.—  
Statement of Appointments and Alterations of Classification in the Department of the Legislative Assembly.  
Statements of persons temporarily employed in the Departments of the Legislative Council and the Legislative Assembly (two papers).
5. ALTERATION OF SESSIONAL ORDERS.—The Honorable P. T. Byrnes moved, That so much of the Sessional Orders as provides that the hour of meeting on Tuesday and Wednesday in each week shall be half-past Four o'clock be suspended during the month of December and that during the month of December the hour of meeting on Tuesdays shall be Three o'clock and on Wednesdays Two o'clock.  
Debate ensued.  
Question—put and resolved in the affirmative.
6. LICENSING (MILDURA) BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put, was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be transmitted to the Assembly with a Message desiring their concurrence therein.

7. **POSTPONEMENT OF ORDERS OF THE DAY.**—Ordered—That the consideration of Orders of the Day, Government Business, Nos. 2 to 11 inclusive, be postponed until later this day.
8. **CHARITABLE TRUSTS BILL.—DISCHARGE OF ORDER OF THE DAY.**—The Order of the Day for the further consideration of this Bill in Committee of the whole having been read, the Honorable P. P. Inchbold moved, That the said Order be discharged.  
Question—put and resolved in the affirmative.
9. **GEELONG HARBOR TRUST (AMENDMENT) BILL.**—The Order of the Day for the further consideration of this Bill in Committee of the whole having been read, the President left the Chair.  
House in Committee.  
The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill with an amendment, the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.  
Ordered—That the Bill be transmitted to the Assembly with a Message desiring their concurrence therein.
10. **WHEAT INDUSTRY STABILIZATION (AMENDMENT) BILL.**—The Order of the Day for the second reading of this Bill having been read, the Honorable P. T. Byrnes moved, That this Bill be now read a second time.  
The Honorable W. J. Beckett moved, That the debate be now adjourned.  
Question—That the debate be now adjourned—put and resolved in the affirmative.  
Ordered—That the debate be adjourned until later this day.
11. **REVENUE DEFICIT FUNDING BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable W. MacAulay having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
12. **SOLICITOR-GENERAL BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
13. **JUDGES AND PUBLIC OFFICERS SALARIES BILL.**—This Bill was, according to Order and after debate, read a second time with the concurrence of an absolute majority of the whole number of the Members of the Legislative Council, and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable R. C. Rankin reported that the Committee had made progress in the Bill, and asked leave to sit again.  
Resolved—That the Council will, on the next day of meeting, again resolve itself into the said Committee.
14. **LOCAL GOVERNMENT (WARRNAMBOOL) BILL.**—The Order of the Day for the second reading of this Bill having been read—  
Bill ruled to be a Private Bill.  
The Honorable P. T. Byrnes moved, by leave, That Standing Order No. 311 be suspended in order that the Council may consider this Bill.  
Debate ensued.  
Question—put and resolved in the affirmative.  
The Honorable P. T. Byrnes moved, That this Bill be dealt with as a Public Bill.  
Question—put and resolved in the affirmative.  
On the motion of the Honorable P. T. Byrnes, and after debate, the Bill was read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable P. Jones having reported that the Committee had agreed to the Bill with an amendment, the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.  
Ordered—That the Bill be transmitted to the Assembly with a Message desiring their concurrence therein.

15. **WORKERS COMPENSATION BILL.**—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to the amendment made by the Council in the Title of this Bill.
16. **STATUTE LAW REVISION BILL.**—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to the amendment made by the Council in the Title of this Bill.
17. **WHEAT INDUSTRY STABILIZATION (AMENDMENT) BILL.**—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

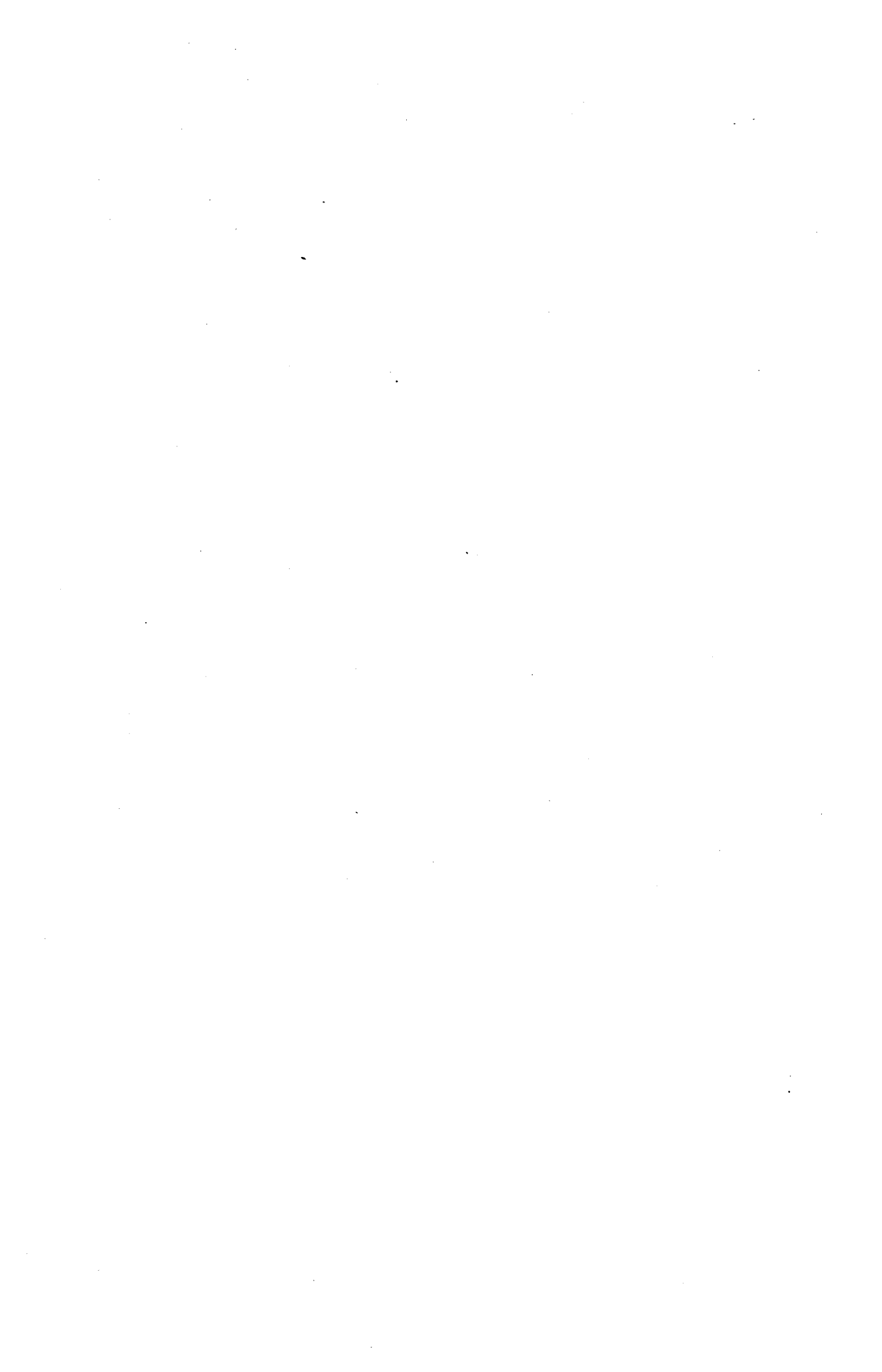
House in Committee.

The President resumed the Chair; and the Honorable W. MacAulay having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

And then the Council, at twelve minutes past Five o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*



MR. PRESIDENT TAKES THE CHAIR AT A QUARTER PAST THREE O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 6.

TUESDAY, 4TH DECEMBER, 1951.

### *Government Business.*

#### NOTICE OF MOTION :—

- \*1. The Hon. P. T. BYRNES : To move, That so much of the Sessional Orders as provides that on Wednesday in each week Private Members' business shall take precedence of Government business and that no new business shall be taken after the hour of half-past Ten o'clock be suspended during the month of December and that during the month of December Government business shall take precedence of all other business, and new business may be taken at any hour.

#### ORDERS OF THE DAY :—

1. PUBLIC WORKS LOAN APPLICATION BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading—*Resumption of debate (Hon. P. J. Kennelly)*.
2. JUDGES AND PUBLIC OFFICERS SALARIES BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be further considered in Committee.
3. JUSTICES (SERVICE OF PROCESS) BILL—AMENDMENTS OF THE ASSEMBLY—To be considered.
4. MELBOURNE AND METROPOLITAN BOARD OF WORKS (BORROWING POWERS) BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
5. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.
6. FIREARMS BILL—(*from Assembly—Hon. P. T. Byrnes*)—To be further considered in Committee.
- \*7. MARKETING OF PRIMARY PRODUCTS (EGG AND EGG PULP) BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.

### *General Business.*

#### ORDERS OF THE DAY :—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading—*Resumption of debate (Hon. W. J. Beckett)*.
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
3. THE CONSTITUTION (LEGISLATIVE COUNCIL) BILL—(*Hon. Sir James Kennedy*)—Second reading—*Resumption of debate (Hon. W. J. Beckett)*.
4. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—Second reading—*Resumption of debate (Hon. W. J. Beckett)*.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

\* *Notifications to which an asterisk (\*) is prefixed appear for the first time.*

## SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.**—(Appointed by Mr. President's Warrant, 13th November, 1951).—The Honorables W. J. Beckett, G. L. Chandler, P. P. Inchbold, Sir James Kennedy, P. J. Kennelly, G. S. McArthur, and A. E. McDonald.
- STANDING ORDERS.**—(Appointed 20th November, 1951).—The Honorables the President, Sir William Angliss, W. J. Beckett, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, C. P. Gartside, T. Harvey, W. MacAulay, and R. C. Rankin.
- HOUSE (JOINT).**—(Appointed 20th November, 1951).—The Honorables the President (*ex officio*), Sir William Angliss, P. T. Byrnes, E. P. Cameron, P. Jones, and G. J. Tuckett.
- LIBRARY (JOINT).**—(Appointed 20th November, 1951).—The Honorables the President, P. L. Coleman, P. P. Inchbold, R. C. Rankin, and W. Slater.
- PRINTING.**—(Appointed 20th November, 1951).—The Honorables the President, G. L. Chandler, J. W. Galbally, C. E. Isaac, J. F. Kittson, Sir George Lansell, W. MacAulay, C. E. McNally, R. C. Rankin, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).**—(Appointed 20th November, 1951).—The Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters.



MR. PRESIDENT TAKES THE CHAIR AT A QUARTER PAST TWO O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 7.

WEDNESDAY, 5TH DECEMBER, 1951.

### *Government Business.*

#### ORDERS OF THE DAY :—

- \*1. LANDS (CHARITABLE TRUSTS) BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading.
- \*2. MELBOURNE CRICKET GROUND BILL—(from Assembly—Hon. T. Harvey)—Second reading.
3. JUDGES AND PUBLIC OFFICERS SALARIES BILL—(from Assembly—Hon. I. A. Swinburne)—To be further considered in Committee.
- \*4. MOTOR CAR BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
5. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

### *General Business.*

#### ORDERS OF THE DAY :—

1. CROWN PROCEEDINGS BILL—(Hon. A. M. Fraser)—Second reading—*Resumption of debate* (Hon. W. J. Beckett).
2. POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
3. THE CONSTITUTION (LEGISLATIVE COUNCIL) BILL—(Hon. Sir James Kennedy)—Second reading—*Resumption of debate* (Hon. W. J. Beckett).
4. LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—Second reading—*Resumption of debate* (Hon. W. J. Beckett).

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

## SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—(Appointed by Mr. President's Warrant, 13th November, 1951).—The Honorables W. J. Beckett, G. L. Chandler, P. P. Inchbold, Sir James Kennedy, P. J. Kennelly, G. S. McArthur, and A. E. McDonald.
- STANDING ORDERS.—(Appointed 20th November, 1951).—The Honorables the President, Sir William Angliss, W. J. Beckett, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, C. P. Gartside, T. Harvey, W. MacAulay, and R. C. Rankin.
- HOUSE (JOINT).—(Appointed 20th November, 1951).—The Honorables the President (*ex officio*), Sir William Angliss, P. T. Byrnes, E. P. Cameron, P. Jones, and G. J. Tuckett.
- LIBRARY (JOINT).—(Appointed 20th November, 1951).—The Honorables the President, P. L. Coleman, P. P. Inchbold, R. C. Rankin, and W. Slater.
- PRINTING.—(Appointed 20th November, 1951).—The Honorables the President, G. L. Chandler, J. W. Galbally, C. E. Isaac, J. F. Kittson, Sir George Lansell, W. MacAulay, C. E. McNally, R. C. Rankin, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—(Appointed 20th November, 1951).—The Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters.

By Authority: J. J. GOURLEY, Government Printer, Melbourne.

## VICTORIA.

## LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS.

## No. 7.

TUESDAY, 4TH DECEMBER, 1951.

1. The President took the Chair and read the Prayer.
2. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk :—

Country Fire Authority Acts—Amendment of Regulations.

Housing Acts—Report of the Housing Commission for the period 1st July, 1947, to 30th June, 1949.

Land Act 1928—Certificates of the Minister of Education relating to the proposed compulsory resumption of land for the purposes of schools at Eltham North and St. Albans (two papers).

Mental Hygiene Acts—Report of the Director of Mental Hygiene for the year 1950.

Police Regulation Acts—Determinations Nos. 34 and 35 of the Police Classification Board (two papers).

Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances (three papers).

Soldier Settlement Act 1945—Report of the Soldier Settlement Commission for the year 1950–51.

State Electricity Commission Act 1928—Report of the State Electricity Commission for the year 1950–51.

Teaching Service Act 1946—Amendment of Teaching Service (Teachers Tribunal) Regulations (two papers).

Victorian Inland Meat Authority Act 1942—Report of the Victorian Inland Meat Authority for the year 1950–51.

3. ALTERATION OF SESSIONAL ORDERS.—The Honorable P. T. Byrnes moved, That so much of the Sessional Orders as provides that on Wednesday in each week Private Members' business shall take precedence of Government business and that no new business shall be taken after the hour of half-past Ten o'clock be suspended during the month of December and that during the month of December Government business shall take precedence of all other business, and new business may be taken at any hour.

Debate ensued.

Question—put and resolved in the affirmative.

4. POSTPONEMENT OF ORDERS OF THE DAY.—Ordered—That the consideration of Orders of the Day, Government Business, Nos. 1 and 2, be postponed until later this day.
5. JUSTICES (SERVICE OF PROCESS) BILL.—The Order of the Day for the consideration of the amendments made in this Bill by the Assembly having been read, the said amendments were read and are as follow :—

1. Clause 1, at the end of the clause add the following new sub-clause :—

“ ( ) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.”

2. Clause 2, page 2, line 6, omit “ is residing outside Victoria ” and insert “ is not within Victoria ”.

On the motion of the Honorable I. A. Swinburne, the Council agreed to the amendments made by the Assembly, and ordered the Bill to be returned to the Assembly with a Message acquainting them therewith.

6. MELBOURNE AND METROPOLITAN BOARD OF WORKS (BORROWING POWERS) BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

7. PUBLIC WORKS LOAN APPLICATION BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

8. STATUTE LAW REVISION COMMITTEE—MOTOR CAR BILL.—The Honorable P. T. Byrnes brought up a Report from the Statute Law Revision Committee on this Bill.

Ordered to lie on the Table and be printed together with the Minutes of Evidence.

9. JUDGES AND PUBLIC OFFICERS SALARIES BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole having been read, the President left the Chair.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin reported that the Committee had made progress in the Bill, and had agreed to the following resolution:—

That it be a suggestion to the Legislative Assembly that they make the following amendment in the Bill, viz. :—

Clause 3, insert the following sub-clause to precede sub-clause (1):—

“( ) In section nineteen of the *Melbourne and Metropolitan Board of Works Act 1928* as amended by any Act after the words ‘per annum’ there shall be inserted the expression:—

‘subject to automatic adjustment, in accordance with the variations in the cost of living, upon the basis and method of adjustment for adult males prescribed for the time being by regulations under Part II. of the *Public Service Act 1946*’—

and asked leave to sit again.

On the motion of the Honorable I. A. Swinburne, the Council adopted the resolution reported from the Committee of the whole.

Ordered—That the Bill be returned to the Assembly with a Message suggesting that the Assembly amend the same as set forth in the foregoing resolution.

Resolved—That the Council will, later this day, again resolve itself into a Committee of the whole.

10. POSTPONEMENT OF ORDER OF THE DAY.—Ordered—That the consideration of Order of the Day, Government Business, No. 5, be postponed until later this day.

11. FIREARMS BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole having been read, the President left the Chair.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill with amendments, the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same with amendments and desiring their concurrence therein.

12. DISTINGUISHED VISITORS.—The Honorable P. T. Byrnes moved, by leave, That chairs be provided on the floor of the Council Chamber for the Right Honorable Richard Kidston Law and Joseph Grimond, Esquire, Members of the House of Commons.

Debate ensued.

Question—put and resolved in the affirmative.

The Right Honorable R. K. Law and Mr. Grimond then entered the Chamber and were accommodated with chairs at the right of the President.

13. LANDS (CHARITABLE TRUSTS) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act relating to certain Lands held on Trust for Charitable Purposes*” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and, by leave, to be read a second time later this day.

14. MELBOURNE CRICKET GROUND BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act relating to a Ground known as the Melbourne Cricket Ground*” and desiring the concurrence of the Council therein.

On the motion of the Honorable T. Harvey, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

15. **MARKETING OF PRIMARY PRODUCTS (EGG AND EGG PULP) BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole. House in Committee.  
The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
16. **MOTOR CAR BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to consolidate the Law relating to Motor Cars*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
17. **JUDGES AND PUBLIC OFFICERS SALARIES BILL.**—The President announced the receipt of a Message from the Assembly returning this Bill and acquainting the Council that the Assembly, having considered the Message of the Council suggesting on the consideration of the Bill in Committee that the Assembly make an amendment in such Bill, have made the suggested amendment and desiring the concurrence of the Council therein.  
Ordered—That the foregoing Message be referred to the Committee of the whole on the Bill.
18. **LOCAL GOVERNMENT (WARRNAMBOOL) BILL.**—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to this Bill without amendment.
19. **GEELONG HARBOR TRUST (AMENDMENT) BILL.**—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to this Bill without amendment.
20. **FIREARMS BILL.**—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to the amendments made by the Council in this Bill.

And then the Council, at fifteen minutes past Eleven o'clock, adjourned until to-morrow.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

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## No. 8.

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WEDNESDAY, 5TH DECEMBER, 1951.

1. The President took the Chair and read the Prayer.
2. **PRESENTATION OF ADDRESS TO HIS EXCELLENCY THE GOVERNOR.**—The President reported that, accompanied by Honorable Members, he had, this day, waited upon His Excellency the Governor and had presented to him the Address of the Legislative Council, adopted on the 20th November last, in reply to His Excellency's Opening Speech, and that His Excellency had been pleased to make the following reply:—  
MR. PRESIDENT AND HONORABLE MEMBERS OF THE LEGISLATIVE COUNCIL:  
In the name and on behalf of His Majesty the King I thank you for your expressions of loyalty to our Most Gracious Sovereign contained in the Address you have just presented to me.  
I fully rely on your wisdom in deliberating upon the important measures to be brought under your consideration, and I earnestly hope that the results of your labours will be conducive to the advancement and prosperity of this State.
3. **LICENSING (MILDURA) BILL.**—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to this Bill without amendment.
4. **PAPERS.**—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—  
Explosives Act 1928—Order in Council relating to Definition of Explosives—Class 3—Nitro-Compound.  
Free Library Service Board Act 1946—Report of the Free Library Service Board for the year 1950-51.  
Grain Elevators Act 1934—Report of the Grain Elevators Board for the year ended 31st October, 1950.  
Poisons Acts—Proclamation amending the Sixth Schedule to the Poisons Act 1928.  
Public Library National Gallery and Museums Acts—Reports, with Statements of Income and Expenditure, for the year 1950-51 of the—  
Trustees of the Museum of Applied Science.  
Trustees of the National Gallery.  
Trustees of the National Museum.  
Trustees of the Public Library.  
Building Trustees of the Public Library, National Gallery and Museums.  
Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances (three papers).

5. **LANDS (CHARITABLE TRUSTS) BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable W. MacAulay having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
6. **MELBOURNE CRICKET GROUND BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable W. MacAulay having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
7. **JUDGES AND PUBLIC OFFICERS SALARIES BILL.**—The Order of the Day for the further consideration of this Bill in Committee of the whole having been read, the President left the Chair.  
House in Committee.  
The President resumed the Chair; and the Honorable W. MacAulay having reported that the Committee had agreed to the Bill, including the amendment made by the Assembly which was suggested by the Council, without amendment, the Report was adopted, and the Bill was read a third time with the concurrence of an absolute majority of the whole number of the Members of the Legislative Council and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same, including the amendment made by the Assembly which was suggested by the Council, without amendment.
8. **MOTOR CAR BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill with an amendment, the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same with an amendment and desiring their concurrence therein.
9. **FIREARMS OFFENCES BILL.**—The President announced the receipt of a Message from the Assembly transmitting a communication from the Clerk of the Parliaments (pursuant to Joint Standing Order No. 21), calling attention to a clerical error in this Bill, viz.:—In clause 6, paragraph (a), line 4, the word “words” has been inserted instead of the word “expression”, and acquainting the Council that they have agreed that such error be corrected by the insertion of the word “expression” instead of the word “words” in clause 6, paragraph (a), line 4, and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. T. Byrnes, the Council concurred with the Assembly in the correction of the clerical error discovered in this Bill and ordered that the communication from the Clerk of the Parliaments be returned to the Assembly with a Message acquainting them therewith.
10. **PUBLIC WORKS LOAN APPLICATION BILL.**—The President announced the receipt of a Message from the Assembly transmitting a communication from the Clerk of the Parliaments (pursuant to Joint Standing Order No. 21), calling attention to a clerical error in this Bill, viz.:—In the Schedule, page 4, the figures “25.” “26.” and “27.” have been inserted instead of the figures “24.” “25.” and “26.”, and acquainting the Council that they have agreed that such error be corrected by the insertion of the figures “24.” “25.” and “26.” instead of the figures “25.” “26.” and “27.” in the Schedule, page 4, and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. T. Byrnes, the Council concurred with the Assembly in the correction of the clerical error discovered in this Bill and ordered that the communication from the Clerk of the Parliaments be returned to the Assembly with a Message acquainting them therewith.
11. **POSTPONEMENT OF ORDERS OF THE DAY.**—  
Ordered—That the consideration of Order of the Day, Government Business, No. 5, be postponed until later this day.  
Ordered—That the consideration of Orders of the Day, General Business, Nos. 1 and 2, be postponed until the next day of meeting.

12. THE CONSTITUTION (LEGISLATIVE COUNCIL) BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, having been read—  
Debate resumed.

Question—put.

The Council divided.

Ayes, 15.

The Hon. Sir William Angliss,  
Sir Frank Beaurepaire,  
E. P. Cameron,  
G. L. Chandler,  
C. P. Gartside (*Teller*),  
T. H. Grigg,  
C. E. Isaac (*Teller*),  
Sir James Kennedy,  
J. F. Kittson,  
Sir George Lansell,  
H. C. Ludbrook,  
G. S. McArthur,  
H. V. MacLeod,  
R. C. Rankin,  
A. G. Warner.

Noes, 16.

The Hon. W. J. Beckett,  
P. T. Byrnes,  
P. L. Coleman (*Teller*),  
A. M. Fraser,  
J. W. Galbally (*Teller*),  
T. Harvey,  
P. P. Inchbold,  
P. Jones,  
P. J. Kennelly,  
W. MacAulay,  
C. E. McNally,  
W. Slater,  
I. A. Swinburne,  
F. M. Thomas,  
G. J. Tuckett,  
D. J. Walters.

And so it passed in the negative.

13. LANDLORD AND TENANT (AMENDMENT) BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, having been read  
Debate resumed.

Question—put.

The Council divided.

Ayes, 15.

The Hon. Sir William Angliss,  
Sir Frank Beaurepaire,  
E. P. Cameron,  
G. L. Chandler,  
C. P. Gartside,  
T. H. Grigg (*Teller*),  
C. E. Isaac,  
Sir James Kennedy,  
J. F. Kittson (*Teller*),  
Sir George Lansell,  
H. C. Ludbrook,  
G. S. McArthur,  
H. V. MacLeod,  
R. C. Rankin,  
A. G. Warner.

Noes, 16.

The Hon. W. J. Beckett,  
P. T. Byrnes,  
P. L. Coleman,  
A. M. Fraser (*Teller*),  
J. W. Galbally,  
T. Harvey,  
P. P. Inchbold,  
P. Jones,  
P. J. Kennelly,  
W. MacAulay,  
C. E. McNally,  
W. Slater,  
I. A. Swinburne,  
F. M. Thomas,  
G. J. Tuckett,  
D. J. Walters (*Teller*).

And so it passed in the negative.

And the Council having continued to sit until after Twelve of the clock—

THURSDAY, 6TH DECEMBER, 1951.

14. APPROPRIATION BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled "*An Act to apply a sum out of the Consolidated Revenue to the service of the year ending on the thirtieth day of June One thousand nine hundred and fifty-two and to appropriate the Supplies granted in this and the last preceding Session of Parliament*" and desiring the concurrence of the Council therein.

On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and, by leave and after debate, was read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

15. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until a day and hour to be fixed by the President or, if the President is unable to act on account of illness or other cause, by the Chairman of Committees, which time of meeting shall be notified to each Honorable Member by telegram or letter.

Question—put and resolved in the affirmative.

The Honorable P. T. Byrnes moved, That the House do now adjourn.

Debate ensued.

Question—put and resolved in the affirmative.

And then the Council, at nineteen minutes past Two o'clock in the morning, adjourned until a day and hour to be fixed by the President or, if the President is unable to act on account of illness or other cause, by the Chairman of Committees, which time of meeting shall be notified to each Honorable Member by telegram or letter.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO ELEVEN O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 8.

THURSDAY, 14TH FEBRUARY, 1952.

### *Government Business.*

#### ORDER OF THE DAY:—

1. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.

### *General Business.*

#### ORDERS OF THE DAY:—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading—*Resumption of debate* (*Hon. W. J. Beckett*).
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

## SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—(Appointed by Mr. President's Warrant, 13th November, 1951).—The Honorables W. J. Beckett, G. L. Chandler, P. P. Inchbold, Sir James Kennedy, P. J. Kennelly, G. S. McArthur, and A. E. McDonald.

STANDING ORDERS.—(Appointed 20th November, 1951).—The Honorables the President, Sir William Angliss, W. J. Beckett, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, C. P. Gartside, T. Harvey, W. MacAulay, and R. C. Rankin.

HOUSE (JOINT).—(Appointed 20th November, 1951).—The Honorables the President (*ex officio*), Sir William Angliss, P. T. Byrnes, E. P. Cameron, P. Jones, and G. J. Tuckett.

LIBRARY (JOINT).—(Appointed 20th November, 1951).—The Honorables the President, P. L. Coleman, P. P. Inchbold, R. C. Rankin, and W. Slater.

PRINTING.—(Appointed 20th November, 1951).—The Honorables the President, G. L. Chandler, J. W. Galbally, C. E. Isaac, J. F. Kittson, Sir George Lansell, W. MacAulay, C. E. McNally, R. C. Rankin, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—(Appointed 20th November, 1951).—The Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters.



## VICTORIA.

## LEGISLATIVE COUNCIL.

## MINUTES OF THE PROCEEDINGS

## No. 9.

THURSDAY, 14TH FEBRUARY, 1952.

1. The Council met in accordance with adjournment, the President, pursuant to resolution, having fixed this day at half-past Ten o'clock as the time of meeting.
2. The President took the Chair and read the Prayer.
3. MESSAGE FROM HIS EXCELLENCY THE GOVERNOR—DEATH OF KING GEORGE VI. AND ACCESSION OF QUEEN ELIZABETH II.—The following Message from His Excellency the Governor was presented by the Honorable P. T. Byrnes, and the same was read by the Honorable the President :—

DALLAS BROOKS,  
Governor of Victoria.

The Governor informs the Legislative Council that he has officially learned with the deepest regret that our late Most Gracious Sovereign His Majesty King George the Sixth, departed this life at Sandringham on the 6th day of February, 1952.

The Governor further informs the Legislative Council that on the 8th day of February, 1952, Her Most Gracious Majesty Queen Elizabeth the Second was duly and lawfully proclaimed Queen of this Realm and of all Her other Realms and Territories, Head of the Commonwealth, Defender of the Faith, Supreme Liege Lady in and over the Commonwealth of Australia.

The Governor therefore desires that pursuant to the thirty-fifth section of *The Constitution Act Amendment Act 1928*, Honorable Members will, before they proceed to sit and vote in the Council, severally take and subscribe the Oath of Allegiance set forth in the Second Schedule of the said Act to Her Most Gracious Majesty Queen Elizabeth the Second, before a Commissioner duly authorized by the Governor to attend in the Legislative Council Chamber this day to administer the same.

Government Offices,  
Melbourne, 14th February, 1952.

4. COMMISSION TO ADMINISTER OATH TO MEMBERS.—The Honorable Sir Charles Gavan Duffy, a Commissioner from His Excellency the Governor to administer the Oath prescribed by the thirty-fifth section of the Act No. 3660, was introduced by the Usher of the Black Rod.
- The Commissioner handed his Commission to the Clerk, who read the same as follows :—

By His Excellency General Sir REGINALD ALEXANDER DALLAS BROOKS, Knight Commander of the Most Honorable Order of the Bath, Companion of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Distinguished Service Order, Governor of the State of Victoria and its Dependencies in the Commonwealth of Australia, &c., &c., &c.

To the Honorable Sir CHARLES GAVAN DUFFY, Judge of the Supreme Court in the said State of Victoria.

## GREETING :

WHEREAS by the thirty-fifth section of *The Constitution Act Amendment Act 1928*, No. 3660, it is enacted that no Member either of the Legislative Council or the Legislative Assembly shall be permitted to sit or vote therein respectively until he has taken and subscribed before the Governor, or some person authorized by the Governor in that behalf, the Oath set out

in the Second Schedule to the aforesaid Act: And that whenever the demise of His Majesty or of any of his successors to the Crown is notified by the Governor to the Legislative Council and the Legislative Assembly, the Members of the Legislative Council and of the Legislative Assembly shall before they are permitted to sit and vote therein respectively take and subscribe the like Oath to the successor for the time being to the Crown: And whereas I, the Governor of the State of Victoria, have this day notified to the Legislative Council and the Legislative Assembly the demise of our late Most Gracious Sovereign His Majesty King George VI.: Now therefore I, the Governor of the said State, do by these presents command and authorize you to proceed to the Parliament Houses, in the City of Melbourne, on Thursday, the fourteenth day of February instant, at Eleven of the clock in the forenoon, then and there to administer the said Oath to the several Members of the said Legislative Council.

(L.S.) Given under my hand and the seal of the said State at Melbourne in the said State this fourteenth day of February, in the year of Our Lord One thousand nine hundred and fifty-two, and in the first year of the reign of Her Majesty Queen Elizabeth II.

DALLAS BROOKS.

By His Excellency's Command,  
JOHN G. B. McDONALD,  
Premier.

Entered on record by me in the Register of Patents, Book 32,  
page 121, this fourteenth day of February. One thousand  
nine hundred and fifty-two.

A. JAMES, for Under-Secretary.

5. **SWEARING-IN OF MEMBERS.**—The Honorables the President (Sir Clifden Eager), Sir William Angliss, W. J. Beckett, P. T. Byrnes, E. P. Cameron, G. L. Chandler, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, T. H. Grigg, T. Harvey, P. P. Inchbold, C. E. Isaac, P. Jones, Sir James Kennedy, P. J. Kennelly, J. F. Kittson, Sir George Lansell, H. C. Ludbrook, G. S. McArthur, W. MacAulay, A. E. McDonald, H. V. MacLeod, C. E. McNally, R. C. Rankin, W. Slater, I. A. Swinburne, F. M. Thomas, G. J. Tuckett, D. J. Walters, and A. G. Warner, having severally approached the Table, took and subscribed the Oath required by law. The Honorable Sir Charles Gavan Duffy attested the Oath Roll, and then withdrew.

6. **COMMISSION TO ADMINISTER OATH TO MEMBERS.**—The President announced that he had received from His Excellency the Governor a Commission, which was read by the Clerk, and is as follows:—

By His Excellency General Sir REGINALD ALEXANDER DALLAS BROOKS, Knight Commander of the Most Honorable Order of the Bath, Companion of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Distinguished Service Order, Governor of the State of Victoria and its Dependencies in the Commonwealth of Australia, &c., &c., &c.

To the Honorable Sir CLIFDEN HENRY ANDREWS EAGER, Q.C., M.L.C., President of the Legislative Council of the State of Victoria.

**GREETING :**

WHEREAS by the thirty-fifth section of *The Constitution Act Amendment Act 1928*, No. 3660, it is enacted that no Member either of the Legislative Council or the Legislative Assembly shall be permitted to sit or vote therein respectively until he has taken and subscribed before the Governor or some person authorized by the Governor in that behalf, the Oath set out in the Second Schedule to the aforesaid Act: Now therefore I, the Governor of the State of Victoria, do by these presents command and authorize you from time to time, in the Parliament Houses, in the City of Melbourne, to administer the said Oath to such Members of the said Legislative Council as have not already taken and subscribed the same to Her Majesty Queen Elizabeth the Second since their election to the said Legislative Council.

(L.S.) Given under my hand and the seal of the said State at Melbourne in the said State this fourteenth day of February, in the year of Our Lord One thousand nine hundred and fifty-two, and in the first year of the reign of Her Majesty Queen Elizabeth II.

DALLAS BROOKS.

By His Excellency's Command,  
JOHN G. B. McDONALD,  
Premier.

Entered on record by me in the Register of Patents, Book  
32, page 123, this fourteenth day of February. One  
thousand nine hundred and fifty-two.

A JAMES for Under-Secretary.

7. ADDRESSES TO HER MAJESTY QUEEN ELIZABETH II. AND HIS EXCELLENCY THE GOVERNOR.—

The President announced the receipt of a Message from the Assembly transmitting Addresses to Her Majesty the Queen and an Address to His Excellency the Governor adopted this day by the Assembly and desiring the concurrence of the Council therein.

The first Address to Her Majesty the Queen was read by the Clerk, and is as follows:—

TO THE QUEEN'S MOST EXCELLENT MAJESTY :

MOST GRACIOUS SOVEREIGN :

We, the Legislative Assembly of Victoria, in Parliament assembled, desire to express our deep and loving sympathy in the great loss which Your Majesty, Her Majesty the Queen Mother and the other members of the Royal Family have suffered by the death of our beloved Sovereign King George the Sixth, whose loss we mourn in common with our fellow subjects throughout the Commonwealth and Empire.

We assure Your Majesty that the people of Victoria will ever hold His late Majesty's honoured name in affectionate remembrance, and that it is their earnest prayer that Your Majesty may be sustained by the blessing of Almighty God in the sorrow which has fallen upon the Royal Household.

The Honorable P. T. Byrnes moved, That this House agree with the Assembly in the said Address to Her Majesty the Queen, and that the blank in the Address be filled up by the insertion of the words "Legislative Council and the".

And other Honorable Members and the President having addressed the House—

The question was put and, Honorable Members signifying their assent by rising in their places, unanimously resolved in the affirmative.

The second Address to Her Majesty the Queen was read by the Clerk, and is as follows:—

TO THE QUEEN'S MOST EXCELLENT MAJESTY :

MOST GRACIOUS SOVEREIGN :

We, the Legislative Assembly of Victoria, in Parliament assembled, submit to Your Majesty our loyal congratulations on your accession to the Throne.

We assure Your Majesty of our homage and allegiance and that it is the earnest prayer of the people of Victoria that, under the Divine Blessing, Your Majesty's reign may be a long and happy one, and that you will be supported by the memory of the steadfast courage and devotion of your illustrious Father.

The Honorable P. T. Byrnes moved, That this House agree with the Assembly in the said Address to Her Majesty the Queen, and that the blank in the Address be filled up by the insertion of the words "Legislative Council and the".

Debate ensued.

Question—put and resolved in the affirmative.

The Address to His Excellency the Governor was read by the Clerk, and is as follows:—

MAY IT PLEASE YOUR EXCELLENCY :

We, the Legislative Assembly of Victoria, in Parliament assembled, respectfully request that Your Excellency will be pleased to communicate to the Right Honorable the Secretary of State for Commonwealth Relations the accompanying Addresses for presentation to Her Majesty the Queen.

The Honorable P. T. Byrnes moved, That this House agree with the Assembly in the Address to His Excellency the Governor, and that the blank in the Address be filled up by the insertion of the words "Legislative Council and the".

Question—put and resolved in the affirmative.

Ordered—That a Message be sent to the Assembly acquainting them that the Council have concurred with the Assembly in adopting the Addresses to Her Majesty the Queen and the Address to His Excellency the Governor and have filled up the blanks therein by the insertion of the words "Legislative Council and the".

8. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until a day and hour to be fixed by the President or, if the President is unable to act on account of illness or other cause, by the Chairman of Committees, which time of meeting shall be notified to each Honorable Member by telegram or letter.

Question—put and resolved in the affirmative.

The Honorable P. T. Byrnes moved, That the House, out of respect to the memory of His late Majesty King George VI., do now adjourn.

Question—put and resolved in the affirmative.

And then the Council, at eleven minutes past One o'clock, adjourned until a day and hour to be fixed by the President or, if the President is unable to act on account of illness or other cause, by the Chairman of Committees, which time of meeting shall be notified to each Honorable Member by telegram or letter.

ROY S. SARAH,  
*Clerk of the Legislative Council.*



MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 9.

WEDNESDAY, 30TH APRIL, 1952.

### *General Business.*

#### ORDERS OF THE DAY:—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading—*Resumption of debate* (*Hon. W. J. Beckett*).
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.

### *Government Business.*

#### ORDER OF THE DAY:—

1. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

## SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—(Appointed by Mr. President's Warrant, 13th November, 1951).—The Honorables W. J. Beckett, G. L. Chandler, P. P. Inchbold, Sir James Kennedy, P. J. Kennelly, G. S. McArthur, and A. E. McDonald.

STANDING ORDERS.—(Appointed 20th November, 1951).—The Honorables the President, Sir William Angliss, W. J. Beckett, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, C. P. Gartside, T. Harvey, W. MacAulay, and R. C. Rankin.

HOUSE (JOINT).—(Appointed 20th November, 1951).—The Honorables the President (*ex officio*), Sir William Angliss, P. T. Byrnes, E. P. Cameron, P. Jones, and G. J. Tuckett.

LIBRARY (JOINT).—(Appointed 20th November, 1951).—The Honorables the President, P. L. Coleman, P. P. Inchbold, R. C. Rankin, and W. Slater.

PRINTING.—(Appointed 20th November, 1951).—The Honorables the President, G. L. Chandler, J. W. Galbally, C. E. Isaac, J. F. Kittson, Sir George Lansell, W. MacAulay, C. E. McNally, R. C. Rankin, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—(Appointed 20th November, 1951).—The Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters.

## VICTORIA.

## LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS.

## No. 10.

WEDNESDAY, 30TH APRIL, 1952.

1. The Council met in accordance with adjournment, the President, pursuant to resolution, having fixed this day at half-past Four o'clock as the time of meeting.
2. The President took the Chair and read the Prayer.
3. SWEARING-IN OF MEMBERS.—The Honorable Sir Frank Beaurepaire, P. L. Coleman, and C. P. Gartside, having severally approached the Table, took and subscribed the Oath required by law.
4. MESSAGE FROM HIS EXCELLENCY THE LIEUTENANT-GOVERNOR—DEATH OF KING GEORGE VI. AND ACCESSION OF QUEEN ELIZABETH II.—The Honorable P. T. Byrnes presented a Message from His Excellency the Lieutenant-Governor, as Deputy for the Governor, informing the Council that the following telegram had been received from the Right Honorable the Secretary of State for Commonwealth Relations :—

“Your telegram 25th February has been laid before the Queen. I have it in command to request you to convey to the President of the Legislative Council and the Speaker of the Legislative Assembly, and through them to Members of the respective Houses, an expression of the deep appreciation with which Her Majesty has received their messages of sympathy and loyal congratulations.”

5. MESSAGES FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable P. T. Byrnes presented Messages from His Excellency the Governor informing the Council—

That he had, on the 11th December last, given the Royal Assent to the under-mentioned Acts presented to him by the Clerk of the Parliaments, viz. :—

*Wrongs (Contributory Negligence) Act.*  
*Local Government (Imported Houses) Act.*  
*Woorayl (Unimproved Rating Poll) Act.*  
*Health (Radiological Examinations) Act.*  
*Melbourne Harbor Trust Act.*  
*Friendly Societies (Amendment) Act.*  
*Railway Loan Application Act.*  
*Workers Compensation Act.*  
*Statute Law Revision Act.*  
*Revenue Deficit Funding Act.*  
*Solicitor-General Act.*  
*Wheat Industry Stabilization (Amendment) Act.*  
*Local Government (Warrnambool) Act.*  
*Geelong Harbor Trust (Amendment) Act.*  
*Justices (Service of Process) Act.*  
*Melbourne and Metropolitan Board of Works (Borrowing Powers) Act.*  
*Firearms Act.*  
*Licensing (Mildura) Act.*  
*Marketing of Primary Products (Egg and Egg Pulp) Act.*

That he had, on the 18th December last, given the Royal Assent to the under-mentioned Acts presented to him by the Clerk-Assistant of the Legislative Council for and in the absence of the Clerk of the Parliaments, viz. :—

*Lands (Charitable Trusts) Act.*  
*Melbourne Cricket Ground Act.*  
*Judges and Public Officers Salaries Act.*  
*Motor Car Act.*  
*Firearms Offences Act.*  
*Public Works Loan Application Act.*

6. MOTOR CAR BILL.—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to the amendment made by the Council in this Bill.
7. CONSOLIDATED REVENUE BILL (No. 1).—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to apply out of the Consolidated Revenue the sum of Eleven million nine hundred and eighty thousand one hundred and sixty-four pounds to the service of the year One thousand nine hundred and fifty-two and One thousand nine hundred and fifty-three*” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and, by leave, to be read a second time later this day.

8. LANDLORD AND TENANT (AMENDMENT) BILL.—The Honorable A. G. Warner moved, by leave, That the second reading of this Bill be made an Order of the Day for later this day.

The President, having been asked for a ruling as to the competency of the motion, said—

I am obliged to Honorable Members for putting their respective views so clearly, but after giving the matter my best judgment I think that, if leave, as desired, be granted to Mr. Warner, his motion will fall within the scope of Standing Order 76, which is as follows:—

If a Motion or Order of the Day drops off the Notice Paper owing to no day being appointed for its future consideration . . .

I leave out the unimportant words—

such Motion or Order may be restored to the Notice Paper for a subsequent day on Motion without notice made before the commencement or after the close of public business.

Mr. Warner now proposes to move, without notice, and the time is right—before the commencement of public business—to restore this Order of the Day, which he describes as a dropped Order, to the Notice Paper. In my opinion, it is a dropped Order within the meaning of that rule. The original motion for the second reading is referred to in the Minutes of the Proceedings of this House of Wednesday, the 5th of December, 1951. That minute reads as follows:—

“13. Landlord and Tenant (Amendment) Bill.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, having been read.

Debate resumed.

Question—put.

The Council divided.”

The division list is then included, and the minute concludes with the words—

“And so it passed in the negative.”

The question was, “That this Bill be now read a second time.” I think it is well known that in the proceedings in this House, as well as in the House of Commons, the important word in such a motion is the word “now.” *May* points out—and we have frequently had instances of it in this House—that the word “now” may be deleted and the words “three months hence” or “six months hence” inserted in place of the word “now.” In this instance, that was not done, and there was a simple rejection of the motion, “That this Bill be now read a second time.” It was, therefore, perfectly open in my view to an Honorable Member—and it is still open to him provided he complies with the Standing Orders—to bring the Bill before the House upon a motion, “That this Bill be now read a second time,” which, of course, is a different motion, because the present “now” is more than four months after the “now” in December of 1951, when the original motion “That the Bill be now read a second time” was rejected. That happened on the 4th of December, and no date was fixed to take up that business again. It was simply left in suspense, if I may use that term.

Now, Mr. Warner desires to bring the Bill out of that suspense and place it before the House to-day as an Order of the Day. That being so, it appears to me that it comes within the opening words of Standing Order 76, because the Bill was dropped off the Notice Paper owing to no date being appointed for its future consideration. The Unofficial Leader and, I think, Mr. Fraser, have referred to Standing Order 266, which reads—

On the Order of the Day being read for the second reading of a Bill, the question shall be put, “That the Bill be now read a second time.”

The Standing Order includes that word “now,” and that, I think, is the vital point. The question is not whether the Bill be read a second time or not on any day, but whether the Bill be “now” read a second time.

I might cite the instance of the Greater Melbourne Council Bill. Honorable Members will recall that that Bill was defeated on the motion for its first reading. Members will also recall that the Minister in charge of the Bill then sought leave to give notice that the same question be put on the Notice Paper for the next day of meeting. He proposed to move a motion, “That this Bill be now read a first time.” I ruled that such a notice could not then be

given without leave. The Minister adopted an alternative procedure to that which Mr. Warner now desires to follow. There can be no doubt that the rejection of a motion that a Bill be "now" read a first time, or a second time, or a third time, can be described only as a simple rejection. If the House wished to "kill" a Bill—to use a general expression—it would decide that the measure be read a second time three months or six months hence, or words to that effect, or by some reasoned amendment of the motion, but that was not done in this instance.

I have listened to Mr. Fraser's remarks concerning the practice in the British Parliament. I think the position is made clear in *May*, and I would suppose that our rule was founded upon the British Parliamentary practice, if not upon the Standing Orders of the British Parliament, because at page 505, *May* points out—

The opponents of the Bill may vote against the question, "That the Bill be now read a second time," but this course is rarely adopted, because it still remains to be decided on what other day it shall be read a second time or whether it shall be read at all. The Bill, therefore, is still before the House and may afterwards be proceeded with.

In the smaller book, *An Introduction to the Procedure of the House of Commons*, Sir Gilbert Campion makes the same point at page 207. So that, although I am impressed by the arguments of the Unofficial Leader and Mr. Fraser and the Minister in charge of the House, I must hold that the proposed motion is a competent motion.

Question—put and resolved in the affirmative.

9. PAPERS.—The Honorable P. T. Byrnes presented, by command of His Excellency the Governor—

Indeterminate Sentences Board—Report for the year 1950–51.

Police—Report of the Chief Commissioner of Police for the year 1950.

Severally ordered to lie on the Table.

The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—

Administration and Probate (Estates) Acts—Probate Duties Rules 1952.

Apprenticeship Acts—Amendment of Regulations—

Boilermaking Trades Apprenticeship Regulations.

Boot Trades Regulations.

Bread Trade Apprenticeship Regulations.

Bricklaying Trade Regulations (No. 1).

Butchering Trades Apprenticeship Regulations.

Carpentry and Joinery Regulations (No. 1).

Cooking Trade Apprenticeship Regulations.

Dental Mechanic Trade Regulations (No. 1).

Electrical Trades Apprenticeship Regulations.

Electroplating Trade Regulations (No. 1).

Engineering Trades Apprenticeship Regulations.

Fibrous Plastering Trade Apprenticeship Regulations.

Ladies' and/or Men's Hairdressing Trades Regulations (No. 1).

Motor Mechanics Trades Apprenticeship Regulations.

Moulding Trades Apprenticeship Regulations.

Painting Trades Apprenticeship Regulations.

Pastrycooking Trade Apprenticeship Regulations.

Plastering Regulations (No. 2).

Plumbing and Gasfitting Trades Regulations.

Printing and Allied Trades Apprenticeship Regulations (two papers).

Printing Trades (Country) Apprenticeship Regulations.

Sheet Metal Trade Regulations (No. 2).

Trade Committees Regulations.

Watch and/or Clock Making Trades Regulations (No. 1).

Benefit Associations Act 1951—Benefit Associations Regulations 1951.

Building Operations and Building Materials Control Act 1946—Building Operations and Building Materials Control Regulations 1952.

Children's Welfare Act 1928—Report of the Secretary to the Children's Welfare Department and the Department for Reformatory Schools—

For the years 1946, 1947 and 1948.

For the years 1949 and 1950.

Coal Mines Regulation Act 1928—Report of the General Manager of the State Coal Mines, including the State Coal Mines Balance-sheet and Statement of Accounts, duly audited, &c., for the year 1950–51.

Companies Act 1938—Return by Prothonotary of business of the Supreme Court in connexion with the winding-up of Companies during the year 1951.

Constitution Act Amendment Acts—Victorian Parliamentary Elections Regulations.

Country Fire Authority Acts—

Amendment of Regulations (four papers).

Report of the Country Fire Authority for the year 1950–51.

Dairy Products Acts—Report of the Victorian Dairy Products Board for the six months ended 31st December, 1951.



- Education Act 1928—Amendment of Regulations—  
 Regulation VI.—Teacher's Certificates.  
 Regulation IX. (A).—Second Class Honours.  
 Regulation IX. (B).—First Class Honours.  
 Regulation XX. (D).—Trained Secondary Teacher's Certificate.  
 Regulation XLVIII.—Residences.
- Explosives Act 1928—Orders in Council relating to—  
 Classification of Explosives—Class 3—Nitro-Compound.  
 Definition of Explosives—Class 3—Nitro-Compound (three papers).
- Factories and Shops Acts—Report of the Chief Inspector of Factories and Shops for the year 1950.
- Fire Brigades Act 1928—Report of the Metropolitan Fire Brigades Board for the year 1950-51.
- Fisheries Acts—Notices of Intention to issue Proclamations—  
 Respecting fishing licences and renewal of such licences.  
 To prohibit all fishing in or the taking of fish from the Goulburn River, &c., above Alexandra.
- Free Library Service Board Act 1946—Amendment of Free Library Service Board Regulations.
- Gas and Fuel Corporation Act 1950—Report of the Gas and Fuel Corporation for the period ended 30th June, 1951.
- Geelong Waterworks and Sewerage Act 1928—Balance-sheet of the Geelong Waterworks and Sewerage Trust as at 30th June, 1951.
- Hairdressers Registration Act 1936—Hairdressers Registration Regulations 1952.
- Hospitals and Charities Act 1948—Certificate of the Minister of Health relating to the proposed compulsory resumption of land for the purposes of the Sandringham Memorial Hospital.
- Housing Acts—Report of the Housing Commission for the year 1949-50.
- Land Act 1928—  
 Certificates of the Minister of Education relating to the proposed compulsory resumption of land for the purposes of schools at Aberfeldie, Bayswater, Colac West, Deer Park, Doncaster, Eastwood, Evelyn, Heidelberg, Highett, Kilmore, MacLeod, Montmorency, Selby, and Wollert (fourteen papers).  
 Schedules of country lands proposed to be sold by public auction (three papers).
- Marketing of Primary Products Act 1935—Regulations—  
 Chicory Marketing Board—Periods of time for the computation of or accounting for the net proceeds of the sale of chicory.  
 Maize Marketing Board—Seventeenth period of time for the computation of or accounting for the net proceeds of the sale of maize.
- Melbourne and Metropolitan Board of Works Act 1928—Statement of Accounts and Balance-sheet of the Board together with Schedule of Contracts for the year 1950-51.
- Mental Hygiene Authority Act 1950—Mental Hygiene Authority Regulations 1952.
- Midwives Act 1928—Midwives Regulations 1952.
- Milk Board Acts—Amendment of Regulations (three papers).
- Milk Pasteurization Act 1949—Amendment of Regulations (two papers).
- Motor Car (Third-Party Insurance) Act 1939—Statistical Returns by Authorized Insurers for the year 1950-51.
- Poisons Acts—Pharmacy Board of Victoria—Proclamation amending Second Schedule to Poisons Act 1928.
- Police Regulation Acts—  
 Determinations Nos. 36 and 37 of the Police Classification Board (two papers).  
 Amendment of Police Regulations.  
 Police Regulations 1951.
- Public Service Act 1946—  
 Amendment of Public Service (Governor in Council) Regulations—Part IV.—Leave of Absence.  
 Amendment of Public Service (Public Service Board) Regulations—  
 Part I.—Appointments to the Administrative, Professional, and Technical and General Divisions.  
 Part II.—Promotions and Transfers.  
 Part III.—Salaries, Increments and Allowances (77 papers).  
 Part IV.—Automatic Adjustment of Salaries and Wages in accordance with the Variations in the Cost of Living.  
 Part VI.—Travelling Expenses (three papers).  
 Part VIII.—Miscellaneous.
- Railways Act 1928—Report of the Victorian Railways Commissioners for the quarter ended 30th September, 1951,

Registration of Births, Deaths and Marriages Act 1928—General Abstract of the Number of Births, Deaths and Marriages registered during the year 1951.

River Improvement Act 1948—Regulations—

Bendigo Creek Improvement Trust—Qualification, Disqualification, Election, Appointment, Removal, and Term of Office of Commissioners.

Kiewa River Improvement Trust—Election and Term of Office of Commissioners, and any Matter incidental thereto.

River Murray Waters Act 1915—Report of the River Murray Commission for the year 1950–51.

Rural Finance Corporation Act 1949—Report of the Rural Finance Corporation, together with Balance-sheet and Profit and Loss Account for the period 12th April, 1950, to 30th June, 1951.

Superannuation Act 1928—Report of the State Superannuation Board for the year 1950–51.

Teaching Service Act 1946—

Amendment of Regulations—

Regulation XLIX.—Student Teachers.

Regulation L.—Studentships and Courses at Teachers' College or Other Approved Institutions.

Regulation LI.—Student Instructors in Technical Schools.

Teaching Service (Classification, Salaries and Allowances) Regulations (three papers).

Teaching Service (Governor in Council) Regulations.

Teaching Service (Teachers Tribunal) Regulations (five papers).

Report of the Teachers Tribunal for the year 1950–51.

Town and Country Planning Acts—Town and Country Planning Regulations (No. 4).—Preparation and submission of planning schemes.

Vegetation and Vine Diseases Act 1928—Amendment of Regulations.

Water Acts—Report of the State Rivers and Water Supply Commission for the year 1950–51.

10. LEAVE OF ABSENCE.—The Honorable G. S. McArthur moved, by leave, That leave of absence be granted to the Honorable Charles Percival Gartside for three months on account of urgent private business.

Question—put and resolved in the affirmative.

11. POSTPONEMENT OF ORDERS OF THE DAY.—Ordered—That the consideration of Orders of the Day, General Business, Nos. 1 and 2, be postponed until the next day of meeting.

12. LANDLORD AND TENANT (AMENDMENT) BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable A. G. Warner moved, That this Bill be now read a second time.

Debate ensued.

Question—put.

The Council divided.

Ayes, 16.

The Hon. Sir William Angliss,  
Sir Frank Beaurepaire  
(*Teller*),

E. P. Cameron,  
G. L. Chandler,  
Sir Frank Clarke,  
C. P. Gartside,  
T. H. Grigg,  
C. E. Isaac,  
Sir James Kennedy,  
J. F. Kittson (*Teller*),  
H. C. Ludbrook,  
G. S. McArthur,  
A. E. McDonald,  
H. V. MacLeod,  
R. C. Rankin,  
A. G. Warner.

Noes, 14.

The Hon. W. J. Beckett,  
P. T. Byrnes,  
P. L. Coleman,  
A. M. Fraser (*Teller*),  
J. W. Galbally,  
T. Harvey,  
P. Jones,  
P. J. Kennelly,  
W. MacAulay,  
C. E. McNally,  
W. Slater,  
I. A. Swinburne,  
G. J. Tuckett,  
D. J. Walters (*Teller*).

And so it was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin reported that the Committee had made progress in the Bill, and asked leave to sit again.

Resolved—That the Council will, on the next day of meeting, again resolve itself into the said Committee.

13. CONSOLIDATED REVENUE BILL (No. 1).—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable R. C. Rankin having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

14. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until a day and hour to be fixed by the President or, if the President is unable to act on account of illness or other cause, by the Chairman of Committees, which time of meeting shall be notified to each Honorable Member by telegram or letter.

Question—put and resolved in the affirmative.

The Honorable P. T. Byrnes moved, That the House do now adjourn.

Debate ensued.

Question—put and resolved in the affirmative.

And then the Council, at fifty-five minutes past Eleven o'clock, adjourned until a day and hour to be fixed by the President or, if the President is unable to act on account of illness or other cause, by the Chairman of Committees, which time of meeting shall be notified to each Honorable Member by telegram or letter.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 10.

WEDNESDAY, 16<sup>TH</sup> JULY, 1952.

### *General Business.*

#### NOTICE OF MOTION :—

- \*1. The Hon. SIR JAMES KENNEDY: To move, That The Constitution (Legislative Council) Bill be now read a second time.

#### ORDERS OF THE DAY :—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading—*Resumption of debate.*
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—To be further considered in Committee.

### *Government Business.*

#### ORDER OF THE DAY :—

1. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

*President.*

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

## VICTORIA.

## LEGISLATIVE COUNCIL.

## MINUTES OF THE PROCEEDINGS

## No. 11.

WEDNESDAY, 16TH JULY, 1952.

1. The Council met in accordance with adjournment, the President, pursuant to resolution, having fixed this day at half-past Four o'clock as the time of meeting.
2. COMMISSION TO ADMINISTER OATH TO MEMBERS.—The Honorable Mr. Justice Sholl, a Commissioner from His Excellency the Governor to administer the Oath prescribed by the thirty-fifth section of the Act No. 3660, was introduced by the Usher of the Black Rod.

The Commissioner handed his Commission to the Clerk, who read the same as follows:—

By His Excellency General Sir REGINALD ALEXANDER DALLAS BROOKS, Knight Commander of the Most Honorable Order of the Bath, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Distinguished Service Order, Governor of the State of Victoria and its Dependencies in the Commonwealth of Australia, &c., &c., &c.

To the Honorable REGINALD RICHARD SHOLL, Q.C., Judge of the Supreme Court of the State of Victoria.

## GREETING :

WHEREAS by the thirty-fifth section of *The Constitution Act Amendment Act 1928*, No. 3660, it is enacted that no Member either of the Legislative Council or the Legislative Assembly shall be permitted to sit or vote therein respectively until he has taken and subscribed before the Governor, or some person authorized by the Governor in that behalf, the Oath set out in the Second Schedule to the aforesaid Act: Now therefore I, the Governor of the State of Victoria, do by these presents command and authorize you to proceed to the Parliament Houses, in the City of Melbourne, on Wednesday, the sixteenth day of July, One thousand nine hundred and fifty-two, at the hour of half-past Four o'clock in the afternoon, then and there to administer the said Oath to the several Members of the said Legislative Council as have not already taken and subscribed the same since their election to the said Legislative Council.

(L.S.) Given under my hand and the seal of the said State at Melbourne in the said State this sixteenth day of July, in the year of Our Lord One thousand nine hundred and fifty-two, and in the first year of the reign of Her Majesty Queen Elizabeth II.

DALLAS BROOKS.

By His Excellency's Command,  
JOHN G. B. McDONALD,  
Premier.

Entered on record by me in the Register of Patents, Book 32,  
page 128, this sixteenth day of July, One thousand  
nine hundred and fifty-two.

L. CHAPMAN, Under-Secretary.

## 3. RETURNS TO WRITS.—

PERIODICAL ELECTION.—The Clerk announced that there had been received returns to Writs issued by the Honorable the President of the Council on the 16th day of May last for the election of Members to serve for the undermentioned Provinces in the places of Members whose seats became vacant by effluxion of time, and that by the indorsements on such Writs it appeared that the following Members had been elected in pursuance thereof:—

The Honorable John Joseph Jones for the Ballaarat Province.  
 The Honorable Arthur Smith for the Bendigo Province.  
 The Honorable Paul Jones for the Doutta Galla Province.  
 The Honorable Clifden Henry Andrews Eager for the East Yarra Province.  
 The Honorable Trevor Harvey for the Gippsland Province.  
 The Honorable Arthur George Warner for the Higinbotham Province.  
 The Honorable Maurice Patrick Sheehy for the Melbourne Province.  
 The Honorable Archibald McDonald Fraser for the Melbourne North Province.  
 The Honorable Albert Joseph Bailey for the Melbourne West Province.  
 The Honorable Thomas William Brennan for the Monash Province.  
 The Honorable Dudley Joseph Walters for the Northern Province.  
 The Honorable Ivan Archie Swinburne for the North-Eastern Province.  
 The Honorable Percy Thomas Byrnes for the North-Western Province.  
 The Honorable Roy Robert Rawson for the Southern Province.  
 The Honorable George Leonard Tilley for the South-Eastern Province.  
 The Honorable Donald Patrick John Ferguson for the South-Western Province.  
 The Honorable David Levis Arnott for the Western Province.

BY-ELECTION.—The Clerk announced that there had been received a return to the Writ issued by the Honorable the President of the Council on the 13th day of June last for the election of a Member to serve for the North-Western Province in the place of the Honorable Colin Ernest McNally, deceased, and that by the indorsement on such Writ it appeared that the Honorable Arthur Robert Mansell had been elected in pursuance thereof.

