Legislative Assembly

Friday, 26 November, 1982

Mr Speaker (The Hon. Lawrence Borthwick Kelly) took the chair at 10.30 a.m.

Mr Speaker offered the Prayer.

PETITIONS

The Clerk announced that the following petitions had been lodged for presentation:

Homosexual Laws

The humble Petition of the undersigned citizens of Australia, New South Wales, respectfully sheweth:

That we support your valiant efforts, particularly over the last twelve months, to strengthen and support our family and community life. We therefore call upon you to firmly reject the 1982 report and recommendations of the Anti-Discrimination Board on homosexuality, for the following reasons:

(1) The board's irrational proposal that copies of *Young, Gay and Proud,* an obscene children's school textbook, should be included in all school libraries (page 643) is a threat to morals of children. This publication has already been prohibited in New South Wales schools by the New South Wales Director-General of Education and is a restricted publication under the Indecent Articles and Classified Publications Act, 1975, which means that the book may not be sold, displayed or exhibited in areas accessible to persons under the age of eighteen years.

(2) The board's recommendation that the word spouse be legally redefined to recognize homosexual male partners, which would be a direct attack on the institutions of marriage and the family (reference 8.18).

(3) The board's endorsement, without modification, of Mr G. Petersen's private member's bill of November 1981, which would have legalized buggery, sodomy, and homosexual male prostitution, et cetera, in spite of that bill having been already overwhelmingly rejected after prolonged debate by the New South Wales Parliament (reference 5.71).

(4) These irresponsible recommendations, and many others relating to education, police and health, et cetera, clearly discredit the board's report, and strongly indicate the board's lack of objectivity and professionalism.

Your Petitioners therefore humbly pray that your Honourable House will continue to support family life and high moral values, and protect children in New South Wales, by firmly rejecting the board's report and recommendations on homosexuality and to ensure that this report is not implemented surreptitiously without the approval or authority of Parliament.

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

Petitions, lodged by Mr Bedford, Mr McIlwaine, Mr Paciullo, Mr Quinn, Mr Robb and Mr Smith, received.

Homosexual Laws

The Petition of the undersigned residents of New South Wales, respectfully sheweth:

(1) That homosexual people in this State are discriminated against, and

(2) the Anti-Discrimination Board's recent report outlines this discrimination and recommends the amendment of the Anti-Discrimination Act.

Your Petitioners, therefore humbly pray that your honourable House:

Amend the Anti-Discrimination Act by the addition of a new part which would outlaw discrimination on the ground of homosexuality.

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

Petition, lodged by Mr Page, received.

School Ancillary Staff

The Petition of the undersigned citizens of New South Wales, respectfully sheweth:

That the present method of allocating ancillary staff to schools according to the schedule established in 1977 is both inadequate and unjust.

Your Petitioners therefore humbly pray that your honourable House will:

Review the allocation of ancillary staff with the objective of a more gradual scale taking into consideration the unique needs of each school and the reduction of enrolments in most schools.

Consider the appointment of ancillary staff, especially general assistants, to be shared by two or more small schools where these schools do not qualify for full-time staff.

Your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr Quinn, received.

WARREN CHARLES LANFRANCHI

Urgency

Mr DOWD (Lane Cove), Leader of the Opposition [10.35]: I move:

That it is a matter of urgent necessity that this House should forthwith consider the following motion, viz.:

That this House calls on the Attorney-General to institute a judicial inquiry into the circumstances surrounding the death of Warren Charles Lanfranchi on 27 June, 1981, and Lanfranchi's relationship with drug running activities involving the Harry S. Baggs Group of Companies.

This matter is urgent because of the failure of two Ministers to provide any sort of reasonable answers to three questions put to them in this House over the past two days. This failure has added to the speculation and allegations circulating in the community about the death of Warren Lanfranchi and the connection between his death and major crimes such as drug-running and widespread corruption. It is also urgent because the Attorney-General has had before him since 4th December, 1981, a request for a judicial inquiry into the death of Warren Lanfranchi from two barristers, Ian Barker of Queen's Counsel and Tony Young. Yet the Attorney-General has still not directly responded to that request. The matter is made more urgent by reports that the Attorney-General has received advice from the Senior Crown Advocate, Mr Roger Court of Queen's Counsel, also recommending a judicial inquiry. The Attorney-General has made suggestions only about holding a second coroner's inquest. The narrowness of such an inquest and the restrictions on admissibility of evidence at such an inquest have led this array of senior counsel to recommend against the Attorney-General's proposal and to urge a judicial inquiry. A second inquest cannot provide the answers which this case requires.

There are a series of unanswered questions about Lanfranchi's death. The coroner rejected hearing evidence from a number of potential key witnesses: from journalists who conferred with police at the scene of the shooting, and who published verbatim accounts of comments made by Detective Sergeant Rogerson immediately after the shooting; from Lanfranchi's de facto wife, Miss Huckstepp, who knew the identity of a person with whom she had seen Lanfranchi dealing in heroin and who was already a central witness in the case; and from Lanfranchi's father, Keith, regarding the police raid on his home on 11th June, 1981, and regarding a conversation with his son on 21st June when Warren Lanfranchi said that he was in trouble with Detective Sergeant Rogerson and would have to borrow money to get Rogerson off his back. Similar evidence from Sallie-Anne Huckstepp was also ruled irrelevant.