4. SWEARING-IN OF NEW MEMBERS.—The Honorables D. L. Arnott, A. J. Bailey, T. W. Brennan, P. T. Byrnes, Sir Clifden Eager, D. P. J. Ferguson, A. M. Fraser, T. Harvey, J. J. Jones, P. Jones, A. R. Mansell, R. R. Rawson, M. P. Sheehy, A. Smith, I. A. Swinburne, G. L. Tilley, D. J. Walters, and A. G. Warner, having severally approached the Table, took and subscribed the Oath required by law.

The Honorable Mr. Justice Sholl attested the Oath Roll, and then withdrew.

5. ELECTION OF PRESIDENT.—The Clerk announced that the time had arrived for proceeding to the election of a President of the Council.

The Honorable P. L. Coleman, addressing the Clerk, proposed to the Council for their President the Honorable Sir Clifden Henry Andrews Eager, and moved, That the Honorable Sir Clifden Henry Andrews Eager do take the Chair of the Council as President, which motion was seconded by the Honorable D. J. Walters.

The Honorable Sir Clifden Henry Andrews Eager, addressing the Clerk, expressed the high sense he had of the honour proposed to be conferred upon him, and submitted himself to the Council.

The Council then unanimously calling the Honorable Sir Clifden Henry Andrews Eager to the Chair, he was taken out of his place by the Honorable P. L. Coleman and the Honorable D. J. Walters and conducted to the Chair; and, standing on the dais, he returned his acknowledgments to the Council for the great honour that had been conferred upon him, and thereupon he took the Chair of the President.

Then the Honorables Sir Frank Clarke, P. T. Byrnes, and P. L. Coleman congratulated the Honorable the President-elect.

6. RECEPTION OF THE PRESIDENT-ELECT BY THE GOVERNOR.—The Honorable P. T. Byrnes announced that His Excellency the Governor would be pleased to receive the Honorable the President-elect and Members of the Legislative Council at half-past Five o'clock this afternoon, in the Library of the Parliament House.

The President-elect, accompanied by Honorable Members, at the time appointed, proceeded to the Library, and being returned—

The President took the Chair and read the Prayer.

The President reported that, accompanied by Honorable Members, he had presented himself to His Excellency the Governor, who had been pleased to approve of the choice made by the Council, and had addressed him in the following terms:—

MR. PRESIDENT:

I have very great pleasure in congratulating you on your re-election to the high and responsible office of President of the Legislative Council.

I feel sure that Honorable Members acted wisely and well in choosing you as their President. I know that you will continue to uphold the traditions of your office with the same dignity and wisdom which you have always shown in the past.

7. COMMISSION TO ADMINISTER OATH TO MEMBERS.—The President announced that he had received from His Excellency the Governor a Commission, which was read by the Clerk, and is as follows :—

By His Excellency General Sir REGINALD ALEXANDER DALLAS BROOKS, Knight Commander of the Most Honorable Order of the Bath, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Distinguished Service Order, Governor of the State of Victoria and its Dependencies in the Commonwealth of Australia, &c., &c., &c.

To the Honorable Sir CLIFDEN HENRY ANDREWS EAGER, Q.C., M.L.C.,  
President of the Legislative Council of the State of Victoria.

GREETING :

WHEREAS by the thirty-fifth section of *The Constitution Act Amendment Act 1928*, No. 3660, it is enacted that no Member either of the Legislative Council or the Legislative Assembly shall be permitted to sit or vote therein respectively until he has taken and subscribed before the Governor, or some person authorized by the Governor in that behalf, the Oath set out in the Second Schedule to the aforesaid Act : Now therefore I, the Governor of the State of Victoria, do by these presents command and authorize you from time to time, in the Parliament Houses, in the City of Melbourne, to administer the said Oath to such Members of the said Legislative Council as have not already taken and subscribed the same since their election to the said Legislative Council.

(L.S.) Given under my hand and the seal of the said State at Melbourne in the said State this sixteenth day of July, in the year of Our Lord One thousand nine hundred and fifty-two, and in the first year of the reign of Her Majesty Queen Elizabeth II.

DALLAS BROOKS.

By His Excellency's Command,  
JOHN G. B. McDONALD,  
Premier.

Entered on record by me in the Register of Patents, Book 32,  
page 129, this sixteenth day of July, One thousand nine  
hundred and fifty-two.

L. CHAPMAN, Under-Secretary.

8. MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable P. T. Byrnes presented a Message from His Excellency the Governor informing the Council that he had, on the 6th May last, given the Royal Assent to the undermentioned Act presented to him by the Clerk of the Parliaments, viz. :—

*Consolidated Revenue Act.*

9. COMMITTEE OF ELECTIONS AND QUALIFICATIONS.—The President laid upon the Table the following Warrant appointing Members of the Committee of Elections and Qualifications :—

LEGISLATIVE COUNCIL—VICTORIA.

Pursuant to the provisions of *The Constitution Act Amendment Act 1928* I do hereby appoint—

The Honorable Percy Thomas Byrnes,  
The Honorable Archibald McDonald Fraser, and  
The Honorable William Slater,

to be members of The Committee of Elections and Qualifications.

Given under my hand this sixteenth day of July, One thousand nine hundred and fifty-two.

CLIFDEN EAGER,  
President of the Legislative Council.

10. TEMPORARY CHAIRMEN OF COMMITTEES.—The President laid upon the Table the following Warrant nominating Temporary Chairmen of Committees :—

LEGISLATIVE COUNCIL—VICTORIA.

Pursuant to the provisions of the Standing Order of the Legislative Council numbered 160, I do hereby nominate—

The Honorable Paul Jones,  
The Honorable Herbert Charles Ludbrook, and  
The Honorable William MacAulay

to act as Temporary Chairmen of Committees whenever requested to do so by the Chairman of Committees or whenever the Chairman of Committees is absent.

Given under my hand this sixteenth day of July, One thousand nine hundred and fifty-two.

CLIFDEN EAGER,  
President of the Legislative Council.

11. PAPERS.—The Honorable P. T. Byrnes presented, by command of His Excellency the Governor—  
Education—Report of the Minister of Education for the year 1950–51.

Penal Establishments, Gaols, and Reformatory Prisons—Report and Statistical Tables  
for the year 1951.

The following Papers, pursuant to the directions of several Acts of Parliament, were laid  
upon the Table by the Clerk :—

Agricultural Colleges Act 1944—Amendment of Regulations.

Apprenticeship Acts—Amendment of Regulations—

Aircraft Trades Regulations (No. 1) ( two papers).  
Boilermaking Trades Apprenticeship Regulations.  
Boot Trades Regulations.  
Bread Trade Apprenticeship Regulations.  
Bricklaying Trade Regulations (No. 1).  
Butchering Trades Apprenticeship Regulations (two papers).  
Carpentry and Joinery Regulations (No. 1).  
Cooking Trade Apprenticeship Regulations.  
Dental Mechanic Trade Regulations (No. 1).  
Electrical Trades Apprenticeship Regulations.  
Electroplating Trade Regulations (No. 1).  
Engineering Trades Apprenticeship Regulations.  
Furniture Trades Apprenticeship Regulations.  
Ladies' and/or Men's Hairdressing Trades Regulations (No. 1).  
Motor Mechanics' Trades Apprenticeship Regulations.  
Moulding Trades Apprenticeship Regulations.  
Painting Trades Apprenticeship Regulations.  
Pastrycooking Trade Apprenticeship Regulations.  
Plastering Regulations (No. 2).  
Plumbing and Gasfitting Trades Regulations.  
Printing and Allied Trades Apprenticeship Regulations.  
Printing Trades (Country) Apprenticeship Regulations.  
Sheet Metal Trade Regulations (No. 2).  
Watch and/or Clock Making Trades Regulations (No. 1).

Co-operative Housing Societies Acts—

Amendment of Co-operative Housing Societies (Model Rules) Regulations.

Co-operative Housing Societies (General) Regulations (No. 7).

Report of the Registrar of Co-operative Housing Societies for the year 1950–51.

Country Fire Authority Acts—

Amendment of Country Fire Authority Compensation Regulations.

Regulation relating to the issue of Debentures.

Country Roads Act 1928—Report of the Country Roads Board for the year 1950–51.

Education Act 1928—Amendment of Regulations—

Regulation VI.—Teachers' Certificates.

Regulation XXVII.—Efforts for School Funds.

Regulation XXVIII.—Use of School Buildings.

Regulation XXIX.—School Committees.

Regulation XXXIII.—Consolidated Schools and Group Schools.

Regulation XXXV.—Girls' Secondary Schools.

Regulation XXXVI.—District High Schools.

Regulation XXXVIII.—Technical Schools.

Education Act 1928 and Teaching Service Act 1946—Amendment of Regulation XLIV.—  
School Hours and Organization.

Explosives Act 1928—Orders in Council relating to—

Classification of Explosives—

Class 3—Nitro-Compound.

Class 6—Ammunition.

Definition of Explosives—

Class 3—Nitro-Compound.

Class 6—Ammunition.

Fisheries Acts—Notices of Intention to issue Proclamations—

To alter the Regulations respecting netting, &c., in Corner Basin, Corner Inlet, and  
Port Albert and adjacent waters.

To prescribe a bag limit for trout taken from Jubilee Dam and Corio Dam.

To prescribe a close season for Macquarie perch, callop, and silver perch or  
grunter.

Forests Act 1928—Report of the Forests Commission for the year 1950–51.

Friendly Societies Act 1928, Industrial and Provident Societies Act 1928, Building Societies  
Act 1928, Trade Unions Act 1928, Superannuation and Other Trust Funds Validation  
Act 1932, and Benefit Associations Act 1951—Report of the Registrar of Friendly  
Societies for the year 1951.



Gas and Fuel Corporation Act 1950—Gas and Fuel Corporation—Balance-sheets as at 30th June, 1951, and Profit and Loss Accounts for the period 6th December, 1950, to 30th June, 1951.

Land Act 1928—

Certificates of the Minister of Education relating to the proposed compulsory resumption of land for the purposes of schools at Allendale, Foster, Oakleigh South, Thomastown, and Warragul (five papers).

Schedule of country lands proposed to be sold by public auction.

Lands (Charitable Trusts) Act 1951—Statement of the terms of the proposed consent by the Attorney-General to a lease of the Corryong Athenaeum Hall.

Lifts Regulations Act 1928—Amendment of Lifts Regulations 1945.

Local Government Act 1946—Order in Council relating to compulsory voting for the election of councillors for the City of Sale and the Shire of Broadmeadows.

Marketing of Primary Products Act 1935—

Proclamations—

Appointing a person to be the manager of the Egg and Egg Pulp Marketing Board.

Declaring that Chicory shall become the property of the Chicory Marketing Board for a further period of two years.

Declaring that Onions shall become the property of the Onion Marketing Board for a further period of two years.

Fixing the day of coming into operation of the Marketing of Primary Products (Egg and Egg Pulp) Act 1951.

Regulations—

Amendment of Chicory Marketing Board Regulations 1936.

Amendment of Potato Marketing Board Regulations 1948.

Potato Marketing Board—Third period of time for the computation of or accounting for the net proceeds of the sale of potatoes.

Mental Hygiene Authority Act 1950—Mental Hygiene Authority Regulations 9521 (Nos. 2 to 4) (three papers).

Midwives Act 1928—Midwives Regulations 1952 (No. 2).

Milk and Dairy Supervision Act 1943—Regulation prescribing a Milk Depot.

Milk Pasteurization Act 1949—Regulations prescribing districts (two papers).

Nurses Act 1928—Amending Nurses Regulations 1952.

Nurses and Midwives Act 1950—Mental Nurses Regulations 1952.

Police Regulation Acts—Amendment of Police Regulations 1951.

Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—

Part III.—Salaries, Increments and Allowances (43 papers).

Part VI.—Travelling Expenses.

Railways Act 1928—Report of the Victorian Railways Commissioners for the quarter ended 31st December, 1951.

Soldier Settlement Acts—Amendment of Regulations.

Teaching Service Act 1946—Amendment of Regulations—

Regulation XLV.—Holidays.

Teaching Service (Classification, Salaries, and Allowances) Regulations (four papers).

Teaching Service (Teachers Tribunal) Regulations (nine papers).

Town and Country Planning Act 1944—

Amendment of the City of Sandringham Planning Scheme 1948.

Bell-street West (City of Coburg) Planning Scheme 1950.

Trade Unions Act 1928—Report of the Government Statist for the year 1951.

12. LEAVE OF ABSENCE.—The Honorable I. A. Swinburne moved, by leave, That leave of absence be granted to the Honorable William MacAulay for one month on account of urgent private business.

Question—put and resolved in the affirmative.

13. CHAIRMAN OF COMMITTEES.—The Honorable P. T. Byrnes moved, by leave, That the Honorable Dudley Joseph Walters be Chairman of Committees of the Council.

Question—put and resolved in the affirmative.

14. STATUTE LAW REVISION COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, and D. J. Walters be members of the Statute Law Revision Committee.

Question—put and resolved in the affirmative.

15. PUBLIC WORKS COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorable Dudley Joseph Walters be appointed a member of the Public Works Committee.  
Question—put and resolved in the affirmative.
16. STATE DEVELOPMENT COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorable Arthur Robert Mansell be appointed a member of the State Development Committee.  
Question—put and resolved in the affirmative.
17. STANDING ORDERS COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorables the President, P. T. Byrnes, A. M. Fraser, J. W. Galbally, T. H. Grigg, D. J. Walters, and A. G. Warner be members of the Select Committee on the Standing Orders of the House.  
Question—put and resolved in the affirmative.
18. HOUSE COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorables P. T. Byrnes, Sir James Kennedy, and P. Jones be members of the House Committee.  
Question—put and resolved in the affirmative.
19. LIBRARY COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorables the President and G. L. Chandler be members of the Joint Committee to manage the Library.  
Question—put and resolved in the affirmative.
20. PRINTING COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorables the President, E. P. Cameron, T. Harvey, and H. C. Ludbrook be members of the Printing Committee.  
Question—put and resolved in the affirmative.
21. HOUSE COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorable G. J. Tuckett be discharged from attendance upon the House Committee and that the Honorable I. A. Swinburne be added to such Committee.  
Question—put and resolved in the affirmative.
22. LIBRARY COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorable P. L. Coleman be discharged from attendance upon the Joint Committee to manage the Library and that the Honorable R. R. Rawson be added to such Committee.  
Question—put and resolved in the affirmative.
23. STATUTE LAW REVISION COMMITTEE—CROWN PROCEEDINGS BILL.—The Honorable P. T. Byrnes brought up a Report from the Statute Law Revision Committee on the proposals contained in the Crown Proceedings Bill.  
Ordered to lie on the Table and be printed together with the Minutes of Evidence.
24. THE LATE HONORABLE COLIN ERNEST McNALLY.—The Honorable P. T. Byrnes moved, by leave, That this House place on record its deep regret at the death of the Honorable Colin Ernest McNally, one of the Members for the North-Western Province, and its keen appreciation of the valuable services rendered by him to the Parliament and the people of Victoria.  
And other Honorable Members and the President having addressed the House—  
The question was put, and Honorable Members signifying their assent by rising in their places, unanimously resolved in the affirmative.
25. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.  
Question—put and resolved in the affirmative.  
The Honorable P. T. Byrnes moved, That the House, out of respect to the memory of the late Honorable Colin Ernest McNally, do now adjourn.  
Debate ensued.  
Question—put and resolved in the affirmative.

And then the Council, at forty-seven minutes past Six o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 11.

TUESDAY, 22ND JULY, 1952.

### *Questions.*

- \*1. The Hon. G. L. CHANDLER: To ask the Honorable the Commissioner of Public Works—
- How many railway level crossing accidents have occurred in Victoria each year since 1940, and what are the total numbers of people killed and injured in such accidents.
  - What number of accidents occurred, and what numbers of people were killed and injured at level crossings where—(i) no warning device or gates operated; (ii) flashing light signals operated; and (iii) gates were provided.
  - How many people have been killed and how many injured at the Boronia level crossing.
  - What four unprotected level crossings in Victoria have the worst accident records, and what deaths and injuries have occurred at each.
  - What is the cost of installing a flashing-light warning device at level crossings, and what is the annual operating cost.
  - What is the weekly cost of hand-operated level crossing gates on a suburban line.
  - What is the estimated cost of eliminating all level crossings in Victoria.
- \*2. The Hon. A. M. FRASER: To ask the Honorable the Commissioner of Public Works—
- Who are the members of the Discharged Servicemen's Employment Board.
  - What staff is employed by the Board.
  - Has the Board since 1st January, 1946, been carrying out all or any of the functions referred to in section six of the *Discharged Servicemen's Preference Act 1943*.
  - Has the Board submitted annual reports to the Minister; if so, will the Minister make the last two reports available.
  - What other functions or duties have been delegated or given to the Board or to any and what member thereof.
- \*3. The Hon. SIR FRANK CLARKE: To ask the Honorable the Commissioner of Public Works—
- Is it a fact that the Government proposes to construct a tunnel under the approaches to Princes Bridge to serve the expected traffic to and from the new Swan-street bridge; if so, what is the estimated cost of the scheme and the estimated time before it will be completed.
  - Will the tunnel debouch into Alexandra-avenue; if not, where will the point of debouchment be.
  - Is it intended as stated in the Press that half the cost of the scheme should be paid by the suburban municipalities.
  - Will the Minister lay on the table of the Library all the reports and plans connected with this scheme.
- \*4. The Hon. A. M. FRASER: To ask the Honorable the Commissioner of Public Works—Will he lay on the table of the Library the files containing applications, balance-sheets, and other relevant documents in respect to Housey-Housey games conducted at Forresters' Hall, Chapel-street, South Yarra; St. Kilda Foreshore; Flinders-street, near railway station; Wirth's Olympia; Lygon-street, near Albion-street, Brunswick; and Barkly-street, near Nicholson-street, Carlton.
- \*5. The Hon. W. SLATER: To ask the Honorable the Commissioner of Public Works—When does the Government propose issuing the Sessional Volumes of the Victorian Statutes for the years 1950 and 1951.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

*Government Business.*

## NOTICE OF MOTION :—

- \*1. The Hon. I. A. SWINBURNE : To move, That he have leave to bring in a Bill to amend the Housing Acts, and for other purposes.

## ORDER OF THE DAY :—

1. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

*General Business.*

## NOTICE OF MOTION :—

1. The Hon. SIR JAMES KENNEDY : To move, That The Constitution (Legislative Council) Bill be now read a second time.

## ORDERS OF THE DAY :—

1. CROWN PROCEEDINGS BILL—(Hon. A. M. Fraser)—Second reading—*Resumption of debate.*
2. POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

## SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.

STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.

HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.

LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.

PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

## VICTORIA.

## LEGISLATIVE COUNCIL.

## MINUTES OF THE PROCEEDINGS.

## No. 12.

TUESDAY, 22ND JULY, 1952.

1. The President took the Chair and read the Prayer.
2. CONSOLIDATED REVENUE BILL (No. 2).—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to apply out of the Consolidated Revenue the sum of Four million one hundred and thirty thousand nine hundred and sixty-two pounds to the service of the year One thousand nine hundred and fifty-one and One thousand nine hundred and fifty-two*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
3. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—
  - Apprenticeship Acts—
    - Amendment of Butchering Trades Apprenticeship Regulations.
    - General Apprenticeship Regulations.
  - Fisheries Acts—Notices of Intention to issue Proclamations—
    - To define the mouth of the Tidal River at Wilson’s Promontory and prohibit netting within a radius of a quarter of a mile thereof.
    - To prohibit all fishing in or the taking of fish from Morton’s Cutting at Lake Learmonth during the whole of each year.
  - Police Regulation Acts—Determinations Nos. 38 and 39 of the Police Classification Board (two papers).
  - Teaching Service Act 1946—Amendment of Teaching Service (Classification, Salaries, and Allowances) Regulations.
4. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.  
Question—put and resolved in the affirmative.  
The Honorable P. T. Byrnes moved, That the House do now adjourn.  
Debate ensued.  
Question—put and resolved in the affirmative.

And then the Council, at twenty-eight minutes past Five o’clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*



MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL

## *Notices of Motion and Orders of the Day.*

No. 12.

TUESDAY, 29<sup>TH</sup> JULY, 1952.

### *Question.*

- \*1. The Hon. H. C. LUDBROOK: To ask the Honorable the Commissioner of Public Works—
- (a) What was the total amount of all monies collected or received pursuant to the provisions of the Transport Regulation Acts during the financial year 1951-52.
  - (b) What was the total cost of administering the said Acts during that period.
  - (c) To what purpose or purposes was the surplus (if any) of revenue over costs of administration applied.

### *Government Business.*

#### ORDERS OF THE DAY :—

- \*1. CONSOLIDATED REVENUE BILL (No. 2)—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
2. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.

### *General Business.*

#### ORDERS OF THE DAY :—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading—*Resumption of debate.*
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—To be further considered in Committee.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

## MEETING OF SELECT COMMITTEE.

*Wednesday, 30th July.*

LIBRARY COMMITTEE (JOINT)—At a quarter to Two o'clock.

### SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.

STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.

HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.

LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.

PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

\* *Notifications to which an asterisk (\*) is prefixed appear for the first time.*

By Authority: J. J. GOURLEY, Government Printer, Melbourne.

## VICTORIA.

## LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS.

## No. 13.

TUESDAY, 29<sup>TH</sup> JULY, 1952.

1. The President took the Chair and read the Prayer.
2. LANDS (CHARITABLE TRUSTS) BILL (No. 2).—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act relating to certain Land held on Trust for Charitable Purposes* ” and desiring the concurrence of the Council therein.  
Bill ruled to be a Private Bill.  
The Honorable I. A. Swinburne moved, That this Bill be dealt with as a Public Bill.  
Question—put and resolved in the affirmative.  
The Honorable I. A. Swinburne moved, That this Bill be now read a first time.  
Question—put and resolved in the affirmative.—Bill read a first time and ordered to be printed and to be read a second time on the next day of meeting.
3. LEAVE OF ABSENCE.—The Honorable P. L. Coleman moved, by leave, That leave of absence be granted to the Honorable William Slater for one month on account of urgent private business.  
Question—put and resolved in the affirmative.
4. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—  
Land Act 1928—Schedule of country lands proposed to be sold by public auction.  
Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances (eleven papers).  
Railways Act 1928—Report of the Victorian Railways Commissioners for the quarter ended 31st March, 1952.
5. CONSOLIDATED REVENUE BILL (No. 2).—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
6. FORESTS (EXCHANGE OF LANDS) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend the ‘ Forests (Exchange of Lands) Act 1943’* ” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
7. REGISTRATION OF BIRTHS DEATHS AND MARRIAGES BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend the Registration of Births Deaths and Marriages Acts* ” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.



8. COUNTY COURT (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to extend the Jurisdiction of County Courts, to amend the County Court Acts, and for other purposes* ” and desiring the concurrence of the Council therein.

On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

9. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.

Question—put and resolved in the affirmative.

And then the Council, at two minutes past Ten o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

# LEGISLATIVE COUNCIL

## *Notices of Motion and Orders of the Day.*

No. 13.

TUESDAY, 5TH AUGUST, 1952.

### *Question.*

\*1. The Hon. G. L. CHANDLER: To ask the Honorable the Commissioner of Public Works—

- (a) What is the method of selection of jurymen to act with the Coroner when inquiries into fatal accidents are instituted, and by whom is the selection made.
- (b) Has a jury been selected for the Boronia coronial inquiry; if so, what occupations do the jurymen follow, or, if retired, what occupations did they follow before retirement.
- (c) Do such jurors represent a fair cross-section of the community; if not, will the Government take action to remedy this.

### *Government Business.*

#### ORDERS OF THE DAY :—

- \*1. LANDS (CHARITABLE TRUSTS) BILL (NO. 2)—(from Assembly—Hon. I. A. Swinburne)—Second reading.
- \*2. FORESTS (EXCHANGE OF LANDS) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
- \*3. REGISTRATION OF BIRTHS DEATHS AND MARRIAGES BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading.
- \*4. COUNTY COURT (AMENDMENT) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
5. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

### *General Business.*

#### ORDERS OF THE DAY :—

1. CROWN PROCEEDINGS BILL—(Hon. A. M. Fraser)—Second reading—*Resumption of debate.*
2. POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

### SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.
- STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.
- HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.
- LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.
- PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

## VICTORIA.

## LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS.

## No. 14.

TUESDAY, 5TH AUGUST, 1952.

1. The President took the Chair and read the Prayer.
2. MESSAGE FROM HIS EXCELLENCY THE LIEUTENANT-GOVERNOR.—The Honorable P. T. Byrnes presented a Message from His Excellency the Lieutenant-Governor, as Deputy for His Excellency the Governor, informing the Council that he had, this day, given the Royal Assent to the undermentioned Act presented to him by the Clerk of the Parliaments, viz. :—  
*Consolidated Revenue Act.*
3. COAL MINE WORKERS PENSIONS (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend the ‘Coal Mine Workers Pensions Act 1942’*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable T. Harvey, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
4. JUSTICES (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend the ‘Justices Act 1928’ and for other purposes*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
5. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk :—  
Agricultural Colleges Act 1944—Regulations prescribing fees and travelling expenses of members of the Advisory Committee.  
Milk and Dairy Supervision Act 1943—Regulation prescribing a Milk Depot.  
Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—  
Part II.—Promotions and Transfers.  
Part III.—Salaries, Increments and Allowances (eight papers).  
Teaching Service Act 1946—Teaching Service (Classification, Salaries, and Allowances) Regulations.
6. LANDS (CHARITABLE TRUSTS) BILL (No. 2).—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
7. FORESTS (EXCHANGE OF LANDS) BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable P. T. Byrnes moved, That this Bill be now read a second time.  
The Honorable D. P. J. Ferguson moved, That the debate be now adjourned.  
Question—That the debate be now adjourned—put and resolved in the affirmative.  
Ordered—That the debate be adjourned until the next day of meeting.

8. REGISTRATION OF BIRTHS DEATHS AND MARRIAGES BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill with an amendment, the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same with an amendment and desiring their concurrence therein.

9. COUNTY COURT (AMENDMENT) BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable I. A. Swinburne moved, That this Bill be now read a second time.

The Honorable A. M. Fraser moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and resolved in the affirmative.

Ordered—That the debate be adjourned until the next day of meeting.

10. MINES (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend the Mines Acts*” and desiring the concurrence of the Council therein.

On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

11. WEIGHTS AND MEASURES (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend the Weights and Measures Acts*” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

12. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday, the 19th instant.

Question—put and resolved in the affirmative.

And then the Council, at fifty-one minutes past Eight o'clock, adjourned until Tuesday, the 19th instant.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

# LEGISLATIVE COUNCIL

## *Notices of Motion and Orders of the Day.*

No. 14.

TUESDAY, 19TH AUGUST, 1952.

### *Questions.*

- \*1. The Hon. E. P. CAMERON: To ask the Honorable the Commissioner of Public Works—In respect of each of the years 1950–51 and 1951–52, what was—(i) the number of State land tax assessments issued; (ii) the total amount of land tax assessed; and (iii) the total capital value of the lands upon which such assessments were based.
- \*2. The Hon. P. JONES: To ask the Honorable the Commissioner of Public Works—
- Is he aware of the move now being made by some Australian oil companies, which if successful would mean a practical monopoly in the distribution of petrol in Victoria.
  - Are some of these companies linked up with or controlled by a group of oil companies in the United States of America whose activities in relation to an alleged oil cartel are to be investigated by the Government of that country.
  - What was the total quantity of petrol consumed in Australia for the latest year for which figures are available, stating the year, what would one penny a gallon increase on that quantity have meant in the aggregate to the oil companies, and what would it have meant as regards the quantity consumed in Victoria.
  - Will the Government have the activities and ramifications of the oil companies operating in Victoria fully investigated before the Minister in Charge of Prices agrees to any further increase in the price of petrol.
- \*3. The Hon. R. R. RAWSON: To ask the Honorable the Commissioner of Public Works—
- What is the composition of the Level Crossings Committee.
  - Does the Government accept its findings as final.
  - Will the Government consider reviewing the composition of such Committee with a view to widening the representation thereon.
- \*4. The Hon. D. P. J. FERGUSON: To ask the Honorable the Commissioner of Public Works—Is it the intention of the Government during the present Session to introduce a Bill to reconstitute the Geelong Harbor Trust so as to provide for a full-time chairman and a representative of the employees.
- \*5. The Hon. P. JONES: To ask the Honorable the Commissioner of Public Works—
- How many acres of good fattening land will be submerged with the completion of the big Eildon dam.
  - What is the estimated total cost of the project, including all amounts payable as compensation and the cost of construction of new roads and railways to replace those that will be submerged.
  - Is the completion of the big Eildon dam project considered of greater urgency than the relief of the great shortage of schools and teachers.

### *Government Business.*

#### ORDERS OF THE DAY:—

- FORESTS (EXCHANGE OF LANDS) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading—Resumption of debate (Hon. D. P. J. Ferguson).
- COUNTY COURT (AMENDMENT) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading—Resumption of debate (Hon. A. M. Fraser).
- COAL MINE WORKERS PENSIONS (AMENDMENT) BILL—(from Assembly—Hon. T. Harvey)—Second reading.
- JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

\*5. MINES (AMENDMENT) BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading.

\*6. WEIGHTS AND MEASURES (AMENDMENT) BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.

7. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.

*General Business.*

ORDERS OF THE DAY :—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading—*Resumption of debate.*
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—To be further considered in Committee.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.

STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.

HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.

LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.

PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

## VICTORIA.

## LEGISLATIVE COUNCIL.

## MINUTES OF THE PROCEEDINGS.

## No. 15.

TUESDAY, 19TH AUGUST, 1952.

1. The President took the Chair and read the Prayer.
2. MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable P. T. Byrnes presented a Message from His Excellency the Governor, informing the Council that he had, on the 12th instant, given the Royal Assent to the undermentioned Acts presented to him by the Clerk of the Parliaments, viz. :—  
*Lands (Charitable Trusts) Act.*  
*Registration of Births Deaths and Marriages Act.*
3. COUNTRY ROADS (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend the ‘Country Roads Act 1928’* ” and desiring the concurrence of the Council therein.  
 On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
4. TEACHING SERVICE (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend Sections Sixty and Sixty-one of the ‘Teaching Service Act 1946’* ” and desiring the concurrence of the Council therein.  
 On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
5. PRICES REGULATION (BUTTER AND CHEESE) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act relating to the Regulation of the Price of Butter and Cheese* ” and desiring the concurrence of the Council therein.  
 On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
6. LAND (DEVELOPMENT LEASES) AMENDMENT BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend Section Three of the ‘Land (Development Leases) Act 1951’* ” and desiring the concurrence of the Council therein.  
 On the motion of the Honorable T. Harvey, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
7. SUPREME COURT (JUDGES’ COST OF LIVING) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to further amend Section Twelve of the ‘Supreme Court Act 1928’* ” and desiring the concurrence of the Council therein.  
 On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
8. GEELONG HARBOR TRUST (FINANCIAL) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act with respect to the Funds of and the Raising of Loans and the Issue of Debentures and Inscribed Stock by the Geelong Harbor Trust Commissioners, and for other purposes* ” and desiring the concurrence of the Council therein.  
 On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and, by leave, to be read a second time later this day.

9. REGISTRATION OF BIRTHS DEATHS AND MARRIAGES BILL.—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to the amendment made by the Council in this Bill.
10. STATUTE LAW REVISION COMMITTEE.—TRANSFER OF LAND BILL 1949.—The Honorable P. T. Byrnes brought up a Supplementary Report from the Statute Law Revision Committee on this Bill.

Ordered to lie on the Table and be printed together with the Minutes of Evidence.

11. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—

Apprenticeship Acts—Amendment of Regulations—

Aircraft Trades Regulations (No. 1).  
 Boilermaking Trades Apprenticeship Regulations.  
 Boot Trades Regulations.  
 Bricklaying Trade Regulations (No. 1).  
 Butchering Trades Apprenticeship Regulations.  
 Carpentry and Joinery Regulations (No. 1).  
 Cooking Trade Apprenticeship Regulations.  
 Dental Mechanic Trade Regulations (No. 1).  
 Electrical Trades Apprenticeship Regulations.  
 Electroplating Trade Regulations (No. 1).  
 Engineering Trades Apprenticeship Regulations.  
 Fibrous Plastering Trade Apprenticeship Regulations.  
 Furniture Trades Apprenticeship Regulations.  
 Ladies' and/or Men's Hairdressing Trades Regulations (No. 1).  
 Motor Mechanics Trades Apprenticeship Regulations.  
 Moulding Trades Apprenticeship Regulations.  
 Painting Trades Apprenticeship Regulations.  
 Pastrycooking Trade Apprenticeship Regulations.  
 Plastering Regulations (No. 2).  
 Plumbing and Gasfitting Trades Regulations.  
 Printing and Allied Trades Apprenticeship Regulations.  
 Printing Trades (Country) Apprenticeship Regulations.  
 Radio Tradesman Trade Apprenticeship Regulations.  
 Sheet Metal Trade Regulations (No. 2).  
 Watch and/or Clock Making Trades Regulations (No. 1).

Country Fire Authority Acts—Amendment of Regulations relating to the issue of Debentures.

Explosives Act 1928—Orders in Council relating to—

Classification of Explosives—

Class 1.—Gunpowder.  
 Class 2.—Nitrate Mixture.  
 Class 3.—Nitro-Compound.  
 Class 4.—Chlorate Mixture.  
 Class 5.—Fulminate.  
 Class 6.—Ammunition.  
 Class 7.—Firework.

Definition of Explosives—Class 3.—Nitro-Compound.

Geelong Harbor Trust Acts—Accounts and Statement of Receipts and Expenditure of the Geelong Harbor Trust Commissioners for the year 1951.

Land Act 1928—

Certificate of the Minister of Education relating to the proposed compulsory resumption of land for the purpose of a school at Springvale.

Schedule of country lands proposed to be sold by public auction.

Lands Compensation Act 1928—Return under Section 37 showing particulars of purchases, sales, or exchanges of land by the State Electricity Commission for the year 1951-52.

Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances (ten papers).

Public Works Committee Acts—Amendment of Regulations.

State Development Acts—State Development (Allowances) Regulations.

Supreme Court Acts—Rules of the Supreme Court—Amendment of Probate and Administration Rules.

Teaching Service Act 1946—Amendment of Regulations—

Teaching Service (Classification, Salaries, and Allowances) Regulations.  
 Teaching Service (Teachers Tribunal) Regulations (four papers).



12. FORESTS (EXCHANGE OF LANDS) BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

13. COUNTY COURT (AMENDMENT) BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters reported that the Committee had made progress in the Bill, and asked leave to sit again.

Resolved—That the Council will, on the next day of meeting, again resolve itself into the said Committee.

14. POSTPONEMENT OF ORDERS OF THE DAY.—Ordered—That the consideration of Orders of the Day, Government Business, Nos. 3 to 7 inclusive, be postponed until later this day.

15. GEELONG HARBOR TRUST (FINANCIAL) BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable P. T. Byrnes moved, That this Bill be now read a second time.

Debate ensued.

The Honorable D. P. J. Ferguson moved, as an amendment, That all the words after "That" be omitted with the view of inserting in place thereof the words "this House does not object to the provisions of the Bill but is of opinion that it should be withdrawn and another Bill introduced incorporating additional provisions for representation on the Geelong Harbor Trust to include a full-time chairman and a representative of the employees nominated by the employees on the waterfront".

Debate ensued.

Question—That the words proposed to be omitted stand part of the question—put.

The Council divided.

Ayes, 16.  
 The Hon. P. T. Byrnes,  
 E. P. Cameron,  
 G. L. Chandler,  
 C. P. Gartside,  
 T. H. Grigg,  
 T. Harvey,  
 P. P. Inchbold,  
 Sir James Kennedy,  
 H. C. Ludbrook (*Teller*),  
 G. S. McArthur,  
 W. MacAulay,  
 H. V. MacLeod,  
 A. R. Mansell (*Teller*),  
 I. A. Swinburne,  
 D. J. Walters,  
 A. G. Warner.

Noes, 11.  
 The Hon. A. J. Bailey (*Teller*),  
 T. W. Brennan,  
 P. L. Coleman,  
 D. P. J. Ferguson,  
 J. W. Galbally,  
 J. J. Jones,  
 P. Jones (*Teller*),  
 R. R. Rawson,  
 M. P. Sheehy,  
 A. Smith,  
 G. L. Tilley.

And so it was resolved in the affirmative.—Amendment negatived.

Question—That this Bill be now read a second time—put and resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

16. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.

Question—put and resolved in the affirmative.

The Honorable P. T. Byrnes moved, That the House do now adjourn.

Debate ensued.

Question—put and resolved in the affirmative.

And then the Council, at twelve minutes past Ten o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
 Clerk of the Legislative Council.



# LEGISLATIVE COUNCIL

## *Notices of Motion and Orders of the Day.*

No. 15.

TUESDAY, 26TH AUGUST, 1952.

### *Questions.*

- \*1. The Hon. D. P. J. FERGUSON: To ask the Honorable the Commissioner of Public Works—  
Will the Minister for Transport investigate the need for the operation of a daily motor-train service on the Geelong to Queenscliff railway line to provide a workers' passenger service as well as helping to develop the Bellarine Peninsula.
- \*2. The Hon. P. JONES: To ask the Honorable the Minister of Education—Will the Government give consideration to the setting up of a Royal Commission to inquire into the education system in Victoria with respect to—(i) the present acute shortage of schools and teachers; (ii) the future outlook in this regard; (iii) the granting of financial assistance to registered schools; and (iv) any other matters considered likely to improve the education system.
- \*3. The Hon. A. M. FRASER: To ask the Honorable the Commissioner of Public Works—
- How many overseas employees were engaged under contract by the Melbourne and Metropolitan Tramways Board.
  - What was the total expenditure involved in the engagement of such employees, including the visit overseas of officials, advertising, employees' fares, &c.
  - How many such employees—(i) arrived in Victoria; and (ii) are now employed by the Board.
  - What was the price paid for each of the six properties purchased by the Board for hostels for employees.
  - What amount was spent in relation to each of such properties in renovations, alterations, repairs, furnishings, linen, &c.
  - How many employees were catered for at each of the hostels from the time of obtaining possession of the properties to the present time, giving the figures weekly.
  - What has been the net profit or loss, as the case may be, in the running of each hostel.
- \*4. The Hon. P. L. COLEMAN: To ask the Honorable the Commissioner of Public Works—
- What was the quantity of Callide coal imported into Victoria during the twelve months ended 31st July, 1952, and how was this distributed.
  - What was the quantity of coal imported from—(i) India; and (ii) South Africa, during the years ended 30th June, 1950, 1951, and 1952, respectively, and how was this distributed.
  - What was the quantity of coal imported from New South Wales during the years ended 30th June, 1950, 1951, and 1952, respectively, and how was this distributed.
  - What was the quantity of brown coal produced by—(i) the State Electricity Commission; and (ii) private enterprise, during the years ended 30th June, 1950, 1951, and 1952, respectively, and how was this distributed.
- \*5. The Hon. D. P. J. FERGUSON: To ask the Honorable the Commissioner of Public Works—  
Will the Government give an assurance that the Red Cross Hostel, Welfare House, will remain open for the after-care of country poliomyelitis and spastic cases.
- \*6. The Hon. A. M. FRASER: To ask the Honorable the Minister of Education—
- When does he anticipate the High School in Banksia-street, West Heidelberg, will be open for students.
  - When will the erection of the proposed new school at Macleod be started, and when is it expected to be completed.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

*Government Business.*

## ORDERS OF THE DAY :—

1. COUNTY COURT (AMENDMENT) BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be further considered in Committee.
2. COAL MINE WORKERS PENSIONS (AMENDMENT) BILL—(*from Assembly—Hon. T. Harvey*)—Second reading.
3. JUSTICES (AMENDMENT) BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
4. MINES (AMENDMENT) BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading.
5. WEIGHTS AND MEASURES (AMENDMENT) BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
- \*6. COUNTRY ROADS (AMENDMENT) BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
- \*7. TEACHING SERVICE (AMENDMENT) BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
- \*8. PRICES REGULATION (BUTTER AND CHEESE) BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading.
- \*9. LAND (DEVELOPMENT LEASES) AMENDMENT BILL—(*from Assembly—Hon. T. Harvey*)—Second reading.
- \*10. SUPREME COURT (JUDGES' COST OF LIVING) BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
11. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.

*General Business.*

## ORDERS OF THE DAY :—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading—*Resumption of debate.*
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—To be further considered in Committee.

ROY S. SARAH,

*Clerk of the Legislative Council.*

CLIFDEN EAGER,

*President.*

## SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.

STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.

HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.

LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.

PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL

## *Notices of Motion and Orders of the Day.*

No. 16.

WEDNESDAY, 27<sup>TH</sup> AUGUST, 1952.

### *Questions.*

- \*1. The Hon. A. J. BAILEY : To ask the Honorable the Minister in Charge of Housing—
- (a) What were the terms of the return to work at the Holmesglen Housing Commission factory of the 116 labourers on strike following the dismissal of three men on 7th August.
  - (b) Have the three men been reinstated ; if so, on what date or dates ; if not, when does the Housing Commission plan to reinstate them.
- \*2. The Hon. A. J. BAILEY : To ask the Honorable the Commissioner of Public Works—Have any contracts been entered into recently by the State Electricity Commission with private carrying companies ; if so, (i) what are the names of the companies ; (ii) what are the terms of the contracts ; and (iii) what would be the estimated cost if the Commission itself carried out the work.

### *General Business.*

#### ORDERS OF THE DAY :—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading—*Resumption of debate.*
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—To be further considered in Committee.

### *Government Business.*

#### ORDERS OF THE DAY :—

- \*1. CONSOLIDATED REVENUE BILL (No. 3)—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
2. TEACHING SERVICE (AMENDMENT) BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
3. PRICES REGULATION (BUTTER AND CHEESE) BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading.
4. LAND (DEVELOPMENT LEASES) AMENDMENT BILL—(*from Assembly—Hon. T. Harvey*)—Second reading.
5. SUPREME COURT (JUDGES' COST OF LIVING) BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
- \*6. VETERINARY SURGEONS (FOREIGN QUALIFICATION) BILL—(*from Assembly—Hon. T. Harvey*)—Second reading.
- \*7. STATE ELECTRICITY COMMISSION (APPLIANCES) BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading.
8. WEIGHTS AND MEASURES (AMENDMENT) BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
9. COUNTRY ROADS (AMENDMENT) BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
10. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

TUESDAY, 2ND SEPTEMBER.

*Government Business.*

ORDER OF THE DAY:—

I. JUSTICES (AMENDMENT) BILL—(*from Assembly—Hon. P. P. Inchbold*)—To be further considered in Committee.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

### SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.

STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.

HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.

LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.

PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

## VICTORIA.

## LEGISLATIVE COUNCIL.

## MINUTES OF THE PROCEEDINGS.

No. 16.

TUESDAY, 26TH AUGUST, 1952.

1. The President took the Chair and read the Prayer.
2. MESSAGE FROM HIS EXCELLENCY THE LIEUTENANT-GOVERNOR.—The Honorable P. P. Inchbold presented a Message from His Excellency the Lieutenant-Governor, as Deputy for the Governor, informing the Council that he had, this day, given the Royal Assent to the undermentioned Acts presented to him by the Clerk of the Parliaments, viz. :—
  - Forests (Exchange of Lands) Act.*
  - Geelong Harbor Trust (Financial) Act.*
3. CONSOLIDATED REVENUE BILL (No. 3).—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to apply out of the Consolidated Revenue the sum of Twelve million five hundred and sixty-three thousand and twenty pounds to the service of the year One thousand nine hundred and fifty-two and One thousand nine hundred and fifty-three* ” and desiring the concurrence of the Council therein.
 

On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
4. STATUTE LAW REVISION COMMITTEE—EVIDENCE BILL.—The Honorable D. J. Walters brought up a Report from the Statute Law Revision Committee on the proposals contained in the Evidence Bill.
 

Ordered to lie on the Table and be printed together with the Minutes of Evidence.
5. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk :—
  - Apprenticeship Acts—Carpentry and Joinery Trades Apprenticeship Regulations.
  - Hospitals and Charities Act 1948—Hospitals and Charities Additional Regulations 1952.
  - Land Act 1928—Certificate of the Minister of Education relating to the proposed compulsory resumption of land for the purpose of a school at Sunshine West.
  - Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances (four papers).
6. COUNTY COURT (AMENDMENT) BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole having been read, the President left the Chair.
 

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill with amendments, the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same with amendments and desiring their concurrence therein.

7. COAL MINE WORKERS PENSIONS (AMENDMENT) BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

8. JUSTICES (AMENDMENT) BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters reported that the Committee had made progress in the Bill, and asked leave to sit again.

Resolved—That the Council will, on Tuesday next, again resolve itself into the said Committee.

9. MINES (AMENDMENT) BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

10. VETERINARY SURGEONS (FOREIGN QUALIFICATION) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to provide for the Registration as Veterinary Surgeons of Certain Persons with Foreign Veterinary Qualifications and for other purposes*” and desiring the concurrence of the Council therein.

On the motion of the Honorable T. Harvey, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

11. STATE ELECTRICITY COMMISSION (APPLIANCES) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend Sections Seven and Eight of the ‘State Electricity Commission Act 1934’*” and desiring the concurrence of the Council therein.

On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

12. COUNTY COURT (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to the amendments made by the Council in this Bill.

And then the Council, at seventeen minutes past Ten o'clock, adjourned until to-morrow.

ROY S. SARAH,  
Clerk of the Legislative Council.

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No. 17.

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WEDNESDAY, 27TH AUGUST, 1952.

1. The President took the Chair and read the Prayer.

2. PAPERS.—The following Papers, pursuant to the direction of an Act of Parliament, were laid upon the Table by the Clerk:—

Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances (six papers).

3. POSTPONEMENT OF ORDERS OF THE DAY.—Ordered—That the consideration of Orders of the Day, General Business, Nos. 1 and 2, be postponed until the next day of meeting.



4. POSTPONEMENT OF ORDER OF THE DAY.—The Honorable Sir James Kennedy moved, That the consideration of Order of the Day, General Business, No. 3, be postponed until the next day of meeting.

Debate ensued.

Question—put.

The Council divided.

Ayes, 16.

The Hon. E. P. Cameron,  
G. L. Chandler,  
Sir Frank Clarke,  
C. P. Gartside (*Teller*),  
T. H. Grigg (*Teller*),  
T. Harvey,  
P. P. Inchbold,  
Sir James Kennedy,  
H. C. Ludbrook,  
G. S. McArthur,  
W. MacAulay,  
H. V. MacLeod,  
A. R. Mansell,  
I. A. Swinburne,  
G. J. Tuckett,  
D. J. Walters.

Noes, 13.

The Hon. D. L. Arnott,  
A. J. Bailey,  
T. W. Brennan,  
P. L. Coleman,  
D. P. J. Ferguson,  
J. W. Galbally,  
J. J. Jones,  
P. Jones,  
R. R. Rawson (*Teller*),  
M. P. Sheehy (*Teller*),  
W. Slater,  
A. Smith,  
G. L. Tilley.

And so it was resolved in the affirmative.

5. CONSOLIDATED REVENUE BILL (No. 3).—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

6. ADJOURNMENT.—The Honorable P. P. Inchbold moved, by leave, That the Council, at its rising, adjourn until Tuesday next.

Question—put and resolved in the affirmative.

And then the Council, at Nine o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*



MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL

## *Notices of Motion and Orders of the Day.*

No. 17.

TUESDAY, 2ND SEPTEMBER, 1952.

*Question.*

- \*1. The Hon. G. L. CHANDLER: To ask the Honorable the Commissioner of Public Works—
- (a) How many railway level-crossing accidents have occurred in Victoria each year since 1940, and what are the total numbers of people killed and injured in such accidents.
  - (b) What number of accidents occurred, and what numbers of people were killed and injured at level crossings where—(i) no warning device or gates operated; (ii) flashing-light signals operated; and (iii) gates were provided.
  - (c) What four unprotected level crossings in Victoria have the worst accident records, and what deaths and injuries have occurred at each.
  - (d) What is the cost of installing a flashing-light warning device at level crossings, and what is the annual operating cost.
  - (e) What is the weekly cost of hand-operated level-crossing gates on a suburban line.
  - (f) What is the estimated cost of eliminating all level crossings in Victoria.
  - (g) What did the recent Coroner's inquiry into the Boronia level-crossing accident on 1st June last cost the Government and the Railways Department.
  - (h) What action does the Government intend to take to have safety precautions carried out at Boronia level crossing.

*Government Business.*

ORDERS OF THE DAY:—

1. TEACHING SERVICE (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading.
2. PRICES REGULATION (BUTTER AND CHEESE) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
3. LAND (DEVELOPMENT LEASES) AMENDMENT BILL—(from Assembly—Hon. T. Harvey)—Second reading.
4. SUPREME COURT (JUDGES' COST OF LIVING) BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading.
5. JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inchbold)—To be further considered in Committee.
6. VETERINARY SURGEONS (FOREIGN QUALIFICATION) BILL—(from Assembly—Hon. T. Harvey)—Second reading.
7. STATE ELECTRICITY COMMISSION (APPLIANCES) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
8. WEIGHTS AND MEASURES (AMENDMENT) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
9. COUNTRY ROADS (AMENDMENT) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
10. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

*General Business.*

## ORDERS OF THE DAY:—

1. CROWN PROCEEDINGS BILL—(*Hon. A. M. Fraser*)—Second reading—*Resumption of debate.*
2. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—To be further considered in Committee.

ROY S. SARAII,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

## SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.
- STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.
- HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.
- LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.
- PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

VICTORIA.

LEGISLATIVE COUNCIL.

MINUTES OF THE PROCEEDINGS

No. 18.

TUESDAY, 2ND SEPTEMBER, 1952.

- 1. The President took the Chair and read the Prayer.
- 2. MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable P. P. Inchbold presented a Message from His Excellency the Governor, informing the Council that he had, this day, given the Royal Assent to the undermentioned Acts presented to him by the Clerk of the Parliaments, viz. :—

- Coal Mine Workers Pensions (Amendment) Act.*
- County Court (Amendment) Act.*
- Mines (Amendment) Act.*
- Consolidated Revenue Act.*

- 3. WATER BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act relating to Borrowing by Waterworks Trusts and Local Governing Bodies and to amend the Water Acts, and for other purposes* ” and desiring the concurrence of the Council therein.

On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

- 4. PAPERS.—The Honorable P. P. Inchbold presented, by command of His Excellency the Governor—

- Penal Administration—Report of Overseas Tour 1950 by Inspector-General of Penal Establishments.

The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk :—

- Apprenticeship Acts—Amendment of Regulations—
  - Bread Trade Apprenticeship Regulations.
  - Plastering Trade Apprenticeship Regulations.
- Education Act 1928—Amendment of Regulations—
  - Regulation IV. (E).—Accountancy Certificate.
  - Regulation V.—Special Schools and Classes.
- Fisheries Acts—Notices of Intention to issue Proclamations—
  - To define the mouth of Cannon’s Creek (Rutherford’s Inlet) and prohibit netting within a radius of a quarter-mile thereof.
  - To prescribe a bag limit for trout and Quinntat salmon taken from Lake Bullen Merri and Lake Purumbete (two papers).
  - To specify the Donald Waterworks Trust storage reservoirs as inland waters for the purpose of section 5 of the Fisheries (Inland Angling) Act 1950.
- Hairdressers Registration Acts—Hairdressers Registration Regulations 1952.
- Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances (two papers).

- 5. TEACHING SERVICE (AMENDMENT) BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

6. **POSTPONEMENT OF ORDER OF THE DAY.**—Ordered—That the consideration of Order of the Day, Government Business, No. 2, be postponed until later this day.

7. **LAND (DEVELOPMENT LEASES) AMENDMENT BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

8. **SUPREME COURT (JUDGES' COST OF LIVING) BILL.**—This Bill was, according to Order and after debate, read a second time with the concurrence of an absolute majority of the whole number of the Members of the Legislative Council and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time with the concurrence of an absolute majority of the whole number of the Members of the Legislative Council and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

9. **JUSTICES (AMENDMENT) BILL.**—The Order of the Day for the further consideration of this Bill in Committee of the whole having been read, the President left the Chair.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters reported that the Committee had made progress in the Bill, and asked leave to sit again.

Resolved—That the Council will, on the next day of meeting, again resolve itself into the said Committee.

10. **VETERINARY SURGEONS (FOREIGN QUALIFICATION) BILL.**—The Order of the Day for the second reading of this Bill having been read, the Honorable T. Harvey moved, That this Bill be now read a second time.

The Honorable A. M. Fraser moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and resolved in the affirmative.

Ordered—That the debate be adjourned until the next day of meeting.

11. **ADJOURNMENT.**—The Honorable P. P. Inchbold moved, by leave, That the Council, at its rising, adjourn until Tuesday next.

Question—put and resolved in the affirmative.

And then the Council, at thirty-eight minutes past Nine o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*



MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL

## *Notices of Motion and Orders of the Day.*

No. 18.

TUESDAY, 9TH SEPTEMBER, 1952.

### *Questions.*

- \*1. The Hon. A. M. FRASER: To ask the Honorable the Minister in Charge of Materials—
- Is it a fact that the difference between the landed cost price and the sale or credit disposal price of cement delivered by the vessels *s.s. Pakistan Prosperity* in May, 1951, *s.s. Tomoe* in June, 1951, and *s.s. Hai Chiao* and *s.s. Harpalycus* in July, 1951, was £145,000; if not, what was the difference.
  - What tonnage of the above shipments—(i) was sold or disposed of to persons, firms or companies; and (ii) was supplied to government departments or State instrumentalities.
  - In the case of (b) (i) above, what was the loss to the Government.
  - What is the total tonnage of cement imported by the Government to date and what is the estimated loss on the importation.
- \*2. The Hon. A. J. BAILEY: To ask the Honorable the Commissioner of Public Works—
- On what dates were the present wards of the municipalities within the Melbourne West Province constituted, and what is the municipal valuation of each.
  - In respect of the current roll (1952-53) for each such ward, how many voters are enrolled, and how many are entitled to one, two, and three votes, respectively.
  - How many of such voters are nominees and not actually owners or occupiers, and how many votes are exercisable by them.
  - Was a revision of wards plan for the City of South Melbourne submitted to the Minister within the past five years; if so, was it vetoed, and by whom.
- \*3. The Hon. R. R. RAWSON: To ask the Honorable the Commissioner of Public Works—Is it still the intention of the Railways Commissioners to acquire land in the Shire of Dandenong for the purpose of erecting pre-cut houses; if so, where is the land located.
- \*4. The Hon. A. M. FRASER: To ask the Honorable the Commissioner of Public Works—What was the amount received in compensation fees under section 19 of the *Licensing Act* 1928 for the year 1939, and for each of the years 1947 to 1951.
- \*5. The Hon. J. W. GALBALLY: To ask the Honorable the Commissioner of Public Works—In view of the heavy traffic on the Heidelberg line and the contemplated early completion of the East Preston line, do the Railways Commissioners consider that the single-track bridge over the Merri Creek at Clifton Hill will be able to handle the traffic satisfactorily; if not, what remedy is proposed.
- \*6. The Hon. R. R. RAWSON: To ask the Honorable the Minister of Education—
- Can the Minister give any information as to when a start will be made on the construction of a High School at Ringwood on the land already acquired for that purpose.
  - When will the additional rooms be provided at the Greensborough State School.
- \*7. The Hon. A. M. FRASER: To ask the Honorable the Commissioner of Public Works—What was the total revenue received by the State from dog racing for the financial year 1951-52 and, in particular, what was the revenue in respect of each metropolitan track from—
- winning bets tax; and
  - licence fees under section 6 of the *Police Offences (Dog Racing) Act* 1940.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

*Government Business.*

## ORDERS OF THE DAY:—

- \*1. WATER BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
2. PRICES REGULATION (BUTTER AND CHEESE) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
3. JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inchbold)—To be further considered in Committee.
4. VETERINARY SURGEONS (FOREIGN QUALIFICATION) BILL—(from Assembly—Hon. T. Harvey)—Second reading—*Resumption of debate* (Hon. A. M. Fraser).
5. STATE ELECTRICITY COMMISSION (APPLIANCES) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
6. WEIGHTS AND MEASURES (AMENDMENT) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
7. COUNTRY ROADS (AMENDMENT) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
8. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

*General Business.*

## ORDERS OF THE DAY:—

1. CROWN PROCEEDINGS BILL—(Hon. A. M. Fraser)—Second reading—*Resumption of debate*.
2. POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

## SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.

STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.

HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.

LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.

PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.



## VICTORIA.

## LEGISLATIVE COUNCIL.

## MINUTES OF THE PROCEEDINGS.

## No. 19.

TUESDAY, 9TH SEPTEMBER, 1952.

1. The President took the Chair and read the Prayer.
2. MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable P. T. Byrnes presented a Message from His Excellency the Governor, informing the Council that he had, this day, given the Royal Assent to the under-mentioned Acts presented to him by the Clerk of the Parliaments, viz :—
  - Teaching Service (Amendment) Act.*
  - Land (Development Leases) Amendment Act.*
  - Supreme Court (Judges' Cost of Living) Act.*
3. PAPERS.—The following Papers, pursuant to the direction of an Act of Parliament, were laid upon the Table by the Clerk :—
  - Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments, and Allowances (eight papers).
4. WATER BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable I. A. Swinburne moved, That this Bill be now read a second time.  
The Honorable P. L. Coleman moved, That the debate be now adjourned.  
Question—That the debate be now adjourned—put and resolved in the affirmative.  
Ordered—That the debate be adjourned until the next day of meeting.
5. POSTPONEMENT OF ORDERS OF THE DAY.—Ordered—That the consideration of Orders of the Day, Government Business, Nos. 2 to 5 inclusive, be postponed until later this day.
6. WEIGHTS AND MEASURES (AMENDMENT) BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
7. PRICES REGULATION (BUTTER AND CHEESE) BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable I. A. Swinburne moved, That this Bill be now read a second time.  
The Honorable P. L. Coleman moved, That the debate be now adjourned.  
Question—That the debate be now adjourned—put and resolved in the affirmative.  
Ordered—That the debate be adjourned until the next day of meeting.
8. VETERINARY SURGEONS (FOREIGN QUALIFICATION) BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.



## VICTORIA.

## LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS.

No. 20.

TUESDAY, 16TH SEPTEMBER, 1952.

1. The President took the Chair and read the Prayer.
2. MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable P. T. Byrnes presented a Message from His Excellency the Governor, informing the Council that he had, this day, given the Royal Assent to the under-mentioned Acts presented to him by the Clerk of the Parliaments, viz. :—  
*Weights and Measures (Amendment) Act.*  
*Veterinary Surgeons (Foreign Qualification) Act.*  
*State Electricity Commission (Appliances) Act.*
3. MOTOR CAR (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend Sections Twenty-one, Thirty-one and Ninety-one of the ‘ Motor Car Act 1951’* ” and desiring the concurrence of the Council therein.  
 On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
4. EVIDENCE BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act relating to Evidence as to Marital Access and Adultery* ” and desiring the concurrence of the Council therein.  
 On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
5. CO-OPERATIVE HOUSING SOCIETIES (GUARANTEES AND INDEMNITIES) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend Sections Sixty-one and Sixty-two of the ‘ Co-operative Housing Societies Act 1944’* ” and desiring the concurrence of the Council therein.  
 On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
6. TITLE OF “ HONORABLE ”.—The President announced that he had received from the Honorable the Premier a copy of a despatch from the Secretary of State for Commonwealth Relations intimating that Her Majesty the Queen had been pleased to approve the retention of the title of “ Honorable ” by Sir William Charles Angliss, Colonel Sir George Victor Lansell, C.M.G., V.D., Mr. Cyril Everett Isaac, and Mr. Robert Chisholm Rankin, who had each served as a Member of the Legislative Council for a continuous period of not less than ten years.
7. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.  
 Question—put and resolved in the affirmative.

And then the Council, at two minutes past Five o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*



MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL

## *Notices of Motion and Orders of the Day.*

No. 20.

TUESDAY, 23RD SEPTEMBER, 1952.

### *Questions.*

1. The Hon. SIR JAMES KENNEDY: To ask the Honorable the Commissioner of Public Works—Will the Minister lay on the table of the Library the Report by J. J. Whelan, Esq., on Management Fees for Co-operative Housing Societies.
2. The Hon. A. J. BAILEY: To ask the Honorable the Commissioner of Public Works—Will the Minister lay on the table of the Library the files relating to the appointment of hospital managers.

### *Government Business.*

#### ORDERS OF THE DAY:—

1. WATER BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading—Resumption of debate (Hon. P. L. Coleman).
2. PRICES REGULATION (BUTTER AND CHEESE) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading—Resumption of debate (Hon. P. L. Coleman).
3. JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inchbold)—To be further considered in Committee.
- \*4. MOTOR CAR (AMENDMENT) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
- \*5. EVIDENCE BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading.
- \*6. CO-OPERATIVE HOUSING SOCIETIES (GUARANTEES AND INDEMNITIES) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
7. COUNTRY ROADS (AMENDMENT) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
8. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

### *General Business.*

#### ORDERS OF THE DAY:—

1. CROWN PROCEEDINGS BILL—(Hon. A. M. Fraser)—Second reading—Resumption of debate.
2. POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

ROY S. SARAH,  
Clerk of the Legislative Council.

CLIFDEN EAGER,  
President.

### SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.
- STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.
- HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.
- LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.
- PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

By Authority: J. J. GOURLEY, Government Printer, Melbourne.

## VICTORIA.

## LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS

No. 21.

TUESDAY, 23RD SEPTEMBER, 1952.

1. The President took the Chair and read the Prayer.
2. ADJOURNMENT.—MOTION UNDER STANDING ORDER No. 53.—The Honorable P. L. Coleman moved, That the Council do now adjourn, and said he proposed to speak on the subject of "The failure of the Government to arrange for the appointment of a Royal Commission or some judicial authority to investigate serious allegations of malpractice and of an improper use or misappropriation of property at the Kyneton District Hospital, also the maladministration of the Hospitals and Charities Commission"; and six Members having risen in their places and required the motion to be proposed—

Debate ensued.

Question—put.

The Council divided.

Ayes, 15.

The Hon. D. L. Arnott (*Teller*),  
 A. J. Bailey,  
 T. W. Brennan,  
 P. L. Coleman,  
 D. P. J. Ferguson,  
 A. M. Fraser,  
 J. W. Galbally,  
 J. J. Jones,  
 P. Jones (*Teller*),  
 R. R. Rawson,  
 M. P. Sheehy,  
 W. Slater,  
 A. Smith,  
 F. M. Thomas,  
 G. L. Tilley.

Noes, 17.

The Hon. P. T. Byrnes,  
 E. P. Cameron,  
 G. L. Chandler,  
 Sir Frank Clarke,  
 C. P. Gartside,  
 T. H. Grigg (*Teller*),  
 T. Harvey,  
 P. P. Inchbold,  
 Sir James Kennedy,  
 H. C. Ludbrook (*Teller*),  
 G. S. McArthur,  
 W. MacAulay,  
 H. V. MacLeod,  
 I. A. Swinburne,  
 G. J. Tuckett,  
 D. J. Walters,  
 A. G. Warner.

And so it passed in the negative.

3. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—
- Co-operative Housing Societies Acts—Amendment of Co-operative Housing Societies (Model Rules) Regulations.
- Education Act 1928—Council of Public Education Regulations.
- Fisheries Acts—Notices of Intention to issue Proclamations—
- To define the mouth of the Merri River and prohibit netting near such mouth and in Lady Bay at Warrnambool.
- To prohibit all fishing in or the taking of fish from Wooragee Creek and its tributaries from the 1st May to the last day preceding the first Saturday in November (both days inclusive) in each year.
- Land Act 1928—Schedule of country lands proposed to be sold by public auction.
- Legal Profession Practice Act 1946—Solicitors (Professional Conduct and Practice) Rules 1952.
- Marketing of Primary Products Act 1935—
- Proclamation declaring that Seed Beans shall be a product.
- Regulations—
- Amendment of Egg and Egg Pulp Marketing Board Regulations.
- Definition of a producer of Seed Beans.

Milk and Dairy Supervision Act 1943—Regulation prescribing a Milk Depot.

Milk Pasteurization Act 1949—Regulation prescribing a District.

Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—

Part I.—Appointments to the Administrative, Professional, and Technical and General Divisions.

Part III.—Salaries, Increments and Allowances (five papers).

State Electricity Commission Acts—Interim Report of the Operations of the State Electricity Commission for the year 1951–52.

Teaching Service Act 1946—Amendment of Teaching Service (Teachers Tribunal) Regulations.

4. MELBOURNE AND METROPOLITAN TRAMWAYS (FIRE BRIGADES PAYMENTS) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act relating to Payments by the Melbourne and Metropolitan Tramways Board and Contributions to the Metropolitan Fire Brigades Board*” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

5. HAIRDRESSERS REGISTRATION (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend Sections Eight, Ten and Sixteen of the ‘Hairdressers Registration Act 1936’*” and desiring the concurrence of the Council therein.

On the motion of the Honorable T. Harvey, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

6. PUBLIC SERVICE BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend the ‘Public Service Act 1946’*” and desiring the concurrence of the Council therein.

On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

7. HEALTH (MEAT SUPERVISION) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend Sections Two hundred and eighty-four and Two hundred and ninety-two of, and to repeal the Fifth Schedule to, the ‘Health Act 1928’*” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

8. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.

Question—put and resolved in the affirmative.

And then the Council, at twenty-four minutes past Eleven o’clock, adjourned until Tuesday next.

ROY S. SARAH.  
Clerk of the Legislative Council.

MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 21.

TUESDAY, 30<sup>TH</sup> SEPTEMBER, 1952.

*Questions.*

- \*1. The Hon. A. J. BAILEY : To ask the Honorable the Commissioner of Public Works—
- How many appointments of hospital managers have been made during the past three years.
  - What are the names of the appointees, on what dates were they appointed, and to what hospitals.
  - What were the qualifications of the several applicants in each case.
- \*2. The Hon. P. JONES : To ask the Honorable the Minister of Education—
- How many additional class rooms or schools are needed to bring school accommodation up to requirements.
  - How many additional teachers are required to make the staffing of schools adequate.
  - How many male and female teachers, respectively, are at present employed in the Education Department and how many of each are temporary teachers.
  - Is it a fact that in some technical schools only 60 per cent. of the boys seeking entrance to the junior course can be accommodated.
  - Has the Government any plans to effectively meet the acute shortage of schools and teachers.
- \*3. The Hon. W. SLATER : To ask the Honorable the Minister in Charge of Housing—
- Does the Housing Commission propose reducing the frontages or areas of housing allotments.
  - Is any reduction in the standards of rooms and/or amenities proposed.
- \*4. The Hon. A. SMITH : To ask the Honorable the Commissioner of Public Works—
- Has a tender been let for repairs to the police residence at Heathcote ; if so, what is the date of the acceptance of the tender and when is the work likely to be commenced.
  - What is the extent of alterations and extensions proposed.
- \*5. The Hon. D. P. J. FERGUSON : To ask the Honorable the Commissioner of Public Works—
- What mileage of track is required to complete the duplication of the Melbourne-Geelong railway line.
  - What is the estimated cost of such work.
  - What is the estimated period of time required to complete the work.
  - When is it the intention of the Railways Commissioners to carry out this work.
- \*6. The Hon. J. W. GALBALLY : To ask the Honorable the Commissioner of Public Works—
- What was the price paid for the property known as "Glenormiston House", comprising approximately 650 acres of dairying land, at Glenormiston, near Terang.
  - Is the main dwelling on the property a mansion with 40 spacious rooms, and are there eight or nine farm houses with out-buildings suited for dairying scattered over the property.
  - Are at least four of these houses at present unoccupied.
  - Have at least 300 acres of valuable dairy-farming land on the property not been used for any purpose for some considerable time.
  - Are other farms in the area not producing milk to their full capacity because of uncertainty on the part of the present occupiers as to the length of their tenure.
  - What is the intention of the Government in regard to the property in the light of the need for increased primary production.
  - Did the Minister for Agriculture state early this month that the establishment of an agricultural college in the Western District would cost £500,000 ; if so, how does the Government propose to spend this amount on a property already extremely highly developed for dairying purposes.
  - Why cannot use be made of the existing facilities at "Glenormiston House" to start the agricultural college with a minimum expenditure.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.



- \*7. The Hon. D. P. J. FERGUSON: To ask the Honorable the Commissioner of Public Works—Will the Minister of Health give an assurance that the maternity hospital known as “Baxter House”, now in the course of construction at Geelong, will proceed to completion without interruption by financial restrictions.
- \*8. The Hon. D. P. J. FERGUSON: To ask the Honorable the Commissioner of Public Works—Will the Railways Commissioners give consideration to the need for providing a passenger service, either daily or on certain days, from Colac to Geelong to connect with the 7.40 a.m. train from Geelong to Melbourne.
- \*9. The Hon. D. P. J. FERGUSON: To ask the Honorable the Commissioner of Public Works—  
 (a) What are the prospects of a faster service on the Melbourne–Geelong railway line.  
 (b) Is it the intention of the Railways Commissioners to make some further restoration of passenger services on the Melbourne–Geelong line in the near future and, in particular, to provide some passenger service in the mid-afternoon from Melbourne to Geelong.
- \*10. The Hon. D. P. J. FERGUSON: To ask the Honorable the Commissioner of Public Works—Will the Railways Commissioners review the decision against a motor rail service between Geelong and Queenscliff, or consider a trial daily service on this line for, say, three months.

#### Government Business.

##### ORDERS OF THE DAY:—

1. WATER BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading—*Resumption of debate* (Hon. P. L. Coleman).
2. PRICES REGULATION (BUTTER AND CHEESE) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading—*Resumption of debate* (Hon. P. L. Coleman).
3. JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inghbold)—To be further considered in Committee.
4. MOTOR CAR (AMENDMENT) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
5. EVIDENCE BILL—(from Assembly—Hon. P. P. Inghbold)—Second reading.
6. CO-OPERATIVE HOUSING SOCIETIES (GUARANTEES AND INDEMNITIES) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
7. COUNTRY ROADS (AMENDMENT) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
- \*8. MELBOURNE AND METROPOLITAN TRAMWAYS (FIRE BRIGADES PAYMENTS) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
- \*9. HAIRDRESSERS REGISTRATION (AMENDMENT) BILL—(from Assembly—Hon. T. Harvey)—Second reading.
- \*10. PUBLIC SERVICE BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
- \*11. HEALTH (MEAT SUPERVISION) BILL—(from Assembly—Hon. P. P. Inghbold)—Second reading.
12. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

#### General Business.

##### ORDERS OF THE DAY:—

1. CROWN PROCEEDINGS BILL—(Hon. A. M. Fraser)—Second reading—*Resumption of debate*.
2. POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

ROY S. SARAH,  
 Clerk of the Legislative Council.

CLIFDEN EAGER,  
 President.

### SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inghbold, Sir James Kennedy, G. S. McArthur, and W. Slater.
- STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.
- HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.
- LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inghbold, R. R. Rawson, and W. Slater.
- PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 22.

WEDNESDAY, 1ST OCTOBER, 1952.

### Questions.

- \*1. The Hon. P. JONES: To ask the Honorable the Commissioner of Public Works—Has the power line from Kiewa to Melbourne been surveyed; if so, what will be the length of the line and what was the cost of the survey.
- \*2. The Hon. A. M. FRASER: To ask the Honorable the Commissioner of Public Works—
- What was the amount received in the financial years 1950-51 and 1951-52 from fractions in totalizer dividends.
  - How is the estimated increase in revenue of £224,000 from the proposed additional two per cent. totalizer deduction calculated, and does such estimate include the additional sum which will become available through more fraction money.
- \*3. The Hon. J. W. GALBALLY: To ask the Honorable the Commissioner of Public Works—
- Why were the officers of the Technical and General Division in the Public Service not granted a salary increase at the same time as officers of the Administrative and Professional Divisions.
  - Why were the higher-salaried officers granted an increase before the lower-paid officers.
  - What was the date of the last salary increase (apart from cost of living adjustments) granted to Technical and General Division officers.
  - When will the claims of the Technical and General Division officers be finalized.
  - Is it a fact that some applications for reclassification in the Public Service have to wait twelve months before being dealt with.
  - What is the cause of delay in hearing applications for reclassification.

### General Business.

#### ORDERS OF THE DAY:—

- CROWN PROCEEDINGS BILL—(Hon. A. M. Fraser)—Second reading—*Resumption of debate.*
- POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
- LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

### Government Business.

#### NOTICE OF MOTION:—

- \*1. The Hon. I. A. SWINBURNE: To move, That he have leave to bring in a Bill to amend the Building Operations and Building Materials Control Acts.

#### ORDERS OF THE DAY:—

- CO-OPERATIVE HOUSING SOCIETIES (GUARANTEES AND INDEMNITIES) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
- COUNTRY ROADS (AMENDMENT) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
- JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inchbold)—To be further considered in Committee.
- MOTOR CAR (AMENDMENT) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading—*Resumption of debate (Hon. R. R. Rawson).*
- MELBOURNE AND METROPOLITAN TRAMWAYS (FIRE BRIGADES PAYMENTS) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
- HAIRDRESSERS REGISTRATION (AMENDMENT) BILL—(from Assembly—Hon. T. Harvey)—Second reading.
- PUBLIC SERVICE BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
- HEALTH (MEAT SUPERVISION) BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading.
- \*9. STATE ELECTRICITY COMMISSION (BORROWING) BILL—(from Assembly—Hon. T. Harvey)—Second reading.
- \*10. TOTALIZATOR (AMENDMENT) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
11. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

TUESDAY, 7TH OCTOBER.

*Question.*

1. The Hon. A. J. BAILEY : To ask the Honorable the Commissioner of Public Works—
- (a) How many appointments of hospital managers have been made during the past three years.
  - (b) What are the names of the appointees, on what dates were they appointed, and to what hospitals.
  - (c) What were the qualifications of the several applicants in each case.

*Government Business.*

## ORDER OF THE DAY :—

1. EVIDENCE BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading—*Resumption of debate (Hon. J. W. Galbally).*

ROY S. SARAHA,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

## SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.

STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.

HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.

LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.

PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

## VICTORIA.

## LEGISLATIVE COUNCIL.

## MINUTES OF THE PROCEEDINGS.

No. 22.

TUESDAY, 30TH SEPTEMBER, 1952.

1. The President took the Chair and read the Prayer.
2. STATE ELECTRICITY COMMISSION (BORROWING) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled "*An Act to increase the Borrowing Powers of the State Electricity Commission of Victoria*" and desiring the concurrence of the Council therein.

On the motion of the Honorable T. Harvey, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

3. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk :—
  - Education Act 1928—Report of the Council of Public Education for the year 1951–52.
  - Friendly Societies Act 1928—Report of the Government Statist for the year 1950–51.
  - Land Act 1928—Certificate of the Minister of Education relating to the proposed compulsory resumption of land for the purpose of a school at Essendon West.
  - Melbourne and Metropolitan Tramways Act 1928—Report and Statement of Accounts of the Melbourne and Metropolitan Tramways Board for the year 1951–52.
  - Public Service Act 1946—Amendment of Regulations—
    - Public Service (Governor in Council) Regulations—Part IV.—Leave of Absence.
    - Public Service (Public Service Board) Regulations—
      - Part II.—Promotions and Transfers.
      - Part III.—Salaries, Increments and Allowances (nine papers).
      - Part VI.—Travelling Expenses.
  - State Development Act 1941—Report of the State Development Committee on Transport Requirements in the Sandringham–Black Rock–Mentone Area.
  - State Electricity Commission Acts—
    - Amendment of Restrictions on Electrical Apparatus Regulations.
    - Morwell Works Protection Regulations 1952.
  - Teaching Service Act 1946—Amendment of Teaching Service (Classification, Salaries, and Allowances) Regulations.

4. POSTPONEMENT OF ORDER OF THE DAY.—Ordered—That the consideration of Order of the Day, Government Business, No. 1, be postponed until later this day.
5. PRICES REGULATION (BUTTER AND CHEESE) BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

6. WATER BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill with an amendment, the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same with an amendment and desiring their concurrence therein.

7. **POSTPONEMENT OF ORDER OF THE DAY.**—Ordered—That the consideration of Order of the Day, Government Business, No. 3, be postponed until later this day.
8. **MOTOR CAR (AMENDMENT) BILL.**—The Order of the Day for the second reading of this Bill having been read, the Honorable I. A. Swinburne moved, That this Bill be now read a second time.  
The Honorable R. R. Rawson moved, That the debate be now adjourned.  
Question—That the debate be now adjourned—put and resolved in the affirmative.  
Ordered—That the debate be adjourned until the next day of meeting.
9. **EVIDENCE BILL.**—The Order of the Day for the second reading of this Bill having been read, the Honorable P. P. Inchbold moved, That this Bill be now read a second time.  
The Honorable J. W. Galbally moved, That the debate be now adjourned.  
Question—That the debate be now adjourned—put and resolved in the affirmative.  
Ordered—That the debate be adjourned until Tuesday next.
10. **TOTALIZATOR (AMENDMENT) BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend Section Eight of the ‘Totalizator Act 1930’*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

And then the Council, at thirty-six minutes past Ten o'clock, adjourned until to-morrow.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

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## No. 23.

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WEDNESDAY, 1ST OCTOBER, 1952.

1. The President took the Chair and read the Prayer.
2. **LAND TAX BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to declare the rate of Land Tax for the year ending the thirty-first day of December One thousand nine hundred and fifty-three*” and desiring the concurrence of the Council therein.  
On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
3. **MINISTERIAL STATEMENT—SLUM RECLAMATION.**—The Honorable I. A. Swinburne, by leave, made a Ministerial Statement with respect to slum reclamation.
4. **PAPERS.**—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—
  - Apprenticeship Acts—Amendment of Regulations—
    - General Apprenticeship Regulations.
    - Aircraft Trades Regulations (No. 1).
    - Bootmaking Trades Apprenticeship Regulations.
    - Bread Trade Apprenticeship Regulations.
    - Bricklaying Trade Apprenticeship Regulations.
    - Butchering Trades Apprenticeship Regulations.
    - Carpentry and Joinery Trades Apprenticeship Regulations.
    - Cooking Trade Apprenticeship Regulations.
    - Fibrous Plastering Trade Apprenticeship Regulations.
    - Furniture Trades Apprenticeship Regulations.
    - Hairdressing Trades Apprenticeship Regulations.
    - Radio Tradesman Trade Apprenticeship Regulations.
  - Marketing of Primary Products Act 1935—Proclamation declaring that Seed Beans shall be a commodity.
  - Milk and Dairy Supervision Act 1943—Regulation prescribing a Milk Depot.
  - Statute Law Revision Committee Act 1948—Statute Law Revision Committee (Travelling Expenses) Regulations.
5. **POSTPONEMENT OF ORDERS OF THE DAY.**—Ordered—That the consideration of the Orders of the Day, General Business, be postponed until the next day of meeting.

6. **BUILDING OPERATIONS AND BUILDING MATERIALS CONTROL BILL.**—On the motion of the Honorable I. A. Swinburne, and after debate, leave was given to bring in a Bill to amend the Building Operations and Building Materials Control Acts, and the said Bill was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

7. **CO-OPERATIVE HOUSING SOCIETIES (GUARANTEES AND INDEMNITIES) BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

8. **POSTPONEMENT OF ORDERS OF THE DAY.**—Ordered—That the consideration of Orders of the Day, Government Business, Nos. 2 to 8 inclusive, be postponed until later this day.

9. **STATE ELECTRICITY COMMISSION (BORROWING) BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

10. **COUNTRY ROADS (AMENDMENT) BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

11. **MOTOR CAR (AMENDMENT) BILL.**—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

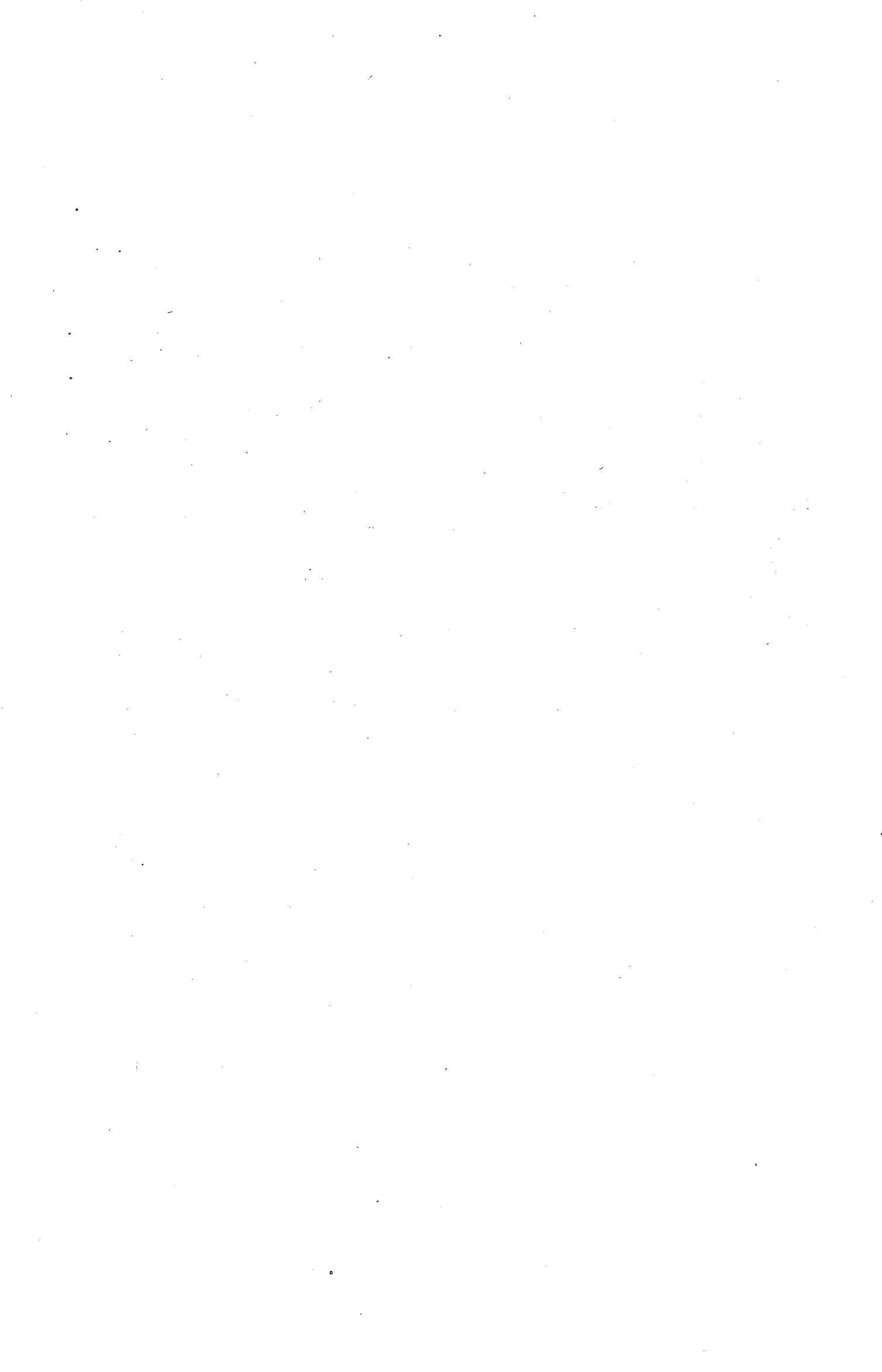
12. **WATER BILL.**—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to the amendment made by the Council in this Bill.

13. **ADJOURNMENT.**—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.

Question—put and resolved in the affirmative.

And then the Council, at fourteen minutes past Eleven o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*



MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 23.

TUESDAY, 7TH OCTOBER, 1952.

### *Questions.*

1. The Hon. A. J. BAILEY: To ask the Honorable the Commissioner of Public Works—
  - (a) How many appointments of hospital managers have been made during the past three years.
  - (b) What are the names of the appointees, on what dates were they appointed, and to what hospitals.
  - (c) What were the qualifications of the several applicants in each case.
2. The Hon. J. W. GALBALLY: To ask the Honorable the Commissioner of Public Works—
  - (a) Why were the officers of the Technical and General Division in the Public Service not granted a salary increase at the same time as officers of the Administrative and Professional Divisions.
  - (b) Why were the higher-salaried officers granted an increase before the lower-paid officers.
  - (c) What was the date of the last salary increase (apart from cost of living adjustments) granted to Technical and General Division officers.
  - (d) When will the claims of the Technical and General Division officers be finalized.
  - (e) Is it a fact that some applications for reclassification in the Public Service have to wait twelve months before being dealt with.
  - (f) What is the cause of delay in hearing applications for reclassification.

### *Government Business.*

#### ORDERS OF THE DAY:—

1. MELBOURNE AND METROPOLITAN TRAMWAYS (FIRE BRIGADES PAYMENTS) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
2. HAIRDRESSERS REGISTRATION (AMENDMENT) BILL—(from Assembly—Hon. T. Harvey)—Second reading.
3. JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inchbold)—To be further considered in Committee.
4. PUBLIC SERVICE BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
5. HEALTH (MEAT SUPERVISION) BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading.
- \*6. LAND TAX BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
- \*7. BUILDING OPERATIONS AND BUILDING MATERIALS CONTROL BILL—(Hon. I. A. Swinburne)—Second reading.
8. TOTALIZATOR (AMENDMENT) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
9. EVIDENCE BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading—*Resumption of debate* (Hon. J. W. Galbally).
10. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

### *General Business.*

#### ORDERS OF THE DAY:—

1. CROWN PROCEEDINGS BILL—(Hon. A. M. Fraser)—Second reading—*Resumption of debate.*
2. POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

ROY S. SARAH,

*Clerk of the Legislative Council.*

CLIFDEN EAGER,

*President.*

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.



## SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.**—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.
- STANDING ORDERS.**—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.
- HOUSE (JOINT).**—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.
- LIBRARY (JOINT).**—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.
- PRINTING.**—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).**—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

## VICTORIA.

## LEGISLATIVE COUNCIL.

## MINUTES OF THE PROCEEDINGS

## No. 24.

TUESDAY, 7<sup>TH</sup> OCTOBER, 1952.

1. The President took the Chair and read the Prayer.
2. MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable P. T. Byrnes presented a Message from His Excellency the Governor, informing the Council that he had, this day, given the Royal Assent to the undermentioned Acts presented to him by the Clerk of the Parliaments, viz. :—
  - Prices Regulation (Butter and Cheese) Act.*
  - Water Act.*
  - Co-operative Housing Societies (Guarantees and Indemnities) Act.*
  - State Electricity Commission (Borrowing) Act.*
  - Country Roads (Amendment) Act.*
  - Motor Car (Amendment) Act.*
3. COUNTRY FIRE AUTHORITY BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend the ‘Country Fire Authority Act 1944’ and for other purposes* ” and desiring the concurrence of the Council therein.  
On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
4. STATUTE LAW REVISION COMMITTEE.—TRANSFER OF LAND BILL 1949.—The Honorable P. T. Byrnes brought up a Supplementary Report from the Statute Law Revision Committee on the Transfer of Land Bill 1949 relating to freehold titles to flats.  
Ordered to lie on the Table and be printed together with the Minutes of Evidence.
5. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk :—
  - Firearms Act 1951—Firearms Regulations 1952.
  - Public Service Act 1946—
    - Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments and Allowances.
    - Report of the Public Service Board for the year 1950–51.
  - Teaching Service Act 1946—Amendment of Regulations—
    - Teaching Service (Classification, Salaries and Allowances) Regulations.
    - Teaching Service (Teachers Tribunal) Regulations.
6. MELBOURNE AND METROPOLITAN TRAMWAYS (FIRE BRIGADES PAYMENTS) BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable P. T. Byrnes moved, That this Bill be now read a second time.  
The Honorable A. M. Fraser moved, That the debate be now adjourned.  
Debate ensued.  
Question—That the debate be now adjourned—put and resolved in the affirmative.  
Ordered—That the debate be adjourned until the next day of meeting.
7. POSTPONEMENT OF ORDERS OF THE DAY.—Ordered—That the consideration of Orders of the Day, Government Business, Nos. 2 to 5 inclusive, be postponed until later this day.
8. LAND TAX BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
9. HAIRDRESSERS REGISTRATION (AMENDMENT) BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable P. Jones having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

10. POSTPONEMENT OF ORDER OF THE DAY.—Ordered—That the consideration of Order of the Day, Government Business, No. 7, be postponed until later this day.

11. TOTALIZATOR (AMENDMENT) BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted.

The Honorable P. T. Byrnes moved, That the Bill be now read a third time.

Question—put.

The Council divided.

Ayes, 16.

The Hon. P. T. Byrnes,  
E. P. Cameron,  
G. L. Chandler,  
Sir Frank Clarke,  
C. P. Gartside (*Teller*),  
T. H. Grigg,  
T. Harvey,  
P. P. Inchbold,  
Sir James Kennedy,  
G. S. McArthur,  
H. V. MacLeod (*Teller*),  
A. R. Mansell,  
I. A. Swinburne,  
G. J. Tuckett,  
D. J. Walters,  
A. G. Warner.

Noes, 15.

The Hon. D. L. Arnott (*Teller*),  
A. J. Bailey,  
T. W. Brennan (*Teller*),  
P. L. Coleman,  
D. P. J. Ferguson,  
A. M. Fraser,  
J. W. Galbally,  
J. J. Jones,  
P. Jones,  
R. R. Rawson,  
M. P. Sheehy,  
W. Slater,  
A. Smith,  
F. M. Thomas,  
G. L. Tilley.

And so it was resolved in the affirmative.—Bill read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

12. ADJOURNMENT.—The Honorable P. T. Byrnes moved, That the House do now adjourn.

Debate ensued.

Question—put.

The Council divided.

Ayes, 15.

The Hon. P. T. Byrnes,  
E. P. Cameron,  
G. L. Chandler,  
Sir Frank Clarke,  
T. H. Grigg (*Teller*),  
T. Harvey,  
P. P. Inchbold,  
Sir James Kennedy,  
G. S. McArthur,  
H. V. MacLeod,  
A. R. Mansell,  
I. A. Swinburne,  
G. J. Tuckett,  
D. J. Walters (*Teller*),  
A. G. Warner.

Noes, 16.

The Hon. D. L. Arnott,  
A. J. Bailey,  
T. W. Brennan,  
P. L. Coleman,  
D. P. J. Ferguson,  
A. M. Fraser (*Teller*),  
J. W. Galbally,  
C. P. Gartside,  
J. J. Jones,  
P. Jones,  
R. R. Rawson (*Teller*),  
M. P. Sheehy,  
W. Slater,  
A. Smith,  
F. M. Thomas,  
G. L. Tilley.

And so it passed in the negative.

13. HEALTH (MEAT SUPERVISION) BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable P. P. Inchbold moved, That this Bill be now read a second time.

The Honorable P. L. Coleman moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and resolved in the affirmative.

Ordered—That the debate be adjourned until the next day of meeting.

14. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.

Question—put and resolved in the affirmative.

And then the Council, at forty-two minutes past Ten o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 24.

TUESDAY, 14TH OCTOBER, 1952.

### *Question.*

- \*1. The Hon. G. L. CHANDLER: To ask the Honorable the Commissioner of Public Works—How many—(i) art unions; (ii) raffles; and (iii) other gaming devices have been permitted by the Crown Law Department during each of the years 1949, 1950, and 1951, and during the period from 1st January to 30th September, 1952.

### *Government Business.*

#### ORDERS OF THE DAY:—

1. MELBOURNE AND METROPOLITAN TRAMWAYS (FIRE BRIGADES PAYMENTS) BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading—Resumption of debate (Hon. A. M. Fraser).
2. JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inghbold)—To be further considered in Committee.
3. PUBLIC SERVICE BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
4. HEALTH (MEAT SUPERVISION) BILL—(from Assembly—Hon. P. P. Inghbold)—Second reading—Resumption of debate (Hon. P. L. Coleman).
5. BUILDING OPERATIONS AND BUILDING MATERIALS CONTROL BILL—(Hon. I. A. Swinburne)—Second reading.
6. EVIDENCE BILL—(from Assembly—Hon. P. P. Inghbold)—Second reading—Resumption of debate (Hon. J. W. Galbally).
- \*7. COUNTRY FIRE AUTHORITY BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
8. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

### *General Business.*

#### ORDERS OF THE DAY:—

1. CROWN PROCEEDINGS BILL—(Hon. A. M. Fraser)—Second reading—Resumption of debate.
2. POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
3. LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

ROY S. SARAH,  
Clerk of the Legislative Council.

CLIFDEN EAGER,  
President.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

## SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inghbold, Sir James Kennedy, G. S. McArthur, and W. Slater.

STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.

HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.

LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inghbold, R. R. Rawson, and W. Slater.

PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

By Authority: J. J. GOURLEY, Government Printer, Melbourne.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 25.

WEDNESDAY, 15TH OCTOBER, 1952.

### Questions.

- \*1. The Hon. P. JONES: To ask the Honorable the Commissioner of Public Works—What is the length of the State Electricity Commission's transmission line from Yallourn to Melbourne, and what was the cost of maintaining it for each of the latest three years for which the figures are available.
- \*2. The Hon. A. J. BAILEY: To ask the Honorable the Commissioner of Public Works—
- How many of the hospital secretaries appointed during the past three years had the qualifications laid down for the position, as published in the *Government Gazette* No. 535 of 22nd June, 1949, in respect to hospitals with—(i) 25 beds or less; (ii) 26 to 100 beds; (iii) 101 to 200 beds; (iv) 201 to 300 beds; and (v) 301 or more beds.
  - What were the names of those appointed to hospitals with 25 beds or less who possessed the University Intermediate Certificate, and of those appointed to hospitals with 26 to 100 beds who possessed the University Leaving Certificate.
  - Did the present Secretary to the Kerang Hospital possess superior qualifications to the other applicants for the position.
  - Will the Minister state the qualifications of all candidates for the position of Secretary to the Kerang, Sir William Angliss (Ferntree Gully), Swan Hill, Leongatha, and Wonthaggi hospitals, respectively.
  - What positions were held by Mr. I. W. McVilly during the seven years previous to his appointment as Secretary to the Swan Hill Hospital.
- \*3. The Hon. D. P. J. FERGUSON: To ask the Honorable the Commissioner of Public Works—Will the Railways Commissioners provide a buffet car on the Melbourne-Warrnambool line in the interests of faster travel and for the convenience of passengers.
- \*4. The Hon. A. M. FRASER: To ask the Honorable the Commissioner of Public Works—
- Does the pram bus service on the East Preston route terminate at Thornbury Junction.
  - Is it a fact that mothers with prams (not folding pushers) have no services provided from Thornbury Junction to Tyler-street, Preston.
  - If the reason for the termination of the service at Thornbury Junction is financial, what would be the estimated loss of continuing the pram bus from Thornbury Junction to Tyler-street.
- \*5. The Hon. D. P. J. FERGUSON: To ask the Honorable the Commissioner of Public Works—Will the Minister have an investigation made into the delay in the construction of the Old Folk's Home at Geelong and give some indication when the Home will be available for occupancy.
- \*6. The Hon. G. L. TILLEY: To ask the Honorable the Commissioner of Public Works—
- What quantity of timber was produced in Victoria during each of the years 1946 to 1951.
  - What amount of revenue was derived from all sources by the Forests Commission during each of the years 1946 to 1951.
  - What amount was allocated to fire protection works by the Commission during each of the years 1946 to 1951.
- \*7. The Hon. R. R. RAWSON: To ask the Honorable the Commissioner of Public Works—How much did the Government receive during the years 1950–51 and 1951–52 for the grazing rights of—
- Buffalo National Park; and
  - Wilson's Promontory National Park.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

- \*8. The Hon. A. J. BAILEY: To ask the Honorable the Commissioner of Public Works—
- What are the names of race clubs occupying Crown lands.
  - What were the liquid assets as at 30th June, 1952, of—(i) Victoria Racing Club; (ii) Victoria Amateur Turf Club; (iii) Moonee Valley Racing Club; and (iv) Melbourne Racing Club.
  - What were the profits of each of these clubs for the years 1937–38, 1944–45, 1948–49, 1949–50, and 1950–51, respectively.
- \*9. The Hon. D. P. J. FERGUSON: To ask the Honorable the Commissioner of Public Works—  
Is it the intention of the Railways Commissioners to restore the 11.30 p.m. passenger service from Melbourne to Geelong.

*General Business.*

ORDERS OF THE DAY:—

- CROWN PROCEEDINGS BILL—(Hon. A. M. Fraser)—Second reading—*Resumption of debate.*
- POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
- LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

*Government Business.*

NOTICE OF MOTION:—

- \*1. The Hon. I. A. SWINBURNE: To move, That he have leave to bring in a Bill to amend the Housing Acts, and for other purposes.

ORDERS OF THE DAY:—

- BUILDING OPERATIONS AND BUILDING MATERIALS CONTROL BILL—(Hon. I. A. Swinburne)—Second reading—*Resumption of debate (Hon. A. J. Bailey).*
- LAND SURVEYORS BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
- IMPORTED MATERIALS LOAN AND APPLICATION (AMENDMENT) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
- PUBLIC SERVICE BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
- JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inchbold)—To be further considered in Committee.
- FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

ROY S. SARAH,  
Clerk of the Legislative Council.

CLIFDEN EAGER,  
President.

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SESSIONAL COMMITTEES.

ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.

STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.

HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.

LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.

PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.

STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

## VICTORIA.

## LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS.

No. 25.

TUESDAY, 14TH OCTOBER, 1952.

1. The President took the Chair and read the Prayer.
2. MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable P. T. Byrnes presented a Message from His Excellency the Governor, informing the Council that he had, this day, given the Royal Assent to the undermentioned Acts presented to him by the Clerk of the Parliaments, viz. :—
  - Land Tax Act.*
  - Hairdressers Registration (Amendment) Act.*
  - Totalizator (Amendment) Act.*
3. LAND SURVEYORS BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend the Law relating to Surveyors*” and desiring the concurrence of the Council therein.
 

On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
4. IMPORTED MATERIALS LOAN AND APPLICATION (AMENDMENT) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “*An Act to amend the Imported Materials Loan and Application Acts*” and desiring the concurrence of the Council therein.
 

On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.
5. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk :—
  - Anti-Cancer Council Act 1936—Report of the Anti-Cancer Council for the year 1951–52.
  - Dairy Products Acts—Report of the Victorian Dairy Products Board for the six months ended 30th June, 1952.
  - Nurses and Midwives Act 1950—Mental Nurses Amending Regulations 1952.
  - Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—
    - Part I.—Appointments to the Administrative, Professional, and Technical and General Divisions.
    - Part II.—Promotions and Transfers.
    - Part III.—Salaries, Increments, and Allowances (four papers).
  - Road Traffic Act 1935—Regulation—Major Street.
  - Superannuation Acts—Regulations.
  - Teaching Service Act 1946—Amendment of Teaching Service (Teachers Tribunal) Regulations.
6. POSTPONEMENT OF ORDERS OF THE DAY.—Ordered, after debate—That the consideration of Orders of the Day, Government Business, Nos. 1 to 6 inclusive, be postponed until later this day.
7. COUNTRY FIRE AUTHORITY BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable I. A. Swinburne moved, That this Bill be now read a second time.
 

The Honorable R. R. Rawson moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and resolved in the affirmative.

Ordered—That the debate be adjourned until later this day.

8. MELBOURNE AND METROPOLITAN TRAMWAYS (FIRE BRIGADES PAYMENTS) BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

9. HEALTH (MEAT SUPERVISION) BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

10. BUILDING OPERATIONS AND BUILDING MATERIALS CONTROL BILL.—The Order of the Day for the second reading of this Bill having been read, the Honorable I. A. Swinburne moved, That this Bill be now read a second time.

The Honorable A. J. Bailey moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and resolved in the affirmative.

Ordered—That the debate be adjourned until the next day of meeting.

11. EVIDENCE BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

12. COUNTRY FIRE AUTHORITY BILL.—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

The Honorable R. R. Rawson moved, by leave, That it be an instruction to the Committee that they have power to consider an amendment to increase the amount of compensation payable in respect of damage to wearing apparel or personal effects of casual fire-fighters.

Question—put and resolved in the affirmative.

The President left the Chair.

House in Committee.

The President resumed the Chair; and the Honorable W. MacAulay having reported that the Committee had agreed to the Bill with an amendment and had amended the title thereof, which title is as follows: "*An Act to amend the Country Fire Authority Acts and for other purposes*", the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same with amendments and desiring their concurrence therein.

13. ADJOURNMENT.—The Honorable P. T. Byrnes moved, That the House do now adjourn.

Debate ensued.

Question—put and resolved in the affirmative.

And then the Council, at fifty-three minutes past Ten o'clock, adjourned until to-morrow.



## No. 26.

WEDNESDAY, 15TH OCTOBER, 1952.

1. The President took the Chair and read the Prayer.
2. **POLICE OFFENCES (FIREARMS) BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled "*An Act relating to the Discharge of Firearms on or across Land used for Primary Production, and for other purposes*" and desiring the concurrence of the Council therein.

On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

3. **GIRL GUIDES ASSOCIATION BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled "*An Act to incorporate the State Council of the Girl Guides Association, Victoria, Australia, to confer and impose upon that Body certain Powers Duties Rights and Liabilities, to provide for the vesting in that Body of certain Property, and for other purposes*" and desiring the concurrence of the Council therein.

Bill ruled to be a Private Bill.

The Honorable T. Harvey moved, That this Bill be dealt with as a Public Bill.

Question—put and resolved in the affirmative.

The Honorable T. Harvey moved, That this Bill be now read a first time.

Question—put and resolved in the affirmative.—Bill read a first time and ordered to be printed and to be read a second time on the next day of meeting.

4. **GEELONG WATERWORKS AND SEWERAGE (AMENDMENT) BILL.**—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled "*An Act to amend the Geelong Waterworks and Sewerage Acts*" and desiring the concurrence of the Council therein.

On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and, by leave and after debate, to be read a second time later this day.

5. **CROWN PROCEEDINGS BILL.**—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill with amendments, the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.

Ordered—That the Bill be transmitted to the Assembly with a Message desiring their concurrence therein.

6. **POSTPONEMENT OF ORDERS OF THE DAY.**—Ordered—That the consideration of Orders of the Day, General Business, Nos. 2 and 3, be postponed until the next day of meeting.

7. **HOUSING BILL.**—On the motion of the Honorable I. A. Swinburne, leave was given to bring in a Bill to amend the Housing Acts, and for other purposes, and the said Bill was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

8. **CORRECTION IN CROWN PROCEEDINGS BILL.**—The President announced that he had received a Report from the Clerk notifying, in conformity with Standing Order No. 300, that he had made the following correction in the Crown Proceedings Bill, viz. :—

In the enacting formula, the word "Queen's" has been inserted instead of the word "King's".

9. **BUILDING OPERATIONS AND BUILDING MATERIALS CONTROL BILL.**—The Order of the Day for the resumption of the debate on the question, That this Bill be now read a second time, was read and, after further debate, the question being put was resolved in the affirmative.—Bill read a second time and committed to a Committee of the whole.

House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill with amendments, the House ordered the Report to be taken into consideration this day, whereupon the House adopted the Report, and the Bill was read a third time and passed.

Ordered—That the Bill be transmitted to the Assembly with a Message desiring their concurrence therein.

10. **POSTPONEMENT OF ORDER OF THE DAY.**—Ordered—That the consideration of Order of the Day, Government Business, No. 2, be postponed until later this day.

11. **IMPORTED MATERIALS LOAN AND APPLICATION (AMENDMENT) BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole. House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

12. **GEEELONG WATERWORKS AND SEWERAGE (AMENDMENT) BILL.**—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole. House in Committee.

The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.

Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

13. **ADJOURNMENT.**—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.

Question—put and resolved in the affirmative.

And then the Council, at forty-four minutes past Nine o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 26.

TUESDAY, 21ST OCTOBER, 1952.

### *Question.*

1. The Hon. A. J. BAILEY : To ask the Honorable the Commissioner of Public Works—
  - (a) How many of the hospital secretaries appointed during the past three years had the qualifications laid down for the position, as published in the *Government Gazette* No. 535 of 22nd June, 1949, in respect to hospitals with—(i) 25 beds or less; (ii) 26 to 100 beds; (iii) 101 to 200 beds; (iv) 201 to 300 beds; and (v) 301 or more beds.
  - (b) What were the names of those appointed to hospitals with 25 beds or less who possessed the University Intermediate Certificate, and of those appointed to hospitals with 26 to 100 beds who possessed the University Leaving Certificate.
  - (c) Did the present Secretary to the Kerang Hospital possess superior qualifications to the other applicants for the position.
  - (d) Will the Minister state the qualifications of all candidates for the position of Secretary to the Kerang, Sir William Angliss (Fern-tree Gully), Swan Hill, Leongatha, and Wonthaggi hospitals, respectively.
  - (e) What positions were held by Mr. I. W. McVilly during the seven years previous to his appointment as Secretary to the Swan Hill Hospital.

### *Government Business.*

#### ORDERS OF THE DAY :—

- \*1. POLICE OFFENCES (FIREARMS) BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading.
- \*2. GIRL GUIDES ASSOCIATION BILL—(from Assembly—Hon. T. Harvey)—Second reading.
3. LAND SURVEYORS BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
- \*4. HOUSING BILL—(Hon. I. A. Swinburne)—Second reading.
5. PUBLIC SERVICE BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
6. JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inchbold)—To be further considered in Committee.
7. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

### *General Business.*

#### ORDERS OF THE DAY :—

1. POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
2. LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

ROY S. SARAH,  
Clerk of the Legislative Council.

CLIFDEN EAGER,  
President.

### SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.
- STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.
- HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.
- LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.
- PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

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## LEGISLATIVE COUNCIL.

*Notices of Motion and Orders of the Day.*

No. 27.

WEDNESDAY, 22ND OCTOBER, 1952.

*General Business.*

## ORDERS OF THE DAY :—

1. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
2. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—To be further considered in Committee.

*Government Business.*

## ORDERS OF THE DAY :—

- \*1. PARLIAMENTARY CONTRIBUTORY RETIREMENT FUND BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
- \*2. MINERS' PHTHISIS (TREASURY ALLOWANCES) AMENDMENT BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
- \*3. SUPREME COURT (JUDGES) BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading.
4. POLICE OFFENCES (FIREARMS) BILL—(*from Assembly—Hon. P. P. Inchbold*)—Second reading.
5. GIRL GUIDES ASSOCIATION BILL—(*from Assembly—Hon. T. Harvey*)—Second reading.
6. LAND SURVEYORS BILL—(*from Assembly—Hon. P. T. Byrnes*)—Second reading.
7. HOUSING BILL—(*Hon. I. A. Swinburne*)—Second reading.
8. PUBLIC SERVICE BILL—(*from Assembly—Hon. I. A. Swinburne*)—Second reading.
9. JUSTICES (AMENDMENT) BILL—(*from Assembly—Hon. P. P. Inchbold*)—To be further considered in Committee.
10. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly—Hon. I. A. Swinburne*)—To be committed.

TUESDAY, 28TH OCTOBER.

*Question.*

1. The Hon. A. J. BAILEY : To ask the Honorable the Commissioner of Public Works—
  - (a) How many of the hospital secretaries appointed during the past three years had the qualifications laid down for the position, as published in the *Government Gazette* No. 535 of 22nd June, 1949, in respect to hospitals with—(i) 25 beds or less; (ii) 26 to 100 beds; (iii) 101 to 200 beds; (iv) 201 to 300 beds; and (v) 301 or more beds.
  - (b) What were the names of those appointed to hospitals with 25 beds or less who possessed the University Intermediate Certificate, and of those appointed to hospitals with 26 to 100 beds who possessed the University Leaving Certificate.
  - (c) Did the present Secretary to the Kerang Hospital possess superior qualifications to the other applicants for the position.
  - (d) Will the Minister state the qualifications of all candidates for the position of Secretary to the Kerang, Sir William Angliss (Ferntree Gully), Swan Hill, Leongatha, and Wonthaggi hospitals, respectively.
  - (e) What positions were held by Mr. I. W. McVilly during the seven years previous to his appointment as Secretary to the Swan Hill Hospital.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

## SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.
- STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.
- HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.
- LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.
- PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

\* *Notifications to which an asterisk (\*) is prefixed appear for the first time.*

## VICTORIA.

## LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS

No. 27.

TUESDAY, 21ST OCTOBER, 1952.

1. The President took the Chair and read the Prayer.
2. MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable P. T. Byrnes presented a Message from His Excellency the Governor, informing the Council that he had, this day, given the Royal Assent to the undermentioned Acts presented to him by the Clerk of the Parliaments, viz. :—

*Melbourne and Metropolitan Tramways (Fire Brigades Payments) Act.*  
*Health (Meat Supervision) Act.*  
*Evidence Act.*  
*Imported Materials Loan and Application (Amendment) Act.*  
*Geelong Waterworks and Sewerage (Amendment) Act.*

3. CONSOLIDATED REVENUE BILL (No. 4).—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to apply out of the Consolidated Revenue the sum of Thirteen million nine hundred and fifty-four thousand six hundred and forty-five pounds to the service of the year One thousand nine hundred and fifty-two and One thousand nine hundred and fifty-three* ” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and, by leave, to be read a second time later this day.

4. PARLIAMENTARY CONTRIBUTORY RETIREMENT FUND BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend the ‘Parliamentary Contributory Retirement Fund Act 1946’, and for other purposes* ” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. P. Inchbold, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

5. COUNTRY FIRE AUTHORITY BILL.—The President announced the receipt of a Message from the Assembly returning this Bill and acquainting the Council that they have agreed to one of the amendments made by the Council in this Bill and have agreed to the other of the said amendments with amendments and desiring the concurrence of the Council therein.

Ordered—That the foregoing Message be now taken into consideration.

And the said amendment was read and is as follows :—

Amendment made by the Legislative Council.

How dealt with by  
the Legislative Assembly.

1. Insert the following new clause :—

A. in proviso (a) to sub-clause (1) of section twenty-one of the *Country Fire Authority Act 1946* for the words “ Ten pounds ” there shall be substituted the words “ Twenty pounds.”

Agreed to with the following amendments :—

After “ new clause ” insert “ to follow clause 11.”

Omit “ proviso (a) to sub-clause (1) ” and insert “ paragraph (a) of the proviso to sub-section (1).”

On the motion of the Honorable I. A. Swinburne, the Council agreed to the amendments made by the Assembly on the amendment of the Council, and ordered the Bill to be returned to the Assembly with a Message acquainting them therewith.

6. PAPERS.—The Honorable P. T. Byrnes presented, by command of His Excellency the Governor—Police—Report of the Chief Commissioner of Police for the year 1951.

Ordered to lie on the Table.

The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—

- Country Fire Authority Acts—Regulations relating to the issue of Debentures.
- Hospitals and Charities Act 1948—Report of the Hospitals and Charities Commission for the year 1951-52.
- Marketing of Primary Products Act 1935—Onion Marketing Board—Regulations—Registration of Producers of Onions.
- Mental Hygiene Authority Act 1950—Mental Hygiene Authority Regulations 1952 (No. 5).
- Milk Pasteurization Act 1949—Regulation prescribing a district.
- Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments, and Allowances (two papers).
- Transport Regulation Acts—Report of the Transport Regulation Board for the year 1951-52.

7. CONSOLIDATED REVENUE BILL (No. 4).—The Order of the Day for the second reading of this Bill having been read, the Honorable P. T. Byrnes moved, That this Bill be now read a second time.

The Honorable P. L. Coleman moved, as an amendment, That all the words after "That" be omitted with the view of inserting in place thereof the words "this House is of the opinion that, in view of the inequitable electoral system at present operating in this State and of the Government being not fairly representative of the people, the Supply sought by this Bill should not be consented to at present".

The Honorable P. T. Byrnes having asked whether the proposed amendment was in order, and other Honorable Members having addressed the President on the matter—

The President said—

In my opinion, it is within the competence of this House to deal with and to carry, if it be so advised, the amendment proposed by Mr. Coleman to the motion. There can be no doubt that under the Constitution Act this House has power to reject a Supply Bill, a Bill appropriating revenue, or any other Bill. Having the power to reject, I think it is clear that the Council also has power to refuse to pass a Bill until such time as it deems fit. Having regard to the arguments that may be advanced, the House must decide whether it is desirable or not to exercise that power.

I can see nothing in the amendment that is an attempt to coerce the Governor or the Legislative Assembly, or that is disrespectful to His Excellency. There can be no doubt that it lies within the sole prerogative of the Governor, as the representative of the Queen in Victoria, to determine two matters that may become relevant upon the adoption of this amendment. The first may be to consider whether or not His Excellency shall commission a new Ministry. That is within His Excellency's absolute prerogative. The second point may be for His Excellency to determine whether he shall dissolve the Legislative Assembly, again a matter within His Excellency's prerogative. There is nothing in the amendment which attempts to interfere with His Excellency's prerogative in those two respects.

This is a well-known form of amendment in relation to other Bills, although I do not think it has arisen previously in regard to a Bill of this description. It is what is called a reasoned amendment. If the House agrees to the amendment, it, in effect, says, "We will not at present pass the second reading of this Bill, for the reasons that are stated in the amendment". The Bill will still remain in the possession of this House and, upon a proper proceeding being taken, it can be restored to the Notice Paper and a second-reading motion can again be brought before the House. I repeat that I can see nothing coercive of His Excellency the Governor or of the other House in this House saying that it will not agree to the second reading of the Bill to-night.

Reference has been made to the extended franchise of this House by a recent enactment. I do not think that is relevant to the point of order. It cannot affect the powers of this House although it may affect the exercise of those powers. In its discretion the House may say that, having regard to the extended franchise which now makes it representative of the whole of the people, it will exercise its powers more freely than it would have exercised them when the franchise was strictly limited. That consideration does not affect in any degree the power of this House; it may affect only its discretion in determining whether or not it will exercise the power.

A large number of other matters have been raised. The despatch from His Grace the Earl of Carnarvon, who appears to have been the Secretary of State for the Colonies in the 1860's, seems to have little to do with this matter, and does not affect my mind in any degree. If there were in the proposed amendment to the motion the slightest disrespect to the Queen's representative, the slightest attempt to coerce him in the exercise of his prerogatives as representing the Crown, I think that not only myself, but this House, would be quick to disallow it. I can see nothing of that kind in the proposed amendment. On account of the importance which the Minister attached to this point of order, I have heard such Members as wished to address me on the point. I am obliged to them for their several views, but having considered them all, I have no doubt that the House is competent to deal with the proposed amendment to the motion, and that it is within the competence of Mr. Coleman to move it.

Debate ensued.

And the Council having continued to sit until after Twelve of the clock—

WEDNESDAY, 22ND OCTOBER, 1952.

Debate continued.

Question—That the words proposed to be omitted stand part of the question—put.

The Council divided.

Ayes, 16.

The Hon. P. T. Byrnes,  
E. P. Cameron,  
G. L. Chandler (*Teller*),  
Sir Frank Clarke,  
T. H. Grigg,  
T. Harvey,  
P. P. Inchbold,  
Sir James Kennedy,  
H. C. Ludbrook,  
G. S. McArthur (*Teller*),  
W. MacAulay,  
A. R. Mansell,  
I. A. Swinburne,  
G. J. Tuckett,  
D. J. Walters,  
A. G. Warner.

Noes, 17.

The Hon. D. L. Arnott,  
A. J. Bailey,  
T. W. Brennan,  
P. L. Coleman,  
D. P. J. Ferguson,  
A. M. Fraser,  
J. W. Galbally,  
C. P. Gartside,  
J. J. Jones (*Teller*),  
P. Jones,  
H. V. MacLeod,  
R. R. Rawson,  
M. P. Sheehy,  
W. Slater,  
A. Smith,  
F. M. Thomas,  
G. L. Tilley (*Teller*).

And so it passed in the negative.

Question—That the words proposed to be inserted be so inserted—put and resolved in the affirmative.

Question—That this House is of the opinion that, in view of the inequitable electoral system at present operating in this State and of the Government being not fairly representative of the people, the Supply sought by this Bill should not be consented to at present—put.

The Council divided.

Ayes, 17.

The Hon. D. L. Arnott,  
A. J. Bailey,  
T. W. Brennan,  
P. L. Coleman,  
D. P. J. Ferguson,  
A. M. Fraser,  
J. W. Galbally,  
C. P. Gartside,  
J. J. Jones,  
P. Jones,  
H. V. MacLeod,  
R. R. Rawson (*Teller*),  
M. P. Sheehy,  
W. Slater,  
A. Smith (*Teller*),  
F. M. Thomas,  
G. L. Tilley.

Noes, 16.

The Hon. P. T. Byrnes,  
E. P. Cameron,  
G. L. Chandler,  
Sir Frank Clarke,  
T. H. Grigg (*Teller*),  
T. Harvey,  
P. P. Inchbold,  
Sir James Kennedy,  
H. C. Ludbrook,  
G. S. McArthur,  
W. MacAulay (*Teller*),  
A. R. Mansell,  
I. A. Swinburne,  
G. J. Tuckett,  
D. J. Walters,  
A. G. Warner.

And so it was resolved in the affirmative.

8. SUPREME COURT (JUDGES) BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to amend Section Seven of the ‘Supreme Court Act 1928’* ” and desiring the concurrence of the Council therein.

On the motion of the Honorable I. A. Swinburne, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

9. MINERS’ PHTHISIS (TREASURY ALLOWANCES) AMENDMENT BILL.—The President announced the receipt of a Message from the Assembly transmitting a Bill intituled “ *An Act to further amend the ‘Miners’ Phthisis (Treasury Allowances) Act 1938’* ” and desiring the concurrence of the Council therein.

On the motion of the Honorable P. T. Byrnes, the Bill transmitted by the foregoing Message was read a first time and ordered to be printed and to be read a second time on the next day of meeting.

10. BUILDING OPERATIONS AND BUILDING MATERIALS CONTROL BILL.—The President announced the receipt of a Message from the Assembly acquainting the Council that they have agreed to this Bill without amendment.

And then the Council, at thirty minutes past Two o’clock in the morning, adjourned until this day.

## No. 28.

WEDNESDAY, 22<sup>ND</sup> OCTOBER, 1952.

1. The President took the Chair and read the Prayer.
2. PAPER.—The following Paper, pursuant to the direction of an Act of Parliament, was laid upon the Table by the Clerk:—  
Land Act 1928—Certificate of the Minister of Education relating to the proposed compulsory resumption of land for the purpose of a school at Coburg West.
3. POSTPONEMENT OF ORDERS OF THE DAY.—Ordered—That the consideration of the Orders of the Day, General Business, be postponed until after the Orders of the Day, Government Business.
4. PARLIAMENTARY CONTRIBUTORY RETIREMENT FUND BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
5. MINERS' PHTHISIS (TREASURY ALLOWANCES) AMENDMENT BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
6. ADJOURNMENT.—The Honorable P. T. Byrnes moved, by leave, That the Council, at its rising, adjourn until Tuesday next.  
Question—put and resolved in the affirmative.

And then the Council, at forty-five minutes past Seven o'clock, adjourned until Tuesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*



## LEGISLATIVE COUNCIL.

*Notices of Motion and Orders of the Day.*

No. 28.

TUESDAY, 28TH OCTOBER, 1952.

*Questions.*

1. The Hon. A. J. BAILEY: To ask the Honorable the Commissioner of Public Works—
- How many of the hospital secretaries appointed during the past three years had the qualifications laid down for the position, as published in the *Government Gazette* No. 535 of 22nd June, 1949, in respect to hospitals with—(i) 25 beds or less; (ii) 26 to 100 beds; (iii) 101 to 200 beds; (iv) 201 to 300 beds; and (v) 301 or more beds.
  - What were the names of those appointed to hospitals with 25 beds or less who possessed the University Intermediate Certificate, and of those appointed to hospitals with 26 to 100 beds who possessed the University Leaving Certificate.
  - Did the present Secretary to the Kerang Hospital possess superior qualifications to the other applicants for the position.
  - Will the Minister state the qualifications of all candidates for the position of Secretary to the Kerang, Sir William Angliss (Ferntree Gully), Swan Hill, Leongatha, and Wonthaggi hospitals, respectively.
  - What positions were held by Mr. I. W. McVilly during the seven years previous to his appointment as Secretary to the Swan Hill Hospital.
- \*2. The Hon. R. R. RAWSON: To ask the Honorable the Commissioner of Public Works—
- Who is responsible for the appointment of the Railways Level Crossings Committee.
  - Does the Government accept the Committee's decisions as final and legally binding.
  - Will the Government consider reviewing the composition of the Committee with a view to widening the representation thereon.

*Government Business.*

## ORDERS OF THE DAY:—

- SUPREME COURT (JUDGES) BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
- POLICE OFFENCES (FIREARMS) BILL—(from Assembly—Hon. P. P. Inchbold)—Second reading.
- GIRL GUIDES ASSOCIATION BILL—(from Assembly—Hon. T. Harvey)—Second reading.
- LAND SURVEYORS BILL—(from Assembly—Hon. P. T. Byrnes)—Second reading.
- HOUSING BILL—(Hon. I. A. Swinburne)—Second reading.
- PUBLIC SERVICE BILL—(from Assembly—Hon. I. A. Swinburne)—Second reading.
- JUSTICES (AMENDMENT) BILL—(from Assembly—Hon. P. P. Inchbold)—To be further considered in Committee.
- FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(from Assembly—Hon. I. A. Swinburne)—To be committed.

*General Business.*

## ORDERS OF THE DAY:—

- POLICE OFFENCES (AMENDMENT) BILL—(Hon. F. M. Thomas)—Second reading.
- LANDLORD AND TENANT (AMENDMENT) BILL—(Hon. A. G. Warner)—To be further considered in Committee.

ROY S. SARAH,  
Clerk of the Legislative Council.

CLIFDEN EAGER,  
President.

## SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.
- STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.
- HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.
- LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.
- PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

\* Notifications to which an asterisk (\*) is prefixed appear for the first time.

MR. PRESIDENT TAKES THE CHAIR AT A QUARTER TO FIVE O'CLOCK.

# LEGISLATIVE COUNCIL.

## *Notices of Motion and Orders of the Day.*

No. 29.

WEDNESDAY, 29<sup>TH</sup> OCTOBER, 1952.

### Questions.

1. The Hon. A. J. BAILEY: To ask the Honorable the Commissioner of Public Works—
  - (a) How many of the hospital secretaries appointed during the past three years had the qualifications laid down for the position, as published in the *Government Gazette* No. 535 of 22nd June, 1949, in respect to hospitals with—(i) 25 beds or less; (ii) 26 to 100 beds; (iii) 101 to 200 beds; (iv) 201 to 300 beds; and (v) 301 or more beds.
  - (b) What were the names of those appointed to hospitals with 25 beds or less who possessed the University Intermediate Certificate, and of those appointed to hospitals with 26 to 100 beds who possessed the University Leaving Certificate.
  - (c) Did the present Secretary to the Kerang Hospital possess superior qualifications to the other applicants for the position.
  - (d) Will the Minister state the qualifications of all candidates for the position of Secretary to the Kerang, Sir William Angliss (Ferntree Gully), Swan Hill, Leongatha, and Wonthaggi hospitals, respectively.
  - (e) What positions were held by Mr. I. W. McVilly during the seven years previous to his appointment as Secretary to the Swan Hill Hospital.
  
2. The Hon. R. R. RAWSON: To ask the Honorable the Commissioner of Public Works—
  - (a) Who is responsible for the appointment of the Railways Level Crossings Committee.
  - (b) Does the Government accept the Committee's decisions as final and legally binding.
  - (c) Will the Government consider reviewing the composition of the Committee with a view to widening the representation thereon.

### General Business.

#### ORDERS OF THE DAY:—

1. POLICE OFFENCES (AMENDMENT) BILL—(*Hon. F. M. Thomas*)—Second reading.
2. LANDLORD AND TENANT (AMENDMENT) BILL—(*Hon. A. G. Warner*)—To be further considered in Committee.

### Government Business.

#### ORDERS OF THE DAY:—

1. SUPREME COURT (JUDGES) BILL—(*from Assembly—Hon. C. P. Gartside*)—Second reading.
2. POLICE OFFENCES (FIREARMS) BILL—(*from Assembly*)—Second reading.
3. LAND SURVEYORS BILL—(*from Assembly*)—Second reading.
4. HOUSING BILL—Second reading.
5. PUBLIC SERVICE BILL—(*from Assembly*)—Second reading.
6. JUSTICES (AMENDMENT) BILL—(*from Assembly*)—To be further considered in Committee.
7. FIRE BRIGADES (LONG SERVICE LEAVE) AMENDMENT BILL—(*from Assembly*)—To be committed.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

CLIFDEN EAGER,  
*President.*

### SESSIONAL COMMITTEES.

- ELECTIONS AND QUALIFICATIONS.—The Honorables P. T. Byrnes, G. L. Chandler, A. M. Fraser, P. P. Inchbold, Sir James Kennedy, G. S. McArthur, and W. Slater.
- STANDING ORDERS.—The Honorables the President, P. T. Byrnes, Sir Frank Clarke, A. M. Fraser, J. W. Galbally, C. P. Gartside, T. H. Grigg, W. MacAulay, D. J. Walters, and A. G. Warner.
- HOUSE (JOINT).—The Honorables the President (*ex officio*), P. T. Byrnes, E. P. Cameron, Sir James Kennedy, P. Jones, and I. A. Swinburne.
- LIBRARY (JOINT).—The Honorables the President, G. L. Chandler, P. P. Inchbold, R. R. Rawson, and W. Slater.
- PRINTING.—The Honorables the President, E. P. Cameron, G. L. Chandler, J. W. Galbally, T. Harvey, H. C. Ludbrook, W. MacAulay, and F. M. Thomas.
- STATUTE LAW REVISION (JOINT).—The Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, G. S. McArthur, F. M. Thomas, and D. J. Walters.

By Authority: J. J. GOURLEY, Government Printer, Melbourne.

## VICTORIA.

## LEGISLATIVE COUNCIL.

## MINUTES OF THE PROCEEDINGS

No. 29.

TUESDAY, 28<sup>TH</sup> OCTOBER, 1952.

1. The President took the Chair and read the Prayer.
2. CONSOLIDATED REVENUE BILL (No. 4).—The Honorable C. P. Gartside moved, by leave, That the second reading of this Bill be made an Order of the Day for later this day.  
Question—put and resolved in the affirmative.
3. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk:—
  - Apprenticeship Acts—Amendment of Regulations—
    - Painting Trades Apprenticeship Regulations.
    - Pastrycooking Trade Apprenticeship Regulations.
    - Plumbing and Gasfitting Trades Apprenticeship Regulations.
    - Sheet Metal Trade Apprenticeship Regulations.
  - Explosives Act 1928—Orders in Council relating to—
    - Classification of Explosives—Class 3—Nitro-Compound.
    - Definition of Explosives—Class 3—Nitro-Compound.
  - Geelong Harbor Trust Acts—
    - Amendment of Principal Regulations.
    - Regulations relating to the creation and issue of Debentures and Inscribed Stock.
  - Motor Car Act 1951—Motor Car Regulations 1952.
  - Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—Part III.—Salaries, Increments, and Allowances.
  - Road Traffic Acts—Amendment of Road Traffic Regulations 1939.
  - Teaching Service Act 1946—Amendment of Regulations—
    - Teaching Service (Classification, Salaries, and Allowances) Regulations.
    - Teaching Service (Teachers Tribunal) Regulations.
4. POSTPONEMENT OF ORDERS OF THE DAY.—Ordered—That the consideration of Orders of the Day, Government Business, Nos. 1 and 2, be postponed until the next day of meeting.
5. GIRL GUIDES ASSOCIATION BILL.—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.
6. CONSOLIDATED REVENUE BILL (No. 4).—This Bill was, according to Order and after debate, read a second time and committed to a Committee of the whole.  
House in Committee.  
The President resumed the Chair; and the Honorable D. J. Walters having reported that the Committee had agreed to the Bill without amendment, the Report was adopted, and the Bill was read a third time and passed.  
Ordered—That the Bill be returned to the Assembly with a Message acquainting them that the Council have agreed to the same without amendment.

And then the Council, at fifty-nine minutes past Seven o'clock, adjourned until to-morrow.

ROY S. SARAH,  
Clerk of the Legislative Council.

**No. 30.**

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WEDNESDAY, 29<sup>TH</sup> OCTOBER, 1952.

1. The President took the Chair and read the Prayer.
2. PAPERS.—The following Papers, pursuant to the directions of several Acts of Parliament, were laid upon the Table by the Clerk :—
  - Public Service Act 1946—Amendment of Public Service (Public Service Board) Regulations—
    - Part III.—Salaries, Increments, and Allowances (seven papers).
    - Part VI.—Travelling Expenses.
  - State Savings Bank Act 1928—State Savings Bank—Statements and Returns for the year 1951–52.
3. ADJOURNMENT.—The Honorable C. P. Gartside moved, by leave, That the Council, at its rising, adjourn until Wednesday next.  
Question—put and resolved in the affirmative.

And then the Council, at two minutes past Five o'clock, adjourned until Wednesday next.

ROY S. SARAH,  
*Clerk of the Legislative Council.*

SESSION 1951-52.

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BILLS ASSENTED TO AFTER THE FINAL ADJOURNMENT OF BOTH HOUSES AND  
BEFORE THE PROROGATION.

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The following Message from His Excellency the Governor was received after the final adjournment of both Houses :—

DALLAS BROOKS,  
*Governor of Victoria.*

The Governor informs the Legislative Council that he has, on this day, given the Royal Assent to the undermentioned Acts of the present Session presented to him by the Clerk of the Parliaments, viz. :—

Building Operations and Building Materials Control Act 1952.

Country Fire Authority Act 1952.

Parliamentary Contributory Retirement Fund Act 1952.

Miners' Phthisis (Treasury Allowances) Amendment Act 1952.

Girl Guides Association Act 1952.

Consolidated Revenue Act 1952.

The Governor's Office,  
Melbourne, 31st October, 1952.



## QUESTIONS ASKED BY HONORABLE MEMBERS, AND REPLIES THERETO.

Name of Member and Subject-matter.	Number of Notice-Paper. (Question.)	Page in Hansard (Reply).
BAILEY, Hon. A. J.—		
Hospitals and Charities Commission—		
Appointment of Hospital Managers .. .. .	20, 23	1961, 2305
Appointment of Hospital Secretaries .. .. .	29	2793
Housing Commission—Dispute at Holmesglen factory .. .. .	16	1532
Municipal Wards in Melbourne West Province—Revision of Wards Plan for City of South Melbourne .. .. .	18	1775
Racing Clubs—Occupancy of Crown Lands—Finances .. .. .	25	2538
State Electricity Commission—Contracts with private carriers .. .. .	16	1532
CAMERON, Hon. E. P.—		
Kew Mental Hospital—Renovations and additions .. .. .	4	244
State Land Tax Assessments .. .. .	14	1321
CHANDLER, Hon. G. L.—		
Boronia Level Crossing Coronial Inquiry—Selection of jurymen .. .. .	13	1162
Permits for Gaming Devices .. .. .	24	2440
Railways Department—Level crossing accidents—Boronia accident .. .. .	11, 17	1017, 1604
CLARKE, Hon. Sir Frank—		
Metropolitan Road Traffic—Proposed tunnel at Princes Bridge .. .. .	11	1017
COLEMAN, Hon. P. L.—		
Coal—Importation—Production of brown coal .. .. .	15	1464
Royal Commission on Allegations of Improper Conduct—Attendance of Members of Council and Officers .. .. .	*	2441, 2539
FERGUSON, Hon. D. P. J.—		
Geelong Harbor Trust—Reconstitution .. .. .	14	1322
Maternity Hospital—"Baxter House," Geelong .. .. .	21	2125
Old Folk's Home at Geelong .. .. .	25	2538
Poliomyelitis and Spastic Cases—After-care at Red Cross Hostel, Welfare House	15	1465
Railways Department—		
Colac-Geelong service .. .. .	21	2127
Geelong-Queenscliff service .. .. .	15, 21	1461, 2127
Melbourne-Geelong line—Duplication .. .. .	21	2126
Melbourne-Geelong service .. .. .	21, 25	2127, 2537
Melbourne-Warrnambool line—Buffet car .. .. .	25	2537
FRASER, Hon. A. M.—		
Compensation Fees under Licensing Act 1928 .. .. .	18	1776
Discharged Servicemen's Employment Board—Personnel and activities .. .. .	11	1018
Dog Racing—Revenue received .. .. .	18	1776
Education Department—West Heidelberg High School and Macleod State School	15	1462
Housey-Housey—Departmental files .. .. .	11	1018
Imported Cement—Costs and distribution .. .. .	18	1775
Melbourne and Metropolitan Tramways Board—		
Overseas employees—Hostels .. .. .	15	1462
Pram bus service on East Preston route .. .. .	25	2537
Totalizator Dividends and Fractions .. .. .	22	2213
GALBALLY, Hon. J. W.—		
Agricultural College at "Glenormiston House", Glenormiston .. .. .	21	2127
Public Service—Salary increase to Technical and General Division officers—		
Applications for reclassification .. .. .	23	2307
Railways Department—Traffic on Heidelberg line and bridge over Merri Creek	18	1776
JONES, Hon. P.—		
Education Department—		
Proposed Royal Commission .. .. .	15	1461
Shortage of teachers and accommodation .. .. .	21	2125
Eildon Dam Project—Submergence of land and total cost .. .. .	14	1323
Petrol—Sales policy—Consumption—Price .. .. .	14	1322
State Electricity Commission—		
Kiewa to Melbourne transmission line .. .. .	22	2213
Yallourn to Melbourne transmission line .. .. .	25	2536

QUESTIONS ASKED BY HONORABLE MEMBERS, AND REPLIES THERETO—*continued.*

Name of Member and Subject-matter.	Number of Notice-Paper. (Question.)	Page in <i>Hansard</i> (Reply).
KENNEDY, Hon. Sir James— Co-operative Housing Societies—Report on management fees .. ..	20	1961
LUDBROOK, Hon. H. C.— Transport Regulation Acts—Administration cost—Receipt and application of moneys .. .. .	12	1061
RAWSON, Hon. R. R.— Education Department—Ringwood High School and Greensborough State School	18	1776
National Parks—Revenue from grazing rights .. .. .	25	2538
Railways Department— Acquisition of land at Dandenong to erect pre-cut houses .. ..	18	1776
Level Crossings Committee .. .. .	14, 29	1322, 2793
SLATER, Hon. W.—		
Housing Commission—Frontages of housing allotments—Standards of rooms and amenities .. .. .	21	2126
Victorian Statutes—Issue of sessional volumes .. .. .	11	1018
SMITH, Hon. A.—		
Repairs to Police Residence at Heathcote .. .. .	21	2126
TILLEY, Hon. G. L.		
Timber Production—Revenue of Forests Commission and allocations to fire-protection works .. .. .	25	2538



[6157]



VICTORIA  
GOVERNMENT GAZETTE.

Published by Authority.

[Registered at the General Post Office, Melbourne, for transmission by post as a newspaper.]

No. 855]

FRIDAY, OCTOBER 31.

[1952

PROROGUING THE PARLIAMENT OF VICTORIA.

PROCLAMATION

By His Excellency the Governor of the State of Victoria and its Dependencies in the Commonwealth of Australia, &c., &c., &c.

**W**HEREAS The Parliament of Victoria stands adjourned until Wednesday, the fifth day of November, 1952: Now I, the Governor of the State of Victoria, in the Commonwealth of Australia, do by this my Proclamation prorogue the said Parliament of Victoria until Wednesday, the twelfth day of November, 1952.

Given under my Hand and the Seal of the State of Victoria aforesaid, at Melbourne, this thirty-first day of October, in the year of our Lord One thousand nine hundred and fifty-two, and in the first year of the reign of Her Majesty Queen Elizabeth II.

(L.S.)

DALLAS BROOKS.

By His Excellency's Command,

JOHN G. B. McDONALD,  
Premier.

GOD SAVE THE QUEEN!

DISCHARGING MEMBERS OF THE LEGISLATIVE COUNCIL FROM ATTENDANCE AND  
DISSOLVING THE LEGISLATIVE ASSEMBLY.

PROCLAMATION

By His Excellency the Governor of the State of Victoria and its Dependencies in the Commonwealth of Australia, &c., &c., &c.

**W**HEREAS by *The Constitution Act* it was amongst other things enacted that it should be lawful for the Governor to fix such places within Victoria and, subject to the limitation therein contained, such times for holding the first and every other Session of the Council and Assembly, and to vary and alter the same respectively in such manner as he might think fit; and also from time to time to prorogue the said Council and Assembly, and to dissolve the said Assembly, by Proclamation or otherwise, whenever he should deem it expedient: And whereas the said Council and Assembly, called "The Parliament of Victoria", stand prorogued until Wednesday, the twelfth day of November, 1952: And whereas it is expedient to dissolve the Legislative Assembly: Now therefore I, the Governor of the State of Victoria, in the Commonwealth of Australia, in exercise of the power in me vested in this behalf, do by this my Proclamation discharge the Honourable the Members of the Legislative Council from their meeting and attendance on Wednesday, the twelfth day of November, 1952: And I do dissolve the

Legislative Assembly, such dissolution to take effect on Friday, the thirty-first day of October, 1952: And I do hereby declare that I have this day given Order that Writs be issued in due form, and according to law, for the election of Members to be duly returned to serve in the Legislative Assembly.

Given under my Hand and the Seal of the State of Victoria, at Melbourne, this thirty-first day of October, in the year of our Lord One thousand nine hundred and fifty-two and in the first year of the reign of Her Majesty Queen Elizabeth II.

(L.S.)

DALLAS BROOKS.

By His Excellency's Command,

JOHN G. B. McDONALD,  
Premier.

GOD SAVE THE QUEEN!

---

 GENERAL ELECTION.

NOTICE is hereby given that His Excellency the Governor will issue Writs for a General Election of Members to serve in the Legislative Assembly of Victoria on the day first hereinafter mentioned, viz. :—

Date of Issue of Writs	.. .. .	Monday, 3rd November, 1952.
Day of Nomination (before or on which nominations are to be made)	Friday, 14th November, 1952 (up to 12 o'clock noon).	
Day of Polling	.. .. .	Saturday, 6th December, 1952.
Returns of Writs	.. .. .	Monday, 22nd December, 1952.

By His Excellency's Command,

A. MAHLSTEDT,  
Official Secretary

The Governor's Office,  
Melbourne, 31st October, 1952.

# SELECT COMMITTEES

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## APPOINTED DURING THE SESSION 1951-52.

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### No. 1.—ELECTIONS AND QUALIFICATIONS.

Appointed (by Mr. President's Warrant) 13th November, 1951.

The Hon. W. J. Beckett*	The Hon. Sir James Kennedy
P. T. Byrnes†	P. J. Kennelly*
G. L. Chandler	G. S. McArthur
A. M. Fraser†	A. E. McDonald*
P. P. Inchbold	W. Slater.‡

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### No. 2.—STANDING ORDERS.

Appointed 20th November, 1951.

The Hon. the President†	The Hon. C. P. Gartside
Sir William Angliss*	T. H. Grigg‡
W. J. Beckett*	T. Harvey*
P. T. Byrnes†	W. MacAulay
Sir Frank Clarke	R. C. Rankin*
A. M. Fraser†	D. J. Walters‡
J. W. Galbally‡	A. G. Warner.‡

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### No. 3.—HOUSE (JOINT).

Appointed 20th November, 1951, under Act No. 3660, s. 367.

The Hon. the President ( <i>ex officio</i> )	The Hon. Sir James Kennedy‡
Sir William Angliss*	P. Jones†
P. T. Byrnes†	I. A. Swinburne§
E. P. Cameron	G. J. Tuckett.††

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### No. 4.—LIBRARY (JOINT).

Appointed 20th November, 1951.

The Hon. the President†	The Hon. R. C. Rankin*
G. L. Chandler‡	R. R. Rawson§
P. L. Coleman††	W. Slater.
P. P. Inchbold	

\* Vacated office on retirement by effluxion of time.

† Vacated office on retirement by effluxion of time. Re-appointed 16 July, 1952.

‡ Appointed 16 July, 1952, in place of a Member who retired by effluxion of time.

†† Discharged from attendance on the Committee, 16 July, 1952.

§ Appointed 16 July, 1952, in place of a Member discharged from attendance on the Committee.

SELECT COMMITTEES—*continued.*

## No. 5.—PRINTING.

Appointed 20th November, 1951.

The Hon. the President†	The Hon. Colonel Sir George Lansell*
E. P. Cameron†	H. C. Ludbrook†
G. L. Chandler	W. MacAulay
J. W. Galbally	C. E. McNally
T. Harvey†	R. C. Rankin*
C. E. Isaac*	F. M. Thomas.
J. F. Kittson*	

## No. 6.—STATUTE LAW REVISION.

Appointed 20th November, 1951.

*(See Act No. 5285, Sections 2 and 11.)*

The Hon. P. T. Byrnes†	The Hon. A. E. McDonald*
A. M. Fraser†	F. M. Thomas
H. C. Ludbrook†	D. J. Walters.†
G. S. McArthur	

\* Vacated office on retirement by effluxion of time.

† Vacated office on retirement by effluxion of time. Re-appointed 16 July, 1952.

‡ Appointed 16 July, 1952, in place of a Member who retired by effluxion of time.

## VICTORIA.

## LEGISLATIVE COUNCIL.

SESSION 1951.

WEEKLY REPORT OF DIVISIONS

IN

## COMMITTEE OF THE WHOLE COUNCIL.

No. 1.

TUESDAY, 4TH DECEMBER, 1951.

No. 1.—MARKETING OF PRIMARY PRODUCTS (EGG AND EGG PULP) BILL.—Clause 3—

3. (1) Notwithstanding anything in the Principal Act—

(a) the Board shall consist of five members of whom—

- (i) one shall be a person appointed by the Governor in Council ;
- (ii) one shall be an officer of the Department of Agriculture appointed by the Governor in Council ;
- (iii) one shall be a producer who in the opinion of the Minister derives a substantial portion of his income from the production of eggs appointed by the Governor in Council from panels of names submitted by organizations representative of producers as hereinafter provided ; and
- (iv) two shall be producers elected as hereinafter provided ;

\* \* \* \* \*

—(Hon. P. T. Byrnes.)

Amendment proposed—That sub-paragraphs (ii), (iii), and (iv) be omitted with the view of inserting in place thereof the following sub-paragraph :—

“(ii) four shall be producers elected as hereinafter provided ;”.

—(Hon. A. G. Warner.)

Question—That the sub-paragraphs proposed to be omitted stand part of the clause—put.

Committee divided—The Hon. R. C. Rankin in the Chair.

Ayes, 15.

The Hon. W. J. Beckett,  
 P. T. Byrnes,  
 P. L. Coleman,  
 J. W. Galbally (*Teller*),  
 T. Harvey,  
 P. P. Inchbold,  
 P. Jones,  
 P. J. Kennelly,  
 H. C. Ludbrook,  
 W. MacAulay,  
 C. E. McNally (*Teller*),  
 W. Slater,  
 I. A. Swinburne,  
 F. M. Thomas,  
 D. J. Walters.

Noes, 12.

The Hon. Sir William Angliss,  
 Sir Frank Bearepaire,  
 E. P. Cameron,  
 G. L. Chandler,  
 T. H. Grigg (*Teller*),  
 C. E. Isaac,  
 Sir James Kennedy,  
 J. F. Kittson,  
 Sir George Lansell (*Teller*),  
 G. S. McArthur,  
 H. V. MacLeod,  
 A. G. Warner.

And so it was resolved in the affirmative.

## NO. 2.—MARKETING OF PRIMARY PRODUCTS (EGG AND EGG PULP) BILL.—Clause 9—

9. (1) In the execution of the Marketing of Primary Products Acts any person authorized by the Board in that behalf whether generally or in any particular case may at any time—

- (a) enter any premises where eggs or egg pulp are believed to be produced stored sold or offered for sale;
- (b) inspect and take samples of any eggs or egg pulp;
- (c) inspect and take copies of or extracts from any records relating to any eggs or egg pulp;
- (d) make such inquiries as he thinks necessary relating to any eggs or egg pulp.

(2) Any person who—

- (a) obstructs or hinders any person authorized as aforesaid in the execution of his powers under this section;
- (b) fails or refuses to produce any such record or to answer any such inquiries as to any matters within his knowledge; or
- (c) makes any false answer to any such inquiries—

shall be guilty of an offence against the Principal Act.

—(*Hon. P. T. Byrnes.*)

Amendment proposed—That the words “or to answer any such inquiries as to any matters within his knowledge” be omitted.

—(*Hon. A. G. Warner.*)

Question—That the words proposed to be omitted stand part of the clause—put.

Committee divided—The Hon. R. C. Rankin in the Chair.

Ayes, 15.

The Hon. W. J. Beckett,  
 P. T. Byrnes,  
 P. L. Coleman,  
 J. W. Galbally,  
 T. Harvey,  
 P. P. Inchbold,  
 P. Jones,  
 P. J. Kennelly,  
 H. C. Ludbrook,  
 W. MacAulay (*Teller*),  
 C. E. McNally,  
 W. Slater,  
 I. A. Swinburne,  
 F. M. Thomas,  
 D. J. Walters (*Teller*).

Noes, 11.

The Hon. Sir Frank Beaurepaire,  
 E. P. Cameron,  
 G. L. Chandler (*Teller*),  
 T. H. Grigg,  
 C. E. Isaac,  
 Sir James Kennedy,  
 J. F. Kittson (*Teller*),  
 Sir George Lansell,  
 G. S. McArthur,  
 H. V. MacLeod,  
 A. G. Warner.

And so it was resolved in the affirmative.

VICTORIA.

## LEGISLATIVE COUNCIL.

SESSION 1951-52.

WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE COUNCIL.

No. 2.

TUESDAY, 5TH AUGUST, 1952.

No. 1.—REGISTRATION OF BIRTHS DEATHS AND MARRIAGES BILL.—Clause 3—

3. (1) Registers of still-births shall be kept under and in accordance with the Registration of Births Deaths and Marriages Acts.

(2) The Principal Act is hereby amended as follows:—

(a) In section eight—

- (i) after the word “birth” (wherever occurring except where occurring for the third time) there shall be inserted the word “still-birth”;
- (ii) in paragraph (b) of sub-section (1) after the words “Second Schedule” there shall be inserted the words “and in the case of every such still-birth according to the prescribed form”;

(b) In sub-section (1) of section nine—

- (i) after the word “child” (where first occurring) there shall be inserted the words “or still-born child”;
- (ii) after the word “birth” (wherever occurring) there shall be inserted the words “or still-birth”;

(c) In sub-section (1) of section ten—

- (i) after the word “child” (where first and second occurring) there shall be inserted the words “or still-born child”;
- (ii) after the word “birth” (where first occurring) there shall be inserted the words “or still-birth”;
- (iii) after the words “Second Schedule” there shall be inserted the expression “or (as the case requires) in the appropriate prescribed form”;
- (iv) for the words “birth of the child” there shall be substituted the words “birth or still-birth”;

\* \* \* \* \*

—(Hon. P. P. Inchbold.)

Amendment proposed—That the following new paragraph be inserted to follow paragraph (c):—

“( ) In sub-section (1) of section eleven—

- (i) after the word ‘born’ there shall be inserted the words ‘or any still-birth occurs’;
- (ii) in paragraph (a) after the word ‘birth’ there shall be inserted the words ‘or still-birth’;
- (iii) in paragraph (b) after the word ‘births’ there shall be inserted the words ‘and still-births’.”

—(Hon. T. W. Brennan.)

Question—That the new paragraph proposed to be inserted be so inserted—put.  
 Committee divided—The Hon. D. J. Walters in the Chair.

Ayes, 9.

The Hon. D. L. Arnott,  
 A. J. Bailey (*Teller*),  
 T. W. Brennan,  
 D. P. J. Ferguson,  
 J. J. Jones,  
 P. Jones,  
 R. R. Rawson,  
 F. M. Thomas,  
 G. L. Tilley (*Teller*).

Noes, 14.

The Hon. P. T. Byrnes,  
 E. P. Cameron,  
 G. L. Chandler,  
 C. P. Gartside,  
 T. Harvey,  
 P. P. Inchbold,  
 Sir James Kennedy,  
 H. C. Ludbrook (*Teller*),  
 G. S. McArthur,  
 W. MacAulay (*Teller*),  
 H. V. MacLeod,  
 I. A. Swinburne,  
 G. J. Tuckett,  
 A. G. Warner.

And so it passed in the negative.



VICTORIA.

## LEGISLATIVE COUNCIL.

SESSION 1951-52.

WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE COUNCIL.

No. 3.

TUESDAY, 2ND SEPTEMBER, 1952.

No. 1.—LAND (DEVELOPMENT LEASES) AMENDMENT BILL.—Clause 2—

2. In paragraph (b) of sub-section (3) of section three of the *Land (Development Leases) Act 1951* after the words "allocation by the Society" there shall be inserted the words "for such consideration in each case as the Society thinks fit".

—(Hon. T. Harvey.)

Amendment proposed—That the words "after consultation with the Minister" be inserted before the words "for such consideration".

—(Hon. A. M. Fraser.)

Question—That the words proposed to be inserted be so inserted—put.

Committee divided—The Hon. D. J. Walters in the Chair.

Ayes, 12.

The Hon. A. J. Bailey (*Teller*),  
T. W. Brennan,  
P. L. Coleman,  
A. M. Fraser,  
J. W. Galbally (*Teller*),  
J. J. Jones,  
P. Jones,  
R. R. Rawson,  
W. Slater,  
A. Smith,  
F. M. Thomas,  
G. L. Tilley.

Noes, 16.

The Hon. E. P. Cameron,  
G. L. Chandler (*Teller*),  
Sir Frank Clarke,  
C. P. Gartside,  
T. H. Grigg,  
T. Harvey,  
P. P. Inchbold,  
Sir James Kennedy,  
H. C. Ludbrook,  
G. S. McArthur,  
W. MacAulay (*Teller*),  
H. V. MacLeod,  
A. R. Mansell,  
I. A. Swinburne,  
G. J. Tuckett,  
A. G. Warner.

And so it passed in the negative.



VICTORIA.

## LEGISLATIVE COUNCIL.

SESSION 1951-52.

WEEKLY REPORT OF DIVISIONS

IN

## COMMITTEE OF THE WHOLE COUNCIL.

No. 4.

TUESDAY, 30TH SEPTEMBER, 1952.

No. 1.—WATER BILL.—Clause 2—

2. In section sixty-one of the Principal Act as amended by any Act after the word "supply" at the end of the second paragraph there shall be inserted the words "Provided that in no case shall any such *pro rata* water right which is in existence immediately before any such revision is made be reduced in consequence of such revision except with the consent of the owner of the land to which it is apportioned".

—(Hon. I. A. Swinburne.)

Question—That clause 2 stand part of the Bill—put.

Committee divided—The Hon. D. J. Walters in the Chair.

Ayes, 15.

The Hon. P. T. Byrnes,  
E. P. Cameron,  
G. L. Chandler,  
C. P. Gartside,  
T. H. Grigg (*Teller*),  
T. Harvey,  
P. P. Inchbold,  
Sir James Kennedy,  
H. C. Ludbrook,  
G. S. McArthur,  
W. MacAulay (*Teller*),  
H. V. MacLeod,  
A. R. Mansell,  
I. A. Swinburne,  
A. G. Warner.

Noes, 13.

The Hon. D. L. Arnott (*Teller*),  
A. J. Bailey,  
T. W. Brennan,  
P. L. Coleman,  
D. P. J. Ferguson,  
A. M. Fraser,  
J. W. Galbally,  
J. J. Jones,  
P. Jones,  
R. R. Rawson (*Teller*),  
M. P. Sheehy,  
W. Slater,  
F. M. Thomas.

And so it was resolved in the affirmative.

No. 2.—WATER BILL.—Clause 6—

6. Notwithstanding anything in the Water Acts the Commission may with the consent of the Governor in Council sell by private treaty any land which has been purchased or taken by the Commission under the Water Acts at or near the Eildon reservoir for or in connexion with the Eildon township or works for the enlargement of the reservoir.

—(Hon. I. A. Swinburne.)

Question—That clause 6 stand part of the Bill—put.

Committee divided—The Hon. D. J. Walters in the Chair.

Ayes, 15.

The Hon. P. T. Byrnes,  
 E. P. Cameron,  
 G. L. Chandler (*Teller*),  
 C. P. Gartside,  
 T. H. Grigg,  
 T. Harvey,  
 P. P. Inchbold,  
 Sir James Kennedy,  
 H. C. Ludbrook (*Teller*),  
 G. S. McArthur,  
 W. MacAulay,  
 H. V. MacLeod,  
 A. R. Mansell,  
 I. A. Swinburne,  
 A. G. Warner.

Noes, 13.

The Hon. D. L. Arnott,  
 A. J. Bailey (*Teller*),  
 T. W. Brennan,  
 P. L. Coleman,  
 D. P. J. Ferguson (*Teller*),  
 A. M. Fraser,  
 J. W. Galbally,  
 J. J. Jones,  
 P. Jones,  
 R. R. Rawson,  
 M. P. Sheehy,  
 W. Slater,  
 F. M. Thomas.

And so it was resolved in the affirmative.

## VICTORIA.

## LEGISLATIVE COUNCIL.

SESSION 1951-52.

## WEEKLY REPORT OF DIVISIONS

IN

## COMMITTEE OF THE WHOLE COUNCIL.

No. 5.

TUESDAY, 7<sup>TH</sup> OCTOBER, 1952.

No. 1.—HAIRDRESSERS REGISTRATION (AMENDMENT) BILL.—Clause 3—

3. (1) In sub-section (4) of section ten of the Principal Act—

- (a) after the word "Act" there shall be inserted the words "who is practising hairdressing as an employé the sum of Five shillings and by every person so registered";
- (b) for the words "One pound one shilling" (where first occurring) there shall be substituted the words "Two pounds two shillings";
- (c) for the words "additional fee not exceeding One pound one shilling" there shall be substituted the words "additional fee not exceeding Five shillings in the case of an employé and not exceeding One pound one shilling in the case of a principal or teacher".

(2) In sub-section (7) of section ten of the Principal Act for the words "thirtieth day of June" there shall be substituted the words "thirty-first day of December".

(3) For the purposes of sub-section (7) of section ten of the Principal Act, the Board shall as soon as practicable after the thirty-first day of December One thousand nine hundred and fifty-two publish a financial statement made up to that date showing the receipts and expenditure (including liabilities of the Board) during the preceding six months.

—(Hon. T. Harvey.)

Question—That clause 3 stand part of the Bill—put.

Committee divided—The Hon. P. Jones in the Chair.

Ayes, 15.

The Hon. P. T. Byrnes,  
E. P. Cameron (*Teller*),  
Sir Frank Clarke,  
C. P. Gartside,  
T. H. Grigg,  
T. Harvey,  
P. P. Inchbold,  
H. C. Ludbrook (*Teller*),  
G. S. McArthur,  
W. MacAulay,  
H. V. MacLeod,  
A. R. Mansell,  
I. A. Swinburne,  
G. J. Tuckett,  
A. G. Warner.

Noes, 14.

The Hon. D. L. Arnott,  
A. J. Bailey,  
T. W. Brennan (*Teller*),  
P. L. Coleman,  
D. P. J. Ferguson,  
A. M. Fraser,  
J. W. Galbally,  
J. J. Jones,  
R. R. Rawson,  
M. P. Sheehy,  
W. Slater,  
A. Smith (*Teller*),  
F. M. Thomas,  
G. L. Tilley.

And so it was resolved in the affirmative.

## No. 2.—TOTALIZATOR (AMENDMENT) BILL.—Clause 2—

2. Section eight of the Principal Act as amended by any Act is hereby amended as follows :—

- (a) In sub-section (1) for the words "Ten per centum" there shall be substituted the words "Twelve per centum"; and
- (b) In paragraph (a) of sub-section (2) for the words "Seventy per centum" there shall be substituted the words "Sixty-six and two-thirds per centum".

—(Hon. P. T. Byrnes.)

Question—That clause 2 stand part of the Bill—put.

Committee divided—The Hon. D. J. Walters in the Chair.

Ayes, 15.

The Hon. P. T. Byrnes,  
E. P. Cameron,  
G. L. Chandler,  
Sir Frank Clarke,  
C. P. Gartside,  
T. H. Grigg (*Teller*),  
T. Harvey,  
P. P. Inchbold,  
Sir James Kennedy,  
G. S. McArthur,  
H. V. MacLeod,  
A. R. Mansell (*Teller*),  
I. A. Swinburne,  
G. J. Tuckett,  
A. G. Warner.

Noes, 15.

The Hon. D. L. Arnott,  
A. J. Bailey,  
T. W. Brennan,  
P. L. Coleman,  
D. P. J. Ferguson (*Teller*),  
A. M. Fraser,  
J. W. Galbally,  
J. J. Jones (*Teller*),  
P. Jones,  
R. R. Rawson,  
M. P. Sheehy,  
W. Slater,  
A. Smith,  
F. M. Thomas,  
G. L. Tilley.

The Tellers having declared the numbers for the "Ayes" and for the "Noes" to be respectively fifteen, or equal, the Chairman gave his voice with the "Ayes" in order to allow of further consideration of the subject and declared the question to have been resolved in the affirmative.

1951

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VICTORIA

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REPORT

FROM THE

STATUTE LAW REVISION COMMITTEE

ON THE

CHARITABLE TRUSTS BILL

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*Ordered by the Legislative Council to be printed, 29th November, 1951.*

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By Authority:

J. J. GOURLEY, GOVERNMENT PRINTER, MELBOURNE.

1021  
1951

EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS  
OF THE LEGISLATIVE COUNCIL.

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TUESDAY, 20<sup>TH</sup> NOVEMBER, 1951.

8. STATUTE LAW REVISION COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters be members of the Statute Law Revision Committee.

Question—put and resolved in the affirmative.

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WEDNESDAY, 21<sup>ST</sup> NOVEMBER, 1951.

14. CHARITABLE TRUSTS BILL.—The Honorable P. T. Byrnes moved, by leave, That the proposals contained in this Bill be referred to the Statute Law Revision Committee for consideration and report.

Question—put and resolved in the affirmative.

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1119

EXTRACTED FROM THE VOTES AND PROCEEDINGS OF  
THE LEGISLATIVE ASSEMBLY.

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TUESDAY, 20<sup>TH</sup> NOVEMBER, 1951.

26. STATUTE LAW REVISION COMMITTEE.—Motion made, by leave, and question—That the following Members be appointed members of the Statute Law Revision Committee:—Mr. Barry, Mr. Holt, Mr. Mitchell, Mr. Oldham, Mr. Reid, and Mr. Rylah (*Mr. Dodgshun*)—put and agreed to.
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# REPORT

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THE STATUTE LAW REVISION COMMITTEE, appointed pursuant to the provisions of the *Statute Law Revision Committee Act 1948*, have the honour to report as follows:—

1. The Statute Law Revision Committee have considered the Charitable Trusts Bill—a Bill relating to certain Charitable Trusts—which passed the Legislative Assembly and has reached the Committee stage in the Legislative Council. On the 21st November, 1951, the Legislative Council referred the proposals contained in the Bill to the Statute Law Revision Committee for consideration and report.

2. The Committee are indebted to Mr. Andrew Garran, Acting Parliamentary Draftsman, who attended meetings of the Committee to explain the reasons underlying the proposals in the Bill.

3. The Bill proposes that, in certain cases and subject to certain conditions, the Attorney-General may consent to the leasing by the trustees to an approved body of any land held for charitable purposes. In cases where the Attorney-General is satisfied that a charitable trust has failed and cannot reasonably be implemented, it is proposed that the Attorney-General may transfer or convey the land the subject of the trust to the trustees of a patriotic fund or a municipality on appropriate terms and conditions. These proposals are understood to be intended to provide a simple and inexpensive means of securing the continued use and maintenance of public halls and the like, several of which are said to be falling into disuse or disrepair by reason of difficulties which in some cases arise from the present limitations of the trust instruments, and an application to the Court is not practicable.

4. The Committee consider that the scope of the Bill is possible wider than is necessary to meet the cases in the minds of the framers of the Bill, and the powers proposed to be vested in the Attorney-General are such as are not usually vested in a non-judicial office. The Committee, however, appreciate that a Bill which seeks to deal in a general way with a number of varying trust instruments must be wide to be effective. The Committee explored the possibility of extending the scope of the general law on charitable trusts to enable the courts to deal with cases of the kind contemplated by the framers of the Bill. This was rejected as a dangerous experiment in view of the long history and involved nature of this branch of the law. The Committee also examined the prospect of vesting in the Court rather than the Attorney-General the powers to deal with the special cases contemplated, but considered that this was a cumbrous method of dealing with what is largely an administrative problem, namely the effective use of, say, a local hall, where its availability for public purposes is the main concern.

5. The Committee are of the opinion that such a Bill should be limited to specific lands set out in a Schedule to the Bill, in which case the wide powers proposed could be justified.

6. The Committee therefore recommend that this Bill be amended on the lines suggested in paragraph 5 of this Report. If this suggestion is followed, the proposed Schedule could be extended from time to time by a small amending Bill to include any other similar cases which might arise.

Committee Room,  
29th November, 1951.

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1951

VICTORIA

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# REPORT

FROM THE

STATUTE LAW REVISION COMMITTEE

ON THE

# MOTOR CAR BILL

TOGETHER WITH

MINUTES OF EVIDENCE AND AN APPENDIX

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*Ordered by the Legislative Council to be printed, 4th December, 1951.*

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By Authority:

J. J. GOURLEY, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS  
OF THE LEGISLATIVE COUNCIL.

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TUESDAY, 20<sup>TH</sup> NOVEMBER, 1951.

8. STATUTE LAW REVISION COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters be members of the Statute Law Revision Committee.

Question—put and resolved in the affirmative.

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EXTRACTED FROM THE VOTES AND PROCEEDINGS OF  
THE LEGISLATIVE ASSEMBLY.

---

TUESDAY, 20<sup>TH</sup> NOVEMBER, 1951.

26. STATUTE LAW REVISION COMMITTEE.—Motion made, by leave, and question—That the following Members be appointed members of the Statute Law Revision Committee:—Mr. Barry, Mr. Holt, Mr. Mitchell, Mr. Oldham, Mr. Reid, and Mr. Rylah (*Mr. Dodgshun*)—put and agreed to.
-

# REPORT

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THE STATUTE LAW REVISION COMMITTEE, appointed pursuant to the provisions of the Statute Law Revision Committee Act 1948, have the honour to report as follows:—

1. The Statute Law Revision Committee have considered the Motor Car Bill—a Bill to consolidate the Law relating to Motor Cars—which was initiated and read a first time in the Legislative Assembly on 20th November, 1951, and which, together with the Explanatory Memorandum, was circulated to all Members of Parliament when the second reading was moved on the same day.

2. The Bill was drafted by Mr. Andrew Garran, Acting Parliamentary Draftsman, and Mr. John Charles Finemore, Acting Assistant Parliamentary Draftsman. These gentlemen appeared before the Committee, and their evidence, together with a supplementary memorandum, is appended to this Report.

3. Messrs. Garran and Finemore certified that, subject to the matters referred to in the explanatory paper that accompanies the Bill and to the evidence given by them before the Statute Law Revision Committee, the Bill contains in consolidated form the whole of the statute law comprised in the Motor Car Acts and that the Bill involves no alteration of the existing law and only such changes in the form of the Acts consolidated as were found necessary to ensure a proper consolidation.

4. The Committee draw attention to the changes in the law referred to in paragraphs 1 to 9 of the Explanatory Memorandum, and to the alteration of the form of clause 72 of the Bill, namely, that the words “a profit is disclosed” are substituted for the words “a surplus remains,” thus bringing into conformity the accounting provisions relating to the State Motor Car Insurance Fund and the State Accident Insurance Fund. The Committee are satisfied with the reasons for these changes given in the explanatory memoranda and in the evidence of the draftsmen, and are of opinion that the same should properly be included in a consolidation in accordance with established practice.

5. The Committee recommend that the Bill be passed into law during the present Session.

Committee Room,  
4th December, 1951.

## MOTOR CAR BILL.

## MINUTES OF EVIDENCE.

FRIDAY, 30TH NOVEMBER, 1951.

*Members Present :*

The Honorable A. M. Fraser in the Chair.

<i>Council.</i>	<i>Assembly.</i>
The Hon. F. M. Thomas. .	Mr. Barry, Mr. Holt, Mr. Oldham, Mr. Rylah.

Mr. Andrew Garran, Acting Parliamentary Draftsman, and Mr. John Charles Finemore, Acting Assistant Parliamentary Draftsman, were in attendance.

*The Chairman.*—Mr. Garran and Mr. Finemore have been asked to appear before this Committee to-day to assist them in regard to consideration of the consolidation of the Motor Car Acts. Mr. Garran, I assume that you prepared this measure?

*Mr. Garran.*—Mr. Finemore and I worked together on it.

*The Chairman.*—I think we should commence by hearing from you, Mr. Garran, any comments you may care to make in regard to the object of this Bill.

*Mr. Garran.*—I have with me to-day a volume containing the amendments to the Motor Car Acts, and this does not cover subsequent provisions appearing in other Acts. [The volume was exhibited to indicate the extent of the amendment.] Part of the legislation goes back to the days of the horse and buggy, and this is the third attempt that has been made to prepare a consolidation. Mr. Normand prepared one consolidation, Mr. Ian Macfarlan prepared another consolidation, and, as I say, this is the third consolidation that has been prepared.

The explanatory memorandum sets out the information it was considered ought to be placed before this Committee. As can be seen from the First Schedule to the Bill itself, there are some twenty Acts to consolidate, and, in order to achieve a satisfactory consolidation, some substantial re-arrangement had to take place. At any time when one is forced to make some re-arrangement, one is, to some extent, driven to some re-wording. However, as far as possible, this has been kept down to a true consolidation and amendments have been avoided, except in respect of matters set out in the explanatory memorandum. If it meets with the wishes of the Committee, I shall read that memorandum at this stage. The memorandum is, in my opinion, self explanatory with the exception, perhaps, of the first two pages, which I shall now read:—

The number of Acts and the amount of material involved in this consolidation have necessitated considerable re-arrangements of the Principal Act. Also it has been considered expedient to resolve certain anomalies and remove obsolete provisions. However, changes in the law have been avoided, subject to the following observations:—

1. Highways.—The Motor Car Acts speak at various times of “road,” “highway,” and “public highway.” Of these the expression “road” is used the least but is the one which is defined in the interpretation section. The Bill uses throughout and defines “highway.”

2. Trailers on Traction Engines.—Traction engines are not “motor cars” for the purpose of the Motor Car Acts but are registered under the Country Roads Acts. Act No. 3901 ss. 9 and 26 introduced provisions relating to the registration of trailers by traction engines and the weight length &c., of traction engines plus trailers. By a later Act, No. 4854 s. 2, “motor tractors” were defined and declared to be “motor cars.” So most of the vehicles previously excluded as “traction engines” became “motor cars.” The number of traction engines (not being “motor cars”) that draw trailers is now very small, and since Act No. 4854 such trailers have not been registered. Accordingly the provision for the registration of such trailers has been omitted from the Bill. However, the provisions relating to weight, length, &c., of traction engine plus trailer have been retained.

3. Invalids' Motor Tricycles.—By Act No. 3901 s. 5 (e) the registration fee paid on invalids' cycles might be refunded in cases of poverty. By Act No. 5450 s. 2 (b) invalids' motor tricycles were excluded from the definition of “motor car.” Accordingly Act No. 3901 s. 5 (e) now has no application and has been omitted, but the wording in the interpretation of “motor car” in clause 3 of the Bill has been slightly altered to the end that only bona fide invalids' carriages should be excluded and not high-powered vehicles.

4. “Owner”.—“Owner” is defined for the purposes of the third party insurance provisions of the Motor Car Acts but not otherwise. The term “owner” did not appear in the Motor Car Act 1928 except in s. 27 but it appears in subsequent Acts, e.g., in Act 3901 ss. 17, 19 and 31. Accordingly the definition of “owner” has been applied to the whole of the Bill.

5. Prima facie evidence by Official Certificates.—Act No. 3901 s. 33 provided that prima facie evidence of certain matters appearing from the Motor Registration Branch's records and other similar matters might be given by a certificate of the Officer in Charge of the Motor Registration Branch. This has been extended in a piecemeal fashion from time to time as occasion arose, but was not so extended to meet the requirements of ss. 12 and 13 of Act No. 5450. The Bill (clause 90) extends these evidentiary provisions to cover all matters which appear from the records kept in the Motor Registration Branch.

6. Youths Driving Tractors.—Act No. 5496 s. 2 (clause 21 of the Bill) has been altered to ensure that the privilege granted to youths of 16–18 to drive tractors should not be a loop-hole whereby persons over 18 could drive tractors without obtaining the usual car licence.

7. Regulations Restricting Motor Traffic on Bridges.—Sections 20 and 21 of the Principal Act (which provide that regulations may, at the request of a municipality, be made to prohibit motor traffic on bridges on which horse-drawn traffic is prohibited) have been omitted. These sections are never used, the position being fully covered by the *Local Government Act 1946* ss. 542 to 544.
8. Regulations.—The usual provision as to the publication of regulations has been inserted in the Bill (clause 91) in lieu of the provision in the principal Act.
9. Motor Cars as Carriages.—A paragraph of section 3 of the Principal Act provides that motor cars shall be deemed to be carriages of particular classes for purposes of other Acts. This provision operated in relation to the Carriages Acts and the Local Government Act Fifteenth Schedule Part X. As those Acts and Schedule provisions now, by virtue of the Transport Act 1951 section 14, do not apply to motor cars, the provision in section 3 of the Principal Act referred to above is now obsolete and has been omitted."

There is one other item I should like to add to that memorandum, and it is in regard to clause 72 (page 57) of the Bill, which reads:—

"Where at the end of any financial year a profit is disclosed in the accounts of the State Motor Car Insurance Office, it shall be dealt with as provided in this section."

The words "a profit is disclosed" are different from the words in the Motor Car (Third-Party Insurance) Act. The same office runs both State Motor Car Insurance and Workers Compensation. The original words in the Motor Car (Third-Party Insurance) Act were "a surplus remains," and when that Act was drafted the Workers Compensation Act, in its corresponding provisions, had the words "a surplus remains." However, by a subsequent Act, the Workers Compensation Act was altered to omit the words "a surplus remains" and to insert the words "a profit is disclosed." Therefore, this Bill has been brought into line with the Workers Compensation Act. In effect, that is what is being done in the office, where there are two sets of accounts, closely related, on a completely different basis. I looked upon that as an anomaly.

So far as I am aware, that, added to what has been set out in the nine items contained in the explanatory memorandum, are the only cases where it can be said there may have been an alteration in the law, except, as I said before, there has been considerable re-arrangement, which has involved considerable re-wording.

*The Chairman.*—The second item contained in the explanatory memorandum, "Trailers on Traction Engines" appears to be a little involved and may require some further explanation.

*Mr. Garran.*—The traction engine came before the tractor and was dealt with under the Country Roads Act. With the development of the motor car industry, the petrol-driven tractor appeared and, when it became commonplace on the road, the Motor Car Act was amended to bring the motor tractor under the Motor Car Act in the same way as the ordinary motor car. A few traction engines still remain—a steam roller pulling a trailer would be a traction engine, and one still sees a few traction engines on country roads. However, as they are slow-moving vehicles, they are covered by the Country Roads Act and the Local Government Act as to weight on bridges, speed on highways, &c. The police have not worried so far as the registration of traction-engine trailers has been concerned.

*Mr. Rylah.*—One rarely sees a steam roller drawing a trailer but, in the country, one occasionally sees the old traction engine at work.

*Mr. Garran.*—Yes, but very seldom these days.

*Mr. Holt.*—What is the position in regard to a diesel tractor?

*Mr. Garran.*—A diesel tractor comes under the definition of a motor tractor, and a motor car includes a motor tractor. In the various Acts and in this Bill a motor tractor is defined as "An engine which is constructed for use as a tractor and of a type specified by Order of the Governor in Council published in the *Government Gazette*, and the Governor in Council may at any time in like manner revoke, amend or vary any such Order." Consequently if it is so desired, the Governor in Council may at any time bring in these traction engines.

*Mr. Thomas.*—What is the position in relation to control by municipalities?

*Mr. Garran.*—At the present time the steam roller is not treated as a motor car; it is covered under the Country Roads Act.

*Mr. Rylah.*—However, it could be brought in as a motor tractor at any stage.

*Mr. Garran.*—Yes, it could be brought in by the Governor in Council as a motor tractor and, therefore, as a motor car.

*The Chairman.*—In effect, there has been a repeal of a provision under Act No. 4854, in the sense that it has been omitted from this Bill. In that regard the explanatory memorandum reads—"By a later Act, No. 4854 s. 2, 'motor tractors' were defined and declared to be 'motor cars.' So most of the vehicles previously excluded as 'traction engines' became 'motor cars.' The number of traction engines (not being 'motor cars') that draw trailers is now very small, and since Act No. 4854 such trailers have not been registered."

*Mr. Garran.*—That takes one back to sections 9 and 26 of Act No. 3901.

*The Chairman.*—Which are the provisions that have been omitted?

*Mr. Garran.*—Sections 9 and 26 of Act No. 3901—the provisions that dealt with registration. The authorities were not worried about registration in this regard, but provisions in regard to weight and length and in regard to certain other matters have been retained.

*The Chairman.*—The third item contained in the explanatory memorandum deals with the invalids' motor tricycles. Apparently, the only change, if one can call it a change, is in the wording.

*Mr. Garran.*—There are two matters involved. We were left with two provisions in the Acts relating to invalids' motor tricycles. One provision said they were not motor cars, the other provision said the registration fee paid on their registration as motor cars might be refunded in cases of poverty. Those two provisions could not stand side by side, so what the Consolidating Bill does is to retain the provision which excludes invalids' motor tricycles from the category of motor cars and to omit the provision in regard to refund of registration fee, which can have no operation. In addition, there is an amendment of the wording inserted to make certain that the exclusion of invalids' motor tricycles would not allow a person to put a high-powered vehicle on the road and be safeguarded by a provision in the Act.

*Mr. Rylah.*—In other words, the definition clause has been strengthened to ensure that a section of the Act shall not be evaded.

*Mr. Garran.*—That is so. What everybody had in mind was the invalids' tricycle fitted with a battery, enabling it to be propelled at walking pace. Members of the Police Force do not want a motor cycle and sidecar capable of a speed of 100 miles per hour to escape the provisions of the Act.

*Mr. Thomas.*—What would you class as a case of poverty for the purposes of the Act?

*Mr. Garran.*—That was a matter at the discretion of members of the Police Force.

*Mr. Rylah.*—That is now obsolete, having been excluded by a later amending Act.

*Mr. Barry.*—Who determines whether an invalid's carriage is or is not a high-powered vehicle?

*Mr. Garran.*—Again, that is a matter for members of the Police Force.

*Mr. Barry.*—In my opinion, that is something that should be done by regulation.

*Mr. Garran.*—That is something that can be done by regulation.

*Mr. Rylah.*—The wording in this present Bill is "A tricycle carriage with auxiliary power unit which is used solely for the conveyance of an invalid person."

*Mr. Garran.*—The expression used in the existing provision is "invalids' motor tricycles."

*Mr. Barry.*—That may be all right, providing there is some regulation as to size or power of the engine.

*Mr. Garran.*—A few moments ago I mentioned that was something that could be done by regulation, but I now doubt whether that is so.

*Mr. Thomas.*—I know of a case where an invalid used to sit in the sidecar of a motor cycle, with the controls arranged in such a way that, whilst sitting in that position, he was able to drive at high speed.

*Mr. Garran.*—Members of the Police Force would like to see such a vehicle registered as a "motor car."

*The Chairman.*—That type of case is covered under the definition in the present Bill.

*Mr. Garran.*—That is so, but it is not covered under the law as it stands at the present time.

*Mr. Thomas.*—Are you saying the case I have quoted would not come under the law as it stands at the present time?

*Mr. Garran.*—That is so.

*Mr. Thomas.*—Will it be covered by this Bill?

*Mr. Garran.*—Yes.

*The Chairman.*—There may be a loop-hole so far as these persons who drive at high speeds are concerned.

*Mr. Finemore.*—No, because such a vehicle would have to be registered as a "motor car." I do not think a vehicle, such as that mentioned by Mr. Thomas, would be regarded as being fitted with an "auxiliary power unit."

*Mr. Rylah.*—Under the provisions of the Act, as it now stands, that vehicle would escape, but it would not escape under the proposed consolidation measure because it is not "a tricycle carriage with auxiliary power unit"—it has a main power unit.

*The Chairman.*—In my opinion, it is doubtful whether such a vehicle comes under the definition of "tricycle carriage."

*Mr. Barry.*—I think it is a pity the matter cannot be determined by the power of the motor unit fitted.

*Mr. Garran.*—That aspect was discussed, but certain difficulties would arise in regard to what Mr. Barry has in mind.

*The Chairman.*—I think the answer is to be found in what has been put by Mr. Rylah, namely, that a motor cycle and sidecar cannot be regarded as a tricycle carriage as we know it.

*Mr. Rylah.*—The type of carriage used solely for the conveyance of invalids is normally a tricycle carriage; there are no other types of vehicles suitable for their conveyance.

*The Chairman.*—When one speaks of a motor cycle and sidecar, one does not think of a tricycle carriage.

*Mr. Thomas.*—The case I mentioned concerned an invalid's motor cycle and sidecar.

*Mr. Garran.*—It could not be regarded as "a tricycle carriage with auxiliary power unit." An auxiliary power unit connotes some other method of propulsion, e.g., propulsion by hand,—when the occupant switches off the power he has another means of propulsion.

*Mr. Rylah.*—What will be the effect of the definition of "owner" included in this Bill?

*Mr. Garran.*—I do not think it will have very much effect, and I look upon this as a provision to tidy up the law.

*Mr. Rylah.*—The definition appearing in this Bill is—  
" 'Owner' includes every person who is the owner or joint owner or part owner of a motor car and any person who has the use of any motor car under a hire purchase agreement, but does not include an unpaid vendor of a motor car under a hire purchase agreement."

That, of course, is the usually accepted definition of an "owner."

*Mr. Garran.*—That is so, and that is the way in which it is defined in the Motor Car (Third-Party Insurance) Act.

*Mr. Finemore.*—Clause 75 of the Bill, dealing with the duty of an owner to give information, contains a special definition of owner.

*The Chairman.*—Mr. Finemore has pointed out there is another definition of "owner" in clause 75 of the Bill.

*Mr. Garran.*—That is so, for that particular purpose.

*The Chairman.*—Sub-clause (2) of clause 75 reads:—  
"For the purposes of this section 'owner' means the owner or the person in whose name the motor car is registered at the time when the person with respect to whom the information is sought was the driver of the motor car."

That is included to cover other offences.

*Mr. Garran.*—It is mainly for the purposes of registration and Third-Party Insurance. If members of the Committee look at the fourth item mentioned in the explanatory memorandum, they will see the words:—"The term 'owner' did not appear in the Motor Car Act 1928 except in section 27," which is a short section that reads:—

"Nothing in this Act shall affect any liability either civil or criminal of the driver or owner of a motor car by virtue of any statute or at common law."

That section alone requires no definition. The word "owner" appears in sections 17, 19 and 31 of Act No. 3901, and they are the new provisions to which this definition will apply. Section 17 deals with the duty of the owner of a car to give information as to the identity of the driver of his car; section 19 deals with taking or using a motor car without the authority of the owner; and section 31 requires the occupiers of garages who repair motor cars to keep records, including the name and the address of the owner. I should point out that reference to section 20 of Act 3901 in the explanatory memorandum is an error and that should read "section 19."

*The Chairman.*—The fifth item in the explanatory memorandum appears to be another tidying up provision.

*Mr. Garran.*—That is so; it deals with evidentiary provisions to meet new cases. The explanatory memorandum points out that the section has been extended sporadically, but not to meet certain cases.



*The Chairman.*—What will be covered by this Bill that is not already covered under the Acts?

*Mr. Garran.*—It will cover the cases to which reference is made in sections 12 and 13 of Act No. 5450, which deal with maximum limits of size and speed of motor cars.

*The Chairman.*—It will cover matters arising out of prosecutions.

*Mr. Garran.*—That is so; the register can be used to show the size of the motor car as appearing in the register. Section 13 deals with the construction of motor cars, as to sidecars, pillion seats, &c.

*The Chairman.*—It is generally used in the court more in the negative fashion, to produce something to show the driver was not licensed or the vehicle was not registered.

*Mr. Garran.*—It may be used for purposes of load capacity, as registered.

*Mr. Finemore.*—That was required particularly in connection with the provision permitting a motor cyclist to carry a pillion passenger only if the cyclist has been licensed for a certain time. The only means by which that can be shown is by the evidence of the record.

*The Chairman.*—Will it also apply in a case where a person is charged in regard to the load carried on a vehicle?

*Mr. Garran.*—Yes, that is one of the other items covered by section 12.

*Mr. Rylah.*—Reverting to the definition of "owner," would the prima facie evidence of official certificates cover proof of the owner under sub-clause (2) of clause 75?

*Mr. Garran.*—I should think so.

*Mr. Rylah.*—Would a policeman be entitled to go to the owner of a motor car and ask him if his motor car was at a certain place at a certain time?

*Mr. Garran.*—Under this provision he is only allowed to seek information as to the identification of the person who was the driver of the motor car on any occasion.

*Mr. Rylah.*—Let us assume motor car No. HK-175 is found standing unattended on the steps of Parliament House. A policeman goes to the Motor Registration Branch and he ascertains that motor car No. HK-175 is registered in the name of Andrew Garran. Is that policeman entitled to go to Andrew Garran and say, "Will you tell me who left that motor car on the steps of Parliament House?"

*Mr. Garran.*—He would be at liberty to ask me who was in charge of the motor car at the time.

*Mr. Rylah.*—If you were the person who left it there you would be entitled to refuse to answer, on the grounds that it might incriminate you.

*Mr. Garran.*—That is a problem that has been raised.

*Mr. Oldham.*—What is the answer to that?

*Mr. Garran.*—A fairly radical change of the law was necessary to meet that problem, and it was decided to do nothing about it in a Consolidating Bill.

*Mr. Oldham.*—Consequently, it still remains?

*Mr. Garran.*—It still remains.

*Mr. Rylah.*—If you were not the person who had left the car on the steps of Parliament House, you would be required to tell him who did leave it there, if you knew, would you not?

*Mr. Garran.*—Yes.

*Mr. Rylah.*—Is not that different from the existing situation under the Motor Car Act?

*Mr. Garran.*—No, the existing situation is repeated in clause 75 of this Bill. That particular matter was deliberately left untouched because it was considered to be too major an alteration to be dealt with by means of a Consolidating Bill.

*Mr. Rylah.*—The definition of "owner," as appearing in this Bill, does not facilitate proof in prosecutions for the purposes of clause 75?

*Mr. Garran.*—No. It has its own definition of "owner."

*Mr. Barry.*—That amendment could be brought about by special Act but not by means of a Consolidating Bill.

*Mr. Thomas.*—Is there anything in this Bill in regard to reducing the over-all length of vehicles?

*Mr. Garran.*—The Bill does not alter the provisions in regard to over-all length of vehicles, but the provisions of previous legislation appear in the Third Schedule and in clause 32 of this Bill.

*Mr. Holt.*—In regard to the title of the Bill, are these amendments purely consequential amendments or are any of them substantive amendments which would require the title to be changed to—"A Bill to consolidate and amend . . . . ."

*Mr. Garran.*—In answering that question, I do not wish to offend against any privileges of the House or rulings of the President or Speaker. Subject to that, we, in the office of the Parliamentary Draftsman, have followed the accepted practice of Parliament whereby, under the 1890, 1915, and 1928 consolidations, Parliament, in consolidating Bills, accepted certain amendments of the law. Actually, in the 1928 consolidation prepared by Sir Leo Cussen, in certain cases the amendments were considerable. Up to this year, the practice followed has been that, if it is truly a consolidation and the amendments are really bringing the Act up to date or removing anomalies, that is not sufficient to require any mention of the word "amendment" in the title. An example that comes to mind is the Stamps Act 1946 which, as disclosed in the explanatory memorandum circulated with it, revised the Statute Law beyond a "scissor and paste" consolidation. One example in that Act was the consolidation of the two offices of Collector of Imposts and Comptroller of Stamps in the office of Comptroller of Stamps.

*The Chairman.*—When Mr. Garran again appears before the Committee I suggest that he supply a memorandum on this point and quote some further examples.

*The Committee adjourned.*

## APPENDIX

## MEMORANDUM BY THE PARLIAMENTARY DRAFTSMEN.

Consolidation is a principal feature of the Victorian Statute Law, and Victoria can claim to be one of the pioneers in this field.

Four consolidations of the Statute Law have been made, viz., in 1865 and 1890 by Sir George Higinbotham, and in 1915 and 1928 by Sir Leo Cussen. In addition there have been several consolidations of isolated statutes.

The exact line of demarcation between a consolidation and a re-enactment with amendments is difficult to draw, but it is important.

It is important for two reasons, viz.—

- (a) In connection with the passage of the Bill through Parliament both as to forms in the House and the extent to which the Bill is likely to be debated;
- (b) In relation to judicial interpretation: In the case of a consolidation the courts more readily accept previous decisions given in relation to the consolidated Acts when construing a consolidating Act, e.g., see *Melbourne Corporation v. Barry*, 31 C.L.R. 174, particularly at pp. 187–8.

A consolidation by means of literal transcription of the consolidated Acts tends to be deficient. In the first place it perpetuates anomalies and obsolete provisions. In the second place it may, paradoxically, alter the law, e.g., see *Paton on Jurisprudence*, p. 187 note 2. Thirdly, a consolidation usually requires considerable re-arrangement and re-wording to effect a satisfactory draft.

Accordingly nearly all consolidations contain alterations in arrangement, in wording and sometimes in subject-matter.

The problem of what alterations in form or substance are proper to be included in a consolidation is one that is always before the Draftsmen. In the explanatory memorandum to the 1915 consolidation Sir Leo Cussen said—

“It will be obvious from what follows that in a great many of the Acts some changes have been made. A question arose, therefore, whether in all these cases the new Act should be described as an ‘Act to consolidate, &c.’ or an ‘Act to consolidate and amend, &c.’. Eventually it was decided to adopt the latter course only in those cases where more important changes are made, and therefore the Companies, Crimes, Evidence, Gaols, Juries, Justices, Medical, State Savings Bank, Supreme Court, and Trusts Acts alone are described as Acts to ‘consolidate and amend’”.

This statement and the practical application thereof in 1915 were approved by Parliament, and the Parliamentary Draftsman’s Office, when it undertakes consolidations, follows this principle as a guide. Consolidations when presented to Parliament are accompanied by explanatory memoranda stating the extent to which alterations have been made in the law. The title adopted (that is to say, whether “A Bill to consolidate” or “A Bill to consolidate and amend”) is chosen having regard to the principle as enunciated by Sir Leo Cussen. Accordingly the consolidating Local Government and Stamps Acts of 1946 were entitled—“Bills to consolidate,” whereas the Hospitals and Charities Act of 1948 and the Shearers Accommodation Act of 1949 were entitled “Acts to consolidate and amend.”

If a consolidating Bill is amended in the House it may be necessary to consider the title in the light not only of May’s *Parliamentary Practice*, 15th ed., p. 534, but also of Victorian practice in relation to consolidation.

In accordance with the principles set out above, in the preparation of the Motor Car Bill there has been considerable re-arrangement and re-wording to effect satisfactory consolidation, and also certain minor amendments have been introduced to resolve anomalies and remove obsolete provisions. These amendments have been referred to in the explanatory memorandum accompanying the Bill and during evidence before the Statute Law Revision Committee when attention was called to one further item, namely, that the accounting provisions of clause 72 have been brought into line with the corresponding provision of the Workers Compensation Act 1928 s. 35 as amended by No. 5522 s. 10. That amendment to the Workers Compensation Act was made at the request of the Auditor-General to facilitate the audit of the accounts of the State Accident Insurance Office.

In accordance with the principles as expounded by Sir Leo Cussen in 1915, the Motor Car Bill has been drafted with the title of “A Bill to consolidate the Law relating to Motor Cars.”

A. GARRAN,  
Acting Parliamentary Draftsman.

J. J. LYNCH,  
Assistant Parliamentary Draftsman.

J. C. FINEMORE,  
Acting Assistant Parliamentary Draftsman.

1951-52

VICTORIA

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# REPORT

FROM THE

STATUTE LAW REVISION COMMITTEE

ON THE

PROPOSALS CONTAINED IN THE  
CROWN PROCEEDINGS BILL

TOGETHER WITH

MINUTES OF EVIDENCE AND APPENDICES

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*Ordered by the Legislative Council to be printed, 16th July, 1952.*

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By Authority:

J. J. GOURLEY, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS  
OF THE LEGISLATIVE COUNCIL.

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TUESDAY, 20<sup>TH</sup> NOVEMBER, 1951.

8. STATUTE LAW REVISION COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables P. T. Byrnes, A. M. Fraser, G. S. McArthur, A. E. McDonald, F. M. Thomas, and D. J. Walters be members of the Statute Law Revision Committee.

Question—put and resolved in the affirmative.

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WEDNESDAY, 28<sup>TH</sup> NOVEMBER, 1951.

6. CROWN PROCEEDINGS BILL.—The Honorable P. T. Byrnes moved, by leave, That the proposals contained in this Bill be referred to the Statute Law Revision Committee for consideration and report.

Question—put and resolved in the affirmative.

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EXTRACTED FROM THE VOTES AND PROCEEDINGS OF  
THE LEGISLATIVE ASSEMBLY.

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TUESDAY, 20<sup>TH</sup> NOVEMBER, 1951.

26. STATUTE LAW REVISION COMMITTEE.—Motion made, by leave, and question—That the following Members be appointed members of the Statute Law Revision Committee:—Mr. Barry, Mr. Holt, Mr. Mitchell, Mr. Oldham, Mr. Reid, and Mr. Rylah (*Mr. Dodgshun*)—put and agreed to.

# REPORT

THE STATUTE LAW REVISION COMMITTEE, appointed pursuant to the provisions of the Statute Law Revision Committee Act 1948, have the honour to report as follows:—

1. The Statute Law Revision Committee have considered the Crown Proceedings Bill—a Bill to amend the Law relating to Civil Liabilities and Rights of the Crown and to Civil Proceedings by and against the Crown, and for other purposes—which was initiated and read a first time in the Legislative Council on 20th November, 1951. When the second reading was moved on 28th November, 1951, the Legislative Council referred the proposals contained in the Bill to the Statute Law Revision Committee for consideration and report.

2. The Bill was introduced in the Legislative Council as a Private Member's Bill by the Honorable A. M. Fraser and its main objects are to assimilate the liability of the Crown, both as regards tort and contract, to the liability of any subject of the Crown and also to assimilate the procedure in legal proceedings against the Crown to the normal procedure in legal proceedings as between subject and subject.

3. Appended to this Report is the evidence given by the following witnesses who appeared before the Committee:—

Mr. A. Garran, Acting Parliamentary Draftsman.

Mr. J. C. Finemore, Acting Assistant Parliamentary Draftsman.

The Honorable Mr. Justice Coppel, a member of the Chief Justice's Committee on Law Reform.

Mr. R. C. Normand, Parliamentary Draftsman.

4. Mr. H. A. Winneke, Q.C., Solicitor-General, attended a meeting of the Committee and submitted a valuable Memorandum which is printed as Appendix A to this Report.

5. The Committee had before it a report made in 1949 by the Chief Justice's Committee on Law Reform on the subject of Crown immunity in tort. That report included the following statement:—“The Committee was unanimous from the outset in the view that it was under present day conditions unjust to private persons that the Crown in Victoria should continue to enjoy immunity from certain liabilities to which ordinary individuals are subject. This immunity has frequently been the subject of adverse criticism in Courts and in legal periodicals . . . . Such immunity has been removed in Great Britain and in all other Australian States and in New Zealand.” The Statute Law Revision Committee endorse this view.

6. The Committee unanimously affirmed the desirability of giving effect to the principles of the Bill, but thought it necessary to examine closely its form. The law in Great Britain, the Commonwealth of Australia, and the other Australian States lays down similar principles on this subject, but there is some variety in the language of the several statutes and in the procedures therein set out.

7. The following amendments to the Bill are recommended:—

(a) Clause 4, line 28, insert the following new sub-clause to follow sub-clause (1):—

“( ) Without prejudice to the generality of the last preceding sub-section and subject to this Act the Crown shall be subject to all those liabilities in tort to which if it were a private person it would be subject in respect of any breach of the duties attaching at common law to the ownership occupation possession or control of property.”

(b) Clause 4, page 3, sub-clause (4), omit this sub-clause and insert—

“( ) No proceedings shall lie against the Crown under this Act in respect of the acts or omissions of any public statutory corporation or of its servants or agents or of any independent contractor employed by it, and nothing in this Act shall extend or otherwise affect any provision in any other Act by which the liability of any such statutory corporation in respect of any such acts or omissions is specifically imposed limited or conditioned, but no such corporation shall on the ground that it is the Crown be exempt from liability to which it would otherwise be subject in respect of any such acts or omissions.”

(c) Clause 6, sub-clause (1), line 12, after "enactment" insert "or in any rule of law practice or procedure".

(d) Insert the following New Clause to follow Clause 5 :—

A. (1) Except as provided in this section no execution or attachment or process in the nature thereof shall be issued out of any court against the Crown in any proceeding under this Act but when any judgment order or decree against the Crown (including any order for costs) is given or pronounced in any such proceeding the proper officer of the court shall give to the other party a certificate in the form contained in the Schedule to this Act or to the like effect.

(2) On receipt of any such certificate the Governor may cause to be paid out of the consolidated revenue (which is hereby to the necessary extent appropriated accordingly) to the proper person the sum referred to in the certificate and may cause the judgment decree or order to be otherwise performed.

(e) Insert the following Schedule at the end of the Bill :—

Schedule

Form of Certificate

I hereby certify that  
 in the \_\_\_\_\_ court at \_\_\_\_\_ obtained  
 a judgment (order *or* decree) in his favour and that by such judgment (order *or* decree) the sum of  
 was awarded to him (and it was otherwise ordered that \_\_\_\_\_).

(L.S.)

Dated &c.

8. The Committee are grateful to all persons who assisted the Committee with this Bill, which while simple in principle, requires highly technical language for its expression.

9. After careful consideration the Committee are satisfied that the Bill, subject to the amendments set out in paragraph 7 of this Report, adequately and effectively states the desired changes in the law. The suggested new clause A contains an appropriation of the consolidated revenue and, as it is not within the powers of the Legislative Council to initiate a bill containing such a provision, the Committee recommend that the present Bill be withdrawn and that a new Bill, in accordance with the recommendations in this Report, be introduced in the Legislative Assembly and passed into law during this Session. A draft of the proposed new Bill appears as Appendix B to this Report.

Committee Room,

12th June, 1952.

## CROWN PROCEEDINGS BILL

## MINUTES OF EVIDENCE

WEDNESDAY, 12th DECEMBER, 1951.

*Members Present:*

Mr. Oldham in the Chair;

<i>Council.</i>	<i>Assembly.</i>
The Hon. A. M. Fraser,	Mr. Reid,
The Hon. F. M. Thomas,	Mr. Rylah.
The Hon. D. J. Walters.	

Mr. Andrew Garran, Acting Parliamentary Draftsman, and Mr. John Charles Finemore, Acting Assistant Parliamentary Draftsman, were in attendance.

*The Chairman.*—The Parliamentary Draftsmen were invited to attend the meeting of the Committee this morning to discuss some aspects of the proposed Bill—whether perhaps it is too sketchy in outlook; whether it should follow simple lines as in the Commonwealth Judiciary Act or whether it should be along the more elaborate pattern of the English Act, covering a number of specific matters.

*Mr. Fraser.*—Mr. Garran, have you given any consideration of these matters?

*Mr. Garran.*—I cannot say what it should be, because that is a question of policy. All I can really say is that, as you are aware, this Bill was prepared for you at short notice as a Private Member's Bill and covers only what might be called the leading principles. No attempt was made to expand it, to cover the various aspects provided for by the English legislation.

*Mr. Fraser.*—That was at my request.

*Mr. Rylah.*—Have you given any thought to the question as to whether a simple Bill of the type proposed is adequate for binding the Crown in tort or whether the matter should be approached from the point of view of the English legislation of endeavouring to cover all cases?

*Mr. Garran.*—As yet, we have not reached that stage in our thoughts on the matter. To some extent, dealing with a private Bill is different from considering a Government Bill; usually, we have some time to spend on a Government Bill. I think all we can say is that we have helped Mr. Fraser by preparing a short Bill to cover the points he has in mind. Beyond that, we have given no real consideration as to what would be the best form of the Bill. There is, of course, the recommendation of the Chief Justice's Law Reform Committee. That was before this Committee on an earlier occasion when Mr. Normand and Mr. Lynch were in attendance. At that time, they gave this Committee a written memorandum.

*Mr. Finemore.*—I think it could be said that this Bill would work in this form. It is not an impossible Bill. It covers the question of the liability of the Crown in tort.

*Mr. Rylah.*—Would it cover every case?

*Mr. Finemore.*—I think it would cover all cases in which the Crown would clearly be expected to be liable in tort.

*Mr. Garran.*—I think it could be said that it would need a certain amount of hammering out in the Courts before it could be regarded as being satisfactory.

*The Chairman.*—Why is there the difficulty. Are there any reservations in respect of liability in tort by the Commonwealth?

*Mr. Finemore.*—The Commonwealth did not specifically provide for liability of the Crown in tort. The Courts have managed by basing it partly on the Judiciary Act and partly on a section under the Constitution. It has never been actually worked out just how far it goes.

*Mr. Reid.*—There is set up a corporate personality in the Commonwealth, and that avoids any use of the maxim "the King can do no wrong."

*Mr. Finemore.*—Yes, but it is not certain how far it goes. The principle of *Enever v. The King* limits the Commonwealth liability in tort.

*The Chairman.*—What was the point in that case?

*Mr. Fraser.*—It concerned a police constable.

*Mr. Finemore.*—It is where a servant is acting *virtute officii* rather than as a servant. He is acting in a statutory or common law office. He acts by that office rather than as a servant and, therefore, the Crown is not liable.

*Mr. Fraser.*—I think the recommendation of the Chief Justice's Committee was that such a case could be covered and the Crown could be liable.

*Mr. Finemore.*—That is covered in this Bill.

*Mr. Thomas.*—A person would be acting under instructions.

*Mr. Finemore.*—He would be deemed to be acting under instructions.

*Mr. Fraser.*—It was pointed out to this Committee—in particular, by Mr. Normand—that the Crown conducts a large number of activities that are not conducted by an ordinary subject, such as mental hospitals, schools and various activities of the State. Certain questions were posed. For instance, if a pupil is hurt by plaster falling from the wall should the State be liable; should the State be liable for negligence in a mental institution? Why should not the State be liable? If, through the negligence of the State, some citizen suffers an injury, whether in a mental institution or somewhere else—I omit gaols because there is a New South Wales case applicable there—should there not be redress?

*The Chairman.*—We had a discussion with His Honor concerning gaols. I cannot remember what was the limitation there.

*Mr. Fraser.*—There was a case in New South Wales, during the early years of the Act.

*Mr. Finemore.*—The Act in New South Wales is similar to the Commonwealth Act. It is based on the sue and be sued proposition. It is not based on the question of saying that the Crown shall be liable in tort.

*Mr. Fraser.*—New South Wales has had that Act in operation practically since the early days of the colony. It is a Colonial Act.

*Mr. Finemore.*—Yes.

*Mr. Fraser.*—I am not wedded to one form or the other, provided the State is made to stand up to its obligations in certain aspects of the matter, which have been adversely commented upon over the years.

*Mr. Rylah.*—What Act, if any, did you use as a guide in drafting this Bill?

*Mr. Finemore.*—The English Act—but it had come through the Chief Justice's Law Reform Committee. It follows that Committee's general principles, which are based on the English Act.

*Mr. Fraser.*—But leaving out a great deal of the detail.

*Mr. Finemore.*—The procedural side. We dealt only with substantive law. Such a question as whether the Crown can interplead we regarded as negligible, and probably unnecessary in this State as I do not think the point has ever been raised. This Bill has been drawn in slightly wider terms than those set out in the English Act, covering the first proposition that the Crown can sue and be sued.

*Mr. Rylah.*—How does it compare with legislation existing in the other States of the Commonwealth at the present time?

*Mr. Finemore.*—The States of Queensland and New South Wales have similar Acts. They are of a very old form. They are rudimentary but have worked reasonably well. The courts decided it was the intention to make the Crown liable in tort. Having gone so far, the courts then worked out their own limits and brought in the proposition of *Enever v. The King*. It is a type of borderline, where there are certain statutory powers to be exercised which are not similar to any powers that an ordinary person would have. They say they do not give rise to liability in tort.

*Mr. Rylah.*—You have sought to cover those instances?

*Mr. Finemore.*—Yes. Our major proposition is wider and, therefore, the limitations are necessary.

*Mr. Rylah.*—What is the position in the other States, for instance, Western Australia?

*Mr. Finemore.*—Western Australia has an abbreviated form of the English Act.

*Mr. Fraser.*—That Act has been in force in Western Australia for only the last few years—since 1947.

*Mr. Finemore.*—Yes.

*Mr. Fraser.*—Although it does deal with the liability of the Crown in tort, was not that Act passed to overcome difficulty with regard to the civil procedure by way of petition of right, and things like that? There was a case in which civil proceedings were involved.

*Mr. Finemore.*—I know that case to which you have referred but I do not recall the procedural difficulties. Prior to the passing of the Act, the procedure was for a nominal defendant and by petition of right. The substantive liability would be there but the procedural difficulties would be great.

*Mr. Fraser.*—There is another point which arises in my mind: in England, the Public Authorities Act was passed, placing some limitations on time and other matters. Is that Act affected by the 1947 English Act?

*Mr. Finemore.*—No.

*Mr. Fraser.*—How would this proposed Bill fit in with our proposed Limitation of Actions Bill if it becomes law?

*Mr. Finemore.*—They really need to go together; one depends on the other. I do not think there would be any real difficulty in fitting them in together. If the Limitation of Actions Bill became law it would help us; it would enable the public authorities, which were being made liable in tort, to know where they stood. If there were a three-year period in operation, they would say, "There will be no liability at the end of three years." They would be enabled to keep their books clear.

*Mr. Fraser.*—In the Limitation of Actions Bill, I think this Committee was putting all public authorities on the same lines as everybody else?

*Mr. Garran.*—I think there were three different attempts made.

*Mr. Fraser.*—A final conclusion was reached, and the report has been prepared.

*Mr. Garran.*—Yes, I think that was the final conclusion.

*Mr. Fraser.*—If the Limitation of Actions Bill and, in addition, this proposed Bill, were to become law, the Crown in Victoria would be placed in a more unfavourable position than it is in England.

*Mr. Finemore.*—Yes.

*Mr. Fraser.*—That is, insofar as you are regarding the public authorities as agents of the Crown.

*Mr. Finemore.*—Yes.

*The Chairman.*—If, before the Limitations of Actions Bill was dealt with this proposed Bill or a Bill incorporating the principle of the Crown being liable in tort were passed, the notice to public authorities and all those matters required under the Act would disappear.

*Mr. Finemore.*—No, they would remain.

*The Chairman.*—What would be the position concerning the limitation of amounts recoverable from the Railways Commissioners?

*Mr. Finemore.*—We have endeavoured to allow it to still stand, by the provision of sub-clause (4) of clause 4. The idea is that if the railways are liable, or can be sued, they are the ones that must be sued.

*Mr. Fraser.*—If you did not have a saving clause, that aspect would disappear.

*Mr. Finemore.*—Yes, I think so. If the Railways were an agent of the Crown, one could either sue the Crown or the Railways.

*Mr. Thomas.*—Would that apply apply to municipalities, also?

*Mr. Finemore.*—No.

*Mr. Fraser.*—Mr. Garran, from your experience as a lawyer, do you think the principle that the Crown in certain circumstances should be liable in tort ought to be incorporated into the law?

*Mr. Garran.*—I think it is impossible to answer such a question without a basis of public policy behind it.

*Mr. Fraser.*—Has not the doctrine been the subject of criticism for very many years?

*Mr. Garran.*—Victoria is the only State in the Commonwealth in which some provisions along those lines does not exist.

*The Chairman.*—It has been the subject of judicial criticism from time to time.

*Mr. Reid.*—What are the reasons against making the Crown liable in tort?

*Mr. Garran.*—That is a matter of policy, too.



*The Chairman.*—In bold outline I would say that it is purely a question of public funds. I think it is a wrong protection.

*Mr. Reid.*—Is there not something else behind it? In addition to the loss of public funds, might there not be a fear in the minds of various people that if this procedure is introduced then civil servants will become careless in the exercise of their duties. Such an employee might say, "I can take a risk. It will not matter if I do not properly fit the window frame into the new Law Court building. The Crown will pay for my liability." Is not that aspect part of the whole problem?

*The Chairman.*—No, I do not think so. I think it is one of the old arguments. If it is an argument, it seems to me that that has all disappeared now in these days of contracts, and so on. Crown immunity was originally based on the protection of the King and his revenue, and so on.

*Mr. Thomas.*—Every other State in the Commonwealth has legislation similar to what is proposed in this Bill, and also Great Britain, where the population is many times greater than here.

*The Chairman.*—Liability has been established where, for instance, a man on a Commonwealth rifle range kills some one, or shoots a cow. Is the Commonwealth Railways a statutory body, or is it sued as the Commonwealth?

*Mr. Garran.*—I could not say exactly.

*Mr. Reid.*—Is there not a Commonwealth Commissioner of Railways who is a statutory corporation?

*Mr. Finemore.*—I have seen him named as defendant.

*Mr. Fraser.*—In the last Commonwealth case in which the Railways were made the defendant, there was very severe criticism by Mr. Justice Rich. Mr. Garran, supposing under Egg Marketing legislation the State of Victoria acquires from a citizen a huge quantity of eggs—the citizen resisting the powers of the State to acquire the eggs—and that citizen then challenges the legislation in due course. The Court rules that the legislation is invalid, and he then sues for damages for conversion. In the State of Victoria, he would have a cause of action against the servant, the actual person who took his eggs and converted them. Under those circumstances, would not the State come to the assistance of the servant?

*Mr. Garran.*—I could not guarantee it. There is the case concerning the Forests Commission, where that did not apply.

*Mr. Fraser.*—Did Marks have to pay the amount of £750?

*Mr. Garran.*—I do not know what happened eventually, but at the time the case was before the court I understand there was no intention of the State going to his aid.

*The Chairman.*—I do not think it did pay, if I remember rightly. The matter can easily be checked, as a discussion of the case is reported in *Hansard*.

*Mr. Fraser.*—In the case of *James v. The Commonwealth*, the Commonwealth was liable.

*Mr. Finemore.*—The Egg Board would not be covered by this Bill because there is specific provision in the Bill.

*Mr. Fraser.*—Yes, but I had in mind the case where the State acquires the goods of a person under legislation which is subsequently declared invalid and, as a result of the acquisition, the citizen loses money. That legislation would be declared *ultra vires*. Somebody would have converted that citizen's produce, for which

he would be entitled to damages. I assume he would be entitled to damages against the person or persons who actually took and sold his produce. At present, that would fall personally on the public servants—if they were public servants—who committed the act.

*Mr. Finemore.*—It could be said that the real effect of this Bill is to give people who are wronged by the Crown, or a Crown servant, legal right; whereas now anything they get is a matter of grace. Probably, they normally do receive payment by way of compensation as a matter of grace.

*Mr. Thomas.*—I think that was the purpose behind the remarks of Mr. Fraser.

*The Chairman.*—If a person sues a policeman the Crown does not automatically step in and pay, does it? Does not the policeman himself have to pay? Is not that one of the complaints which led to the framing of this legislation?

*Mr. Fraser.*—Yes. I think in years past, in some cases the policeman was made to meet the charges where the arrest was clearly wrongful, where he was actuated perhaps by some personal motive. In the case of *Misel v. Teese*, 1942, *V.L.R.* Detectives Teese and Raper were sued by Misel, and the Crown did not take up their defence. The jury returned a verdict in favour of the policemen but I do not know whether costs were recovered by Teese and Raper who won the action.

*Mr. Thomas.*—I think there was another case where a police patrol car in answering an urgent call killed a woman, and no action could be taken against the State, but if this proposed legislation had been in operation that could have been done.

*Mr. Fraser.*—Under the present law there can be a successful action taken against the driver of a patrol car, assuming he were guilty of some negligence.

*The Chairman.*—It was laid down by a former Government that the Crown would not pay in these cases and I think a reference to this decision will be found in *Hansard* about 1937 when Mr. Gray, then Member for Hawthorn moved the adjournment of the House on this subject. Is there a convenient history of the doctrine of Crown immunity in tort?

*Mr. Finemore.*—I have with me two books dealing with the English Act—*Crown Proceedings* by Bell; and *Crown Proceedings* by Glanville Williams. Both books show the English Act in its historical sense.

*The Chairman.*—I think it would be advisable for this Committee to obtain copies of those books.

*Mr. Fraser.*—I would like to consider particular sections of the English Act.

*Mr. Finemore.*—One of the major difficulties in drafting is to define "servant" because Crown servants range from people employed under the Public Service Act to Ministers of the Crown; they include justices of the peace, who are unpaid servants.

*Mr. Fraser.*—You are aware of the likelihood even under this legislation of making members of the judiciary liable.

*Mr. Finemore.*—Yes, but justices of the peace have ministerial duties and I think the Crown would be liable for their acts other than judicial acts. Their opportunity for doing wrong as servants is probably limited.

*Mr. Fraser.*—Does it lead to this argument, that perhaps it might be better to follow the New South Wales system, or the Commonwealth system? What is the position under the Commonwealth. Supposing

a justice of the peace acting ministerially commits a tort and is exercising Federal jurisdiction, is it suggested that the Commonwealth is liable in those cases?

*Mr. Finemore.*—I do not know. It really cannot arise, can it? The justices never exercise a Federal jurisdiction.

*Mr. Fraser.*—Not even in the issue of documents? I think they do. Once one gets down to those fine points and the possibilities that might arise, objections might be found; however, I am concerned with only one general principle, that in the many activities in which the Crown is engaged to-day, for instance in conducting business on the cost-plus system, where wrongs are likely to be committed, particularly physical injury arising out of negligence, the Crown should have to shoulder its responsibilities the same as a private individual. That is my only concern.

*The Chairman.*—On behalf of the members of this Committee, I desire to thank Mr. Garran and Mr. Finemore for their assistance this morning.

*The Committee adjourned.*

TUESDAY, 12TH FEBRUARY, 1952.

*Members Present:*

Mr. Oldham in the Chair;

<i>Council.</i>	<i>Assembly.</i>
The Hon. A. M. Fraser,	Mr. Reid,
The Hon. F. M. Thomas,	Mr. Rylah.
The Hon. D.J. Walters.	

His Honor, Mr. Justice Coppel, was in attendance.

*The Chairman.*—His Honor, Mr. Justice Coppel, whom the Chief Justice of Victoria has asked to assist this Committee in its deliberations on the question of the law relating to civil liabilities and rights of the Crown and to civil proceedings by and against the Crown, is in attendance. Discussions on this subject by the Statute Law Revision Committee commenced more than twelve months ago in relation to a report on the subject by the Chief Justice's Law Reform Committee. The subject then fell into abeyance and was recently revived by the introduction of the Crown Proceedings Bill by the Hon. A. M. Fraser, M.L.C., in the Legislative Council. Although this Committee has power to initiate its own discussions, its hands are strengthened when a subject is referred to it for consideration by either House of Parliament.

The Committee has agreed on the principle involved, that it considers that the Crown should be fully liable in tort, subject to certain exceptions. One or two obvious exceptions which would affect members of the Judiciary or members of Parliament personally have been considered. The Committee has arrived at the conclusion that it is desirable that legislation should be passed making the State of Victoria as liable in tort as is, for instance, the Commonwealth of Australia.

Mr. Fraser has intimated that his Bill was hurriedly prepared to bring the matter to a head. It has been compared with the draft Bill prepared by the Chief Justice's Law Reform Committee and we now desire the assistance of Mr. Justice Coppel on this subject.

*Mr. Fraser.*—I had before me a copy of the report of the Chief Justice's Law Reform Committee and draft Bill when my Bill was in course of preparation. My Bill was introduced in simple terms with a view to having the matter referred to this Committee for consideration.

*Mr. Justice Coppel.*—Is it the desire of the Committee to submit to me questions arising out of previous deliberations on this subject, or is it suggested that I should deal with the matters at large in my own way?

*The Chairman.*—It is our wish that you should deal with the questions at large and later, if necessary, we may desire your re-attendance to answer questions arising from our deliberations on your statement.

*Mr. Justice Coppel.*—I have examined Mr. Fraser's Bill and have compared it with the draft Bill prepared by the Chief Justice's Law Reform Committee. I have examined also the British Crown Proceedings Act 1947 and I should like to place a number of matters before you for consideration. Some of those questions have already received the approval of the Chief Justice's Law Reform Committee while others, I confess, are entirely my own ideas and for that reason you might not attach so much importance to them. I shall first take Mr. Fraser's Bill as it stands and offer some comments on it. There are only two clauses which give rise to comment. In clause 2 there is a small drafting suggestion. "Proceeding" is defined in the Bill as—

"Proceeding" means action suit or proceeding of a civil nature.

I suggest that the definition be amended to—

"Proceeding" means actions suit or other original proceedings of a civil nature.

You will find those words in the definition section, section 3 of the Supreme Court Act, and I do not think I need elaborate why I make that suggestion. It is plain that it is the intention of the Bill to deal with all forms of original proceedings and not merely with interlocutory steps in proceedings. It is a trifling drafting amendment which may be worth considering.

With the exception of clause 6 the whole of Mr. Fraser's Bill will be found in the draft Bill of the Chief Justice's Law Reform Committee, with one or two small differences in drafting. Wherever there are differences in drafting I think Mr. Fraser's Bill is an improvement on the Chief Justice's Law Reform Committee Bill.

Clause 6 does give me some real trouble; I do not understand sub-clause (1). Reading it literally it does not seem to me to affect anything at all. It provides—

The provisions of this Act shall take effect notwithstanding anything to the contrary in any other Act or enactment.

Any later Act will supersede any inconsistent law wherever else you find it. It seems to me that it cannot refer to future Acts because the basic rule is that Parliament can never bind itself not to amend the law. I suspect that it was designed to ensure that statutory provisions which give the right of action against a subject shall, under the law as it is now proposed, give the right of action against the Crown. If that is so I have drafted a clause which I think might achieve that result. As it stands sub-clause (1) of clause 6 does not seem to me to effect anything but perhaps you will inform me if I am wrong.

*Mr. Fraser.*—It was intended as a caution. I see the force of your argument that it is probably superfluous. It was intended to get over those Acts which give the cloak of defence to the Crown in legislation such as the Mental Hygiene Act.

*Mr. Justice Coppel.*—I shall defer consideration on that and return to it later. As it stands the sub-clause does not seem to achieve that object. Sub-clause (2) of clause 6 I think is a slip. In Part II. of the Crown Remedies and Liability Act 1928 there are two sections which provide the machinery for enforcing

judgments against the Crown. In the Chief Justice's Law Reform Committee draft Bill it is proposed to re-enact sections 24 and 25 of the Crown Remedies and Liability Act but I think that has been overlooked. The provision in Mr. Fraser's Bill makes the position of a subject against the Crown worse than it is to-day because it would deprive the subject of any means of enforcing any judgment he may get. I think that provision needs correction. That, of course, could be remedied either by re-enacting sections 24 and 25 of the Crown Remedies and Liability Act, or by excepting those sections in the repeal. I should prefer to re-enact the two sections, as, personally, I like to have all relevant legislation on one topic in one Act, if that can be provided. So much for what is contained in Mr. Fraser's Bill.

May I now make a few comments concerning what is left out of Mr. Fraser's measure. Clause 5, sub-clause (4), paragraph (a), of the draft Bill reads as follows:—

“Without prejudice to the generality of the foregoing provisions of this section and subject to the provisions of this Act—

- (a) the Crown shall be subject to all those liabilities in tort to which if it were a private person it would be subject in respect of any breach of the duties attaching at common law to the ownership occupation possession or control of property;”

In my view, that should be written into the Bill. Paragraph (b) of sub-clause (1) of clause 4 of Mr. Fraser's Bill makes the Crown liable for the acts or omissions of any servant of the Crown or independent contractor. I would be very doubtful whether that provision would be wide enough to make the Crown liable to a person who suffered injury by reason of the defective state of premises owned or occupied by the Crown. To give a concrete illustration with which members of the legal profession are familiar, I might go into a store—such as Myers Emporium—and on account of a hole in the floor I might trip and break my leg. In those circumstances I would have a right of action against Myers as the occupiers of the premises, for a breach of duty which they owe to people who visit their establishment at their invitation. The suggestion which I am putting forward is that the Crown should be under the same liability to persons who go on their lawful occasions to those premises in the occupation of the Crown, such as State schools, the Law Courts, and so on. I do not think that such a liability is covered under paragraph (b) of sub-clause (1) of clause 4 of Mr. Fraser's Bill.

*Mr. Fraser.*—Would the Commonwealth be covered under the relevant section of the legislation?

*Mr. Justice Coppel.*—I think the Commonwealth would be, because it is liable in tort for all torts. This Bill does not in general terms make the Crown, in right of Victoria, liable for tort, but only for the acts or omissions of any servant of the Crown or independent contractor employed by the Crown, and therefore I do not think the Bill goes far enough.

At any rate, I suggest that paragraph (a) of sub-clause (4) of clause 5 of the Bill of the Chief Justice's Committee might well be added to clause 4 of this Bill. At this point it may be relevant to put before you another suggestion which is entirely my own. There are, in addition to common law liabilities in tort, liabilities which are cast on individuals by statute. They resemble liability in tort, but the duty is a duty created by statute; the sanction for breach is the payment of damages, but they are not strictly torts.

I wondered whether this Committee would care to consider the addition to clause 4 of a further sub-clause which I have drafted in these terms—

- (c) The Crown shall be liable in all cases in which if it were a private person of full age and capacity a cause of action against it would be conferred by the provisions of any statute except in so far as the provisions of such statute otherwise provide.

The exception at the end of this suggested addition is intended to cover cases such as would arise, for example, under the Fences Act in which obligations are imposed in relation to boundary fences between private citizens, but the Fences Act itself makes the provision with regard to the liability of the Crown as to the fencing of Crown lands, and so on. My proposal would not enlarge the liability of the Crown in such a case as that, but it would enlarge the liability of the Crown in a case, for example, such as the Factories and Shops Act, where there is a duty on the person or persons concerned to fence dangerous machinery. If a man is injured because of the defective condition of machinery in a factory, there is a good deal to be said for the view that his right to claim damages should not disappear just because the Crown happens to control the factory. There are other statutory duties of a similar kind, which will occur to members of the Committee.

I should now like to direct attention to the next provision in the draft of the Chief Justice's Committee. Clause 9 reads as follows:—

“Nothing in this Act shall extinguish or abridge any powers or authorities which, if this Act had not been passed, would have been exercisable by virtue of the prerogative of the Crown, or any powers or authorities conferred on the Crown by any Statute.”

That provision is taken from section 11 of the English Act of 1947, and I suggest that it might be included in the Bill. I cannot give any precise reason for suggesting it, and I doubt whether any person knows what is the extent of the Royal prerogative to-day. It is not a bad plan, on principle, in legislation to show that it is not intended to affect the Royal prerogative, whatever is left of it.

Then there are some procedural matters. Clause 10 of the Chief Justice's Committee Bill enables the Crown to initiate or to be made a party to interpleader proceedings, in cases of claims to sums of money, to enable the Crown to interplead and to be a party to such proceedings, if the Crown is one of the claimants. That is taken from section 16 of the English Act of 1947, and I think it would be helpful.

*Mr. Rylah.*—What happens at present if such a problem arises from the point of view of the Crown?

*Mr. Justice Coppel.*—It is not possible to join the Crown.

*Mr. Rylah.*—What does the Crown do if it finds itself in the position in which it is holding money to which claims are made by two people?

*Mr. Justice Coppel.*—I imagine that one party would sue the other.

*Mr. Rylah.*—And the Crown would abide by the result of the action?

*Mr. Justice Coppel.*—As far as I know, that is what is done. It seems to me that the provisions relating to procedural matters, which have been adopted in England, might well be included in the legislation of this State.

Clause 18 of the draft Bill of the Chief Justice's Law Reform Committee is also procedural, but I think it is more important than the clause previously mentioned. Broadly, it makes the Crown liable to give

discovery of documents and answer interrogatories, and there is a provision that preserves the right of the Crown to refuse to disclose matters of public secrecy or importance which ought not to be disclosed. This provision is taken from section 28 of the English Act, and in my opinion its inclusion is necessary if it is desired to enable the subject concerned to obtain complete justice in his claim against the Crown, since vital evidence may be obtainable only by compelling the Crown to disclose the facts. Unless the Crown is bound to make such disclosure, there may be a denial of justice in respect of the provisions of this Bill.

*Mr. Fraser.*—Although I understand Mr. Justice Coppel's answer to the narrowness of clause 3, I took the view that sub-clause (2) of clause 3 of the Crown Proceedings Bill probably covered that point.

*Mr. Justice Coppel.*—The rule that the Crown cannot be compelled to answer interrogatories is deep seated. In theory—and I think theory is important at the moment—Her Majesty's Judges cannot compel Her Majesty's Ministers to do anything; yet that is the very thing that an order for interrogatories does. That is why, in order to achieve the result sought, it is desirable to make it express.

*Mr. Fraser.*—The Commonwealth has answered interrogatories on the basis that it is liable in proceedings, except when a Minister, by affidavit or otherwise, takes the point that nothing should be answered on the grounds of public policy.

*Mr. Justice Coppel.*—I was impressed by the fact that apparently it had been thought necessary to insert a similar provision in the English Act.

*Mr. Rylah.*—The Commonwealth adopted a completely different attitude in this matter *ab initio*. It has treated itself as being able to sue and to be sued in the ordinary way, and acts accordingly.

*Mr. Justice Coppel.*—I think it is fair to say that this Bill must be fitted into the framework of what might be described as the traditional legal system which puts the Crown in a class by itself. It is for that reason that it may be advisable to include these provisions.

*Mr. Fraser.*—It is desired to make the Bill as complete as possible.

*Mr. Justice Coppel.*—In that event, I direct attention in clause 20 of the draft of the Chief Justice's Law Reform Committee to a small procedural matter providing for service on the Crown Solicitor. I consider that it is a suitable provision to make. In England a number of Government Departments employ their own solicitors, and a most elaborate provision for service exists there, but here I think service on the Crown Solicitor would cover all cases.

*Mr. Rylah.*—Service on the Crown Solicitor will remove his continual complaint that he does not hear about these actions until too late.

*Mr. Justice Coppel.*—Yes. Clause 7 of the draft of the Chief Justice's Committee contains a provision regarding indemnity and contribution which places the Crown, in relation to these matters, on the same footing as a private person. That is important now, particularly in view of the existence of the Wrongs (Tort-feasors) Act and the recently enacted Wrongs (Contributory Negligence) Act. I think this clause should be inserted in the Bill, but, with due respect to the Chief Justice's Law Reform Committee, I venture to suggest that the provision is better drafted in subsection (1) of section 4 of the English Act. I expressed that opinion to Mr. Justice Shell, who was a member of the committee, and he voiced his agreement with me on that point.

Clause 11 of the committee's draft Bill provides—

“ This Act shall not prejudice the right of the Crown to take advantage of the provisions of an Act of Parliament although not named therein; and it is hereby declared that in any civil proceedings against the Crown, the provisions of any Act of Parliament which could, if the proceedings were between subjects, be relied on by the defendant as a defence to the proceedings whether in whole or in part, or otherwise may subject to any express provision to the contrary be so relied upon by the Crown.”

The obvious example on this question is what is known to lawyers as the Statute of Frauds. It enables the Crown to say, in any case in which the subject may sue, that a contract may have been made but it is not enforceable by reason of the fact that the Statute requires a memorandum in writing, and there is no such memorandum. The Statute of Limitations is another example.

*The Chairman.*—Would you insert clause 11 in its present form?

*Mr. Justice Coppel.*—I should be disposed to do so. It is the same as sub-section (1) of section 31 of the English Act, and I should favour including it in that wording.

Clause 13 of the Chief Justice's Law Reform Committee draft Bill is, if I may say so, an original contribution. It is designed to deal with the situation that arises when a litigant who has a claim is not certain whether he ought to sue the Crown or whether he ought to sue some public corporation which may or may not be within the shield of the Crown. It was felt that in such cases, instead of compelling the litigant to abandon his case if he found that he had picked the wrong defendant, and start again against the right defendant, by which time his action might be defeated by lapse of time, this provision in clause 13 would mean that the original action would go on and, by amendment, he could pick the right party. I have no personal views on the matter. In some cases I think enactment of the clause would prevent an injustice arising. It would guard against any sort of “ three-card trick ” being played by a Government Department or public corporation.

*Mr. Thomas.*—I take it that Mr. Justice Coppel refers to limitations of time?

*Mr. Justice Coppel.*—That would be its real effect. It would keep the original action on foot for the purposes of limitation. Otherwise, it is suggested that the subject might bring his action within the proper time; nothing would be said until the matter came to trial: then the point would be taken that the defendant was not the person really liable; and, if that were a good defence, it might often be too late to sue the right defendant.

*Mr. Thomas.*—I understand that a case of that description arose here within the last twelve months.

*Mr. Justice Coppel.*—I was not aware of that fact, but the possibility of it is clear enough.

Paragraph (b) of clause 22 of the Chief Justice's Law Reform Committee Bill is worthy of consideration. It provides—

Except as therein expressly provided nothing in this Act shall—

(b) affect any rules of evidence or any presumption relating to the extent to which the Crown is bound by any Acts of Parliament.

It is difficult to foresee all the things that might be covered, but I think the provision could be preserved. The word “ therein ” should be altered to “ herein ”.

It is a precautionary provision which is difficult to cover. The only other provision in the Chief Justice's Law Reform Committee Bill that is not in Mr. Fraser's Bill is clause 23. That is a transitory provision dealing with causes of action which arose before the operation of this legislation. It is a common provision to deal with events that have happened but where no proceedings were brought. It seems a matter of policy whether or not you desire to adopt that provision. For that reason I shall not discuss it.

I have enumerated the matters in the Chief Justice's Law Reform Committee's draft Bill which I thought should be brought to your attention because personally I think Mr. Fraser's Bill would be improved if they were included. There are other provisions in the draft Bill to which I have not referred because I do not think they would improve Mr. Fraser's Bill.

There are two other matters which are my own suggestions and which I have derived from the English Act of 1947. In section 20 of the English Act provision is made for the removal and transfer of proceedings from a County Court to the High Court. It might be important to give the Crown power to transfer cases in that way. A particular case could involve a claim for not more than a few hundred pounds. It may involve matters of much more importance to the Crown, for one of two reasons. It could be one of a large number of claims that was being treated as a test case. On the other hand, even if it stood alone it could involve a matter of law which would affect the administration of a Government Department in a countless number of future cases and the Crown may desire to have an authoritative ruling on it. The subject who is the plaintiff would suffer no harm from the transfer, provided that an appropriate order was made as to the plaintiff's costs. He is no worse off by having the case dealt with in the Supreme Court than he is by having it dealt with in the County Court, but it could be a matter of real importance to the Crown. The transfer is effected only where there is produced to the Court a certificate of the Attorney-General to the effect that the proceedings may involve an important question of law, or may be decisive of other cases arising out of the same matter, or are for other reasons more fit to be tried in the High Court. When a Government Department takes a serious view in a matter I think there is much to be said for including a provision that would enable the Crown to ask that the question be determined in the higher Court.

*Mr. Fraser.*—The English Act makes provision for covering any additional expense occasioned by the plaintiff.

*Mr. Justice Coppel.*—That is so. The Committee will find that the English provision is carefully safeguarded. It seems to me that it would be a valuable provision to include in this legislation.

Section 21 of the English Act relates to a matter which I think ought to have been included in this Bill. I have not been able to discover why the Chief Justice's Law Reform Committee did not deal with this question. This Bill makes the Crown liable under contract. The result of a claim for breach of contract might not be an order for damages, it could be an order for specific performance. In some cases, either under contract or in tort, you might have an injunction as the appropriate remedy and it has always been fundamental in our law that the Court cannot order the King to do things, nor can it order the King not to do things. The British Parliament rightly saw that if the Crown were made liable in the same way as the subject in contract or tort the Act must make some special provision for those remedies which are inappropriate to be applied against the Crown. For that reason the section in the English Act enables the

Court to make a declaratory order on which the Government, as a matter of grace and fair dealing, would certainly act. It does not involve the Court in making an order which in form is a direction to the King to do something. That is something we have to avoid because a formal protection to the Crown is something that must be preserved. The adoption of section 21 of the British Act would still preserve the rights of the subject. The substance of his rights would remain and it is unthinkable that if the Supreme Court made a declaration that the Crown was liable in this, that or the other thing, that the liability would not be carried out. It seems to me better to leave it in that form than to have the somewhat objectionable formal order. No one is responsible for those two suggestions except myself and I do not want the Committee to give them any more weight than it thinks they deserve.

*The Chairman.*—Have you perused the legislation on this subject as applicable in Western Australia, South Australia, Queensland and New South Wales?

*Mr. Justice Coppel.*—If a hurried look at that legislation can be called perusal, the answer is "Yes". I do not pretend that I have carefully examined the legislation applicable in other States.

*The Chairman.*—Did your hurried perusal suggest anything in those Acts which could with benefit be included in the Victorian legislation?

*Mr. Justice Coppel.*—No. In justification of myself I should say that in the short period available I did not examine the legislation in other States because I knew that members of the Chief Justice's Law Reform Committee had done so. I felt that it would not be proper for me to depart from their considered view that this approach, which is also Mr. Fraser's approach, should be the basis on which the Act should ultimately be built.

*Mr. Fraser.*—Do you think we should have a special clause on the rule-making powers of the Judges or would that be sufficiently covered under procedure? The present civil procedure is to be made applicable but should a special clause be inserted giving Judges power to make rules covering matters that are not already covered?

*Mr. Justice Coppel.*—If the suggestions I have put forward concerning discovery, for example, are adopted, I think the English Act provides for rules on the subject. Section 28 of that Act is subject to and in accordance with Rules of Court. Then discovery and interrogatories may be applied. So, there would be a limited power of rule-making, if those suggestions were incorporated in the proposed legislation.

*Mr. Fraser.*—In view of the new legislation under which the Crown is liable, the question is whether a case might arise in respect of which it would be necessary to have specific powers.

*Mr. Justice Coppel.*—I have not thought of any. I was going to point out, in reference to my suggestions about interpleader, that the English Act expressly brings into operation the existing rules and makes the Crown subject to those rules. Generally speaking, I should doubt whether the rule-making power is wanted. Its inclusion in the legislation could do no harm, but at the moment I cannot see the necessity for it.

*Mr. Rylah.*—Regarding section 22 of the English Act, do you think that aspect is sufficiently covered in the draft Bill?

*Mr. Justice Coppel.*—I think that the provision might well be incorporated in the Bill.

*Mr. Rylah.*—There is reference to judgment and costs, but it seems to me that nothing is said about appeals and stay of execution.

*Mr. Justice Coppel.*—I confess I had overlooked that point. It seems to me that the provision might well be added, if the other procedural sections are to be included.

*Mr. Fraser.*—Sections 20 and 21?

*Mr. Justice Coppel.*—Yes.

*Mr. Rylah.*—We do not want the position to arise in which, on a snap judgment on a question of law, an action against the Crown is decided in the County Court in favour of the Crown, but that when the subject appeals the Crown says there is no right of appeal against such decision.

*Mr. Justice Coppel.*—I am not sure that it would not be there.

*Mr. Fraser.*—I was thinking along the same lines.

*Mr. Justice Coppel.*—It seems to me that once the Crown is a competent defendant in the County Court, the whole of the provisions regarding appeal from a decision of that Court would apply. However, no harm would be done by adding section 22 of the English Act.

*Mr. Rylah.*—Apparently, in England it was thought necessary to have the provision.

*Mr. Justice Coppel.*—Apparently it was, because in some respects they have proceeded by the method of specifying different things, whereas our legislation is a little more general.

*Mr. Fraser.*—I might not have covered all those matters, but I intended that the words—

“shall be instituted and proceeded with in accordance with any procedure of the Court specifically applicable thereto”—

would cover most of those matters. But once the proceeding is issued, the ordinary procedure would be followed.

*Mr. Justice Coppel.*—I would not say that is wrong: I am disposed to think that it is right.

*Mr. Fraser.*—I agree with your Honour, that is, as to section 22 of the English Act.

*Mr. Justice Coppel.*—Yes.

*Mr. Thomas.*—Concerning his suggestions relating to the incorporation of various provisions of the English Act, has His Honour any knowledge of cases in which, where there has been a good defence, the Crown has lost the action?

*Mr. Justice Coppel.*—I cannot say that I have. The English Act has been in operation only since 1947, and there has not yet been much experience of it.

*Mr. Fraser.*—In view of the present proposals, it might be necessary to make some alterations in the statute of limitations, so far as it concerns the Crown. That is why I left out certain things in my Bill.

*Mr. Justice Coppel.*—You will remember that I suggested the addition of a sub-clause to clause 4, relating to statutory duties, and also the inclusion of a clause from the draft of the Chief Justice's Committee's Bill, concerning statutory defences which, between them, would bring in the statute of limitations. I knew, of course, that there was a proposal afoot to recast the law of limitations on actions and it seemed to me that it was probably wiser in this Bill to give the Crown the benefit and make it subject to whatever statute of limitations was in force. And then, when the new statute of limitations Bill was brought forward, the Crown could either be omitted altogether—relying on this Bill to make the Crown subject to it—or some special provision could be made regarding actions against the Crown.

*Mr. Fraser.*—You have hit the nail on the head; that is the reason why it has been delayed.

*Mr. Justice Coppel.*—Those are matters in which I must not interfere.

*The Chairman.*—I take it that, as in the English Act—this arises out of the question asked by Mr. Thomas—there should be some provision as to the date of operation?

*Mr. Justice Coppel.*—The draft Bill of the Chief Justice's Committee contains a transitory section—23—and I have suggested that it might be included in Mr. Fraser's Bill. It is rather simpler in form than the English section. The form of it is, of course, a matter for Parliament. I agree that some such transitory provision should be made.

*Mr. Rylah.*—Do not let us have a date for proclamation, such as in the Weights and Measures Act, or this measure might suffer the same fate as that legislation.

*The Chairman.*—We are extremely indebted to you, Mr. Justice Coppel, for your coming here this morning to give the Committee the benefit of your views on this matter. You have crystallized what we have had in our minds. We will have Mr. Fraser's Bill re-drafted in the light of your comments, and at some later time we will probably ask you to be good enough to attend for a further talk.

*The Committee adjourned.*

TUESDAY, 4TH MARCH, 1952.

*Members Present:*

The Honourable A. M. Fraser in the Chair.

<i>Council.</i>	<i>Assembly.</i>
The Hon. P. T. Byrnes.	Mr. Holt, Mr. Reid, Mr. Rylah.

Mr. R. C. Normand, Parliamentary Draftsman, was in attendance.

*The Chairman.*—As you know, the Committee is now dealing with a Bill concerning the civil liabilities of the Crown. We do not seem to have got very far with the Bill proposed by the Chief Justice's Committee. So, to bring it to a head, it was thought best to put forward some form of a Bill, so that the Government might refer it to you, and in that way some of the difficulties would be overcome. We sent a copy of the Bill to the Chief Justice, and he consulted with his brother Judges. On this occasion he sent Mr. Justice Coppel to discuss the Bill with this Committee, that is, after he had studied this Bill and the Bill prepared by the Chief Justice's Committee. Have you been supplied with a copy of Mr. Justice Coppel's evidence?

*Mr. Normand.*—Yes.

*The Chairman.*—This Committee thought that you would then discuss the matter with Mr. Garran or Mr. Lynch, the draftsman of this measure. Now, you are present to give us your own views.

*Mr. Normand.*—We did receive at the office a copy of Mr. Justice Coppel's evidence—it was addressed to Mr. Garran—with a request that he should draft some provisions to give effect to what Mr. Justice Coppel had proposed. As a matter of fact, Mr. Garran was not the draftsman of the Bill, and it was handed over to me. As I was overseas last year, I was not the draftsman either. In fact, the man who did the chief amount of work on the Bill is not now in the office, although Mr. Lynch knows a good deal about it.

After I had read the evidence of Mr. Justice Coppel, I had grave doubts as to whether it would be possible to reach a satisfactory position by drafting amendments to give effect to his suggestions, first, because we doubted whether Mr. Justice Coppel had appreciated the intention of the Bill. At any rate, we thought that he had not appreciated the draftsman's intentions. In addition to that, we had a good deal of difficulty, from the transcript, in deciding exactly what Mr. Justice Coppel was proposing. In that connection, I prepared a memorandum for the Attorney-General, in which I made certain suggestions.

Subsequently the matter was, I think, discussed in Cabinet. What happened in Cabinet I do not know, and even if I did know, I would not be able to ventilate it. But the general effect of it was an indication which came subsequently from the Attorney-General that the Government would prefer, since they had a suggestion from the Chief Justice's Committee, that the draftsmen should concentrate their activities, as Government draftsmen, on the proposals of the Chief Justice's Committee. The Bill before this Committee was drafted at short notice to give effect to the substance of the proposals of the Chief Justice's Committee.

I suggest that instead of trying to make drafting changes, as proposed, which might only result in our getting at cross purposes with Mr. Justice Coppel, we could arrive at a much more satisfactory position if we had a conference with him—a direct, close conference. At the same time I suggest that in connection with a proposal like this one, which will involve, if it is followed up, a lot of investigation and close drafting, it would be much more desirable if this Committee devoted more of its time to an investigation into the practical effect of this proposition rather than to attempting close drafting.

What I am afraid will happen is that, while we could draft something which might in our view give effect to Mr. Justice Coppel's suggestions—although we would accept no responsibility for them—we might subsequently be asked to prepare a Bill for the Government, and that might be quite a different measure. Then, somebody would be embarrassed, probably the draftsman, because what he would do in the first instance would probably be different in form from what he would prepare for the Government—if he were asked to draft a Bill for the Government.

The Bill in its present form does seem to me to open up a very complete field for investigation on the practical side of the proposition. I think you can accept that as a basic proposition, with one exception, which is this: Mr. Justice Coppel suggested that in clause 4, I think, there should be included an additional provision, which is contained in the suggestions of the Chief Justice's Committee, and which is also in the English Act. If that suggestion were adopted, the Crown would be put in the same position as a private individual in respect of duties attaching to the ownership and occupation of property, and so forth. Mr. Justice Coppel had in mind the case of *Indermaur v. Dames* and the line of cases which followed.

That provision was omitted from the Bill as drafted for you, Mr. Chairman, and it is one to which I direct attention. Much more important than the *Indermaur v. Dames* line of cases arising out of the occupation and ownership of property is the *Rylands v. Fletcher* doctrine. In the case of the State Rivers and Water Supply Commission there may be escape of water from a dam which collapses. In the case of the Lands Department and the Forests Commission, there may be escape of fire from Crown land for which the Crown would be substantially absolutely liable.

*The Chairman.*—Unless it could be established that the fire was caused negligently on Crown land or by some act for which the Crown could be held liable, there would be no absolute liability. A fire might commence on private property and cross to Crown land. The Crown would be liable if it failed to take early steps to combat the fire.

*Mr. Normand.*—Why do you suggest that there is liability in respect of a fire starting on Crown land?

*The Chairman.*—The mere fact of a fire commencing does not give rise to actions.

*Mr. Normand.*—There are exceptions to the *Rylands v. Fletcher* doctrine; act of God is one. Escape of a fire which is lit for domestic purposes does not come within the ambit of the *Rylands v. Fletcher* doctrine. That is an aspect which the Committee ought to consider.

*Mr. Holt.*—One reason why I am eager that the Bill should be enacted is because of the erosion of Crown lands. There is liability on the part of the Crown only as to negligence in respect of land that it owns; it may cause a nuisance and damage the land of adjoining owners by permitting soil erosion to continue. Sand dunes may advance at such a rate as to inundate fertile lands of adjoining owners.

*Mr. Normand.*—Supposing that were to happen on private land, what then?

*Mr. Holt.*—There was a case a few years ago when an owner was held to be liable.

*Mr. Normand.*—It must have been on the basis of negligence. That does not come within the *Rylands v. Fletcher* doctrine.

*Mr. Byrnes.*—It would have to be on the basis of negligence. Sand can advance from a sea shore under normal conditions. The situation could be aggravated by land settlement.

*The Chairman.*—It is difficult to perceive how soil erosion could be brought to a basis of absolute liability.

*Mr. Normand.*—There is another aspect which I suggest to the Committee as an avenue of investigation. Let us assume that the principles of the Bill are accepted. The measure has a dual purpose. The first is to render the Crown liable in tort; the other is to assimilate proceedings against the Crown to proceedings between individuals. One is a question of substantive law; the other is a matter of procedure. Assuming that the principles of this Bill are accepted, I consider that it will be necessary to investigate the position of semi-governmental bodies and Crown instrumentalities. If the Bill is passed, the Crown will be placed in a worse position than various governmental bodies. That comes about in a kind of reverse way because the Crown has not been liable for tort; it has had immunity in the past, when various bodies were established to act as the hand of the Crown. The harshness of that rule of immunity has been mitigated to the extent of providing that a body which takes the place of or represents the Crown may be sued, subject to certain limitations. In the Railways Act there is a whole division dealing with limitations of liability. If the Crown is to be liable as a subject, obviously, I think, the agents of the Crown cannot be in a stronger position against the subject than is the Crown itself.

*The Chairman.*—We have already covered that in another Bill, have we not?

*Mr. Normand.*—No. I am speaking at the moment, not of procedure, but of liability.

*Mr. Holt.*—I thought we had sought to remove those anomalies in a Bill relating to limitation of actions.

*The Chairman.*—A semi-governmental body is either a direct agency of the Crown or it is a statutory corporation. Discussion reverts to the question of whether, under the interpretation of an Act, a body is an agency of the Crown or is independent of the Crown. I seem to recall that the Grain Elevators Board was held to be not an agency of the Crown; hence it was liable for rating. Are not semi-governmental bodies liable as statutory corporations when they have not the shield of the Crown?

*Mr. Normand.*—I am trying to point out that this Bill will remove the immunity of the Crown. There is on the statute-book much legislation which removes the immunity of the Crown in part, in effect, when those bodies are established. I submit that if the immunity of the Crown is removed, it will be necessary also to remove the partial immunity which some bodies retain. In other words, I suggest that agents of the Crown (and *a fortiori* those agencies that have got farther away from the Crown) should not be placed in a stronger position than the Crown itself.

*Mr. Holt.*—Is not a discussion developing between the Chairman and Mr. Normand as to instrumentalities of the Crown as such and statutory bodies?

*Mr. Normand.*—I suggest that it is not. Various bodies which undoubtedly represent the Crown are constituted by statute. It has been decided that the Railways Department is one, and the Forests Commission is another. They are provided with certain protection by statute in respect of actions by the subject.

*The Chairman.*—Is not that procedural protection? I thought my view was implicit in the expressions of Mr. Justice Coppel as to procedure so that there would not be the "thimble and pea trick" when the Crown or a statutory body was sued. At present, the Crown is not liable in tort, nor is any body that is a Crown agent or acts for and on behalf of the Crown, but any other body—which has not the shield of the Crown in the sense that it is not considered to be a Crown agency, but is a statutory corporation with the right to sue and be sued—is in the same position as other corporations unless the statute provides limitations by way of the method of procedure, the giving of notice, and so on.

*Mr. Normand.*—Section 205 of the Railways Act specifies a limit of £2,000 for damages.

*The Chairman.*—The Committee dealt with that aspect in the Statute of Limitations Bill.

*Mr. Rylah.*—I think Mr. Normand is taking a different point. He says that in addition to the limit of £2,000, the Railway Department has other protections as a common carrier. Should those protections remain when the Crown is made generally liable? I can see no difficulty unless there are other Acts which give special protection.

*The Chairman.*—As a common carrier, is the Department given special protection over ordinary individuals?

*Mr. Rylah.*—I am inclined to think that is so. Mr. Normand is raising the issue that other Acts may provide certain limitations that may produce peculiar effects. How was this problem tackled in England?

*Mr. Normand.*—One could not bring an action in England unless one had a fiat, and Treasury officials announced that they would consider all applications for actions against the Crown. Over a series of years, the Attorney-General and the Treasury solicitor considered proposals of actions, and a fiat was given to proceed with some of them. Out of the experience gained from those cases, the legislation was framed; the authorities were able to say what were proper cases.

*Mr. Rylah.*—Apparently the problem you have raised did not worry the English authorities?

*Mr. Normand.*—It did. It is an aspect that no one has been concerned to look at, and the Chief Justice's Committee referred to it as a subject for investigation by Government officials. There is a schedule of repeals and amendments to the English Act, which means that certain legislation was repealed. If the principles of the Bill are accepted, I think the provisions of Division 11 of the Railways Act will have to be repealed, either because of the Statute of Limitations proposition, or because of extraordinary procedure or liability limitation that does not apply as between subject and subject. There is a similar provision in the Water Act that mitigates the *Rylands v. Fletcher* doctrine in favour of an authority. There is a further limitation in section 15 of the Forest Act of 1939. If the Government gave the draftsmen instructions to prepare a Bill to give effect to the suggestions of the Chief Justice's Committee, they would have to inquire of Departments and various bodies, "How will this affect you practically; what effect will it have upon the legislation covering your Department?" We would need information of that nature before a satisfactory Bill could be drafted.

*Mr. Byrnes.*—Do you suggest submitting a draft Bill to Departments?

*Mr. Normand.*—I think the Bill is sufficient and provides all that is wanted except that I would add to sub-clause (1) of clause 4 the suggestion of Mr. Justice Coppel about the liability of the Crown. Otherwise there is sufficient statement of the objectives for Departments to be able to say how they will be affected.

*Mr. Holt.*—The lifting of the immunity in tort may be limited by statutory provisions, and Mr. Normand has suggested that the Committee should investigate that aspect.

*Mr. Rylah.*—The point is that sub-clause (1) of clause 6 might override.

*Mr. Normand.*—I am not too sure what the provision means.

*Mr. Rylah.*—I think Mr. Justice Coppel had some doubt about it also.

*Mr. Normand.*—I think he suggested that it be deleted.

*The Chairman.*—Because of a later provision.

*Mr. Normand.*—On this point we join issue. There is not one test only. Another test is that if there is a specific provision relating to a specific matter, that takes precedence over a general provision relating to general matters. It may very well happen that there could be a contrary interpretation of sub-clause (1) of clause 6.

*Mr. Holt.*—What you recommend is that the Government should refer the Bill to the Departments for their comments?

*Mr. Normand.*—I suggest that this Committee could do that.

*Mr. Holt.*—What was your object in saying that the Government should instruct the draftsmen to prepare a Bill?

*Mr. Normand.*—I hope I did not say that.

*Mr. Rylah.*—I think Mr. Normand said that two courses were open, one of which this Committee could pursue and that there was the alternative that the Government might at some stage instruct the draftsman to prepare a Bill.



*Mr. Normand.*—If we were instructed to prepare a Bill, it might be entirely different from the Bill now before this Committee, but I do not think that is a point that matters at this stage. What does matter is that the practical effect of the Bill should be ascertained. If the Committee does not do that, the draftsman would undertake the task if he were instructed by the Government to prepare a Bill.

*The Chairman.*—Such a procedure would have the virtue that each Department would know from its experiences just how it was likely to be affected by the operation of the legislation. It would probably be in a position to say that it would be shot at in this way or that. For that reason, the Departments might suggest certain statutory exceptions to absolute liability.

*Mr. Normand.*—A number of the Departments—for instance, the Railways, the Forests Commission, and other instrumentalities—might well be able to justify some of the existing statutory provisions.

*Mr. Byrnes.*—The Departments could be given an opportunity to state their views on or their objections to the Bill before a measure was finally drafted.

*Mr. Normand.*—If, in addition, they could give some indication of how much they could be liable for, it might be helpful.

*Mr. Holt.*—Who would advise the Departments, legally, as to the effect which the legislation would have on them?

*Mr. Normand.*—They would seek the advice of the Crown Solicitor; the result might be a number of conferences between the Crown Solicitor, the Solicitor-General, the Attorney-General and representatives of the Departments.

*Mr. Byrnes.*—It is normal practice to circulate copies of new Bills to the Departments that will be affected. Then they consider to what extent the operations of their Departments would be so affected. Then they submit their views to the Government. I presume that, if necessary, representatives of the Departments could come to this Committee.

*The Chairman.*—I think the matter will have to be given some further consideration.

*Mr. Normand.*—I think that would be a wise precaution. Not the least of the Departments that would be affected would be the Law Department, which would require more staff and more accommodation if legislation of the proposed type were put into effect.

*Mr. Byrnes.*—I can see no reason why the Bill, with the addition proposed, should not be circulated to the Departments for their comments.

*Mr. Normand.*—Surely, there can be no objection to the Departments being asked to express their opinions.

*Mr. Rylah.*—I think there is one difficulty. I appreciate the view that this Bill, together with the addition suggested by Mr. Justice Coppel, concerning liability for breach of duty, &c., does provide the substance of the principle, which could be submitted to the Departments. If that were done, the Departments could then submit their views. In the light of their comments or suggestions, a further Bill might be prepared making provision for interrogatories and discovery against the Crown—which is omitted from this Bill.

*Mr. Normand.*—And which may not need to be in it.

*Mr. Rylah.*—Then, the amended Bill might be submitted to the Departments, and it might be found that their view of the amended measure might be completely different from that which they took in respect of the original measure, although we may be able to prove that we did not appreciate that we would be liable to be interrogated, or that we were to discover documents.

*Mr. Holt.*—That would happen in any case.

*Mr. Normand.*—That is on the assumption that this Bill is going to be completed. I suggest that there is one grave difficulty in that, obviously, in order to provide for the money required in this case, an appropriation would be needed. Provision cannot be made in this Bill for an appropriation. The last clause of the Bill concludes with the words "Part II. of the Crown Remedies and Liability Act 1928 is hereby repealed." That includes a provision relating to an appropriation. I suggest that there is not much point in attempting to complete the Bill in detail, so long as the Committee sets out in its report the conclusions at which it has arrived. An appropriation provision could not be effectively included in the Bill. It would be necessary to introduce the measure in the Assembly. I suggest that, in the last resort, effective legislation cannot be achieved unless it is introduced by the Government in the Assembly.

*Mr. Holt.*—At the most, this Committee can make a recommendation to the Government to introduce legislation based on this Bill.

*Mr. Normand.*—I think that is the sensible thing to do, but speaking from long experience, I would say that really difficult provisions cannot be drafted in Committee. The details could be drafted much more effectively by a couple of individuals.

*Mr. Rylah.*—What is the position in regard to discovery and interrogatories?

*Mr. Normand.*—A conclusion would probably be reached as the result of a discussion with Mr. Justice Coppel. According to the transcript, he begins by saying that procedure means "action, suit or proceedings of a civil nature." He would like to insert the word "original." When mention is made of "original proceeding," with the implication that it applies to the Crown in the same way as it would between subject and subject, the question arises of whether something ought not to be done about interlocutory proceedings. I have no doubt that amendments could be drafted satisfactorily as a result of close discussion but, at a long distance, we would be at cross-purposes all the time.

*The Chairman.*—In England the substance of the law was changed to make the Crown liable for tort practically in the same way as is an individual. From my understanding of the legislation, all public Departments have been treated similarly. There may be some variation in regard to the Admiralty and merchant shipping of which I am unaware.

*Mr. Normand.*—It is essential to have complete information about all phases of the subject.

*Mr. Byrnes.*—Have copies of the Bill been circulated to all Government Departments?

*The Chairman.*—Yes, through the usual channels. I should have thought that the departmental heads would consider the draft submitted to them.

*Mr. Byrnes.*—I suggest that the matter be brought to a head by recirculating the Bill—this time under cover of a letter from the Statute Law Revision Committee.

*Mr. Rylah.*—I have an open mind on the subject, but I am wondering whether it would be better to circulate the Bill in its present form or to circulate particulars of the principles on which it is proposed to act.

*Mr. Normand.*—I consider that the Bill expresses those principles shortly, but sufficiently.

*Mr. Byrnes.*—Speaking from experience as a Minister, I should say that departmental comments

will be more realistic if a draft Bill, rather than a statement of principles, is circulated.

*Mr. Normand.*—I should, perhaps, say that I suggested to the Attorney-General that he should be present at this meeting of the Committee to discuss aspects not referred to in my memorandum to him, but unfortunately he was unable to attend.

*The Committee adjourned.*

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## APPENDIX A.

Memorandum by Mr. H. A. WINNEKE, Q.C., Solicitor-General.

## 1. GENERAL COMMENTS.

A. A measure along the lines contained in the Bill is an excellent measure of law reform in this State.

B. For the purpose of embodying the principle of the general liability of the Crown in tort into the law of Victoria, a comparatively short bill in the present general form is preferable to a lengthy and detailed bill based upon the English Act. As has occurred in other States and in the Commonwealth, the Courts can be safely left to give to the Bill a satisfactory practical operation.

C. The use of the expression "the Queen" in lieu of the expression "the State of Victoria" in clause 3 (2) may be more in keeping with basic legal theory, and more consistent with other legal proceedings in which the Crown becomes involved; e.g. prerogative writ proceedings, criminal proceedings and proceedings under Part I., *Crown Remedies and Liability Act 1928*.

2. The logical approach to difficulties of interpretation arising or likely to arise out of the Bill is suggested to be along the following general lines:—

A. A substantial measure of liability in tort rests upon the Crown under the existing law of Victoria. It is a fallacy to start with the proposition that the Crown in right of Victoria is immune from liability in tort; e.g. public instrumentalities under statutory liability and when acting as the agent of the Crown.

Railways—Liability for accidents &c.

Forests Commission—Act 4703 of 1939—  
Liable for negligent spread of fire.

When such instrumentalities are sued in those circumstances it is really the Crown that is being sued and that result ensues by virtue of the respective Acts which enable such actions to be brought.

B. What is then the true effect of the additional liability imposed upon the Crown by the Bill?

(i) Clause 4 (1) (b) imposes a general liability upon the Crown.

(ii) Clause 6 (1) imposes that liability notwithstanding anything to the contrary in any other Act. Subject therefore to the effect of clause 4 (4) and the qualifications that may be obtained from it, the liability imposed by this Bill would supersede the special partial liability imposed by any other Act.

Viewed from this point of view clause 6 (1) has a definite function to perform in the Bill, inasmuch as it counteracts the inference which might otherwise be drawn from the fact that this is a general measure as compared with the other special Acts which are specific measures dealing with

specific subject matters. In the absence of a provision like clause 6 (1), it might well be held that the general provision contained in this Bill must give way to the specific provisions contained in other legislation.

C. What are the implications or qualifications of clause 4 (4) in its present form?

(i) The sub-clause as at present expressed may well be held to be limited to acts or omissions of the public statutory corporation itself. The sub-clause may well be held not to apply in respect of the acts or omissions of servants, agents or independent contractors of the corporation. If this be the true interpretation of the sub-clause it would have the effect of limiting the liability of the Crown under the Bill far less than is probably intended; e.g. where damage is caused by a servant of the Railway Commissioners, full liability would probably rest with the Crown if sued under the Bill irrespective of the protective provisions guarding the Commissioners themselves, whereas those provisions would apply if the Commissioners were sued as such. To overcome this difficulty it would seem to be necessary to include in sub-clause (4) the acts or omissions of servants, agents, and independent contractors of such corporations.

(ii) The sub-clause would leave the Crown with unlimited liability in all cases where the Crown instrumentality itself is subject to a partial liability only under its own legislation; e.g. Forests Commission by section 15 of Act No. 4703 is liable for negligent spread of fire. At present the Commission is not liable for damage caused by the escape of a fire which occurs without negligence.

Under the Bill the Crown would be liable in such a case as the latter under the *Rylands v. Fletcher* principle because of the limited effect of sub-clause (4), although the Commission itself would not be so liable.

(iii) Sub-clause (4) is capable of being interpreted as a procedural provision only referable to proceedings under and in the manner provided in the Bill. See side note to the sub-clause.

On this view clause 4 (1) (b) would impose a full general liability upon Crown instrumentalities such as the Railways because they are the Crown, and clause 4 (4) on this interpretation

would mean no more than that action could not be taken against the "State of Victoria."

Clause 4 (1) (b) however, would leave the Railways liable to be sued as such and saddled with unlimited liability notwithstanding the protective provisions of the Railways Acts.

D. Upon the above reasoning clause 4 (4) becomes a key provision of the Bill if true effect is to be given to the intention of the framer, and great care will be necessary in fixing the final form of this sub-clause. As I understand the intention the object would be to provide in appropriate language, which I am not purporting to do here, that wherever a public statutory corporation is capable of being used in respect of the acts or omissions of itself or of its servants, agents, or independent contractors and irrespective of whether its liability extends to the particular acts or omissions complained of, no further or other liability is to be imposed upon it or the Crown under this Act.

E. Clause 4 (1) (b) as it now stands seems to make the Crown liable for the acts or omissions of its servants or agents even where they are not personally liable themselves.

Many Acts give protection to persons who act in carrying them out provided they act without malicious or other wrongful intent. See Department of Agriculture Memorandum,

Section 23 *Vegetation and Vine Diseases Act 1928*,

Section 21 (5) *Margarine Act 1940 No. 4741*,

Section 392 *Health Act 1928*,

Section 255 *Mental Hygiene Act 1928*.

Should there not be added to clause 4 (1) (b) some such words as "in any case where such servant or independent contractor would be personally liable for such acts

or omissions?" In other words, is not the basic intention to impose upon the Crown a true vicarious liability in the sense that the Crown is only to be liable in cases where its servant or agent would be personally liable under the ordinary law of the land?

3. Attention is drawn to a matter of policy which may underlie clause 4 (2) of the Bill. This sub-clause is designed to make the Crown liable in cases where the agent is exercising an authority conferred by law upon him personally. As the authority in such a case is not one which is delegated to him by the Crown, he would not be a servant in the ordinary sense known to the law so as to make his employer liable for his act if he were engaged in private employment.

The obvious case to which clause 4 (2) would apply is that of the police constable exercising his power of arrest. That power is conferred upon him by the common law and not by the Crown. Under the present law such a constable is personally liable if he abuses or misuses that power, and such personal liability may well act as an effective sanction against any such abuse or misuse. If the Crown is made liable as proposed in clause 4 (2) the effect of the sanction may be destroyed with consequent inconvenience to members of the public.

I express no view whatever upon this question of policy but merely wish to bring it to the notice of the Committee.

4. Allied to the problem mentioned in paragraph 3 above is another. The High Court of Australia has recently held that where a police constable is injured by the wrongful act of another person, and in consequence the Crown incurs loss through the payment of medical, hospital, sick leave and other expenses, the Crown cannot recover those expenses from the wrongdoer because the relationship of master and servant does not exist between the Crown and the police constable.

If the Crown is now to be made liable for the acts or omissions of the constable, the Committee may think that the law should also be amended to enable the Crown to recover the expense incurred by it when a constable is injured by the wrongful act of some other person.

## APPENDIX B.

## CROWN PROCEEDINGS BILL.

## A BILL

To amend the Law relating to Civil Liabilities and Rights of the Crown and to Civil Proceedings by and against the Crown, and for other purposes.

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. This Act may be cited as the *Crown Proceedings Act* 1952 and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*. Short title and commencement.

2. In this Act unless inconsistent with the context or subject-matter— Interpretation.

“ Proceeding ” means action suit or proceeding of a civil nature. “ Proceeding.”

“ Servant ”, in relation to the Crown, means— “ Servant.”

(a) any officer of the Crown including a Minister of the Crown ;

(b) any

1952.

*Crown Proceedings.*

No.

(b) any person in the service of the Crown whether or not subject to the *Public Service Act 1946* the *Teaching Service Act 1946* or the *Police Regulation Act 1928* or any other Act or enactment; and

(c) any agent of the Crown.

Proceedings  
by or against  
the Crown.

3. (1) Subject to this Act the Crown may sue or be sued in any court which would have jurisdiction if the proceeding were between subject and subject.

Mode of  
proceeding.

(2) Every proceeding shall be taken by or against the Crown under the title "The State of Victoria" and shall be instituted and proceeded with in accordance with any procedure of the court specifically applicable thereto or, if no procedure is specifically applicable thereto, as nearly as possible in accordance with the procedure applicable to proceedings between subject and subject.

Liability  
of the  
Crown in  
contract and  
tort &c.

4. (1) Subject to this Act—

- (a) the Crown shall be liable in respect of any contract made on its behalf in the same manner as a subject is liable in respect of his contracts; and
- (b) the Crown shall be liable for the acts or omissions of any servant of the Crown or independent contractor employed by the Crown as nearly as possible in the same way as a subject is liable for the acts and omissions of his servant or of any independent contractor employed by him.

(2) Without prejudice to the generality of the last preceding sub-section and subject to this Act the Crown shall be subject to all those liabilities in tort to which if it were a private person it would be subject in respect of any breach of the duties attaching at common law to the ownership occupation possession or control of property.

Liability for  
torts of Crown  
servants in  
exercise of  
statutory  
functions.

See *Enever v.  
The King*,  
3 C.L.R.  
p. 969.

(3) Where any functions are conferred or imposed upon a servant of the Crown as such either by any rule of the common law or by statute and that servant commits a tort while performing or purporting to perform those functions, the liability of the Crown in respect of that tort shall be the same as it would have been if those functions had been conferred or imposed upon the servant solely by virtue of instructions lawfully given by the Crown.

(4) No

1952. *Crown Proceedings.* No.

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(4) No proceedings shall lie against the Crown by virtue of this Act in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial nature vested in him.

Immunity of Crown in respect of judicial officers.

(5) No proceedings shall lie against the Crown under this Act in respect of the acts or omissions of any public statutory corporation or of its servants or agents or of any independent contractor employed by it, and nothing in this Act shall extend or otherwise affect any provision in any other Act by which the liability of any such statutory corporation in respect of any such acts or omissions is specifically imposed limited or conditioned, but no such corporation shall on the ground that it is the Crown be exempt from liability to which it would otherwise be subject in respect of any such acts or omissions.

As to acts or omissions of public statutory corporations or their servants &c.

5. In any proceeding in which the State of Victoria is a party the rights of parties shall as nearly as possible be the same and judgment may be given and costs awarded on either side as in a proceeding between subject and subject.

Rights of parties &c.  
Comp.  
Commonwealth  
Judiciary Act  
1903-1948 s. 64.

6. (1) Except as provided in this section no execution or attachment or process in the nature thereof shall be issued out of any court against the Crown in any proceeding under this Act but when any judgment order or decree against the Crown (including any order for costs) is given or pronounced in any such proceeding the proper officer of the court shall give to the other party a certificate in the form contained in the Schedule to this Act or to the like effect.

Satisfaction of judgments orders and decrees against the Crown.

Schedule.

(2) On receipt of any such certificate the Governor may cause to be paid out of the consolidated revenue (which is hereby to the necessary extent appropriated accordingly) to the proper person the sum referred to in the certificate and may cause the judgment decree or order to be otherwise performed.

7. (1) The provisions of this Act shall take effect notwithstanding anything to the contrary in any other Act or enactment or in any rule of law practice or procedure.

Scope of this Act.

(2) Without

1952.

*Crown Proceedings.*

No.

Repeal of  
No. 3665  
Part II.

(2) Without affecting the generality of the provisions of the foregoing sub-section, Part II. of the *Crown Remedies and Liability Act 1928* is hereby repealed.

Section 6.

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SCHEDULE

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## Form of Certificate.

I hereby certify that \_\_\_\_\_ of \_\_\_\_\_  
in the \_\_\_\_\_ court at \_\_\_\_\_ obtained  
a judgment (order *or* decree) in his favour and that by such judgment  
(order *or* decree) the sum of \_\_\_\_\_ was awarded to him  
(and it was otherwise ordered that \_\_\_\_\_).

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
, 19 \_\_\_\_\_ .

(L.S.)



1951-52

VICTORIA

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# SUPPLEMENTARY REPORT

FROM THE

STATUTE LAW REVISION COMMITTEE

ON THE

TRANSFER OF LAND BILL 1949

TOGETHER WITH

MINUTES OF EVIDENCE

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*Ordered by the Legislative Council to be printed, 19th August, 1952.*

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By Authority:

J. J. GOURLEY, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS  
OF THE LEGISLATIVE COUNCIL.

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TUESDAY, 20TH NOVEMBER, 1951.

8. STATUTE LAW REVISION COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables P. T. Byrnes\*, A. M. Fraser\*, G. S. McArthur, A. E. McDonald\*, F. M. Thomas, and D. J. Walters\* be members of the Statute Law Revision Committee.

Question—put and resolved in the affirmative.

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WEDNESDAY, 16TH JULY, 1952.

14. STATUTE LAW REVISION COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, and D. J. Walters be members of the Statute Law Revision Committee.

Question—put and resolved in the affirmative.

\* Vacated office on 14th June, 1952, on retirement by effluxion of time as a Member of the Legislative Council.

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EXTRACTED FROM THE VOTES AND PROCEEDINGS OF  
THE LEGISLATIVE ASSEMBLY.

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TUESDAY, 20TH NOVEMBER, 1951.

26. STATUTE LAW REVISION COMMITTEE.—Motion made, by leave, and question—That the following Members be appointed members of the Statute Law Revision Committee :—Mr. Barry, Mr. Holt, Mr. Mitchell, Mr. Oldham, Mr. Reid, and Mr. Rylah (*Mr. Dodgshun*)—put and agreed to.
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TUESDAY, 5TH AUGUST, 1952.

5. STATUTE LAW REVISION COMMITTEE.—Motion made, by leave, and question—That Mr. Oldham be discharged from attendance on the Statute Law Revision Committee and that Mr. Leckie be appointed in his stead (*Mr. Brose*)—put and agreed to.

## SUPPLEMENTARY REPORT

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THE STATUTE LAW REVISION COMMITTEE, appointed pursuant to the provisions of the Statute Law Revision Committee Act 1948, have the honour to report as follows:—

1. During 1949, 1950, and 1951 the Committee examined the Transfer of Land Bill 1949—a Bill to amend and consolidate the Law relating to Simplification of the Title to and the Dealing with Estates in Land—and, after presenting to both Houses of Parliament two Progress Reports, presented a Final Report (D. No. 4—Victorian Parliamentary Papers of 1950–51) on the 17th July, 1951.

2. Mr. T. B. F. Ruoff, Assistant Land Registrar, Her Majesty's Land Registry, England, visited Australia early this year to make a survey of Titles Office practice in the Australian States. The Committee considered that Mr. Ruoff's views on the procedure in this State and his knowledge of the practice in England would be of considerable interest to the Victorian Parliament, and to this end invited him to appear before the Committee. Subsequently, Mr. W. J. Taylor, the recently-appointed Registrar of Titles in Victoria, was invited to appear before the Committee. The evidence given by Messrs. Ruoff and Taylor is appended to this Report.

3. In their previous Report, the Committee drew particular attention to two great needs of the Victorian Titles Office, namely, the necessity for unified control of the office and the cessation of inquiries into matters beyond the original intention of the Torrens system. Mr. Ruoff gave evidence that, in England, the Land Registry is under unified control, and the Registrar is prohibited by law from making many of the inquiries which, in the opinion of this Committee, have contributed to the unsatisfactory state of the work in the Victorian Titles Office. Mr. Taylor's evidence discloses that considerable progress has been made by the Titles Office staff in implementing recommendations made by this Committee and arrears of work have been substantially reduced, but it is evident that legislation is necessary before a full re-organization is possible.

4. The Committee therefore recommend that, while consolidation and general overhaul of the Transfer of Land Act should be proceeded with, it is urgent that legislation should be introduced—

- (a) to give effect to the Committee's previous recommendations for unified control of the Titles Office;
- (b) to enact Part III. of the Transfer of Land Bill 1949 with the modifications recommended by this Committee, in order that preliminary steps may be taken to enlist and train staff for the work of bringing all land under the Torrens system; and
- (c) to give effect to such other provisions of the 1949 Bill, except Clauses 104, 224, and Part VJII., as will facilitate the work of the Titles Office without introducing changes in the substantive law which, although desirable, might create additional work which the Titles Office is unable to undertake at present.

Committee Room,

6th August, 1952.



## TRANSFER OF LAND BILL

## MINUTES OF EVIDENCE

WEDNESDAY, 20TH FEBRUARY, 1952.

*Members Present:*

Mr. Oldham in the Chair;

*Council.*

The Hon. A. M. Fraser.

*Assembly.*

Mr. Barry,  
Mr. Reid,  
Mr. Rylah.

Mr. T. B. F. Ruoff, Assistant Land Registrar, Her Majesty's Land Registry, England, and Mr. P. M. Fox, of the Council of the Law Institute of Victoria, were in attendance.

*The Chairman.*—We welcome Mr. Ruoff who, I understand, has recently visited the Titles Offices in some Australian States. I invite him to make any general comments which he may care to offer.

*Mr. Ruoff.*—May I say, at the beginning, that my yardstick is an English one; consequently, my judgments may not necessarily be apt in Australia. Furthermore, I have had an opportunity of looking around only quickly and for that reason I might have missed many points which are apparent to persons who deal constantly with these matters. I am particularly interested in the Victorian Titles Office because I found that it is faced with serious delays similar to those experienced by us in London at the end of the second world war. The reasons advanced for the delay in Victoria are similar to those which I would have alleged existed at Home. In England the Torrens system of land registration is not on its feet to the same extent as it is in Australia and, for that reason and others, there is considerable opposition to it from my own profession—particularly from solicitors. Therefore, at Home, in order that we may demonstrate to the legal profession the merits of the system it is essential that we should get on with the job and do it efficiently. Delays in a Titles Office result in much uncreative and unnecessary work and, as I well know, they have a most depressing effect on the staff.

We were fortunate at Home in having a fine administrator come to us shortly after the war and he very energetically and reasonably quickly put our position right. In broad terms, the principal way in which he did it was by reducing the amount of internal work, even at some risk. I know that Mr. Taylor here undertook a difficult task when he was appointed temporarily and I do not think he faced it with full confidence until he was recently confirmed in his position. But after I looked quickly around his office, the gospel which I preached to him was to try to reduce the amount of work rather than to increase man power, although of course it was essential for him to do the latter as well. I should not like to say in any detail how I think the work should be done here, although I have expressed a few opinions to Mr. Taylor personally. I should like to cite one extreme example of the length to which we were prepared to go in England in an effort to save man hours. Incidentally, we commenced to work much longer hours and we still are doing so; there is no prospect of our letting up for many years to come. The example is this:—Our registers are typed and it is customary to insert the date of registration of an entry. We found that by typing "1 January 1952" instead of "The First of January 1952"—insignificant though that change may

seem to be—time was saved. That is merely an example of the length to which we were prepared to go, although, of course, we made many more important and fundamental changes.

Another matter that I mentioned to Mr. Taylor was my opinion that the treatment of what I think are called "follower" dealings was likely to meet with disaster; that is to say, when several dealings affecting a title are lodged on succeeding dates. In my view, it is absolutely essential to link those dealings in the office, and to treat them as one. Apparently Mr. Taylor's difficulty lies in the fact that, owing to the work of a predecessor, he is experiencing trouble in tracing dealings in order to so link them. Mr. Taylor agreed that, in order to survive, it was essential that he should tackle this problem immediately.

As a matter of long-term policy, I proffered a suggestion for the adoption of what we call in England the day list, a record of pending dealings to show automatically what dealings affect a particular title. That leads me to this point; in one way and another, I think a lot of unnecessary work is being done in the Victorian Titles Office. There are four records—a time book, an interim index, a progress book, and an issuing book. In England, they are replaced by this day list, which is a simple card index, containing no more than a reference to the volume and folio, to the dealing number, and the type of dealing, which is indexed under the volume and folio, and instantly shows whether there is any dealing pending that affects the title.

*Mr. Rylah.*—The card index could replace the four books that you have mentioned.

*Mr. Ruoff.*—It could, provided that solicitors were required to give certain particulars when lodging documents, along the lines suggested by Mr. Jessup, including a name and address for the return of documents. In the Victorian Titles Office, all these items are recorded in longhand, and there are books containing masses of particulars which practice, in my opinion, creates a tremendous amount of unnecessary work. I am prepared to discuss these matters down to the 'nth degree.

*The Chairman.*—To place the matter on the basis which was really the foundation of the Committee's recommendations, I should point out that in South Australia it is believed that land registration is land registration, whereas in Victoria efforts have been made to supply an absolutely indefeasible title to prevent recourse to the assurance fund, or anything of that kind. That appeared to be the main difference between the administrations in South Australia and Victoria. In England, is the aim simply registration or the guaranteeing of a title?

*Mr. Ruoff.*—We certainly aim to guarantee a title, and we have an assurance fund from which payments are made. Speaking in general terms, I consider that any Torrens system must work on an assurance basis. I have little time for what has been described as "timidity in administration." In bringing land under the Act, we face the opposition of a proportion of the legal profession at Home, and so we have to put our best foot forward.

*Mr. Fraser.*—Is there more money to be made under the old system?

*Mr. Ruoff.*—Yes, but that fact is common throughout the world. In England, we do not have the benefit of being able to go back to Crown grants, as there have been no Crown grants for hundreds of years. Under the general law system, a title is examined over a period of 30 years or so, going back to a good root of title. Any one who applies to bring land under the system, whether voluntarily or compulsorily, has to show the kind of marketable title that a purchaser would accept.

In London and adjoining areas registration is compulsory on sale. That is to say, when land under the general law lying within those areas is sold, the onus is on the purchaser to apply for registration of his title within two months. If he fails to do so, he loses the legal estate. In other words, his conveyance is waste paper. That defect can be cured, because if he approaches the Registrar later and says, "I am sorry, I omitted to do this," registration will be effected.

*Mr. Reid.*—Does your office issue a title to the party who is compelled to come under the registration system?

*Mr. Ruoff.*—Yes. Speaking from memory, in recent years we have granted indefeasible titles in over 98 per cent. of the cases that have come before us. Although registration is compulsory in the areas I have named, it is voluntary in the rest of England, and, that being so, it is reasonably apparent that we are faced with voluntary applications to grant indefeasible titles in respect of general titles which sometimes are not very good. Where the voluntary system operates we tend to collect weak titles, but, even so, we grant indefeasible titles in a high percentage of cases, although we may raise requisitions.

*The Chairman.*—In England, is there a system of granting conditional titles?

*Mr. Ruoff.*—Yes, but the administrative aim is to avoid granting conditional or limited titles at all costs and to grant only indefeasible titles, so far as that is possible.

*Mr. Reid.*—Would such a conditional title become an absolute title after a lapse of time?

*Mr. Ruoff.*—Yes, in the case of freehold land, usually after fifteen years; and in the case of leasehold land, usually after ten years. Those periods have no relation to our statute of limitations. In recent years we have registered many general law titles as to which all the deeds have been destroyed as a result of enemy action. In many cases a great deal of the best secondary evidence has also been destroyed, and we have acted on substantive rather than formal statutory declarations, coupled with completed drafts of one or more title deeds sometimes found, after a good deal of search, in the office of some solicitor who has acted at some time. I believe that we have performed a great public service in that way.

I consider that the application of the assurance principle is essential when bringing land under the Act. Our attitude is not "Can we find anything wrong with this title; is there any way in which we can impugn it?" but "Is it likely that any one will come along in the future and upset it?" It has been demonstrated over a long period that when an application is lodged with us and there has been a recent purchase and the vendor's solicitor has deduced the title and the purchaser's solicitor, having investigated it closely, certifies to us that he has acted professionally in the ordinary way we can relax our scrutiny of that title.

There are, I think, two pertinent questions when looking at an application to bring land under our Act. The first is, "Has there been a recent sale?" If so, the second question is "What is the value of the land?"

If the value of the land is trifling, why should an official of the Titles Office meticulously examine that title yet a third time? It is often quite safe to register it without looking deeply into the title, although of course it is necessary to make sure that the necessary encumbrances are noted against the title granted.

*The Chairman.*—Do you make a loaded contribution to the assurance fund in those circumstances?

*Mr. Ruoff.*—In England there is no separate contribution to the assurance fund. The fees collected are devoted to paying running expenses and the balance goes into the assurance fund which, by statute, is fixed at £100,000. Actually, of course, we have collected a good deal more than that and the surplus has been appropriated by the Treasury. There are no separate contributions; therefore, if an application to bring under the Act land of small value is being dealt with, the examination of the title may be waived almost entirely, as long as there has been a recent sale. Of course, it is necessary for the administrator in charge to determine what risks he will take. It may be that £100, or £1,000 or £10,000, as the case may be, is not thought a very great value. I do not want to lay down any figure—I am dealing with the principle.

*Mr. Fraser.*—It is a common-sense basis of application.

*Mr. Ruoff.*—It is what I call the application of the assurance principle. I am strongly of the opinion that it should be possible for injured persons to obtain recompense from the fund without undue difficulty. I think another advantage in England is that the Chief Land Registrar performs the functions of the Victorian Registrar and Commissioner—I do not like that divided control—and also of a minor judge. He hears cases relating to registered property, and there is an appeal from him to the High Court in England.

*Mr. Reid.*—On any question of difficulty about titles, your registrar would hear oral evidence?

*Mr. Ruoff.*—Yes.

*Mr. Reid.*—He would not rely merely on declarations?

*Mr. Ruoff.*—When necessary, he conducts a summary trial. I mention that at this stage because he has power also to award compensation.

*The Chairman.*—I am trying to determine his status. Would he be a "silk?"

*Mr. Ruoff.*—No; by joining the registry at an early age, he would forfeit any chance of becoming a "silk."

*The Chairman.*—How does he become a barrister?

*Mr. Ruoff.*—He is a qualified barrister who may have been in practice and has forsaken his practice for this official job. I am not a member of the Bar but I practised as a solicitor before I went to the Land Registry.

*The Chairman.*—Would he be of similar standing to our Registrar of Probates or Master in Equity?

*Mr. Ruoff.*—Nearly, I should say. It is very difficult to make a direct comparison, but he is chosen as a lawyer who is known to have considerable administrative ability.

*Mr. Rylah.*—He has considerable responsibility?

*Mr. Ruoff.*—Certainly.

*Mr. Reid.*—How would his salary compare with that of one of your Judges?

*Mr. Ruoff.*—He receives £2,850 per annum as compared with the salary of a High Court Judge in England of, I think, £6,500.

*The Chairman.*—What sum would be received by the principal officers of the courts?

*Mr. Ruoff.*—I cannot say.

*Mr. Fraser.*—The Master of a Court in England is in a different category from members of the judiciary in Australia inasmuch as he does a considerable amount of chamber work.

*Mr. Ruoff.*—As regards the Chief Registrar's judicial capacity, at least members of the Bar are prepared normally to have issues tried by him.

*Mr. Fraser.*—Does he get those powers by statute?

*Mr. Ruoff.*—Yes, and in particular when dealing with the English equivalent of your caveat, which is called a caution, he—rather than the court—determines the matter.

*Mr. Reid.*—What particular statute is the actual charter of your organization?

*Mr. Ruoff.*—The principal one is the Land Registration Act 1925. There is also an Act of 1936 which deals with the assurance fund. The principal rules are the Land Registration Rules of 1925, 1930, and 1936. There are other rules and orders, but those which I have mentioned are the principal ones.

*Mr. Reid.*—There is a considerable body of rules.

*Mr. Ruoff.*—That is so.

*Mr. Rylah.*—Reverting to the Victorian Titles Office, do you feel from your necessarily short examination of it, that much would be gained if there were unified control?

*Mr. Ruoff.*—Yes.

*Mr. Rylah.*—Do you feel also that if the Commissioner, Registrar, or whoever may be the head man under such unified control, had greater powers and were prepared to undertake greater responsibility, it would facilitate the work of the Titles Office?

*Mr. Ruoff.*—Yes; I hold that view strongly. I think also that it is difficult for the head of the Department—call him what you will—to carry out his administrative duties properly unless he is given wide discretionary powers by statute or by rule such as are given to the Chief Registrar in England.

*Mr. Rylah.*—I suppose you have not had the opportunity to examine our legislation to ascertain what discretion is given to the Registrar and the Commissioner?

*Mr. Ruoff.*—I have been unable to examine it thoroughly, but I have looked at it cursorily, and my general impression is that neither the Commissioner nor the Registrar here possess the wide discretion which is enjoyed by the head of the Department in England.

*Mr. Rylah.*—From the evidence presented to this Committee, there seem to be certain powers, but reluctance to use them.

*Mr. Ruoff.*—I say that if I occupied the position of head of a Department I should feel much happier if my enabling statute expressly gave me certain discretionary powers rather than that I should have to say, "Hang the statute; this is what I, as the administrator, am going to do." It is a matter of confidence.

*Mr. Rylah.*—If those discretions were emphasized by the statute, you would be much more prepared to use them?

*Mr. Ruoff.*—Certainly.

*Mr. Fraser.*—Your system is not new. I understand that it has been in operation for 27 years.

*Mr. Ruoff.*—It commenced in 1862, and many changes have taken place since then. I do not wish to reflect upon Torrens, who was a wonderful reformer, but my view is that we, in England, were thinking along the lines of the Torrens system before he did. A member of an English Royal Commission in 1830 suggested what was tantamount to registration of title. I believe in Saxon times there existed a system very near to the Torrens system, but it was later thrown overboard.

May I direct attention to Rule 322 of the Land Registration Rules, 1925, which reads—

- (1) The Registrar, if he so thinks fit, may in any particular case, extend the time limit or relax the regulations made by general rules, for any purpose; and may at any time adjourn any proceeding, and make any new appointment.
- (2) If at any time he is of opinion that the production of any further documents, or evidence, or the giving of any further notices is necessary or desirable, he may refuse to complete or proceed with the registration, or to do any act, or make any entries until such further documents, or evidence, or notices have been supplied or given.

That is an example of the wide powers of the Registrar. In the treatment of dealings coming from the personal representatives of deceased proprietors, the English Registrar is in a happy position because of the support he receives from Rule 170. It has the force of statute, and provides, *inter alia*—

- (5) It shall not be the duty of the Registrar nor shall he be entitled to consider or to call for any information concerning the reason why any transfer is made, or as to the terms of the will, and, whether he has notice or not of its contents, he shall be entitled to assume that the personal representative is acting (whether by transfer assent, or appropriation or vesting assent) correctly and within his powers.

That thrusts the onus upon the legal practitioner.

*Mr. Rylah.*—Is that onus accepted?

*Mr. Ruoff.*—Yes.

*The Chairman.*—You do not look at the will to satisfy yourself that the person who is the applicant in a transmission application is correctly included?

*Mr. Ruoff.*—I am not entitled to do so. The man lodging the application is an independent professional man, and he is paid to ensure that a proper disposition is made.

*The Chairman.*—Your emphasis is placed upon registration, within the limits of your Act, and you do not look behind the Act to equities, and so on?

*Mr. Ruoff.*—We do not. We apply what is called the "curtain" principle. Identified persons hold a legal estate. They are the registered proprietors, and have powers of absolute ownership, unless there is something on the register detracting from those powers. Equities are behind the curtain.

*Mr. Rylah.*—You are concerned with what appears on the register, and the parties, *inter se*, deal with the question of equities?

*Mr. Ruoff.*—That is true. In England, we have at least four things that take the place of your caveats. We have cautions, which are largely on all-fours with caveats, and we also have restrictions. It may be inferred from the English Act that the registered proprietors have full and absolute powers unless there is a restriction on the register restraining them in certain particulars. If trustees are registered as proprietors, a restriction (which does not appear in the Rules but which has been devised under the powers of the Registrar to meet the wishes of the profession) is entered on the title. This restriction requires that where there is a sale or other dealing with land,

involving capital money, the money must be paid to not less than two trustees. That restriction appears on the register of title under the proprietors' names and it is immediately apparent to any one that the trustees have not completely full powers.

Another common case is that of a local authority acquiring land, say, under the provisions of the Health Act. There will be a restriction that, except under an order of the Registrar, no disposition is to be registered unless it is made in accordance with the specified Act. When a dealing comes in later for registration all that is necessary is the written consent of the Minister responsible under that Act, or a reference to a particular section of the Act which shows that the disposition is authorized. That does not involve a great deal of research or work; it becomes almost automatic for solicitors to comply with those restrictions and for us to know whether the compliance is adequate.

*Mr. Rylah.*—In other words, you do not have to requisition for the information, because the solicitor supplies it when he submits the dealing?

*Mr. Ruoff.*—He should do so, but if he does not there is a simple requisition which can be answered quickly and easily.

*The Chairman.*—In the case of an ordinary simple transfer, I take it that the procedure in England is much the same as that adopted in Victoria; you have a transfer in some statutory form?

*Mr. Ruoff.*—Yes.

*The Chairman.*—That is lodged with a title in the Titles Office.

*Mr. Ruoff.*—Yes.

*The Chairman.*—How long does registration usually take in a case where no new title is required?

*Mr. Ruoff.*—The time is exactly the same, whether or not a new title is required.

*The Chairman.*—What would be the average time for a transaction?

*Mr. Ruoff.*—It must be remembered that after the war we had eight months' arrears, from which we are still recovering. Before the war a transaction took a little more than three days. I believe that now the period is down to under ten days; it may be less.

*The Chairman.*—That is allowing for the lag of eight months?

*Mr. Ruoff.*—We have recovered that position, and according to the latest information I have received from England the delay is under ten days. Finally, the period will probably be a week.

*Mr. Reid.*—To what extent is your administration centralized in one office, and to what extent has it been decentralized in various district offices?

*Mr. Ruoff.*—At the moment there is no decentralization, but there is provision for it. There will come a time when we shall have to decentralize.

*The Chairman.*—In other words, a Manchester transfer is registered in London?

*Mr. Ruoff.*—Yes. Practically all our work is done through the post, and for many years we have aimed to keep solicitors from our doors. That involves a great saving of time to us.

*The Chairman.*—Are the titles sent out when the transaction is completed?

*Mr. Ruoff.*—Yes.

*The Chairman.*—Are they forwarded by registered post?

*Mr. Ruoff.*—No, by ordinary post, which, I think, is as safe if not safer.

*The Chairman.*—Do you ask for a receipt?

*Mr. Ruoff.*—Enclosed with the papers that are returned to the solicitor is a form of receipt, which he is asked to sign and return.

*Mr. Fraser.*—How many thousands of what we call "stopped cases" are there in England?

*Mr. Ruoff.*—I do not know. I did not come to Australia with any statistics. I know that "stopped cases" are a grave difficulty. The work is badly done in England by some solicitors just as it is in Victoria. There are some careless mistakes which are easily corrected—obviously the human element is always present and there are some more serious errors.

*The Chairman.*—What is the sanctionary position in England?

*Mr. Ruoff.*—All cases in which there is something wrong are dealt with by correspondence. We have a number of printed forms containing stock requisitions—because a simple analysis shows the mistakes that are commonly made. A printed form and the relevant papers are returned to the solicitor, and he is usually given three weeks to reply. If he cannot reply within that time he can apply for an extension, and we are prepared to agree to an almost indefinite extension if that is reasonable. If the solicitor does not reply within the required time, he is sent a printed reminder. I stress the fact that in ordinary cases the documents are printed, because by their use very little work is involved. If after clear warnings the solicitor does not comply with the requisition, or does not attempt to do so, we cancel his application, with the result, as he has earlier been warned, that he loses the fees already paid. That position, of course, at the discretion of the Registrar, can be cured.

*The Chairman.*—You return the documents to him?

*Mr. Ruoff.*—Certainly.

*The Chairman.*—Do you have any power to deal with patent errors?

*Mr. Ruoff.*—Yes. One of the rules under which we commonly act is Rule 13 of the Land Registration Rules, 1925, which reads—

Where any clerical error or error of a like nature is discovered in the register, or in any plan or document referred to therein, which can be corrected without detriment to any registered interest, the Registrar may (if he thinks fit, and after giving any notices, and calling for any evidence or obtaining any assent, he may deem proper) cause the necessary correction to be made.

That power is delegated to a number of officers in the Department and the rule is invoked, I should say, many times a day, without any notices being given and without any evidence being sought.

*The Chairman.*—We are extremely obliged to Mr. Ruoff for the information he has given to the Committee, I understand that he is prepared to be in attendance again on Monday morning next, before which I suggest that he peruse Mr. Jessup's report because Victoria proposes to follow generally the lines of the South Australian Administration, and, also that submitted to Parliament by this Committee, which latter is aimed at unified control.

*The Committee adjourned.*



MONDAY, 25TH FEBRUARY, 1952.

*Members Present:*

The Hon. A. M. Fraser in the Chair;

*Council.*

The Hon. P. T. Byrnes.

*Assembly.*

Mr. Barry,  
Mr. Reid,  
Mr. Rylah.

Mr. T. B. F. Ruoff, Assistant Land Registrar, Her Majesty's Land Registry, England, and Mr. P. M. Fox, of the Council of the Law Institute of Victoria, were in attendance.

*Mr. Ruoff.*—At the suggestion of the Committee I have read Mr. Jessup's report and shall offer a few comments on it. Two matters in the report struck me in a very general way. I have seen Mr. Jessup's office in South Australia; it is comparatively small and it is easier to control the business and staff in that office than is the case in a larger office. In Victoria, the Titles Office is dealing with a bigger volume of business. Secondly much water must have flowed down the Yarra river since Mr. Jessup made his report because I found that some of the things that he considered wrong have been put right. Not all of the blemishes that he mentioned have been removed and I support his contention that the process of reform must be a gradual one if you wish to avoid producing a state of complete chaos. If one listens to all the allegations of interested persons as to the reasons behind the present delays at the Titles Office one finds that five general allegations are made. They are lack of staff, lack of space, that the solicitors' work is badly done, that the methods of the Titles Office are bad, and that the existing state of the law is defective. Mr. Jessup tends to blame the latter two only but I feel that the blame must be apportioned between the five causes.

On the question of staff, if you employ an argument of *reductio ad absurdum*, it is obvious that if you were to bring in a million additional trained staff in the morning the arrears of work would disappear before nightfall. Where arrears of work have accumulated, as we know from bitter experience in London, lack of space causes considerable trouble, and increases the uncreative work that has to be done. When I was in Adelaide, Mr. Jessup asked me about the question of storage space and I told him some of the ways in which we have overcome our difficulties in England. I referred to the printing of documents on thinner paper, which makes a tremendous difference. Again, sometimes we are able to print up to three documents on the one piece of paper. Further, by introducing documents of smaller area, filing space can be conserved.

In regard to the work of solicitors I felt that Mr. Jessup dismissed the harm that is caused in the Titles Office too lightly. In one part of his report he said, "It is not digression to point out that I have found very few of the legal profession in Victoria, not excluding the staff of the Titles Office, who really understand the Torrens system." Having met many eminent members of the legal profession in Victoria, I cannot help feeling that that statement is a libel upon them or, if it is true, then obviously Torrens system work is badly done by some solicitors. The fact is, of course, that some members of the profession lodge careless work. I shall tell the Committee of my experiences the other evening when it was my privilege to address the Council of the Law Institute of Victoria. I shall repeat shortly what I said to them on this subject. I indicated that I had been given a free hand in the Titles Office to examine stopped cases. I had heard the allegation that fussy, unnecessary and vexatious requisitions had been raised. I know that

at one time that had been the case but I freely examined 50 sample cases of my own choosing and I analysed the results. I mentioned those 50 cases to the Council of the Law Institute and although there was one requisition which might have been regarded as weak no one there suggested that any of the others were unnecessary or fussy. I was given a completely free hand in picking out sample cases. I am not saying that Mr. Jessup is wrong but I do say that I believe that a very great improvement in the attitude of the Titles Office has taken place in recent months. I thought members of the Committee would like to know that.

*The Chairman.*—When the Committee commenced its inquiries on this matter it found that in the Titles Office there were about 45,000 stopped cases.

*Mr. Ruoff.*—I understand that the figure at present is approximately 15,000. Some of the requisitions have remained unanswered by solicitors for as long as two and a half years, but I do not think there are many in that category. That must hamper the work of the Titles Office.

*Mr. Reid.*—Your suggestions about adopting the English practice about reminders and the rejection of dealings would materially assist to overcome that obstacle.

*Mr. Ruoff.*—Even at this stage it would be possible to find out the common errors and the requisitions that it is necessary to raise most often and to have forms of stock requisitions printed so that the documents lodged can be returned with them to the solicitor concerned.

*Mr. Rylah.*—Would you think, also, that the rejection of documents is a means of keeping solicitors up to the mark?

*Mr. Ruoff.*—I certainly think so, but I do not mean to suggest that it would be necessarily right now, because if that were done at the present juncture it might conceivably upset the office machinery.

*Mr. Rylah.*—It was suggested that one of the greatest difficulties in the rejection of documents and one of the big factors in increasing the congestion in the Titles Office was the existing practice in Victoria of taking the original certificate out of its packet and putting it with the dealing, whereas in South Australia the original certificate is held in a bound volume, and is not left lying about the office. Do you think there is anything in that point?

*Mr. Ruoff.*—I do not think there is anything in it. I am very much against the system of bound volumes. If we had bound volumes of registers in England, we should have to put up the shutters fairly quickly on account of our volume of work and the consequential need to have each volume in several places simultaneously. It is material to remember that the volume of work in Victoria is greater than that in South Australia. If the Victorian registers were bound together in the same volume, they would be wanted at the same time in different parts of the building and unnecessary delays would be created. Bound volumes were used in England in the last century, but as soon as the amount of business increased considerably, the practice had to be abandoned.

*The Chairman.*—In connection with the Torrens system specific provision was made in the legislation for titles to be bound in volumes.

*Mr. Ruoff.*—That is so, but I think that is the kind of provision which an administrator could interpret liberally.

*Mr. Rylah.*—One of the great difficulties of the Victorian system seems to be that the original certificate is taken out of its packet when the first dealing relating to it arises, and then before that dealing is registered and the title is put back into its packet numbers of other dealings follow. The time taken to dispose of those dealings is such that the title is more or less condemned to remain out of its packet, lying around the office for many years. Is there any solution of that problem?

*Mr. Ruoff.*—I have been told that owing to a practice started by a predecessor of the present Registrar, there is great difficulty in marrying the successive dealings, but there is certainly a solution of the problem. It is a matter of long-term policy in administration. I have told Mr. Taylor in detail what is done in England. I regret to be continually quoting the practice in England, but that is my only yardstick.

In the first place—as I mentioned to this Committee last week—we have a “day list,” which is a card index showing all the dealings that affect a particular title at any given moment. In that way it is known at any time whether or not there are followers. In the second place, every dealing that comes into the office is placed, together with all relevant papers and the original title, in a strong cardboard bag which has, on the outside, the equivalent of your red ink number. The bags are also marked with a code number—the code being the working day of the year. If what you call a follower comes in, the bag of the follower is immediately linked with the bag containing the leader, and I think that is very important.

*Mr. Rylah.*—That system is not followed here?

*Mr. Ruoff.*—No, but I think it might be in due course. Possibly Mr. Taylor will introduce it later.

*The Chairman.*—What documents would be in the bag containing the follower?

*Mr. Ruoff.*—There would be the instruments lodged for registration by the solicitor, but not the original title.

*The Chairman.*—It seems to me that it would be a little cumbersome. In the first place, there would be one cardboard bag, marked with a code number and the other identification marks, containing the original dealing?

*Mr. Ruoff.*—Yes.

*The Chairman.*—Then, the follower is put into another bag and annexed in some way with the original bag. So, there would be two bags not for practically one dealing, but for a number of dealings.

*Mr. Ruoff.*—There might be as many as 500 bags joined together in a case involving a mass of transactions, to a value of many thousands of pounds.

*The Chairman.*—What is the size of the bag?

*Mr. Ruoff.*—About 18 inches or 20 inches x 16 inches; they are capable of holding documents to a thickness of 3 inches or 4 inches.

*The Chairman.*—They would take up a tremendous amount of space.

*Mr. Ruoff.*—Yes, but they are used over and over again. It is a temporary method of handling work while it is in the office.

*Mr. Rylah.*—I think the point in the Chairman's mind is, why cannot all the papers be put in the one bag?

*The Chairman.*—That is so.

*Mr. Ruoff.*—In a complex case it would be impossible to hold them all in the one container, on account of the size of the bag and the number of papers.

*Mr. Byrnes.*—The same thought occurred to me—that the system would appear to be a little cumbersome. There would be one bag for the original title and successive bags containing the following papers, all of which would be joined with the original bag. It might work well enough in a small transaction.

*Mr. Ruoff.*—I agree that in a transaction, such as a simple transfer of the whole, followed by a mortgage of the whole, a discharge, and another transfer, it would be easily possible to put all the documents in the one bag. But many transactions are not so simple as that.

*The Chairman.*—The location of the bag is ascertained from an index card.

*Mr. Ruoff.*—The location of these bags is ascertained through the day list which reveals the code number. Since each bag will have a different code number indicating the day on which the dealing was received and since the stage in the departmental processes which a dealing ought to reach on a given code date is known, the location of a particular dealing is speedily and simply ascertained. I think that the most important point of what I am describing is the putting of all the papers in a bag from which it is unlikely that any papers will be lost, and that also helps to keep the certificate of title in a clean state.

*Mr. Rylah.*—How do the public search either a title or any of the successive dealings; is that done under supervision?

*Mr. Ruoff.*—Searching is done under very strict supervision. But personal searching is done only rarely. Nearly all the searching is done officially, and the accuracy of the search is backed by the indemnity fund.

*Mr. Reid.*—A good deal of your searching is done by correspondence.

*Mr. Ruoff.*—Yes; nearly all of it is done in that way.

*The Chairman.*—Do you charge a fee for the service?

*Mr. Ruoff.*—No, it is free.

*Mr. Rylah.*—In your office in England, the legal profession is saved not only the delays which necessarily occur when clerks attend to searching, but also the lengthy delays which usually take place at the lodging counters?

*Mr. Ruoff.*—Yes.

*Mr. Rylah.*—How do you allot priorities in relation to lodgments by post?

*Mr. Ruoff.*—We have never yet had any difficulty about that.

*Mr. Rylah.*—Are all documents that are received in the same mail accepted as having been lodged at the same time?

*Mr. Ruoff.*—Yes, unless on the face of the documents or in a covering letter a contrary intention is revealed. I believe that the case which seems to be contemplated in the Torrens statute of transfers by different people being lodged within a few minutes of each other is hypothetical and never actually occurs in practice.

*Mr. Rylah.*—Since the inception of the Victorian Titles Office, its officers seem to have been obsessed with a fear that on some occasion it would happen; consequently, every care must be taken to guard against that possibility.

*Mr. Ruoff.*—In my view, it could happen only through fraud and, that being so, it is very unlikely that two instruments would be lodged at the identical time. I believe that the supposition is purely mythical.

*The Chairman.*—What staff is engaged in England exclusively on searching in order to give this gratis assistance to solicitors?

*Mr. Ruoff.*—I cannot state exact figures because that is not the only duty on which some of the staff is engaged. I think there may be five clerical workers on it and an indefinite number of survey draftsmen where transfers as to part are involved.

*Mr. Rylah.*—To draw a plan of the land?

*Mr. Ruoff.*—No. Perhaps a brief description of the procedure will clarify the position. The vendor is under an obligation to supply the purchaser with a copy of the subsisting entries on the register of titles. The best way in which he can discharge this obligation is to apply to the Land Registry in London for a photostatic copy of the register for handing over to the purchaser; this we supply within 48 hours for about 1s. 6d. and, broadly speaking, the purchaser, when he is ready for a settlement, applies to our office for an official search of the register, asking us to state whether any entry has been made on the original title since the date when the photograph was taken. That date appears on the photograph. It is for the Titles Office staff to check that point without undue loss of time. The official search is returned to the purchaser with either a positive or a negative reply.

*Mr. Byrnes.*—I take it that you give a guarantee and, if wrong, you are liable under your indemnity?

*Mr. Ruoff.*—That is so. One additional feature of the search is that the purchaser has fourteen days from the date of the official answer to the search within which to settle and to lodge his papers at the Titles Office. He has priority for his dealing as from the date of that search and any dealing that comes in subsequently is subject to the prior registration of his protected dealing.

*Mr. Rylah.*—That, in itself, is a protection against the mythical possibility of the lodgment of two dealings at one time by two different people.

*Mr. Ruoff.*—Yes.

*Mr. Rylah.*—Would the photostat be a copy of the original certificate of title and the endorsement on it.

*Mr. Ruoff.*—Yes.

*Mr. Rylah.*—In the event of a mortgage, transfer, or charge affecting that particular title, would any particulars other than the endorsement appear on the photostatic copy?

*Mr. Ruoff.*—The endorsement would show the date of the mortgage and the name and address of the mortgagee and, in the case of an ordinary purchase, the purchaser would expect that mortgage to be discharged at the settlement; alternatively, he would take over the liability. In either case, he would know everything material about it.

*Mr. Rylah.*—Assuming that he was taking it over, would he be able to ascertain the value of the mortgage and any special conditions?

*Mr. Ruoff.*—He would see the original mortgage because—this is peculiarly English—the original mortgage would be bound up with the certificate of title held by the mortgagee.

*The Chairman.*—What work do solicitors in England have to do under this scheme in order to obtain their fees? It seems that the public, through the Titles Office, do the work and that the solicitors get the fees.

*Mr. Ruoff.*—They do a great deal of work because the dispositions that are made in England are often more complicated than those in Australia.

*The Chairman.*—In the case of simple transfers, for instance, you have a formal document which, presumably, is typed or printed.

*Mr. Ruoff.*—It is a printed document.

*The Chairman.*—The solicitors get from your office particulars which are guaranteed, fill in the document, get it executed, and pay over the money?

*Mr. Ruoff.*—They have other inquiries to make.

*Mr. Byrnes.*—Although it may not be quite as easy as that, I think it is an extraordinarily simple and good system.

*Mr. Rylah.*—Your Titles Office has found from experience that a saving of time to the public in having people lodging documents and searching by post is also a saving of time to your office.

*Mr. Ruoff.*—Certainly.

*Mr. Rylah.*—Can you compare the size of the Land Registry in London with the Victorian Titles Office.

*Mr. Ruoff.*—Ours is a bigger office than the Victorian office. Including the official searches, we have about 10,000 dealings a week and about 425 applications weekly to bring land under the Act. When I left England we had a staff of 575, including 50 typists, for the endorsements on our titles, which are typed, are sometimes of necessity lengthy. The minimum weekly hours worked by any member of the staff was 45½, as against 38 in Victoria, but longer hours are often worked.

*Mr. Reid.*—I suppose there are more leasehold titles in England than in Victoria?

*Mr. Ruoff.*—Yes.

*Mr. Reid.*—Those dealings in leases and sub-leases would probably make necessary the number of following bags?

*Mr. Ruoff.*—I think it would increase the number, yes. They are, of course, privately granted leases in respect of which certificates of title are issued in the same manner as certificates of titles for freehold land.

*Mr. Rylah.*—When the Committee investigated the Titles Office approximately two years ago, the biggest bottle-neck appeared to be caused through the checking of plans of subdivision and the time taken to get plans registered, which led to a consequent delay and congestion caused by many following dealings not being registered. Have you any comments to make on that aspect in comparison with the methods in England?

*Mr. Ruoff.*—I do not like to say a great deal on matters of survey, because the standard of accuracy in Victoria is probably better than that in any other part of the world. However, to maintain that standard more time must be spent on the work. The local topography is not as settled in most parts of Victoria as it is in England, where in built-up areas there are long streets of houses, with brick walls dividing the plots. When a man is seeking a new house he inspects, say No. 15 Smith-street, finds the accommodation is what he wants, and buys that property, rather than, shall we say, a frontage of 50 ft. 5½ in. There is a very big difference between the attitude of the man in the street, the lawyer and, indeed, the surveyor to registration of titles in Victoria and in England. Where we have a completely developed area—for example, the area of Greater London—we save a great deal of time in mapping

by having printed plans of numerous sections of that area always available. A print can be taken out of a file and used for several hundred different titles by just tinting one particular plot shown in the section represented in the print. The plan is ready made. Also, although I would not dare recommend this, in these built-up areas where the ready made prints of plans are used, we show no measurement whatever, although, of course, the distance of the corners of any particular plot from the nearest fixed points can be ascertained by scaling. What I say applies to an area where development is more or less static and probably has been for a long time.

*Mr. Rylah.*—During your investigations of the Victorian Titles Office, did you feel that the delay arising from the checking of plans of subdivision was gradually being overcome?

*Mr. Ruoff.*—I do not understand enough about planning work to know what is being done in that respect. I merely observed that the work done in the Victorian Titles Office was of a very high order indeed. I cannot bring the same critical faculties to bear on mapping work that I can on legal and administrative work.

*The Chairman.*—In England, are various interests noted, or does the relevant Act provide that a title is subject to certain interests, such as tenancy, and so on?

*Mr. Ruoff.*—In England, there are what are called "overriding interests." They are interests subject to which every registered proprietor is deemed to hold his land. They are a bone of contention but, from the very nature of things, overriding interests are necessary under every Torrens system. Section 70 of the Land Registration Act 1925 describes a great many interests, many of which have now largely ceased to exist. The most important of the current overriding interests are:—Land tax and similar charges; rights acquired or in the course of being acquired under the Limitation Acts; the rights of every person in actual occupation of the land; rights expected from the effect of registration with a limited title; and rights under local charges, which are charges and rights protected in a register kept by every local authority, because in England a solicitor has to make inquiries of the local authority to see the state of town planning. The last of the important overriding interests is a lease for any term or interest not exceeding 21 years. Actually there is power to endorse quite a number of these interests on the register, but, at the same time, it is obvious that that cannot be done in regard to rights being acquired under the Limitation Acts.

*Mr. Rylah.*—Again, the emphasis is placed on protecting the tax gatherer?

*Mr. Ruoff.*—Up to a point, yes.

*The Chairman.*—Are there any Acts giving farmers certain rights, such as advances by a Government authority for superphosphate or wire netting, where the authority takes a charge over the land to the extent of the advance?

*Mr. Ruoff.*—No. The same conditions do not apply to rural areas in England as apply in Victoria, because we are not faced with the same emergencies as the result of climate and so on. However, unfortunately we do suffer from statutory intrusions upon the principle of indefeasibility, of the kind which occurs to some extent in Victoria and to a large degree in South Australia.

*Mr. Rylah.*—I take it that you have found no means of ensuring that there is a register kept of all those matters?

*Mr. Ruoff.*—No, because the legislature is always a jump ahead of us. We try to improvise means of representing those rights on the register if we are asked to do so, but it is a grave problem.

*Mr. Byrnes.*—There is a similar if not a greater problem in England in regard to town planning as obtains in Victoria?

*Mr. Ruoff.*—I think our town planning problems are often more abstruse than in Victoria, but we have not the advantage of having town planning linked with registration of titles as in this State. Those matters are entirely divorced in England.

*The Chairman.*—Does the Titles Office work in conjunction with the Registry of Deeds; is there any association between them?

*Mr. Ruoff.*—None at all. There was a Registry of Deeds for the County of Middlesex but that has been abolished. Middlesex is now an area in which the registration of titles is compulsory. There is also a Registry of Deeds in the County of Yorkshire but that has no connection with us.

*Mr. Rylah.*—Can you assist the Committee on the problem of deciding the question of compulsorily bringing all land under the Act, and, if so, when that should be done?

*Mr. Ruoff.*—I should have thought that you must face up to it and introduce a measure of compulsion, but it would be most inadvisable to start doing so until all the arrears of work in the Titles Office have been disposed of.

*The Chairman.*—Reverting to stopped cases, you took 50 samples at random and investigated them. Was there any reason common to a number of stopped cases which showed the particular line of requisition required?

*Mr. Ruoff.*—Yes, in ten cases there was a material clerical error in the instrument. My idea of what is material might not agree with the ideas of every one else, but in my view the mistakes were such that the officer in the Titles Office would not be warranted in making the alteration himself. Indeed, in all but one case he would not have the necessary information to do so. I placed details of those errors before the Council of the Law Institute and no one quarrelled with me on the score that they were not material clerical errors.

Another common error that occurred six times out of the 50 cases investigated was that there was doubt as to whether the terms of the Soldier Settlement Act had been contravened. I felt that if there were so many dealings coming into the Titles Office which might later prove to be void because of a contravention of the Soldier Settlement Act then the Registrar would not be justified in putting the assurance fund in jeopardy by failing to inquire whether in fact there was a contravention. The alternative would be to insert a provision in the Soldier Settlement Act absolving the Registrar from the consequences of not inquiring into this matter. Although I consider it is the duty of a good administrator to take some risks in order to get through his work quickly, I think he must not jeopardize his assurance fund far beyond its means.

*Mr. Rylah.*—The provision in the Soldier Settlement Act is a perfect example of how legislation has resulted in additional work in the Titles Office. It is an obligation to ensure that no property over a certain value will be purchased in a country district unless the Soldier Settlement Commission says that it is all right for it to be so purchased.

*Mr. Ruoff.*—The danger is that even with subsequent dealings, where a person is acting in good faith he might incur loss because there was a defect in the original dealing.

*The Chairman.*—All that would be involved would be an inquiry at the Soldier Settlement Commission.

*Mr. Rylah.*—It would involve an application to the Minister of Lands, which is a simple matter.

*Mr. Ruoff.*—It is a simple matter but the fact that it is necessary for some one in the Titles Office to raise the requisition means that it is causing additional work and delay.

*Mr. Rylah.*—It involves an application to the local authority to find out the capital value of the land. If it is above the exemption figure as specified in the Act, it then involves an application to the Minister of Lands. There is no form of application prescribed.

The Minister of Lands or his Secretary writes a letter on official Lands Department stationery to the effect that the Minister is not interested, thereby creating in another Department a considerable amount of unnecessary clerical work.

*The Chairman.*—Do you desire to add anything further, Mr. Ruoff?

*Mr. Ruoff.*—I do not know if I would be in order if I were to mention a clause in the proposed Transfer of Land Bill. I do not like the provision in clause 240 relating to caveats. I feel that all equitable interests ought to be protected by caveats in the manner suggested, but I do not think that the caveats ought to protect the priorities *inter se* of interests. I think that is quite contrary to the principles of the Torrens system. One of the main principles of that system is that the registered proprietor holds the legal estate and that persons who deal with him are concerned only with that legal estate. Unhappily they are sometimes concerned also with learning of the existence of equitable interests, but they are not concerned, and ought not to be made to be concerned, with the ranking of equitable interests. Nor hitherto has it been considered that the Torrens system existed to enable equitable owners firmly to establish rights. In other words, the function of a caveat is merely to give notice to the world that the caveator asserts a claim, although it may not be necessary to determine the claim at that stage. It may never be necessary to determine the claim at that stage. It may never be necessary to determine it. The claim might become exhausted, as in the case of that of a purchaser under a contract, whose claim becomes exhausted when he takes a transfer and registers it. I should have thought that even the principles of equity would be offended if the strongest or the swiftest were allowed to rush to the Titles Office and get his caveat in first. Incidentally, I fear that this clause might cause more work in the Titles Office.

*The Chairman.*—We have had a number of legal opinions on this clause.

*Mr. Ruoff.*—I feel that I have rushed in where angels fear to tread, but I stress that although a prospective purchaser is often of necessity concerned with the existence of these rights, he ought not to be concerned with anything beyond that, such as the priorities of those rights, *inter se*.

*The Chairman.*—On behalf of members of the Committee, I again thank you, Mr. Ruoff, for the information you have given us on the subject of the Committee's inquiry. We are indebted to you for your independent observations of the Titles Office. I trust that your further stay in Melbourne will be a happy one.

*Mr. Ruoff.*—It has been a great pleasure. If I have been of any slight assistance to your Committee, I am more than happy.

*The Committee adjourned.*

WEDNESDAY, 26TH MARCH, 1952.

*Members Present:*

Mr. Mitchell in the Chair;

<i>Council.</i>	<i>Assembly.</i>
The Hon. A. M. Fraser.	Mr. Barry,
	Mr. Reid,
	Mr. Rylah.

Mr. W. J. Taylor, Registrar of Titles, was in attendance.

*The Chairman.*—Mr. Taylor is attending this meeting of the Committee to give members his comments on the views expressed by Mr. Ruoff, Assistant Land Registrar, Her Majesty's Land Registry, England.

*Mr. Taylor.*—Mr. Ruoff was accommodated in my room for several weeks while he was making a study of the Victorian Transfer of Land Act. He was given every assistance, being supplied with explanations, references, law reports, &c. In the course of his research, Mr. Ruoff frequently consulted me regarding various aspects of the legislation relating to the transfer of land, and I took the opportunity to discuss quite frankly some of my difficulties. In fact, the deficiencies and weaknesses of the Victorian system, as I saw them, were emphasized rather than glossed over, nevertheless he agreed that they could not all be remedied until circumstances would permit the gradual introduction of improvements in the existing procedure. Naturally, I welcomed Mr. Ruoff's comments, as they emanated from a distinguished visitor who was undoubtedly an impartial and capable observer. The evidence given by him before this Committee is decidedly fair and substantially in accord with my own views.

In our discussions, Mr. Ruoff mentioned several aspects of administration, including man power and the elimination of unnecessary work. In his evidence, he referred to his "gospel of reducing the amount of work." This important attribute of administration has been foremost in my mind ever since my appointment, and it has been given effect to with beneficial results.

One innovation has eliminated unproductive work by from four to six officers in the Caveat Branch. Formerly, every dealing was marked to the Caveat Branch for separate searches against registered and unregistered caveats, and writs and for execution of dealings by an attorney under power. For this purpose clerks examined the titles and dealings, despite the fact that an Examining Clerk had already conducted a similar examination but could not officially note registered caveats, &c. Searches were then made in a book in the Caveat Branch for unregistered caveats and writs.

Now, unregistered caveats and writs are noted on the relative titles immediately after lodgment, thereby enabling the Examining Clerk to indicate whether any caveats or writs—registered or unregistered—or executions under power of attorney affect them. If none affect, the dealing is stamped, and it then proceeds immediately to registration; if any affect, the dealing is referred to the Caveat Branch. Formerly, dealings had to be marked in the Progress Book into the Caveat Branch and later into the Registration Branch. This is an important innovation and, as I said previously, it has eliminated the work of from four to six officers.

Another change designed to save work was the discontinuance of the practice of withdrawing and re-lodging dealings for purely technical reasons. Those dealings often amounted to hundreds per week. It was put to me that one excuse for this procedure was to boost the total number of lodgments.

Draughting clerks who are employed to draft new certificates of title have now been instructed to follow the draughtsman's notes, which are clearly set out in red ink on the transfer. Formerly, the draughting clerks checked these notes and even examined the old titles for any encumbrances, which work had already been done by a senior examining clerk and a senior draughtsman. All draughting clerks' work is checked by one of the senior clerical officers, who settles the draft and is therefore supposed to look beyond the draughtsman's notes. In consequence of this direction, the output has been almost doubled.

*Mr. Rylah.*—Can you give us an example of the working of that system?

*Mr. Taylor.*—The procedure is that dealings are sent upstairs to the Survey Branch where a check is made of the description of the land, and any encumbrances, such as mortgages, easements, restrictive covenants, and so forth, which will appear on the draft (and new) certificate of title. Notes of these matters are set out in the margin of the transfer. The dealing then is returned downstairs, and although these notes have all been set out in the margin of the transfer by a survey officer and checked by a senior draughtsman, the Drafting Clerk distrusts all this and tries to do the job himself. He looks at the title and the endorsement of encumbrances and thereby practically duplicates the work the draughtsmen have done.

*Mr. Rylah.*—You have eliminated that procedure, and the work is done only once, by the draughtsman?

*Mr. Taylor.*—Yes, and in consequence the output of the Drafting Clerks has been almost doubled. Another scheme which I have in mind, but which I have not yet put into operation, is in relation to the process of endorsing "C. paid" (new title) cases. The current endorsement on the parent title sets out, in strict terms of the Act, the name of the party to whom the transfer is given, the date, the number of the transfer, the fact that the title has been cancelled as to part, and the volume and folio numbers of the new title is also given. The area, if it exceeds an acre, is also recorded on the back of the title. I submit a specimen of an annexed sheet to a title, which, as you can see, may be filled up rapidly with entries. On this sheet there are about a dozen endorsements. The land referred to in the transfer is cancelled out; it goes into a new title. If a solicitor or his clerk searches a title to such land, all he is concerned with for the purpose of his search is seeing the volume and folio of the relative new title, which the proposed endorsement gives. The name of the purchaser of the land appears on the front of the title, as does the area and date of registration, and the searcher, therefore, is not concerned with the redundant information now recorded on the back of the parent title. In such a case the old endorsement, which may in fact contain several names in the case of joint purchasers and is endorsed on both the duplicate and original title, would be—

"Transfer as to part Robert William Stanley Chrystal on 21st February 1947 No. 2057869. Cancelled as to part see certificate of title vol. 7581 fol. 118. Area 3A. 1R. 2P."

and the corresponding new endorsement would be—

"Cancelled as to part by transfer No. 2057869 see certificate of title vol. 7581 fol. 118."

The output of the endorsing clerks should be more than trebled, and the new endorsement saves space on the titles. The area will appear on the plan on the old title.

Mr. Ruoff and I had a long and interesting discussion on what are known in our office as "follower dealings." Those dealings are delayed on account of earlier dealings relating to the same title being in process of registration. At the moment, it is almost impossible to connect the follower dealings with the leader dealings immediately they are lodged. I inherited this change in procedure whereby the follower dealings are merely filed away awaiting the completion of the leader dealing. Until recently, when the registration of the leader dealing was completed, only such of the follower dealings were connected and sent on for registration as were marked in our records against the number of the leader dealing. I have now directed that when the registration of the leader dealing is completed all relative follower dealings in the office are to be placed with the relevant title and are to proceed to registration. The ideal and the only sound system of handling those follower dealings is to connect them immediately or soon after they are lodged with the leader dealing and any other prior follower dealings. This practice used to be followed, but at the moment it would not be practicable. Up to 24 officers would now be required to trace every leader dealing under the proper system, and, further, there are some 10,000 follower dealings that cannot proceed to registration by reason of unregistered plans of subdivision. Those dealings can go on to registration only when the plan has been checked and officially lodged in the Titles Office.

*Mr. Rylah.*—When did this disconnecting change take place?

*Mr. Taylor.*—I presume that it was forced on my predecessor. It took place some few years ago on the grounds of expediency.

*Mr. Rylah.*—It might be one of those expedient changes to save work which ultimately finish up by creating additional work.

*Mr. Taylor.*—That is so.

*Mr. Fraser.*—It might have grown by reason of the nature and number of dealings and not by express direction?

*Mr. Taylor.*—It was all agreed upon. I quarrel with the fact that only such of the follower dealings as were marked against the number of the leader dealing in the issuing book were attached to the leader dealing.

*Mr. Rylah.*—The Committee was rather intrigued by Mr. Ruoff's story of the bag system in operation in England. We could not work out how the bags could be connected.

*Mr. Taylor.*—The explanation, I think, is that in England each dealing, and the papers connected therewith, are kept in a separate bag. When we connect our dealings we put them in rotation together in one cover. In England, a number of bags are apparently tied or strung together, and no doubt that system works out all right there.

*Mr. Rylah.*—They may be dealing with smaller documents.

*Mr. Taylor.*—I do not think so. They fold documents, whereas ours are unfolded.

*Mr. Barry.*—In England they are helped by the fact that there is only one search. All transactions are dealt with through the post.

*Mr. Taylor.*—The set-up in England is vastly different from ours, because in that country the public are virtually excluded from the Land Registry Office. The records are secret, and searches can be made only with the consent of the registered proprietor or the



vendor. On the contrary, the Titles Office in Melbourne each day is besieged by hundreds of the public. Consequently, we must keep certain records so as to be able to render the best service to the public. I hope we shall never depart from our policy of attempting to provide that service.

To Mr. Ruoff our progress book appeared to contain many unnecessary entries, but I point out that it is maintained almost solely to enable the public to ascertain the whereabouts of any dealing. From that viewpoint, it is one of the best features of the Titles Office. The journal—its Adelaide counterpart—is, in Mr. Jessup's words, "a history of the movements of every document, and the clerk in charge can say almost precisely where any document can be located." There is a similar book in the Sydney Titles Office, I understand, but Sydney has in operation the group system. That is a very good system, which incidentally obviates the making of many entries in the progress book because on the day when simple dealings are picked up by the examining clerks they are also endorsed and checked in the same group; therefore, they remain in a known portion of the office. Apart from cases that are stopped for corrections and so forth, they are finally dealt with practically on the same day so that they are not entered in the progress book. When our staff position permits, we should certainly adopt the group system. I think the progress book is indispensable to us because searching is a tedious process, and we try to help the public. In addition to keeping the progress book, we draw up lists based on information supplied by the survey and caveat branches. We sort bundles into numerical order and attach lists, which are compiled for the convenience of the public.

In England, if an officer requires a dealing, apparently he can hazard a guess as to where it may be. Mr. Ruoff said that his method of obtaining a dealing was to dispatch five messengers to various rooms of the Land Registry. There would apparently be no great hurry to obtain the dealing, as it might take some little time to get it. The large code number on the outside of each package doubtless assists identification. In Melbourne, we must be able to inform the public exactly where they will find any dealing; otherwise, they will be pushed around from branch to branch. Only selected clerks are employed on the progress book, and we are very proud of its accuracy. I can understand that in England the keeping of a progress book would be unnecessary.

*Mr. Reid.*—You have a constant demand for the progress book?

*Mr. Taylor.*—Yes; so much so that in order to attend promptly to other inquirers we limit the amount of information which we will give each day to bank officers and others who may be checking up on the progress of their dealings.

*Mr. Rylah.*—Can we take it that when you get additional staff or the volume of dealings diminishes you will be able to introduce the group system and eliminate the necessity for some of the entries in the progress book?

*Mr. Taylor.*—About one-third of the markings in the progress book could be eliminated by the adoption of the group system of examining, endorsing, and checking.

*Mr. Rylah.*—From your point of view, the progress book is, to a large extent, unproductive work?

*Mr. Taylor.*—Yes. I do not wish to labour the public service aspect, but it is done really to assist the public who want to know the whereabouts of various dealings.

*Mr. Fraser.*—Is the progress book in one volume?

*Mr. Taylor.*—No, it consists of a series of volumes.

*Mr. Fraser.*—Can a member of the public ascertain readily the appropriate volume of the progress book?

*Mr. Taylor.*—An approach must be made to the officer in charge of the progress book after the relevant red ink number has been ascertained. That officer then indicates the whereabouts of the dealing, giving the branch and date.

*Mr. Fraser.*—Members of the public must queue for that information?

*Mr. Taylor.*—They do not have to wait long, but there is a big and constant demand on the progress book.

*Mr. Reid.*—It may assist Mr. Fraser to understand the position if I explain that the public do not actually see the progress book. A clerk refers to the book after the appropriate number has been ascertained.

*The Committee adjourned.*

WEDNESDAY, 7TH MAY, 1952.

*Members Present:*

Mr. Mitchell in the Chair;

<i>Council.</i>	<i>Assembly.</i>
The Hon. A. M. Fraser.	Mr. Oldham,
	Mr. Rylah,
	Mr. Holt.

Mr. W. J. Taylor, Registrar of Titles, was in attendance.

*The Chairman.*—Mr. Taylor will continue his observations on the evidence of Mr. Ruoff.

*Mr. Taylor.*—I wish to make certain observations regarding the Day List, that is, the card index of all unregistered dealings in the Land Registry. Mr. Ruoff is of opinion that a like card system could replace our Time Book, Interim Index, Progress Book, and Issuing Book. I have already endeavoured to show that the Progress Book is well-nigh indispensable; nevertheless, the volume of entries therein can, at a later date, be substantially reduced. The Time Book involves no departmental office work. Numbered tickets such as are handed to depositors at savings banks would establish the order of precedence with the same certainty. Since I abolished the checking of orders by counter clerks before accepting dealings, the waiting time at the lodging counter has been reduced to a minimum. In Sydney, each dealing is stamped by a time clock to the nearest minute before being presented to the lodging clerk, but I see no reason for such exactitude.

The Day List is on all-fours with our Interim Index which has been the subject of justifiable criticism. The Adelaide office is fortunate in being able to note unregistered dealings in pencil on original titles from day to day. Sydney has a similar system of bound volumes but by reason of a much large turnover of work it cannot emulate Adelaide. I understand that there is a lapse of about three days before it can be assumed that the pencilled entries are made on the original titles. Searchers, therefore, have the unenviable task of searching thousands of entries in the Business Papers, to make sure that no unregistered dealing affecting their land has been lodged during this time lag. Neither of these methods is practicable here. Changed conditions have revealed the weakness

of our Interim Index which was reasonably efficient when a fraction of its present size and in the days of ample trained staff. No immediate change is possible until arrears are cleared up and the only improvement I have been able to introduce is the addition of some 1,500 best quality guide cards with steel tabs showing subdivision of names to assist the staff. In England, dealings are indexed against the number of the relative title. I have no doubt of the desirability of indexing our unregistered dealings in the same manner which is simpler and less subject to error. For some months I had discussed this change and was interested to learn of the Day List from Mr. Ruoff.

The following advantages would accrue:—

1. Complete information could be immediately supplied of all unregistered dealings affecting any title. Now, searches must be extended to cover new names extracted from each unregistered dealing searched. This involves running backwards and forwards from various parts of the office to the index.

2. The index could be located in the Register Book Branch and could be a substitute for the entries now recorded in that branch of the red ink numbers into which original titles are placed. If the title is not in the bag, the interim index would show the references to the dealing with which it should be.

3. The cards could be prepared by the lodging parties as only the volume and folio and nature of dealing would be set out. The red ink numbers would be stamped on the card when numbering the dealing. Lodging clerks could check this information and the cards could be placed in the index immediately, thereby providing a quicker system of notifying these dealings to searchers than any method of entries on titles.

4. On the reverse side of the card, printed form of receipt for registered documents and titles could be employed. On completion, the card would be automatically extracted from the index. The index would never contain "dead cards" and any follower dealings would be noted and instead of issuing the title, it would be sent to the followers' branch. Cards containing receipts could then be sorted under the red ink number and filed for permanent record.

5. The Issuing Book, running into many volumes and taking up valuable space could be dispensed with. At the moment it contains the only record of over 30,000 follower dealings which can be traced and connected to one another only by the markings in these books. All follower dealings affecting any title would be easily ascertainable as they would be recorded on cards stapled together in the index, resulting in a very great improvement over our existing records.

There is a grave shortage of trained staff. I now have 69 clerks, three of whom are absent on extended sick leave, compared with a staff of 99 clerks pre-war when there was about one-third of the present amount of work to be performed. The Public Service Board cannot attract juniors to take up the work in this office, and there are more than 40 vacancies to be filled. The 45 temporary officers now employed are a poor substitute for bright young clerks. The Board gave me permission to engage law students, part time or full time. During the latter months of last year approximately twelve students worked part time, and during the University vacation 32 were engaged full time. They saved the situation in the office during the rush period in December. I was

able to farm out a few students to each branch, but most of them were reserved for work in the main hall. Many of the students were either third year or final year law students and after a few weeks they performed relatively senior duties. The full benefit of this innovation became apparent early this year, when I was able to augment the staff of examining, endorsing and checking clerks.

There has been a falling-off of only about 5,000 dealings lodged this year compared with the corresponding four months of last year. Since the 1st of February last 20,000 dealings in excess of the total of 38,000 dealings lodged have been examined by the examining clerks, therefore the arrears of examining have been reduced by 20,000. Simple endorsement cases are now completed within a few days of primary examination. On the 1st of February simple dealings were taking on the average 101 working days to register; to-day the average stands at just over 60 days. That has been made possible largely because of the employment of the students, many of whom are still working part time with the office. They are doing a good job and will continue to alleviate the position until an adequate number of juniors can be obtained. The impact they have made on outstanding work is astounding. There are still about 30,000 dealings in arrears, but that number will be gradually reduced even with the present staff and the reduction will be accelerated as the number of juniors increases.

*Mr. Rylah.*—Has any effort been made by the accounting section to get rid of the horrible stamps used at the lodging counter?

*Mr. Taylor.*—Yes. They will be replaced by modern cash registers. I am most anxious to adopt any suggestion for the improved working of the Titles Office. Two of my predecessors admitted in evidence that no innovations designed to facilitate the working of the office had been introduced for over twenty years. In my view, the office requires much re-organization at the appropriate time and, apart from the innovations outlined in my evidence, many other improvements are contemplated. Systems such as the interim index have become outmoded.

I would like to refer to the splendid co-operation of the Attorney-General and the Secretary to the Law Department in having an order placed for filing cabinets of the most up-to-date design, in addition to other office furniture and equipment. The expenditure thereon will be considerable, and the furniture will be delivered in about three weeks' time. There was not one metal numbering stamp in good working order in the office. All have been replaced with the latest imported machines. New chairs and tables for the typistes have been obtained and the first instalment of ten modern clerks' desks has been delivered. The supply of chairs was 36 under the minimum number required to provide a chair for each member of the staff.

*Mr. Fraser.*—Is it a fact that there was not a chair available for each clerk?

*The Chairman.*—During the examination I made at the Titles Office I was astounded that such conditions as obtained were possible in any Government office in modern times.

*Mr. Taylor.*—We have been able to obtain some make-shift furniture from the vaults at the Law Department. Special furniture is to be built around the wide passages of the main hall for the use of the public. The new index based on Adelaide index is working very satisfactorily. Three cash registers are being obtained. Two located on the lodging counter will stamp the date, time, amount of fee, and receipt



by the Comptroller of Stamps on each dealing. The other register will be at the entrance to the Companies and Application Branches where fees payable to Registrar-General and search fees in Titles Office can be more conveniently paid.

*The Chairman.*—I should like you to expedite in any way possible the obtaining of cash registers. What is the position in regard to shelving for the index books?

*Mr. Taylor.*—The shelving has not yet been ordered but the 150 books now in use are for the time being satisfactorily placed. Later we shall have a better idea of our requirements.

The question of dealing with trusts is most involved. Mr. Ruoff mentioned Rule 170 of the English Land Registration Rules, which precludes the English office from looking into any trusts.

*Mr. Fraser.*—Mr. Jessup was more or less in line with the views of Mr. Ruoff on this subject.

*Mr. Taylor.*—Yes. Mr. Jessup said that he has found that it has worked satisfactorily, but that is not the case in three other States, where it is claimed that trusts must be policed to some extent.

The Titles Office has consistently stirred up strife by its insistence, particularly since the case of *Templeton v. The Leviathan*, of policing trusts, wills, intestacies and the like. The same policy of supervising dealings by fiduciary proprietors operates in Western Australia and in the Sydney office where only legal officers can decide such matters. If it be desired to effectually put a stop to inquiries into fiduciary matters, in respect of which there is some uncertainty as to whether or not it is properly part of the Torrens System, it seems that Rule 170, quoted by Mr. Ruoff, should be embodied in our legislation. Apparently in 1925 it was decided in England to preclude the Registrar from inquiring into wills and so on.

I think both Mr. Voumard and Mr. Adams believe that the Titles Office is probably right in policing some trusts. Mr. Jessup also admitted to me that in South Australia if an executor transferred a gift inquiries would be made. In his evidence to the Committee, Mr. Ruoff stated that in certain cases in England restrictions are entered on the title, so the existence of a fiduciary relationship is not entirely ignored.

*Mr. Holt.*—If the position is not made clear, shoddy work might result. A legal practitioner might think that the Titles Office would pick up a doubtful point, but if the Titles Office were not compelled to make inquiries that matter would be missed. The onus definitely resides in one place.

*Mr. Taylor.*—In general, I should say that members of the legal profession want the Titles Office to do the work. This observation is made with a view to rebutting the assumption that the profession as a whole is against the current practice.

*Mr. Fraser.*—When application is made for probate, provided that the Titles Office is satisfied that the person named is the legal personal representative, why worry any further? It should be assumed that the legal personal representative will carry out the duties that are imposed upon him.

*Mr. Taylor.*—He should. A testator appoints an executor because he has every confidence in him; if the executor goes "haywire" with the funds, that is too bad. At one time a leading Melbourne draper died and left nearly £1,000,000, of which there was very little in realty, and the Titles Office was not, nor was any other Government authority, aware of what happened to the remainder.

*Mr. Rylah.*—I agree that there is some difference of opinion in the legal profession. Both Mr. Voumard and Mr. Adam have brought an academic point of view to these problems, but I think that if the matter were properly put to the legal profession and they really understood it, they would agree with the view expressed by Mr. Fraser, that it is not the job of the Titles Office to do work for the profession.

*Mr. Fraser.*—I think Mr. Taylor has hit the nail on the head. He points out that if a man leaves £1,000,000 in personalty and appoints executors, no one interferes; there is no public authority to investigate what he does with shares or anything else. If the executors go "haywire" the beneficiaries have their ordinary remedies at law. If there is realty in the estate the State has to check the trustee, the executors and every one else. One would think that if that had been intended by the original Transfer of Land Act, the long title to the Act would have been different.

*Mr. Taylor.*—An interesting view on that point appears in a book entitled *A Commentary on the Torrens System*, by John Baalman.

*The Committee adjourned.*

TUESDAY, 13TH MAY, 1952.

*Members Present:*

Mr. Mitchell in the Chair;

<i>Council:</i>	<i>Assembly:</i>
The Hon. A. M. Fraser,	Mr. Holt,
The Hon. F. M. Thomas.	Mr. Oldham,
	Mr. Reid,
	Mr. Rylah.

Mr. W. J. Taylor, Registrar of Titles, was in attendance.

*The Chairman.*—At the outset, I should like to read a letter written by the Law Institute of Victoria to Mr. Taylor. It is dated the 9th of May, 1952, and reads as follows:—

"Dear Mr. Taylor,

At its meeting last evening the Council received with very great pleasure the news that during the month of April the time taken to complete simple dealings had been reduced by 36 days and I was instructed to convey to you the Institute's congratulations upon your achievement and express the hope that your efforts to restore the Titles Office to its former state of efficiency may be even more successful in future."

That is a tribute to Mr. Taylor and to his administration. I am sure that the members of this Committee will be pleased to learn of that improvement in the position at the Titles Office. On previous occasions, Mr. Taylor has placed his time and talents at the disposal of the Committee. At the last meeting he had not quite completed his expression of views, and it was desired that he should attend the Committee again to round off his remarks and to give members an opportunity to ask him any questions.

*Mr. Taylor.*—At the last meeting, I think I concluded my remarks by suggesting that, in view of the uncertainty from a legal stand-point of the propriety of the supervision by the Registrar of Titles of fiduciary matters, possibly Rule 170 of the Land Registration Rules, England, or something of a like nature, might be embodied in the consolidating Transfer of Land Bill, but, as I pointed out previously, they are subject to Titles Office inquiry in Western Australia, New South

Wales, and Victoria. I have occupied the position of Registrar of Titles for only a short period but I am sure that if I had decided to discontinue the practice of requisitioning in respect of trusts it would have been a popular move. However, that is a reform which I would not yet contemplate, as it would require mature consideration and perhaps I have not quite found my feet in my new position. Mr. Jessup is quite sure that as Section 241 of the Transfer of Land Act exonerates the assurance fund from any liability in respect of breaches of trust, despite the negative provisions of that section, that the Titles Office should not police any trusts.

*Mr. Rylah.*—Do you know what is the position in New Zealand?

*Mr. Taylor.*—I do not.

*Mr. Rylah.*—You mentioned the three States in which trusts are being policed. May we assume that trusts are not being policed in South Australia?

*Mr. Taylor.*—Yes.

*Mr. Rylah.*—And they are not being policed in England, under the land registration system in operation there?

*Mr. Taylor.*—That is so.

*Mr. Rylah.*—Do you know what is the position in Queensland and Tasmania?

*Mr. Taylor.*—I do not know. Shortly after I was appointed Registrar, I considered submitting this question to the Law Department to obtain counsels' opinions. But the Titles Office was in such a state that I felt that even if I had obtained advice to vary the policy of my predecessors—which had been in operation for almost a century—the change would not have been of any material assistance in overtaking the arrears of work.

*Mr. Rylah.*—It was a case of first things first?

*Mr. Taylor.*—Yes. Another aspect of the matter is that many solicitors may regret the discontinuance of the present policy of the Titles Office, because, in a way, the staff are of service to them, as they look into the validity of devises and under intestacies. In that respect I do not think that it is altogether a disservice to continue the present methods.

*Mr. Holt.*—If you discontinued the practice of requisitioning in cases where there are a number of dealings relative to trusts involving titles, would not the position arise that there would be a tendency to revert to the old law search to check previous transactions?

*Mr. Taylor.*—I do not think it would result in going behind the Register, which is to be avoided; that is the cardinal principle of the Torrens system.

*Mr. Holt.*—For instance, if an executor were transferring to himself, that would immediately create a suspicion, would it not?

*Mr. Taylor.*—Yes. Apparently, in South Australia and in England there is no suspicion in the minds of the Registrars. Even if the Registrar in England has such a suspicion, he is precluded from investigating.

*Mr. Rylah.*—Most of the examinations are done by persons who are not qualified in law?

*Mr. Taylor.*—That is so.

*Mr. Oldham.*—I would have thought that about 40 per cent. of the workaday transfers by executors would be transfers to devisees.

*Mr. Taylor.*—There are numerous transfers to devisees.

*Mr. Oldham.*—It is natural for a husband to appoint his wife as executrix or for a mother to appoint her son an executor, is it not?

*Mr. Taylor.*—Yes.

*Mr. Holt.*—That would be a transfer in consideration of a devise. I am thinking of transfers by an executor to himself by way of sales.

*Mr. Taylor.*—In the case of a transfer pursuant to a sale, no requisition whatsoever is raised. A sale for cash is automatically passed.

*Mr. Oldham.*—You police transactions only from the point of view of stamp duty?

*Mr. Taylor.*—We note whether stamp duty has been paid.

*Mr. Rylah.*—That raises a peculiar position. If an executor transferred to himself, pursuant to his powers as executor, you investigate the case, but if he transfers to himself in pursuance of a purchase, you do not?

*Mr. Taylor.*—A transfer by an executor to himself as purchaser would be voidable; it could not be registered, unless justified.

*Mr. Holt.*—I raise my point as an extreme instance of what could happen if some cognizance were not taken of the nature of a transaction. We know that such a transaction could not legally be registered.

*Mr. Oldham.*—What procedure would be followed in the South Australian Titles Office in the case of a transfer by an executor to himself, as a purchaser?

*Mr. Taylor.*—I should think objections would be raised, as it would be against equitable doctrines. Such a case would unless authorized by the settlement or the Court be a breach of trust. Mr. Jessup explained that if a transfer, by way of gift, is received, his office requisitions with a view to seeing whether the transfer is justified, so, although fiduciary matters are supposedly not supervised, it does happen that in South Australia and in England a certain measure of supervision is exercised.

*Mr. Oldham.*—The rule is not absolute?

*Mr. Taylor.*—Apparently not.

*Mr. Fraser.*—One of the difficulties is this: it depends upon the viewpoint of the person who is considering the matter, after the facts have been elicited, as to whether or not the Registrar should in a particular case have inquired further, and authorities seem to support that view.

*Mr. Taylor.*—That is so. Actually, we are constantly in doubt, but that doubt could be relieved by embodying a provision in the Act which would settle the matter for all time. If I, as Registrar of Titles for the time being, waived the practice of policing trusts, my successor could upset that ruling and reinstitute the procedure of policing such cases. It could become a matter of the Registrar's discretion or policy while there is no statutory duty.

*Mr. Rylah.*—I thought it was stated earlier that a former Registrar complained that many of the reforms which he had introduced had been discontinued entirely by his successor, who did not agree with his policy. Do you know if that is so?

*Mr. Taylor.*—From my knowledge of the Titles Office, I doubt that assertion. I have been fairly intimately connected with the Titles Office for 30 odd years, and during that time there has been virtually no change in the procedure in handling dealings. Quite a few changes are taking place at the present time.

*Mr. Fraser.*—In the case of a transfer to a company, or a corporate body, do you inquire whether the corporate body is entitled to hold land?

*Mr. Taylor.*—We do not inquire. I think that point is covered by the Companies Act; a company can hold land and therefore can acquire land.

*Mr. Holt.*—In your personal opinion, would it facilitate the handling of cases if legally qualified persons were employed on the examination of trust transactions, fiduciary transactions?

*Mr. Taylor.*—Yes, I think that a solicitor should certainly be employed to interpret wills. Furthermore, he should have readily available for his use the latest books on wills. I would hesitate to give a binding decision on a will without referring to an up-to-date text-book. Frequently “and” is read as “or,” and “or” is read as “and.” Any lawyer will agree that wills are full of traps. The employment of a legally qualified person would be more appropriate for fiduciary dealings.

I might add that senior advice clerks have always interpreted wills. If in doubt, the Registrar is consulted and he may refer the case to the Commissioner. I mentioned that matter to a previous Commissioner who said, “Oh, well, it works all right; I would only have extra work up here, so to speak; nothing has happened.” It is unfair to expect laymen to interpret wills. The officers who have been engaged on this work are excellent clerks who have had wide experience and possess legal minds; they seem to have been able to solve most of the problems involved, and nothing serious has happened. The ideal administration would be to have legally trained men engaged on the task.

*Mr. Oldham.*—I am eager to ascertain the extent of investigations made by the Titles Office in regard to trusts. Let us assume that there is a proprietary company, composed of two shareholders only and that shareholder A holds one share, the balance of the shares being held by shareholder B. If B, as the executor of a will, were to sell a piece of land to the company, would an investigation be made of the shareholders and their interests?

*Mr. Taylor.*—In such an instance, the transfer would show a conflict of interest and duty, inasmuch as the transferor would also be signing as a director of the company in connexion with the affixing of the seal.

*Mr. Oldham.*—That is not necessarily so. One director only might have signed in terms of the articles of association.

*Mr. Taylor.*—In the event of one director only signing the transfer and there being nothing on the face of the transfer to indicate any connexion between the transferor and the company, the dealing would be passed without question.

*Mr. Fraser.*—There would be only a similarity of name if the person concerned were to sign as a director of the company as well as the transferor.

*Mr. Taylor.*—We would make a requisition for the reason that the signatures would be on record and it would be apparent that they were identical.

*Mr. Oldham.*—If the requisition were to the effect that the director and the transferor were the same person, would an investigation be made?

*Mr. Taylor.*—Yes.

*Mr. Holt.*—May I take it that you consider it is desirable that the registrar should continue to supervise fiduciary dealings with the assistance of legally qualified clerks?

*Mr. Taylor.*—I think qualified professional officers should be employed but a slight administrative difficulty is involved. An indiscriminate admixture of solicitors and clerks on the work of examining dealings would not be conducive to harmony of the staff. It would be a simple matter, however, to take away from clerical officers the duty of investigating trusts and refer such matters to a qualified officer.

*Mr. Rylah.*—Under the control of the present Commissioner?

*Mr. Taylor.*—If necessary, he could be under the control of the Registrar, who would need to be a solicitor. The duties would not require the full-time service of one man; there are not as many dealings in relation to trusts as one might expect.

*Mr. Oldham.*—The difficulties that have been mentioned would not arise if the Bill recommended by this Committee, providing for the removal of joint control, became law.

*Mr. Taylor.*—That is so.

*The Chairman.*—Do you, Mr. Taylor, wish to make a further statement?

*Mr. Taylor.*—No, that is practically all I desire to say on the vexed question of trusts, upon which I have an open mind. I would not object if the legislature were to say to me to-morrow, “You are banned from supervising trusts, wills, and so on.” Such a decision would relieve us of much technical work and the office would function more smoothly.

*Mr. Reid.*—I take it that the number of trust dealings which require supervision and investigation represents only a small proportion of the total number of dealings.

*Mr. Taylor.*—Yes, I should say that a legal man could deal with all trust dealings in a couple of hours a day.

*Mr. Fraser.*—Many judges have said, in effect, that the parties should be left to fight their own battles.

*Mr. Taylor.*—That is so. If an executor transfers land to some person, pursuant to a devise in a will, the Titles Office investigates that devise. If an executor wishes to be fraudulent, he may sell the land to some one else and retain the proceeds himself. Where a transfer of land is involved, the Titles Office investigates the details. On the other hand, where the estate includes personalty, there is no Government Department to watch the interests of beneficiaries.

*Mr. Fraser.*—In other words, the Titles Office polices dealings in relation to a block of land valued at, say, £10, whereas there is no supervision in relation to the dealings with respect to £10,000 worth of shares.

*Mr. Taylor.*—That is so. Both Mr. Fraser and Mr. Oldham have spoken about unified control. I do not know if I can add anything concerning that aspect.

*Mr. Fraser.*—I think much argument would be necessary to convince the members of this Committee that unification of control is unnecessary.

*Mr. Taylor.*—I favour unified control, which I consider is essential to proper administration of the Titles Office. At the moment there is a Commissioner upstairs and I, as Registrar, am downstairs. Things are now proceeding possibly as well as if there were one head, but I consider it is a fallacy to have two final authorities in the one office. In such circumstances, there is always the possibility that minor jealousies will obtrude, which will result in a

clash of personalities. There should be in the Titles Office one person who would have the final say on all matters.

*Mr. Rylah.*—Do any difficulties arise from the fact that certain statutory duties are imposed on the surveyor as distinct from those imposed on the Commissioner and Registrar?

*Mr. Taylor.*—I think not. The Surveyor and Chief Draughtsman has certain functions to perform but I could not imagine that any disability would arise in respect of there being one head, whether termed the Registrar of Titles, Director-General, or Commissioner.

*Mr. Fraser.*—Although they have certain statutory duties to perform, they should be subject to control by one person. It is simple for a person who is charged with the discharge of a statutory duty to say, in effect, "I occupy a judicial office, therefore I shall take my time to consider such and such a matter." There should be in authority some one to say, "You must do your job." Pressure should be exercised, if necessary, to make him realize that he must act in the interests of the public.

*Mr. Rylah.*—Assuming that you, Mr. Taylor, make the progress which you anticipate in the direction of bringing the general work of the Titles Office up to date, do you believe it is practicable to consider, in the near future, the compulsory bringing of land under the Act on the same lines as have been adopted in South Australia?

*Mr. Taylor.*—The sooner that problem is tackled, the better. The implementation of the South Australian system, however, would necessitate an augmented staff. I know that one of my predecessors mentioned a couple of additional search clerks, but in my view, up to ten additional search clerks would be necessary. All the searching would be done in advance and the examiners could at times deal with a few applications daily. In Adelaide, the examiner does his own searching.

*Mr. Rylah.*—Do you consider that with an increase in staff, the implementation of the South Australian system is feasible?

*Mr. Taylor.*—Yes, it is feasible.

*Mr. Rylah.*—Would you, as Registrar of Titles, say that it would be advantageous if the South Australian scheme were commenced?

*Mr. Taylor.*—The Commissioner would be virtually in control of it. The search clerks would be under my authority, but the main implementing of the scheme would be handled by the Commissioner and his staff.

*Mr. Rylah.*—Would it entail a great increase of work in your office?

*Mr. Taylor.*—In my opinion it would result in a fair amount more work.

*Mr. Rylah.*—I suppose you agree that we should endeavour to bring all land under the Torrens system as soon as possible?

*Mr. Taylor.*—Yes, even if the sections providing for the bringing of land under the Act by direction were left in abeyance and proclaimed later.

*Mr. Fraser.*—A recommendation was made in those terms.

*Mr. Rylah.*—If that procedure were adopted, the scheme could be started in a small way as staff became available.

*Mr. Taylor.*—I consider that it would be wise to make a small beginning. Although a period of five years is mentioned in which all land is to be brought under the provisions of the Act, it would be advisable to proceed gradually, because staff would have to be recruited. Shortage of space and the difficulty of obtaining surveys would be limiting factors.

*Mr. Rylah.*—I gained the impression from Mr. Jessup, Registrar-General of Deeds, South Australia, that by making a small start in that State much was learned by the officers dealing with the matter that enabled them to proceed on a larger scale.

*Mr. Taylor.*—I agree that that would have been their experience.

*The Chairman.*—In this Committee's final report on the Transfer of Land Bill 1949, the following is stated in relation to Part III. of the Bill, dealing with the compulsory registration of land:—

"However, in view of the state of the Victorian Office of Titles, it is recommended that the proclamation of this Part be postponed for some period so that the necessary staff may be recruited and trained and suitable accommodation provided for the smooth working of the scheme. Careful preliminary planning will be necessary in regard to survey of areas to be brought under the Act by direction, as the evidence discloses that there can be a serious wastage of time and duplication of effort where surveys are not related to permanent survey marks."

*The Committee adjourned.*

1951-52

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VICTORIA

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# REPORT

FROM THE

STATUTE LAW REVISION COMMITTEE

ON THE

PROPOSALS CONTAINED IN THE

# EVIDENCE BILL

TOGETHER WITH

AN APPENDIX AND MINUTES OF EVIDENCE

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*Ordered by the Legislative Council to be printed, 26th August, 1952.*

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By Authority:

J. J. COURLEY, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS  
OF THE LEGISLATIVE COUNCIL.

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TUESDAY, 20TH NOVEMBER, 1951.

8. STATUTE LAW REVISION COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables P. T. Byrnes\*, A. M. Fraser\*, G. S. McArthur, A. E. McDonald\*, F. M. Thomas, and D. J. Walters\* be members of the Statute Law Revision Committee.

Question—put and resolved in the affirmative.

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WEDNESDAY, 16TH JULY, 1952.

14. STATUTE LAW REVISION COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, and D. J. Walters be members of the Statute Law Revision Committee.

Question—put and resolved in the affirmative.

\* Vacated office on 14th June, 1952, on retirement by effluxion of time as a Member of the Legislative Council.

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EXTRACTED FROM THE VOTES AND PROCEEDINGS OF  
THE LEGISLATIVE ASSEMBLY.

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TUESDAY, 20TH NOVEMBER, 1951.

26. STATUTE LAW REVISION COMMITTEE.—Motion made, by leave, and question—That the following Members be appointed members of the Statute Law Revision Committee:—Mr. Barry, Mr. Holt, Mr. Mitchell, Mr. Oldham, Mr. Reid, and Mr. Rylah (*Mr. Dodgshun*)—put and agreed to.
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TUESDAY, 29TH JULY, 1952.

12. EVIDENCE BILL.—Motion made, by leave, and question—That the proposals contained in the Evidence Bill be referred to the Statute Law Revision Committee for examination and report (*Mr. Mitchell*)—put, after debate, and agreed to.
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TUESDAY, 5TH AUGUST, 1952.

5. STATUTE LAW REVISION COMMITTEE.—Motion made, by leave, and question—That Mr. Oldham be discharged from attendance on the Statute Law Revision Committee and that Mr. Leckie be appointed in his stead (*Mr. Brose*)—put and agreed to.

# REPORT

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THE STATUTE LAW REVISION COMMITTEE, appointed pursuant to the provisions of the Statute Law Revision Committee Act 1948, have the honour to report as follows:—

1. The Statute Law Revision Committee have considered the Evidence Bill—a Bill relating to Evidence as to Marital Access and Adultery—which was initiated and read a first time in the Legislative Assembly on 2nd July, 1952. On 29th July, on the further adjournment of the debate on the second reading, the Legislative Assembly referred the proposals in the Bill to the Statute Law Revision Committee for consideration and report.

2. Mr. R. C. Normand, Parliamentary Draftsman, attended a meeting of the Committee and stated that memoranda prepared by the Honorable Mr. Justice Sholl and Mr. P. E. Joske, Q.C., in consultation with the Honorable Mr. Justice Smith, members of the Chief Justice's Committee on Law Reform, were used as the basis for the drafting of the Bill. At the request of the Committee Mr. Justice Sholl attended and gave evidence, and a transcript of such evidence, together with the above-mentioned memoranda, is appended to this Report.

3. The Bill proposes to adopt the substance of some of the recent changes in the law of England and to remove anomalies in the rules of admissibility of evidence as to marital access and adultery (particularly the rule in *Russell v. Russell* [1924 A.C. 687]) and rules relating to the competence and compellability of witnesses in relation to such evidence. The Committee readily accepted the principles of the Bill, but were concerned to ascertain the reasons for the departure in the Bill from the terms of the English Act on which it is based, and the possible results of the difference in language.

4. The Committee accept the explanation given by Mr. Justice Sholl that the language used in the Bill makes it clear that other existing privileges are preserved, and are of the opinion that the Bill should be enacted in its present form. Where the wording differs from certain provisions of Section 32 of the English *Matrimonial Causes Act* 1950, difficulties which have arisen already in the application of the English legislation are avoided.

5. The Bill does not adopt that portion of the English legislation which negatives the decision in the case of *Tilley v. Tilley* [1949 P. 240]. In this regard, the Bill reverses the law enacted in the English amendment, and is therefore a matter of policy based on technical legal data. The form of drafting adopted in the Bill makes a husband or wife a compellable witness with regard to the matters dealt with. The Committee are of opinion that such a policy is desirable and in line with the modern doctrine that a Court should have before it all available evidence to assist it in arriving at a proper and just decision.

6. The Committee recommend that the Bill be proceeded with and passed into law during the present Session.





## APPENDIX

## MEMORANDA BY MEMBERS OF THE CHIEF JUSTICE'S LAW REFORM COMMITTEE

Rule in *Russell v. Russell*; and Legitimation of Issue of Voidable Marriages.

## MEMORANDUM No. 1.

*The Honorable the Chief Justice.*

As requested by the Law Reform Committee, I have conferred with Mr. Joske K.C. of Counsel on the matter of amending the law in order to abolish the rule in *Russell v. Russell* in Victoria.

I desire to recommend to the Committee that legislation be adopted to that end, and in combination therewith—legislation also along the lines of a recent English section legitimating the issue of voidable marriages in respect of which a nullity decree is granted.

It is, in my opinion, unnecessary here to discuss the history of the rule in *Russell v. Russell* except to say that for the past 25 years arguments have taken place in many British law countries as to its precise limits; there have been continuous restrictions of its application, and it has now been abolished in England, South Australia, Western Australia, Tasmania, and at least part of Canada. I may perhaps in addition recall what was said by Latham C. J. in *Piggott v. Piggott*, 61 C.L.R. 378 at pp. 389 and the following. His Honour then said:—

“In *Russell v. Russell* the House of Lords considered the statement of Lord Mansfield in Goodright's Case: ‘It is a rule, founded in decency, morality, and policy that they’ (that is, husband and wife) ‘shall not be permitted to say after marriage, that they have had no connection, and therefore that the offspring is spurious; more especially the mother, who is the offending party.’ The precise question which arose in *Russell v. Russell* was whether the rule applied to exclude evidence by the husband of non-intercourse in proceedings for divorce founded upon adultery where (as Lord Finlay said) ‘the charge of adultery rests solely upon the birth of a child, which is said to be bastardized by the husband's proof of non-access.’ The legitimacy of the child depended upon whether the husband had had intercourse with his wife at the relevant time.”

At p. 390 His Honour pointed out that in *Piggott v. Piggott* the question which arose was whether in order to rebut a plea of condonation it was permissible for the husband petitioner to give evidence of non-intercourse, whereas the wife respondent had contended not only that that was not possible but that she could not herself give evidence of intercourse. The High Court being equally divided on that question the decision of the primary Judge in Tasmania to the effect that the evidence was admissible was upheld, a position which was only recently reached in England before the whole rule in *Russell v. Russell*, whatever its precise extent, was abolished. The rule was said by Latham C. J. at p. 399 of the same report to “belong to a past age,” and at p. 395 he pointed out that in a criminal charge involving an accusation of incest, the rule might actually result in the conviction of an innocent person through his inability to lead evidence that a child of which he was alleged to be the father was not in fact his. In England, the rule

has been held not to apply in nullity suits, and I recently applied these decisions myself in this Court, although in New Zealand the contrary conclusion has been reached. It would, however, I think be useless to elaborate a discussion of the refinements whereby the application of the rule has been limited by the Courts in countries which have not yet abolished the rule itself by legislation. I might perhaps repeat my own opinion of the rule which I expressed in the recent decision to which I made reference above, viz., that it represents a doctrine of curial obscurantism preventing where it applies the full exercise of their functions by Courts whose business it is and ought to be to act on truly ascertained facts.

In South Australia and West Australia the method of abolition adopted has been to limit the statutory provision to cases arising in matrimonial causes, and therefore to limit the enabling provision to a case where evidence is tendered in denial of intercourse. Thus, section 40 of the South Australian Matrimonial Causes Act 1929-36 and sec. 33 of the West Australian Matrimonial Causes and Personal Status Act 1948 both provide—“In any proceedings under this Act either party to a marriage may give evidence proving or tending to prove that the said parties did not have sexual relations with each other at any particular time notwithstanding that such evidence would show or tend to show that any child born to the wife during marriage was illegitimate.”

In Tasmania sec. 95A of the Evidence Act 1910 as inserted by sec. 2 of the Evidence Act 1943 makes a similar provision, in that the provision is limited to evidence of non-intercourse, but a wider provision in that the section applies to any proceeding. Thus the section is in the following form:—

“In any proceeding either of two spouses may give evidence proving or tending to prove that such spouses did not have sexual relations with each other at any particular time notwithstanding that such evidence would tend to show that any child born to the wife during marriage was illegitimate.”

The precise nature of the Canadian provisions does not clearly appear from any references I have seen but in Vol. 16 of the *Canadian Bar Review* 1938, p. 341, there is a reference to a Statute of British Columbia of 1924 which provides that a married woman shall be a competent and compellable witness to testify as to the paternity of her child.

The English provision is contained in the Law Reform (Miscellaneous Provisions) Act 1949, sec. 7, which came into force on the 16th December, 1949. That section provides, so far as material:—

“(1) Notwithstanding any rule of law, the evidence of a husband or wife shall be admissible in any proceedings to prove that marital intercourse did or did not take place between them during any period.

(2) Notwithstanding anything in this section or any rule of law, a husband or wife shall not be compellable in any proceedings to give evidence of the matters aforesaid."

Sub-sec. (3) contains a repeal which is unnecessary in Victoria. It will be noted that the English provision extends to any proceedings; that it extends to evidence to prove either intercourse or non-intercourse (thus meeting the point taken in *Piggott v. Piggott* on behalf of the wife); and that it also provides that neither spouse shall be a compellable witness in respect of the matters referred to.

In the opinion of Mr. Joske and myself the English provision is to be preferred to the other provisions mentioned and there is no reason why it should not be adopted and every reason why it should be adopted in Victoria forthwith.

In the same English Act, sec. 4 dealing with the legitimacy of children of voidable marriages provides, so far as material, as follows:—

"Where a decree of nullity is granted in respect of a voidable marriage, any child who would have been the legitimate child of the parties to the marriage if it had been dissolved, instead of being annulled, on the date of the decree shall be deemed to be their legitimate child notwithstanding the annulment."

In the *Modern Law Review* April 1950, pp. 222 and the following, there is a discussion both of sec. 7 abolishing the rule in *Russell v. Russell* and of sec. 4, the section I am now considering. It is pointed out that the new English section 4 extends the privilege of legitimacy to the children of voidable marriages but not to the children of void marriages. The adoption of the English provision would raise the same question as will be raised in England, viz., what marriages are void as distinguished from voidable? The writer in the *Modern Law Review* suggests that the English provision might well be extended to cover void as well as voidable marriages. But that would have the result of legitimating the issue of void marriages in respect of which a nullity decree was pronounced, e.g., even a bigamous marriage.

I suggest that for the present the English provision should be adopted and the position reviewed after some further experience in order to see whether it is desirable to extend it to void marriages. The adoption of the provision in relation only to voidable marriages the subject of nullity decrees will cover in Victoria the majority of cases, i.e., all the consanguinity and impotence cases. There are arguments against legitimating the issue of marriages void for bigamy (e.g., questions of inheritance). It is obvious that the English provision is beneficial and socially valuable in that we have not yet introduced in Victoria any provision dealing with children born of voidable marriages. In a recent decision of my own in a nullity suit there had been a child born to the petitioner of a man other than the husband and that child, though regarded generally as the child of the parties to the marriage, was in fact bastardized by the decision.

R. R. SHOLL.

Chambers,

24th August, 1950.

*The Honorable The Acting Chief Justice.*

You will recall that when our memorandum of 24th August last was before the Law Reform Committee, the Committee expressed itself as disposed at that time to adopt sub-sec. (1) of the English section abolishing the rule in *Russell v. Russell*, i.e., sec. 7 (1) of the Law Reform (Miscellaneous Provisions) Act 1949, a copy of which is as follows:—

"7.—(1) Notwithstanding any rule of law, the evidence of a husband or wife shall be admissible in any proceedings to prove that marital intercourse did or did not take place between them during any period."

But the Committee requested us to consider further the question whether sub-sec. (2) of the English section—providing that neither husband nor wife should be compellable to give evidence of the matters on which by sub-sec. (1) their evidence would become admissible—should be adopted in Victoria.

We have conferred as requested, and as His Honour Mr. Justice Smith had expressed some views on the matter at the meeting of the Committee, we asked him to confer with us and he was kind enough to do so.

None of sec. 7 was in the original Bill in England. There was apparently no relevant Commons debate on the Section, but when the clause was before the Lords, Lord Llewellyn, who introduced it there—for the first time, said merely this (*Hansard, Lords, 1948-49, Vol. 164, p. 670, 28/7/49*):—

"Sub-section (2) of this clause (then numbered Clause 6) rightly makes it the rule that neither spouse's evidence shall be compellable upon a matter of this sort. There was, in this connection, the recent case of *Tilley v. Tilley* which was decided only last year, in which the Court said that the wife could be compelled to answer a question on this very matter although she did not wish to do so. I think Your Lordships will feel that it is right that just as in criminal proceedings neither husband nor wife is a compellable witness against the other, the same rule should apply to cases falling within the ambit of Clause 6."

Thus sub-sec. (2) was a deliberate alteration of what the Court of Appeal had then recently decided to be the law in England, viz., that (there being in the suit referred to no question of legitimacy of issue involved, and no question of the criminal law, but it being merely a civil suit for dissolution of marriage, in which the co-respondent called the respondent wife to prove intercourse with the petitioner amounting to condonation), a wife as not only a competent but a compellable witness to give evidence of marital intercourse. In fact, the learned Commissioner at the hearing had compelled the wife to give evidence of intercourse, and the Court of Appeal held that, on the proper construction of the English legislation, he was entitled to do so, though it ordered a new trial on the ground that other considerations, which might have affected the question whether the wife's evidence should be believed, or if believed, should be held to have proved condonation, had not been given due weight.

*Tilley v. Tilley* is reported 1949 P. 240. We refer particularly to the judgment of Denning L. J., at pp. 253 to (so far as the present question is concerned) 259. He reviews in a few pages the history of admissibility of the evidence of parties and their spouses in civil and criminal proceedings in England, and a perusal of his judgment shows the relation of what

is sec. 119 of the Victorian Marriage Act, 1928 (sec. 198 of the Supreme Court of Judicature (Consolidation) Act, 1925) to the rest of the law. Most of the English provisions to which he refers are, so far as still in force in England, also in force in Victoria, as appears by the following summary:—

#### 1. Civil Proceedings.—

- (a) The Evidence Act 1851 (*Hals. Stats.* 8, 210) making the parties competent and compellable witnesses (sec. 2), but providing as a saving that nothing therein should render an accused person competent or compellable to give evidence for or against himself, or compellable to criminate himself, or a spouse a competent or compellable witness against the other in a criminal proceeding (sec. 3); and that sec. 2 should not apply to proceedings instituted in consequence of adultery or actions for breach of promise of marriage (sec. 4);—see secs. 24, 26 of the Victorian Evidence Act 1928, which now contains the necessary savings to cover subsequent amendments in relation to the criminal law permitting the accused or the accused's spouse to be a witness in certain cases (see *infra*).
- (b) Secs. 1 and 2 of the Evidence Amendment Act 1853 (*ib*), making the spouses of parties competent and compellable witnesses (sec. 1), but providing by way of saving that no spouse should be a competent or compellable witness for or against the other in any criminal proceeding (sec. 2); and that no spouse should be compellable to disclose any communication made by the other during the marriage (sec. 3);—see secs. 24, 26, and 27 of the Victorian Evidence Act 1928, subject to the same comment as in (a).
- (c) Sec. 43 of the Matrimonial Causes Act 1857, making the parties to matrimonial proceedings competent and compellable witnesses at the instance of the Court (for the saving, see (e) *infra*); see sec. 118 (1) of the Victorian Marriage Act 1928.
- (d) Sec. 46 of the Act of 1857, making the parties to a matrimonial suit competent to give evidence by affidavit subject to cross-examination; see sec. 120 of the Victorian Marriage Act 1928.
- (e) Secs. 1, 2, and 3 of the Evidence Further Amendment Act 1869 (*Hals. Stats.* 8, 233), repealing sec. 4 of the Act of 1851 (sec. 1), making competent the parties to a breach of promise action (sec. 2), and making parties to an adultery suit, and their spouses, competent witnesses, but providing that no witness whether a party or not should be liable to be asked or bound to answer any question tending to show that he or she had been guilty of adultery unless such witness should already have given evidence in the same proceeding in disproof of his or her alleged adultery (sec. 3);—see the general provision in sec. 24 of the Victorian Evidence Act 1928, as to the first part of sec. 3, and sec. 119 of the Victorian Marriage Act 1928, as to the

latter part (privilege). The problem which arose in England in *Tilley v. Tilley* as to whether a wife was compellable as well as “competent” could not arise here, because we have not retained (as England did) the first part of sec. 3 of the 1869 Act as a separate provision; we have left sec. 24 of the Evidence Act to cover *all* civil cases (subject to the privilege provisions in secs. 27 *et seq.* of the Evidence Act and sec. 119 of the Marriage Act), and sec. 24 expressly says (like sec. 2 of the English Act of 1851 from which it came) “competent and compellable”.

Denning, L. J., summed up the law as to adultery suits (p. 259) as follows:—

“For these reasons I am satisfied that every party to a divorce suit instituted in consequence of adultery is competent and compellable to give evidence, save only in so far as he can claim the privilege. He can be brought before the Court on subpoena to give evidence and must give it so that the truth may be ascertained. If, however, questions are asked tending to show that he has been guilty of adultery, the Judge will warn him that he is not bound to answer, and it is then for the witness to say whether he claims the privilege or not in respect of those questions. At this stage in the history of the law of Evidence, the anomaly is not that he should be compellable to give evidence, but that he should have this privilege.

In the present case, therefore, the wife was a competent and compellable witness and was properly served with a subpoena. She was not bound to answer any questions tending to show that she had been guilty of adultery and she was not in fact compelled to do so. She was, however, bound to answer any other relevant questions, such as those which related to the visits of her husband to Sutton-in-Ashfield. The steps taken by the Judge to compel her to answer were, therefore, lawful.”

#### 2. Criminal Proceedings:—

Criminal Evidence Act 1898, secs. 1–6, (*Hals. Stats.* 8, 248); see Victorian Evidence Act 1928, secs. 24, 26, and Crimes Act 1928, sec. 432, and notes to the sections.

- (a) In England, before 1898, a spouse was a competent witness for the prosecution *ex necessitate* where the other spouse was charged with a crime against the first spouse; *Archbold*, 32nd ed. 478–9; and possibly in cases of treason.—*ib.* *Hals.*, 9, 217–8; and being competent, such spouse was also at common law compellable; *R. v. Lapworth*, (1931) 1 *K.B.* 117. Likewise, the spouse was competent for the defence in such a case, *R. v. Serjeant, Ry. & M.* 352 at 354; and presumably also compellable, *Roscoe, Crim. Evidence* 15th ed., 140. By the Evidence Act 1877, it was provided that in indictments for the non-repair of highways, etc., brought to try a civil right, the parties and their spouses should be competent and compellable witnesses

for the prosecution or the defence. The Act of 1898 made an accused a competent witness, but only on his own application; he is not a compellable witness on the application of a co-defendant; *Hals.* 9, 215. The 1898 Act, s.1, also made the spouse of the accused a competent witness for the defence generally, but only on the application of the accused;—save in certain specified cases—sec. 4. (1)—wherein the wife was made a competent witness for the prosecution or the defence in the case of a number of offences against specified Statutes (see the list in *Hals.*, 9, 219, note (1)). But the spouse is not in such sec. 4 (1) cases compellable—*Leach v. R.* (1912) *A.C.* 305. The last mentioned list has been added to by Statute; e.g. by Criminal Justice Administration Act 1914, bigamy is included in the list; and see the other Statutes mentioned in *Hals.* 9, 219, note (1). *Archbold, loc. cit.*, treats *Leach's Case*, though it preceded the 1914 Act, as applicable to bigamy. It is apparently the case that the spouse, though competent under sec. 1 and sec. 4 (1) for the defence, is also non-compellable for the defence—*R. v. Acaster*, 7 *Cr. App. Rep.* 187—though one would suppose no considerations of public policy, on which *Leach's Case* was founded could preclude one spouse giving evidence for the other. Thus in England—

- (i) in matters under the Act of 1877, the accused and the accused's spouse are competent and compellable for the prosecution and the defence;
- (ii) The accused is in other cases competent for the defence, but of course no question of compellability arises save when there are other accused persons, and he is not compellable by them;
- (iii) The spouse is competent and compellable for the prosecution and defence in the common law *ex necessitate* cases, and possibly in treason;
- (iv) The spouse is competent for the the prosecution or defence, but not compellable for the prosecution or defence, in a number of statutory offences;
- (v) The spouse is competent for the defence, but not competent for the prosecution in other criminal cases; query whether such spouse is compellable for the defence?

(b) In Victoria, before 1891, the common law position was similar; *R. v. Kenny*, 12 *V.L.R.* 816. The 1877 Act does not seem to have been introduced in Victoria. By the Crimes Act 1891 the English Act of 1898 was anticipated by 7 years. The Act of 1891 made the accused and the accused's spouse competent witnesses for the defence, but only on the application of the accused. The Crimes Act 1891 did not contain provisions similar to sec. 4 (1) of the English Act

of 1898, to which *Leach v. R.* applied, but the Crimes Act (No. 2) 1915, now sec. 432 of the Crimes Act 1928, re-enacted the provisions of 1891 and added a provision (from the English Act of 1914) that in the case of bigamy the spouse might be called for the prosecution or the defence without the consent of the accused. It was not till the Crimes Act, 1949, sec. 13, that the wife was made a competent, but specifically non-compellable, witness (thus adopting *Leach v. R.*) for the prosecution in the cases of certain statutory offences, viz., offences under secs. 40—44, 48, and 51 of the Crimes Act 1928.

Thus in Victoria—

- (i) The accused is competent for the defence, but not compellable;
- (ii) The spouse is competent and compellable for the prosecution and defence in the common law *ex necessitate* cases, and possibly in treason;
- (iii) The spouse is competent for the prosecution or defence, but not compellable for the prosecution or defence, in bigamy cases; and the wife is competent for the prosecution or defence but not compellable for the prosecution, in a number of statutory offences; query whether she is compellable for the defence?
- (iv) The spouse is competent for the defence in other criminal cases; query whether such spouse is compellable for the defence?

*Tilley's Case* has been criticized by Sir P. Carter in 66 *L.Q.R.* 511. He maintains that the decision that a spouse is a compellable as well as a competent witness in England in adultery cases is wrong, but that such a spouse ought to be compellable, and that therefore Parliament should do by legislation what *Tilley's Case* has (in his view) wrongly held that the law has already done. But the English Act of 1949, sec. 7 (2), was enacted on the view that it was amending, where it applied, the rule laid down in *Tilley's Case*.

We are of the opinion that this review shows that sub-sec. (2) of the English section now under consideration was an amendment of the law made by the English Parliament with some idea of placing questions to a spouse as to intercourse (no longer excluded under *Russell v. Russell*) on the same footing as if they arose in a criminal proceeding. But sub-sec. (2) in fact gives the option to the spouse in the box, who may or may not be a party to the suit, and may or may not be charged with adultery. The analogy is quite imperfect. The result of the new English section 7, including sub-sec. (2), is, however, that there can be no conflict between that section and sec. 198 of the Supreme Court of Justice (Consolidation) Act 1925 (corresponding to sec. 119 of the Marriage Act 1928), since—

- (a) Sec. 7 makes either spouse's evidence admissible to prove or disprove intercourse during the marriage, but the spouse is non-compellable, i.e., it makes a spouse a competent but non-compellable witness as to intercourse or non-intercourse;

(b) Sec. 198 makes any witness in adultery suits, including a spouse, non-compellable as to any question tending to show that the spouse has committed adultery unless that spouse has previously denied it in the proceedings.

The areas of non-compellability are not identical by any means, but they may overlap. However, as regards civil proceedings, they both reduce the compellability imposed by the Acts of 1851-69, and so are not in conflict. As to the position in criminal proceedings, we think sec. 7 will not be read as extending the general area either of competence or of compellability insofar as it is defined by the common law and the Criminal Evidence Act 1898, save to the extent that, if *otherwise* a competent witness, a spouse will be competent to give evidence as to intercourse or non-intercourse, in cases where *Russell v. Russell* previously excluded it. Otherwise there could be a conflict between the rights of the accused who has the option as to competence under the 1898 Act (subject to the exceptions there stated), and of the accused's spouse, who has the option as to compellability under the 1949 section.

The enactment of sec. 7 (2) has also been criticised in Carter's article; see 66 *L.Q.R.*, at pp. 521-4. He points out that owing to the fact that sec. 7 (1) is couched in positive terms, both that sub-section, and sub-sec. (2), go beyond the purpose of abolishing the rule in *Russell v. Russell*, and he recommends the repeal of sec. 7 (2). He further points out that the Denning Committee on Procedure in Matrimonial Causes (CMD. 7024, paras. 70-74), and Professor Cowen (65 *L.Q.R.* 373) recommend the abolition of what is here sec. 119 of the Marriage Act 1928; and he endorses those views. Para. 74 of the Report of the Denning Committee, however, recommended that Rules of Court should provide that interrogatories should not be allowed as to adultery, that questions at the hearing as to adultery not charged should be excluded; and that discovery as to adultery should be allowed only at the Court's discretion.

We at first considered three possible courses in Victoria, all assuming the retention of sub-sec. (1) of the English sec. 7. The first was to adopt the English sub-sec. (2), and leave sec. 119 of the Marriage Act 1928 as it stands. The position would then correspond with the English position which we have just described. For the reasons stated, we do not recommend that course. The second was to omit sub-sec. (2), but to retain sec. 119. The result would then be that the actual subject matter as to which a spouse would be competent and compellable would be extended to intercourse or non-intercourse, even where *Russell v. Russell* would have excluded it, but subject (as we think) to the continued exclusion of questions tending to prove the adultery of a witness (which may include questions as to non-intercourse with a spouse) and to the continued application of the general rules limiting in criminal proceedings the competence and compellability of spouses. Upon such a view, the proposed section might read somewhat as follows:—

"(1) Notwithstanding any rule of law, but subject to sub-sec. (2), a husband and a wife shall be competent and compellable witnesses in any proceedings to prove that marital intercourse did or did not take place between them during any period.

(2) This section shall not affect the operation of sec. 119 of the Marriage Act 1928 or of sec. 432 of the Crimes Act 1928, and the provisions of sec. 26 of the Evidence Act 1928 shall extend and apply to this section as if that section were expressed to refer to this section as well as to the provisions of the Evidence Act 1928."

Sec. 26 of the Evidence Act 1928 reads as follows:—

"Nothing herein contained shall render any person who in any criminal proceeding is charged with the commission of any indictable offence or any offence punishable on summary conviction competent or compellable to give evidence for or against himself; or (except as hereinafter mentioned) shall render any person compellable to answer any question tending to criminate himself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband. Provided that nothing in this section shall affect or limit the provisions of the Crimes Act 1928 whereby in the circumstances there set out a person charged or his wife or her husband (as the case may be) may be called as a witness in a criminal proceeding."

We think it would be necessary, if this second course were followed, to insert the suggested saving of sec. 119, because sub-sec. (1) of the new section would otherwise, in relation to the adultery proceedings to which sec. 119 applies, make a spouse—

- (a) competent to give evidence of intercourse where previously *Russell v. Russell* would have excluded that evidence;
- (b) compellable to do so;
- (c) competent to give evidence of non-intercourse in similar cases;
- (d) compellable to do so.

As to case (d), that clearly might conflict with sec. 119, because to compel a spouse to give evidence of non-intercourse with the other spouse might in some circumstances tend to prove the first-mentioned spouse guilty of adultery, e.g., if she had borne a child. We do not recommend this second course.

The third course was to repeal sec. 119. In that case, the possibility of its conflict with (d) above would disappear, and the new section might then read somewhat as follows:—

- "(1) Notwithstanding any rule of law, but subject to sub-sec. (3), a husband and wife shall be competent and compellable witnesses in any proceedings to prove that marital intercourse did or did not take place between them during any period.
- (2) Sec. 119 of the Marriage Act 1928 is repealed.
- (3) This section shall not affect the operation of sec. 432 of the Crimes Act 1928; and the provisions of sec. 26 of the Evidence Act 1928 shall extend and apply to this section as if that section were expressed to refer to this section as well as to the provisions of the Evidence Act 1928."

In view of the history of sec. 119, and the observations thereon of Denning, L. J., in *Tilley's Case*, and of the Denning Committee, we see no reason to preserve it. Most lawyers with whom we have discussed it would be glad to see it go.

That third alternative course, we thought, would still preserve the present position in criminal proceedings, subject only to this, that if a spouse's evidence were otherwise admissible, *Russell v. Russell* would not apply to it.

But, while Mr. Justice Smith agreed with us that section 7 (2) should not be adopted, he pointed out certain difficulties to which the adoption of sec. 7 (1) of the English Act might give rise. In a memorandum he has observed:—

"As to sec. 7 (1) it appears to me that considerable difficulty is created by the fact that it is so expressed as to confer admissibility by positive words. When such a form is adopted the question immediately arises of preserving existing rules as to personal competence and compellability of witnesses, and as to privilege. It is difficult to be sure that savings in these matters will be implied if no attempt is made to express them; and if the attempt is made it is difficult to be sure that everything is covered, and in any event the provision necessarily becomes lengthy and complicated.

These difficulties appear to me to be equally present if sec. 7 (1) is altered, as in the suggested draft, so as to refer to competence and compellability, instead of to admissibility. In particular, upon the draft, the following points occur to me:—

- (i) What is the effect of sub-section (1) upon the privilege under sec. 27 of the Evidence Act 1928 and other privileges such as legal professional privilege?
- (ii) Will sub-section (1) override sec. 13 of the Crimes Act 1949 on the question of the compellability of a wife?
- (iii) Will the saving of sec. 432 of the Crimes Act 1928 have the result that a spouse called on the application of the accused will be merely competent but not compellable upon questions of non-intercourse and intercourse? Or does non-compellability in such cases depend at present on the Common Law, so that a mere saving of sec. 432 allows sub-section (1) of the draft to introduce compellability where sec. 432 merely confers competence?
- (iv) Will the application by reference to sec. 26 of the Evidence Act 1928 be effective having regard to the fact that its opening words "nothing herein contained" mean "Nothing contained in the Evidence Act 1928"?

No doubt other queries of greater or less substance could be raised and this has made me wonder whether it would not be wiser to adopt a different approach and merely to negative the Rule in *Russell v. Russell* instead of conferring admissibility, or competence and compellability, in positive terms."

His Honour suggested the following form,— designed to adopt the last-mentioned suggestion, and also to cover widows, widowers, and divorcees, and the case of statements out of Court,—

"Notwithstanding any rule of law neither the evidence of any person nor any statement made out of Court by any person shall be inadmissible in any proceedings by reason of the fact that it is tendered with the object of proving or that it proves or tends to prove that marital intercourse did or did not take place between that person and his or her wife or husband during any period or that any child is or was or is not or was not their legitimate child."

We think that some of the difficulties pointed out by His Honour could be met, even if a provision based on the English sec. 7 (1) were adopted. E.g., we think the Courts in England may be expected to hold that sec. 7 (1), despite the expression "notwithstanding any rule of law," does not exclude the privileges provided for in sec. 27 *et seq.* of the Evidence Act, or such common law privileges as legal professional privilege. And we think that the application by reference of sec. 26 of the Evidence Act could be so expressed as to make it effective. It would be possible to add, in the proposed sub-sec. (3), a reference to sec. 13 of the Crimes Act 1949, or to substitute for sub-sec. (3), in the draft section which we set out earlier, the following, or something like it—

"(3) Nothing in this section shall—

- (a) affect any privilege to which any person may by statute or common law be entitled;
- (b) render any spouse a competent witness, or a compellable witness, or a competent and compellable witness, respectively, in any criminal proceedings in which such spouse would not otherwise be competent, or compellable, or competent and compellable (as the case may be)."

But as to such a provision it might be said that the rule in *Russell v. Russell* is itself a form of privilege; and that paragraph (b) could itself raise difficulties as to whether the rule in *Russell v. Russell* was still left applicable in criminal cases, or in some criminal cases.

We agree that Mr. Justice Smith's further comments suggest the possibility, if not the probability, of other problems arising in England, upon the present English provision, and in Victoria if sec. 7 (1) is adopted in its English form. Broadly speaking, the problem is, as Mr. Justice Smith observes, to combine with a provision affirmatively conferring in general terms competence and compellability with respect to a particular subject matter, the preservation of rules which at present limit that competence or that compellability, especially.

- (a) by way of privilege
- (b) by way of restrictions in criminal proceedings (complicated by exceptions upon those restrictions—e.g., in the common law *ex necessitate* cases and in the case of a bigamy charge).

To these considerations may be added the point made by Carter, *loc. cit.*, that the words "notwithstanding any rule of law" may literally extend to exclude even the rule against hearsay evidence.

On the whole, notwithstanding the English provisions, and notwithstanding that questions affected by *Russell v. Russell* may be unlikely to arise in many of the cases in which the non-competence or non-compellability of a spouse is still preserved, further consideration has led us to think that the recommendation we made in our prior memorandum to adopt the English sec. 7 should be withdrawn, and that a section such as is proposed by Mr. Justice Smith should be adopted. That would simply remove the particular ground or grounds of inadmissibility which *Russell v. Russell* is said to create, and would leave the rules mentioned in (a) and (b) above to continue in operation, each according to its proper function. One must admit that it would be possible to attempt to prepare a section which would tabulate (and abolish or preserve, as required) the various rules of Statute or common law with which a provision in the terms of the English sec. 7 (1) might otherwise collide, but as Mr. Justice Smith says, there is difficulty in being sure that all have been so covered. The analysis of the position in criminal proceedings, which we have set out above, lends point to this view.

We adhere to the view that the repeal of sec. 119 of the Marriage Act should be affected at the same time.

We recommend therefore the adoption of the following provisions:—

“(1) Notwithstanding any rule of law neither the evidence of any person nor any statement made out of Court by any person shall be inadmissible in any proceedings by reason of the fact that it is tendered with the object of proving or that it proves or tends to prove that marital intercourse did or did not take place between that person and his or her wife or husband at any time or during any period or that any child is or was or is not or was not their legitimate child.”

“(2) Sec. 119 of the Marriage Act 1928 is repealed.”

The question of savings as to interrogatories, discovery, and cross-examination, in relation to adultery can be dealt with by Rules of Court, if necessary.

R. R. SHOLL.  
P. E. JOSKE.

Chambers,  
February, 1951.

### MEMORANDUM No. 3.

*The Honorable the Chief Justice.*

1. When this matter was last before the Chief Justice's Law Reform Committee, the Committee requested us to add further comments on two matters—

(a) Whether the proposed repeal of s. 119 of the Marriage Act 1928 by sub-sec. (2) of the provision we submitted (see our Memorandum No. 2 of February, 1951) might be held to revive, or to leave in operation, some protective principle of the common law or of the ecclesiastical law, existing before the adoption of s. 119 in Victoria, and having the same or a similar effect and if so, whether our proposed sub-sec. (2) should be extended to exclude that possibility;

(b) Whether it was in fact desirable to make any savings, by Rules or otherwise, as to interrogatories, discovery, or cross-examination with reference to adultery, such as had been suggested in England by the Report of the Denning Committee on Procedure in Matrimonial Causes, 1947, Cmd. 7024, paras. 70–74 (see our Memorandum No. 2); and if so, whether it would not be necessary to insert some saving for that purpose in our proposed sub-section (1)—see our Memorandum No. 2).

2. In *Redfern v. Redfern*, 1891, P. 139, the Court of appeal in England held that discovery as to adultery should not be permitted in a divorce suit based on adultery, and Bowen, L. J., at pp. 147–150, reviewed the history of the English law on the subject. The principle to which he referred was that a party could not be compelled to discover that which, if answered, would tend to subject him to any punishment, penalty, forfeiture, or ecclesiastical censure. That principle he held to have been recognized, as to adultery, by sec. 4 of the English Evidence Act 1851—(see our Memorandum No. 2)—sec. 2 of the Evidence Amendment Act 1853 (*ib.*), sec. 43 of the Matrimonial Causes Act 1857 (*ib.*, pp. 3 and 4), and sec. 3 of the Evidence Further Amendment Act 1869 (*ib.*, p. 4). Accordingly the Court of Appeal held that discovery should not be granted for a purpose for which questions could not be asked at the hearing. Sec. 43 of the Act of 1857, which we did not previously set out in detail, but which it is now desirable to quote, provided that the Court could order the attendance of a petitioner, and examine or permit him or her to be examined or cross-examined, on oath; but that no petitioner should be bound to answer any question tending to show that he or she had been guilty of adultery. Until 1869, a party could not otherwise be a witness in an adultery suit. This sec. 43 was repealed by the Matrimonial Causes Rules, 1947; *Hals. Stat.*, 2nd ed., 11, 817. The general principle of privilege (including privilege against ecclesiastical censure), as it existed before 1851, may be found set out in *Phillipps on Evidence*, 9th ed., 1843, II, 417 *et seq.*, and *Taylor on Evidence*, 1st ed., 1848, II, 969 *et seq.*

3. In England sec. 3 of the Evidence Further Amendment Act 1869 has become sec. 198 of the Supreme Court of Judicature (Consolidation) Act 1925, which provides:—

“198. Evidence.—The parties to any proceedings instituted in consequence of adultery and the husbands and wives of the parties shall be competent to give evidence in the proceedings, but no witness in any such proceedings, whether a party thereto or not shall be liable to be asked or be bound to answer any question tending to show that he or she has been guilty of adultery unless he or she has already given evidence in the same proceedings in disproof of the alleged adultery.”

4. It will be noted that that provision is limited to “proceedings instituted in consequence of adultery”, and consequently the privilege has been held in England not to apply to legitimacy and other cases, —*Phillipson on Evidence*, 8th ed., 203. And *Redfern v. Redfern*, so far as the dicta therein suggested that any risk which was not a real risk would justify a refusal to answer, was not followed in *Evans v. Evans*, 1904, P. 378, per Barnes, J., at p. 380—“this——point as to the witness subjecting himself to penalties is purely imaginary and

obsolete." The limitations of *Redfern v. Redfern* are further emphasized by Maughan, L. J., in *Elliott v. Albert*, 1934 1 K.B. 650, at pp. 664-7, in a passage which seems to make it clear that, at all events in any proceeding not a divorce proceeding, no general common law privilege remains.

5. Even in England, it seems doubtful whether there is now surviving any privilege to refuse to answer questions as to adultery, save that given by sec. 198 of the Act of 1925, plus such extension of it as is shown by *Redfern v. Redfern* to be warranted in relation to interlocutory proceedings in divorce, and perhaps in relation to cross-examination as to credit only in divorce proceedings.

6. In Victoria, there seems no reason to suppose that the repeal of sec. 119 of the Marriage Act would revive, or leave in force, any privilege to refuse to answer questions relating to adultery, if asked at the trial, and relevant to the issue. The provisions of sec. 29 of the Evidence Act 1928 would then operate, free of the restriction imposed, as to proceedings under the Marriage Act 1928, by sec. 119 of the latter Act. Sec. 29 of the Evidence Act—originally sec. 11 of the Victorian Law of Evidence Consolidation Act 1860, sec. 48 of the 1864 Statute, sec. 56 of 1890, and sec. 29 of 1915—provides—

"No witness shall on the trial of any issue joined or of any matter or question or on any inquiry arising in any suit action or proceeding whether civil or criminal be permitted to refuse to answer any question which is relevant and material to the matter in issue on the ground that the answer may expose him to any penalty or forfeiture or may disgrace or criminate himself unless the Court or person having by law or by consent of parties authority to hear receive and examine evidence is of opinion that the answer will tend to subject such witness to punishment for treason felony or misdemeanour."

7. Sec. 119 of the Marriage Act 1928 is as follows:—

"Notwithstanding anything in any Act in any proceeding under Parts II. to VI. of this Act no witness whether a party to the suit or not and whether his or her attendance has been ordered by the Court or not shall be liable to be asked or bound to answer any question tending to show that he or she has been guilty of adultery unless such witness has already given evidence in the same proceeding in disproof of his or her alleged adultery."

8. It will be noted that the latter section is wider than sec. 198 of the English Act of 1925, in that it applies to all proceedings under Parts II. to VI. of the Victorian Act. But it dates only from sec. 8 of the Marriage Act 1923, which was passed as the result of the discussion of the question by Cussen, J., in *Landells v. Landells*, 1921 V.L.R. 318, and by Irvine, C. J., in *Hanson v. Hanson*, *ib.* 322. The decision of Cussen, J., examining the history of the legislation in England and in Victoria respectively, shows, we think, that before 1923, the position in Victoria was that sec. 163 of the Marriage Act 1915 (repealed in 1923), which contained with amendments the provisions of the original sec. 43 of the English Matrimonial Causes Act 1857, was the only provision protecting a witness, at all events at the trial, in relation to a matter relevant to the issue, and that that protection was limited to the case of a petitioner or respondent called by the Court. It seems clear that Cussen, J., regarded any other claim of privilege at the trial, on a matter relevant to the issue, and based on anything except a tendency to

incriminate of treason, felony, or misdemeanour, as being excluded by sec. 29 of the Evidence Act in cases to which it applied—see 1921 V.L.R., at 320-1.

9. The position may, however, be different in regard to questions affecting credit merely. Sec. 29 of the Evidence Act would not apply, but secs. 35 and 36 of the same Act would. These sections provide—

"35. If any question put to a witness upon cross-examination relates to a matter not relevant to the suit or proceeding except in so far as it affects the credit of the witness by injuring his character it shall be the duty of the Court to decide whether or not the witness shall be compelled to answer it, and the Court may if it thinks fit warn the witness that he is not obliged to answer it."

In exercising this discretion the Court shall have regard to the following considerations:—

"(a) Such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the Court as to the credibility of the witness on the matter to which he testifies.

(b) Such questions are improper if the imputation which they convey relates to matters so remote in time or of such a character that the truth of the imputation would not affect or would affect in a slight degree only the opinion of the Court as to the credibility of the witness on the matter to which he testifies.

(c) Such questions are improper if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence.

36. Nothing in this Division contained shall be deemed to make any witness compellable to give evidence upon any matter which he is by law now protected against disclosing."

These sections come from secs. 9 and 10 of the Victorian Oaths and Evidence Act 1890, *via* secs. 35 and 36 of the Evidence Act 1915, and may well leave open, in relation to cross-examination as to adultery directed merely to credit, the view of the Court of Appeal in *Redfern v. Redfern*, as modified by *Evans v. Evans* and *Elliott v. Albert*.

10. Likewise, sec. 29 of the Evidence Act has been held by the Full Court not to apply to interrogatories, since the party at that stage is not a "witness"—*Hughes v. Watson*, 1917 V.L.R. 398. Interrogatories, therefore, and presumably also discovery, as to adultery, are probably in the same position as cross-examination to credit merely.

11. It may also be mentioned here that R.45 of the Divorce Rules 1949 provides as follows:—

"45. There shall accompany every answer or subsequent pleading which contains matter other than a simple denial of the facts stated in the petition, an affidavit by the person filing the answer or subsequent pleading verifying such other matter so far as he has personal cognizance thereof and deposing to his belief in the truth of the rest of such other matter, provided that in no case shall any respondent be compelled to confess the commission of adultery."

12. In our opinion, it is desirable to add to our proposed sub-sec. (2), repealing sec. 119 of the Marriage Act, a provision that in any proceedings a party shall not be entitled to refuse to answer any interrogatory or to give discovery of documents, and



a witness, whether a party or not, shall not be entitled to refuse to answer any question, whether relevant to the issue, or relating to credit merely, on the ground solely that it relates to, or tends or may tend to establish, adultery by that party or that witness (as the case may be), or by any other person with that party or that witness (as the case may be). So far as questions relevant to the issue are concerned, the position is, we think, that no rule other than the provisions of sec. 119 could affect the matter. As to interrogatories and discovery, we think it desirable to leave the application of those procedures to be governed by the considerations which otherwise regulate them; and as to cross-examination as to credit, to leave it to be governed by those discretionary powers referred to in secs. 35, 37, and 38 of the Evidence Act 1928. We think sec. 36 of that Act should, in relation to this matter of cross-examination, be excluded, since otherwise it might be held to retain in operation the limited privilege we have referred to.

13. Consequently we would in substance, subject to paragraphs 16 and 17 below, recommend the addition to the proposed section of an additional subsection to the following general effect:—

“(3) Notwithstanding the provisions of sec. 36 of the Evidence Act 1928 and any other rule of law, in any proceedings—

- (a) a party shall not be entitled to refuse to answer any interrogatory or to give discovery of documents, and
- (b) a witness, whether a party or not, shall not be entitled to refuse to answer any question, whether relevant to any issue, or relating to credit merely—

on the ground solely that the same relates to, or tends or may tend to establish, adultery by that party or that witness, or by any other person with that party or that witness (as the case may be).”

14. It follows from what we have said that, notwithstanding the suggestions of the Denning Committee, we do not consider that any limitations should be placed by rules on interrogatories, discovery, or cross-examination, on the special ground merely that they relate to, or tend to establish, adultery. We think that, if relevant, questions to a witness as to adultery should be allowable; if to credit merely, they should be admitted or rejected on the same grounds as any other questions not involving incrimination; and that interrogatories and discovery should be allowed or disallowed in relation thereto on the same principles as in relation to other relevant matters.

15. Consequently we do not consider that it is necessary to insert any saving in our proposed subsec. (1); and we think the proviso to R.45 of the Divorce Rules 1949 should be repealed.

16. To sum up our recommendations, as made in this and our two earlier memoranda, we now set out the actual sections which we finally propose. We have, in accordance with what we understand to be accepted principles of parliamentary drafting, placed in one section the proposed abrogation of the rule in *Russell v. Russell*, and in another section the separate subject matter of the repeal of sec. 119 of the Marriage Act and associated rules. We have also adopted in each section the uniform expression “notwithstanding anything in any Act or any other rule of law,” which makes the express reference to sec. 36 of the Evidence Act unnecessary.

17. The proposed sections are as follows:—

“1. Notwithstanding anything in any Act and any other rule of law, neither the evidence of any person nor any statement made out of Court by any person shall be inadmissible in any proceedings by reason of the fact that it is tendered with the object of proving or that it proves or tends to prove that marital intercourse did or did not take place between that person and his or her wife or husband at any time or during any period or that any child is or was or is not or was not their legitimate child.

2. (1) Notwithstanding anything in any Act and any other rule of law, in any proceedings—

- (a) a party shall not be entitled to refuse to answer any interrogatory or to give discovery of documents, and
- (b) a witness, whether a party or not, shall not be entitled to refuse to answer any question, whether relevant to any issue, or relating to credit merely—

on the ground solely that the same relates to, or tends or may tend to establish, adultery by that party or that witness, or by any other person with that party or that witness (as the case may be).

(2) Section one hundred and nineteen of the Marriage Act 1928 is repealed.”

18. We should add that we have discussed this further memorandum with His Honour Mr. Justice Smith, who has been good enough to say that he concurs in the observations and recommendations contained in it.

R. R. SHOLL.  
P. E. JOSKE.

Chambers,

25th September, 1951.



## EVIDENCE BILL

## MINUTES OF EVIDENCE

TUESDAY, 12th AUGUST, 1952.

*Members Present:*

Mr. Mitchell in the Chair;

*Council.*

Mr. Byrnes,  
Mr. Fraser,  
Mr. Thomas,  
Mr. Walters.

*Assembly.*

Mr. Holt,  
Mr. Leckie,  
Mr. Reid,  
Mr. Rylah.

The Honorable Mr. Justice Sholl was in attendance.

*The Chairman.*—Gentlemen, we have with us this morning Mr. Justice Sholl, who took a very material part in the drafting of the Evidence Bill. You will remember that during the debate on the Bill in the Assembly some doubt was raised concerning one or two points, and Mr. Holt desires some clarification of clause 2. I suggest that unless His Honor wishes to make any general remarks *ab initio*, Mr. Holt might ask His Honor about the point he has in mind.

*Mr. Holt.*—First, I considered it desirable that as far as possible we should conform to the English legislation, for the sake of clarity and simplicity, in enunciating the Victorian law based on decisions of the Privy Council and other authorities and on the English High Court jurisdiction. Secondly, I took the view that the rule in the case of *Tilley v. Tilley* is wrong, and that a party to any matrimonial cause, particularly a wife, should not be a compellable as well as a competent witness, and thereby be compelled to give evidence which might incriminate in one form or another. Therefore, I was concerned about the amending Bill which did not in my opinion—I may be wrong—alter the rule in *Tilley's* case. I should like to ask His Honor why has the rule not been removed in this case, if it has not been so removed?

*Mr. Justice Sholl.*—Originally, when Mr. Joske, Q.C., and I drafted this Bill, we prepared for discussion by the Chief Justice's Law Reform Committee a provision which substantially conformed with the then recent English section of the relevant Act. That suggested provision contained two sub-sections; the first provided that a spouse should be a competent witness to give evidence as to intercourse during marriage, and the second sub-section provided that a wife or husband should not be a compellable witness in that respect.

When that draft was discussed by the Chief Justice's Law Reform Committee, it was, I think I am right in saying, generally questioned on the ground that it would create great difficulties in administration, and members of the committee questioned the desirability of adopting the English provision. What had happened was that in *Tilley's* case a wife had been held by a court in England to be compellable to give evidence of intercourse with her husband in order to substantiate a co-respondent's plea that adultery with him had been condoned.

The English Act subsequently reversed that decision by virtue of an amendment of the legislation which was brought forward in the House of Lords and introduced without much discussion. I took the trouble to read the debate in the House of Lords, and I referred to that debate in one of the three memoranda which Mr. Joske and I wrote about this draft Bill. When we considered the matter closely, it appeared

to us that there were considerable difficulties about the English legislation, and in the course of time I think those difficulties will be experienced in the courts in England.

We considered, first, that there would be a difficulty about adopting a positive provision, as is contained in the English Act, one of the provisions of which is that a wife or a husband shall be a competent witness. If a provision of that nature were enacted it would then become necessary to make a positive enactment as to various privileges and other exceptions which might affect that provision. The history of our criminal legislation is such that provision of the necessary safeguards would be a long and difficult task. Accordingly, we conferred with Mr. Justice Smith, who had put some views about this aspect at the committee meeting, and finally we adopted the expedient of making a negative provision which we think is preferable to the English provision.

In other words, we say that it shall not be a ground of objection to the evidence of any person or to evidence of a statement made out of court by any person that such evidence is tendered with the objective of proving, or that it proves, or tends to prove, that marital intercourse did or did not take place. That ground of objection would be removed, but other grounds of privilege, if any existed, would be retained. At the same time that would have the effect of making a husband or a wife a compellable witness to give evidence of those matters in the sense that the mere fact that the evidence, if given, would tend to prove marital intercourse or absence of marital intercourse would be no longer a valid objection.

Frankly, I see no reason why a wife or a husband should not be compelled to give evidence as to whether intercourse did or did not take place between them during the marriage. In many cases, the rule in *Russell v. Russell* has been whittled down to such an extent that that position obtains at the present time. I heard a nullity case in which, following other authority, I held that the rule in *Russell v. Russell* was not applicable, and accordingly evidence by the wife that during the marriage—the nullity of which she was seeking to establish—she had had intercourse with another man who was the father of her child, was according to that authority admitted. It seems to me that it would have been quite wrong in that case, if the husband had wanted to cross-examine the wife about those matters, to say that the wife should not be compelled to give evidence.

In the same way, it seems to me that in criminal cases it might be very important to the liberty of the subject that a wife should be compellable to give evidence as to intercourse during marriage. A man might be charged with incest with his alleged daughter, and it might be important to him to prove that the child was not, in fact, his daughter. It might therefore be important to him to call his wife and ask her questions designed to elicit whether the woman with whom he was alleged to have committed incest was or was not the child of the marriage; that illustration was given by Sir John Latham, when Chief Justice of the High Court, in the very well-known divorce case of *Piggott v. Piggott*. My own feeling about these matters is that it is the business of the courts to decide cases on true evidence ascertained by the best means that the legislature and the law can provide.

I agree that, if there is no other proper recognized ground of privilege, we should not be precluded from asking a wife questions about intercourse with her husband while at the same time we are at liberty to ask her to give evidence about her adultery. That expresses shortly the point of view which I think I might say was the unanimous view of the Chief Justice's Law Reform Committee, when the final draft of the Bill was adopted. If members of this Committee have not read the memoranda which we wrote about this Bill, I suggest that copies should be duplicated and circulated so that members may see how our own views fluctuated before this provision was adopted. We may be justly accused of having varied our views, but these memoranda show that the Chief Justice's Law Reform Committee functioned as a committee should function. As the matter was discussed, different views were expressed and finally we arrived at a view which seemed to surmount the difficulties suggested by every one.

*Mr. Holt.*—I am not clear as to what extent a spouse's compellability will prevail when such compulsion would lead to an admission that might incriminate the spouse in another cause of action. For instance, in a legitimacy case, a wife might admit adultery, which would be grounds for divorce. Hitherto, the husband might have had no definite proof of the adultery.

*Mr. Justice Sholl.*—What Mr. Holt suggests has no bearing on clause 2, which, in effect, merely makes a wife a compellable witness in respect of intercourse with her own husband.

*Mr. Holt.*—It relates to the evolution of clause 2, does it not?

*Mr. Justice Sholl.*—It might be said in one way that a wife could be asked whether she had intercourse with her own husband, and if she answered "no" evidence of the birth of a child to her might show that she must have committed adultery, but I think that is an unavoidable consequence of the abolition of the rule in *Russell v. Russell*.

*Mr. Holt.*—One of the fundamental principles of our criminal law for many years past has been that a person should not be compelled to give evidence which might incriminate.

*Mr. Justice Sholl.*—Might I clarify what I think is possibly a misconception? At present, the privilege against answering questions designed to show adultery is limited to proceedings under certain parts of the Marriage Act. In a criminal proceeding or in a civil proceeding, such as a slander action, or any other proceeding except one under Parts II. to VI. of the Marriage Act, a person has no privilege against answering questions designed to show adultery. Therefore, it cannot be said that there is any general principle in our law against answering questions designed to show adultery. True, it is that in 1923 there was introduced a provision which brought about that result in certain proceedings under the Marriage Act including divorce proceedings.

In England the privilege operates to the extent that a person can be asked a question about his or her own adultery in proceedings instituted in consequence of desertion or cruelty, or on any other ground than adultery. Those anomalies have been referred to by the Committee on Procedure in Matrimonial Cases, which is of opinion that any such privilege cannot be said to be uniform, and ought to be abolished. In a criminal case there is no statutory bar against asking a witness questions as to his or her own adultery. The rule in *Russell v. Russell*, however, is still applicable to criminal proceedings in Victoria, although it has been abolished in a number of other countries and several of the Australian States. The Chief Justice's

Law Reform Committee has tried to bring about uniformity of practice in the different classes of litigation which come before the courts by abolishing the rule in *Russell v. Russell* so that the position may no longer obtain in any class of case that questions cannot be asked which might show that a child is illegitimate, and by abolishing the privilege against answering questions tending to show the adultery of a party or a witness. Those rules have been sought to be abolished in the Bill by the adoption of the provisions of clauses 2 and 3 in a negative form, so that all other privileges, such as legal professional privilege, which might obtain in relation to a particular matter, are preserved. That aspect of the draft Bill is due largely to the discussions we had with Mr. Justice Smith, who is very skilled in drafting of this kind.

I am bound to say, however, that there would be some further instances, and I think rightly so, when a person would be compellable to answer a question which might tend to show that that person had committed adultery, but it must not be thought that that position does not obtain in other instances to-day. A question of that kind, which did not tend to bastardize issue, would to-day be admissible if directed to a witness in any case except one arising under the Marriage Act. Courts in Victoria have many difficulties in trying to decide whether they will follow this or that decision in other countries, in some instances extending and in others restricting the rule in *Russell v. Russell* and similar rules.

*Mr. Holt.*—I have before me the relevant portion of the English Act which abolishes the rule in *Tilley's case*. That rule is so particularly narrow that I doubt whether many cases have been instituted where a compellable witness has, in fact, given evidence in regard to adultery.

*Mr. Justice Sholl.*—A distinction must be made between compelling a woman to give evidence of her adultery and to give evidence of intercourse with her husband. The rule relating to the protection against giving evidence in relation to intercourse was based on what were regarded as the secrets of the marriage bed. I think the modern attitude of the courts is that, in the interests of society generally, they should not be precluded from asking questions about things of that kind. Often, too, the protection against questions tending to show adultery is almost made a mockery of in our courts. Frequently a petitioner has no very strong evidence of adultery of the respondent and co-respondent.

The witness gives certain evidence and then calls the respondent and co-respondent. Each is warned that he or she need not answer any questions tending to show adultery, but as those persons, generally, are those who are most eager that the divorce should be granted, they waive their privilege and give evidence of their own adultery. I think a strict interpretation of the section would prevent them from doing that, but the practice has for so long been to the contrary that I have followed it. There is now enough unreality in the law without perpetuating a provision which leads to practices of the kind I have just described.

*Mr. Fraser.*—There is another limitation, in section 119, to the effect that if you deny, you may be asked.

*Mr. Justice Sholl.*—Yes, that is true.

*Mr. Fraser.*—On one occasion, when we had a weak case, we sought, at the time of service of the documents, to get an admission of adultery. Mr. Justice Lowe refused to admit it once the proceedings had been instituted. At that stage there had been denial.

*Mr. Rylah.*—Clause 2 of the Bill is drafted in a form which is wider than the English form. Presumably that is to cover the case of a person who, although a wife or a husband at the time of the event, has since been divorced, or the partner has died.

*Mr. Justice Sholl.*—Yes. The clause is wider also in another respect. It is extended to cover not only the evidence of any person but also any statement made out of court by any person. That adopts a later decision of the court in England, the effect of which is that the English Act, by implication, extends to statements made out of court. We think it better to say that expressly.

*Mr. Rylah.*—As the English Act stands, if a person had changed his state and was no longer a husband or a wife, but had become a divorcee or a widower, the rule of *Russell v. Russell* would still apply.

*Mr. Justice Sholl.*—I think that might well be so.

*Mr. Thomas.*—I should like Your Honor to comment on the phraseology of the last three lines of clause 2 which states “. . . between that person and a person who is or was his or her wife or husband or that any child is or was or is not or was not their legitimate child.”

*Mr. Justice Sholl.*—I should think that no court would be troubled greatly about that wording because it would adopt the principle of interpretation *reddendo singula singulis*, which means referring particular expressions to their appropriate distributive nouns, that is to say, “who is or was her husband or his wife, as the case may be.”

*The Chairman.*—Will the drafting of that clause detract from the efficiency of the functioning of the Bill when it becomes an Act?

*Mr. Justice Sholl.*—I think not. Perhaps I should say, in defence of the drafting, that it has been approved by the somewhat critical Chief Justice's Law Reform Committee, which includes a number of Judges who are not slow to point out the drafting errors of a fellow Judge.

*The Committee adjourned.*



1951-52

VICTORIA

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SUPPLEMENTARY REPORT  
(Freehold Titles to Flats)

FROM THE

STATUTE LAW REVISION COMMITTEE

ON THE

TRANSFER OF LAND BILL 1949

TOGETHER WITH

MINUTES OF EVIDENCE

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*Ordered by the Legislative Council to be printed, 7th October, 1952.*

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By Authority:

J. J. GOURLEY, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS  
OF THE LEGISLATIVE COUNCIL.

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TUESDAY, 20TH NOVEMBER, 1951.

8. STATUTE LAW REVISION COMMITTEE.—The Honorable P. P. Inchbold for the Honorable P. T. Byrnes moved, That the Honorables P. T. Byrnes\*, A. M. Fraser\*, G. S. McArthur, A. E. McDonald\*, F. M. Thomas, and D. J. Walters\* be members of the Statute Law Revision Committee.

Question—put and resolved in the affirmative.

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WEDNESDAY, 16TH JULY, 1952.

14. STATUTE LAW REVISION COMMITTEE.—The Honorable P. T. Byrnes moved, by leave, That the Honorables P. T. Byrnes, A. M. Fraser, H. C. Ludbrook, and D. J. Walters be members of the Statute Law Revision Committee.

Question—put and resolved in the affirmative.

\* Vacated office on 14th June, 1952, on retirement by effluxion of time as a Member of the Legislative Council.

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EXTRACTED FROM THE VOTES AND PROCEEDINGS OF  
THE LEGISLATIVE ASSEMBLY.

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TUESDAY, 20TH NOVEMBER, 1951.

26. STATUTE LAW REVISION COMMITTEE.—Motion made, by leave, and question—That the following Members be appointed members of the Statute Law Revision Committee:—Mr. Barry, Mr. Holt, Mr. Mitchell, Mr. Oldham, Mr. Reid, and Mr. Rylah (*Mr. Dodgshun*)—put and agreed to.
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TUESDAY, 5TH AUGUST, 1952.

5. STATUTE LAW REVISION COMMITTEE.—Motion made, by leave, and question—That Mr. Oldham be discharged from attendance on the Statute Law Revision Committee and that Mr. Leckie be appointed in his stead (*Mr. Brose*)—put and agreed to.



## SUPPLEMENTARY REPORT

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THE STATUTE LAW REVISION COMMITTEE, appointed pursuant to the provisions of the *Statute Law Revision Committee Act 1948*, have the honour to report as follows :—

1. On the 19th August, 1952, the Committee presented to both Houses of Parliament a Supplementary Report (D. No. 4—Victorian Parliamentary Papers of 1951–52) on the Transfer of Land Bill 1949, recommending immediate legislation in respect of certain of the matters covered in the earlier Reports. The Committee again urge action in this regard.

2. A further matter of urgency was brought to the notice of the Committee by the Honorable the Attorney-General, to whom the Registrar of Titles (Mr. W. J. Taylor) had submitted difficulties likely to arise in connexion with the “Own Your Own Flat” schemes in which blocks of flats are being built on the assumption that a separate Certificate of Title with full legal rights of enjoyment will be available to the purchaser of each unit. There are other schemes in which problems of title do not arise. Mr. Taylor appeared before the Committee and the evidence given by him is appended to this Report.

3. The Committee first considered Mr. Taylor’s submission that there were no insuperable difficulties attaching to the issue of separate titles, although in the case of an upper-storey flat the Certificate would not describe “land”, in the usual sense, but a stratum of air space. The spaces occupied by each flat and garage are owned by each purchaser exclusively, and all purchasers become joint owners of such part of the surface and the space above or below it as is not occupied by the flats and garages; that is to say, the gardens, grounds, lift-wells, stairways, landings, boiler house, laundries, above the roof to zenith, and below the floor of ground-floor flats to the centre of the earth. Mr. Taylor referred to cases in which the Office of Titles had issued titles to “so much and such part of all that piece of land being (*Crown Description*) as lies above the height of \_\_\_\_\_ feet above (*given datum*)”, and expressed the view that a transfer in that form, if otherwise in order, would have to be registered.

4. The Committee had conferences with Mr. H. A. Winneke, Q.C., Solicitor-General, and Mr. H. D. Wiseman, of Counsel, and are satisfied that, as title to land includes earth below (subject to limitation of depth in some cases) and space above, a stratum of air space constitutes a legal interest in land and as such comes within the ambit of the Transfer of Land Acts.

5. The Committee considered whether the Transfer of Land Acts met the requirements of this type of “Own Your Own Flat” scheme. In this connexion, Mr. Taylor stated that, by reason of the complexity of the problems presented and lack of precedent, conveyancers probably would experience difficulty in drawing transfers providing all necessary easements. As the Act does not make the registration of all easements compulsory, the Office of Titles cannot refuse to register transfers even though it does not appear from the documents lodged for registration that all necessary easements have been created or reserved.

6. While many matters may well be left for agreement between the parties, the Committee consider that the rights and obligations affecting reasonable enjoyment should be settled by the creation of easements notified in the Office of Titles at the time the subdivision of a block of flats is planned. Registering these interests would accord with the object of the Torrens system, namely, that all interests affecting land should be ascertainable as far as possible by a simple search at the Office of Titles. Under existing legislation the purchasers of flats in the type of scheme under consideration could have difficulty and incur expense in creating easements not specifically provided before all the flats are sold and the vendor’s title extinguished.

7. In the case of an ordinary land subdivision, the plan of subdivision lodged in the Office of Titles is examined to see that necessary easements are defined. Section 212 of the *Transfer of Land Act 1928* as amended provides *inter alia* that where a transfer refers to an allotment in a plan of subdivision lodged in the Office of Titles, the transfer is deemed

to include a grant of all such easements " of way and of drainage and for the supply of water gas and electricity and for sewerage services and for underground telephone services on over or under the land appropriated or set apart for those purposes respectively on the plan of subdivision as may be necessary for the reasonable enjoyment of the allotment transferred."

8. The Committee believe that most of the difficulties foreseen in regard to the issue of separate titles for flats can be met by provisions similar to those relating to ordinary subdivisions. Where a subdivision is partly horizontal, as with flats, appropriate plans and elevations should be lodged in the Office of Titles showing at least limits, supports, necessary service easements, and " party-wall " easements in respect of the dividing floors.

9. The Committee therefore recommend that the Transfer of Land Acts be amended to enable the Registrar of Titles to require such plans and elevations, to his satisfaction, before dealings are registered, and that section 212 of the *Transfer of Land Act* 1928 be further amended to extend its provisions to subdivisions of all types. The Committee urge that the legislation recommended herein be introduced as early as possible, with a view to assisting the administration of the Office of Titles and protecting the interests of prospective purchasers. It may be that further legislation will appear desirable when more experience of this type of ownership is available.

10. The Committee desire to express their thanks to those who assisted in their deliberations and in the preparation of this Report.

Committee Room,  
1st October, 1952.

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TRANSFER OF LAND BILL  
(Freehold Titles to Flats.)

## MINUTES OF EVIDENCE

TUESDAY, 26TH AUGUST, 1952.

*Members Present:*

Mr. Mitchell in the Chair;

<i>Council.</i>	<i>Assembly.</i>
Mr. Fraser,	Mr. Holt,
Mr. Ludbrook.	Mr. Leckie,
Mr. McArthur,	Mr. Reid,
Mr. Thomas,	Mr. Rylah.
Mr. Walters.	

Mr. William John Taylor, Registrar of Titles, was in attendance.

*The Chairman.*—The purpose of this meeting is to hear evidence from the Registrar of Titles, Mr. W. J. Taylor, regarding "Own your own flat" titles.

*Mr. Taylor.*—There appear to be no insuperable difficulties associated with the issue of certificates of title under the Transfer of Land Act 1928 to separate flats under the "Own your own flat" propositions now in vogue. The Titles Office cannot refuse to register transfers, although it is obvious that no registered easements have been created or reserved and that the transferee and his vendor, the transferrer, are relying on easements arising under implied grants.

The specimen title which I produce for the information of the Committee makes no mention of any easement appurtenant to the land, nor would there be any easement set out as an encumbrance on the title.

Up to the present the Titles Office has discouraged the issue of such titles basing the objections, I think, on the necessarily complex nature of the title and of the diversity of easements required to be created and reserved. It is a very complex conveyancing problem to provide for all requisite easements by way of express creation or reservation.

Only a limited number of titles of strata of air space are in existence in the Titles Office. I have four sample titles here for the information of the Committee. One for part of certain floors in Craig's Buildings, Elizabeth-street, Melbourne, issued out of an application based on adverse possession of air space over general law land.

To my knowledge, there are only about five or six such titles in the office, and I understand that they are rare, even in England. Until 1878 there was no provision for embodying in the title of a dominant owner easements appurtenant to his land. No easements could be shown in the title and if a person had the right of carriage way on the road abutting his land there was no provision to enable it to be set out. The present Act enables easements to be registered, but registration is not necessary. The Titles Office is not concerned to inquire whether the transferee procures a grant of the required easements appurtenant so that they may be noted in his title, thereby obtaining the benefit of the conclusive effect conferred by section 68 of the Act. It is an advantage to have the easements shown in the title, because the owner then gets the benefit of that section. The titles never disclose the existence of buildings, &c., and the title to a flat would refer only to ownership of a stratum of air space.

According to the preface to Mr. Wiseman's book, one of the imperfections of the Transfer of Land Act is the difficulty of ascertaining whether the land is affected by unregistered easements, one of the

exceptions in section 72 to the estate of the registered proprietor being paramount. From the point of view of the Titles Office it is far better to have easements shown on the title, which should be a reflection of the exact position of rights in favour of and affecting the land. Prudent conveyancers, therefore, obtain registered easements and the servient titles are noted as being subject to them. This doubtless accords with the intention of the framers of the Transfer of Land Act.

In conjunction with a firm of solicitors, a scheme has been evolved to cover a transfer of a single flat out of a unit. It will be on similar lines to the specimen title that I have submitted for the information of the Committee. The space occupied by each flat and garage is owned by each purchaser exclusively. He gets the fee simple to the flat and the garage, and all purchasers become joint owners of the surface and such part of the space above or below it as is not occupied by the flats and garages; that is to say, the gardens, grounds, lift-wells, stairways, landings, boiler-house, laundries above the roof to zenith and below the floor of ground-floor flats to the centre of the earth.

*Mr. Walters.*—I thought it applied only to a depth of 50 feet and not to the centre of the earth?

*Mr. Taylor.*—Depth would be limited only if a limitation had been contained in the relative Crown grant. It is reasonably simple in that the flat owner is the exclusive owner of the flat, and he is a tenant in common in everything surrounding the areas of air space of the various flats. Perhaps it is important to become a tenant in common underneath the flat because in the flats in question there are garages, or laundries, or storage facilities underneath, the idea being that the exclusive ownership only of the flat itself is vested in one particular person. Ownership would include the outside walls, half of the interior dividing walls, half of the ceiling and half of the floor of any particular flat.

The scheme I have mentioned has been expressly designed to obviate the creation and reservation of various easements. This object is achieved, but possibly at the expense of certainty of the title, particularly with respect to easements appurtenant or affecting. Whilst this is solely a matter between the parties, certain solicitors acting for purchasers are apprehensive concerning the omission of express easements and of their clients having to rely upon implied grants of easements.

The ideal title to a flat would embody all easements appurtenant and all easements affecting would be notified as encumbrances. This would be difficult in case of a large block of flats as rights of many kinds have to be created and reserved—for example, support—including interior walls or pillars—water pipes, gas pipes, electricity mains, sewerage and drainage pipes, chimneys, and so on. It may be difficult to draw up an exhaustive list of the required easements.

It will be noted that section 212 of the Transfer of Land Act grants certain kinds of implied easements in favour of lots on a plan of subdivision "as may be necessary for the reasonable enjoyment" of the lot transferred. The words "as may be necessary for the reasonable enjoyment" were taken from the judgment of the leading case of *Wheeldon v. Burrows*—discussed at page 174 of *Gale on Easements*—

concerning implied grants of easements. If easements based on implied grants are to be relied upon as to flats, it is doubtful whether each flat will have the benefit of all such easements as may be necessary for its reasonable enjoyment.

*The Chairman.*—Will you give an outline of the easements coming into the question of the ownership of a flat?

*Mr. Taylor.*—I have in mind such easements as the right of support. Of necessity, the top flat would need the right of support of the walls, girders, pillars and interior walls of the flat or flats underneath.

*Mr. Fraser.*—There would be a dominant and a servient tenement on the one piece of land?

*Mr. Taylor.*—Yes. The top flat could not exist as a flat unless it had the right of support. I think that is the only implied grant of easement that passes with the sale of the flat in the proposed scheme.

*The Chairman.*—What is the position with staircases?

*Mr. Taylor.*—Staircases and landings are in the joint ownership. That obviates the creation or reservation of easements in the proposed scheme.

*The Chairman.*—The main issue is the question of the right of support?

*Mr. Taylor.*—Yes, but it appears to be guaranteed by implied grant by subdivider of flats. Other easements could concern water pipes attached to the walls, gas-pipe installations, and electric wiring through walls from the bottom to the top flats. Smoke would go up chimneys that might form part of the exterior walls. Provision may have to be made for gas fumes and smoke to go up and for sewage and water drainage to come down.

*Mr. Leckie.*—There is a dividing line in the centre of the space between the floor of an upper and the ceiling of a lower flat, and that line runs through the joists. If they become affected by dry-rot, will the owner or the tenant be required to renew the support provided by half of his ceiling or floor joists?

*Mr. Taylor.*—The Titles Office would not come into that matter, which is discussed in an article headed "Land Without Earth: Freehold Flats In English Law," by Mr. S. M. Tolson, LL.B., and reported in *The Conveyancer*, volume 14, at page 350. The author deals with this involved subject of keeping flats of this description in repair. I am, however, looking at the matter from the point of view of the Titles Office, and I do not wish to intrude on other matters concerning repairs, and so on. I have mentioned deficiencies connected with titles not showing easements. A person may purchase a flat and then find that the only easement he has is the right of support, whereas many others ought to have been provided for the reasonable use of his flat. I have stated that if easements based on implied grants are to be relied upon as to flats, it is doubtful whether each flat will have the benefit of all such easements as may be necessary for its reasonable enjoyment. I emphasize the words "for its reasonable enjoyment;" they appear in section 212 of the Transfer of Land Act, which operates satisfactorily in the transfer of lots in registered sub-divisions of land.

More than 70 pages of *Gale on Easements* are devoted to a discussion on implied grants and the rule that "no man can derogate from his grant." That is the crux of the matter of what the purchaser gets and what the vendor retains upon the completion of a contract of sale in which there is no written agreement concerning easements. The doctrine that no man can derogate from his grant operates in favour

of both grantor and grantee, but with respect to easements other than easements of necessity an express reservation by the grantor may be necessary. For instance, if a grantor sells a flat on the ground floor, he should reserve in favour of the owners of the flats above the right for drainage, sewage, and so on, to pass down. Unless all easements necessary for the reasonable enjoyment of the flats above the ground floor are reserved, purchasers of those flats will have only an easement of support.

Implied easements of necessity appear to be limited to rights of support, rights of way, and rights of drainage. The proposed transfers of the flats in question would apparently result in implied grants and implied reservations of support only. As there would surely be other rights necessary for the reasonable enjoyment of some of the flats, purchasers would be prejudiced by the failure of the original owner of the units to retain certain rights and so reserve the required easements. In many cases the owner possibly has no particular concern as to the rights of purchasers, as he sells the entire block of flats and has no further interest in the matter. For this reason, I respectfully submit that consideration be given to the inclusion in the Transfer of Land Bill provisions somewhat similar to those of section 212 of the Transfer of Land Act whereby implied easements necessary for the reasonable enjoyment of both the flat being transferred and other flats in the same building would be granted or reserved. It could relate to transfers of portions of buildings. It may be possible for the Act to cover failure of a subdivider of flats to reserve the necessary easements.

It may be practicable to create and reserve the requisite easements in each transfer by a short reference thereto if a master plan of the construction of the buildings were officially deposited in the Titles Office and could be referred to in the transfer and title issuing thereon. This would avoid complicated plans on the title. Alternatively, if all transfers were lodged simultaneously and an agreement was entered into by all the purchasers defining the easements created and reserved, statutory force could be given to the easements by a creation embodied in the transfer briefly incorporating this agreement, which could be an annexure to one of the transfers. In effect, the agreement would be the governing document as to rights of the parties regarding the easements created and intended to be created and reserved, and as to restrictions and so on.

*Mr. Leckie.*—In the specimen of title submitted there is no provision for access to the upper flats by lifts or stairs. Presumably, it was desired that that document should be simple?

*Mr. Taylor.*—Yes.

*The Chairman.*—Mr. Taylor has stated that there would be common ownership of stairways and lift wells.

*Mr. Taylor.*—That is so. In the case before the Committee, all the staircases are outside the building and are owned jointly by the owners of the flats.

*Mr. Thomas.*—What is the position in cases in which the stairways are inside the building?

*Mr. Taylor.*—In this instance there are none inside. The site of, and the air space occupied by, interior lift wells and staircases would be sold and transferred to all the owners of the flats as tenants in common.

*Mr. Thomas.*—Each tenant would have the right to use the stairs?

*Mr. Taylor.*—Yes. Being tenants in common, they would work it out among themselves. One could not enjoy the benefits of the staircase to the exclusion of

the others. To adopt that course would be to place the matter on a better footing than would be the case if one person owned the staircase and easements were granted over it. The form of title submitted to the Committee has certain merit, but it has grave deficiencies regarding easements, which are all important in an owner's enjoyment of a flat. Definite rights should be incorporated in the title and statutory force given to them by section 68 of the Transfer of Land Act, otherwise owners of flats may suffer disabilities.

*Mr. Rylah.*—With this title in its present form, the owner of a flat has an absolute right to the structure of his flat, subject to any implied easement of support, and so on?

*Mr. Taylor.*—Yes.

*Mr. Rylah.*—As an extreme example, there is nothing to prevent him from painting his flat blue, the man below painting his flat pink, and the one above painting his white.

*Mr. Taylor.*—That is outside the jurisdiction of the Titles Office, but I understand that these matters are covered by agreement. The "Own your own flat" schemes have operated for some time in Sydney. The purchaser owns shares in a company and no doubt there is a lengthy agreement governing the occupancy of the flat. In Melbourne the scheme is forced on the Titles Office—and we accept it—by reason, I am informed, of the operations of the capital issue regulations. I understand that the Commonwealth Government would not consent to a company which proposed to erect what they regard as luxury flats, and the flats in question would fall into that category.

*Mr. Fraser.*—Who holds the agreement in which is set out the various rights; is it produced to the Titles Office?

*Mr. Taylor.*—It is not.

*Mr. Fraser.*—When the vendor has sold the last flat who gets the original document; where is the repository of that document?

*Mr. Reid.*—I assume that Mr. Taylor is speaking of the system that is being operated at the present time. A person intending to take a flat enters into an agreement with the company that owns it and the tenant becomes a shareholder in the company. His share holding gives him certain rights and control.

*Mr. Fraser.*—I understand that in this case the vendor walks out when he has sold the twelfth or last flat. That being so, supposing you have twelve purchasers who have signed the document, who then keeps that document?

*Mr. Taylor.*—If that document embodied all the easements, and so on, it may be possible to make it an annexure to one of the transfers to get it on to our register book, making it an official document regulating the acts of the parties as between themselves.

*Mr. Fraser.*—It would be novel for your Department to start policing it.

*Mr. Taylor.*—We would not be policing it. We had an opinion from Mr. Gregory some years ago about issuing a title to a stratum of air space and he advised that being a hereditament it was included in the statutory interpretation of land in the Act.

*Mr. Rylah.*—Have you registered any titles of multi-flats?

*Mr. Taylor.*—No.

*Mr. Leckie.*—In the future, when some of these flats are demolished, will the Titles Office be able to handle the position that will arise as to transfers and so on?

*Mr. Taylor.*—We will have to start *ab initio*.

*Mr. Walters.*—Have the restrictions placed upon capital issues led to the building of the blocks of flats?

*Mr. Taylor.*—I think so.

*The Committee adjourned.*



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