Although the coroner allowed evidence from a witness D attacking the character of Warren Lanfranchi, comparable statements from two other criminals making serious allegations about certain police officers were ruled irrelevant. These problems demonstrate the inability of a coroner's inquest, with its restricted terms of reference, to get to the heart of this matter. In considering the urgency of this motion, the House should also be aware that the coroner's inquiry was not able to investigate the key event which led to the interest of police in Lanfranchi—a heroin robbery on 6th June, 1981. There are allegations that this heroin was stolen by Lanfranchi from a police courier. A major participant in that event was not called to give evidence, nor was a person who is alleged to have informed Lanfranchi that the police were after him for the heroin robbery. The person who drove Lanfranchi to the rendezvous with the so-called informer, witness G, was not called. A civilian eyewitness to the shooting was not required to give evidence, after a first attempt to subpoena that witness failed.

Further, several new facts and other evidence have become available since the inquest. For example, three transcripts of tape recordings of key figures are now available, at least one of which casts serious doubt on the credibility of a key police witness. Other allegations in the transcripts are that Detective Sergeant Rogerson paid off another witness by giving him heroin, and that Warren Lanfranchi was murdered because he had ripped-off certain members of the police force in relation to a heroin deal. In the opinion of Mr Barker, Q.C., and Mr Young, the coroner's inquest "had all the appearances of being run by the police force". The statements for the coroner were taken mainly by officers of the Armed Hold-up Squad. Detective Sergeant Rogerson helped to take a statement from a most significant witness, the man referred to at the inquest as G, a police informant who is a notorious criminal. During the hearing and on the night before the informant gave his evidence, Rogerson called to see him at his home, gave the informant a copy of the statements that the informant had previously made, and talked with him about the case.

This matter is also urgent because of the connection between the death of Warren Lanfranchi and the activities of the Harry S. Baggs group of companies. Lanfranchi was driven to the scene of his death by a person known at the coroner's inquiry as witness G. The car was owned by Fanhaven Pty Limited, one of the Harry S. Baggs companies. G himself is a long time associate of the major shareholder in Harry S. Baggs—James Richard White. This week the House has heard the type of answers given by the Minister for Police—he does not answer questions at all. The House should also be aware that witness G in this case also appeared in the Woodward Royal commission, where he was referred to as witness B.L. It is alleged, Mr Speaker, that B.L., or G, however we wish to refer to him, is in fact the notorious Sydney criminal, Neddy Smith, a close associate of William Sinclair, whose activities are well known to this House. Sinclair has many significant associates, as the Premier would well know.

The matter is urgent because the Attorney-General informed this House in April of this year that he was having urgent investigations carried out into the activities of the Harry S. Baggs companies. He told this House that White had a history of convictions for stealing and false pretences and had at one time been a professional shoplifter. In July this year Mr Justice Powell, in the Equity Division of the Supreme Court, described White as the *eminence grise* behind the six Harry S. Baggs companies and as a person who will do and will say anything which suits his immediate purpose, whatever may be the legality or otherwise of the action taken or the truth or otherwise of the statement made. In April, also, the Attorney-General, in referring to the advertising for the Harry S. Baggs companies on Radio Station 2KY, gave the specious answer that "the ethical standards of that company (2KY) are such that I am sure they would have no association with persons involved in drug trafficking". Of course, there was a dispute between the left and right factions of the Labor Party, and the Hon. B. J. Unsworth considers 2KY his own personal property.

This matter is urgent because Mr White has been allowed to go missing, despite the Attorney-General's assurances five months earlier that the investigations were urgent. White's passport was used, five months after these assurances, by a person leaving the country in September—one month before the Harry S. Baggs companies went into liquidation. Yet it is an obvious and early step in any such case to seek the withdrawal of a passport by the Commonwealth authorities. Both the Attorney-General, on Wednesday, and the Minister for Police, yesterday, have totally failed to explain to this House why such action was not taken in this case. Instead, the House has been treated to the undignified spectacle of the Attorney-General trying to duck the issue and pass the blame on to the police and, by implication, his own ministerial colleague.

The Minister for Police, for his part, has failed to answer in any way the questions I put to him yesterday. He merely asserted that the substance of the evidence, notwithstanding the inadequacies I have mentioned today, has been referred to the Woodward and Stewart Royal commissions. But the terms of reference of the Stewart Royal Commission are too narrow to help in this case and, worse still, the Woodward Royal Commission went out of existence about a year ago—before Warren Lanfranchi was killed. Is this the sort of response the Minister feels is appropriate to give this House?

The matter is urgent because the Attorney-General has not acted with sufficient speed and diligence in pursuing the major figures behind the Harry S. Baggs group and the Lanfranchi killing. The Attorney-General has refused to respond to the opinion of leading barristers. He has refused to ensure that the deficiencies in the coroner's inquest are overcome, and has refused to act on subsequent related developments of a most serious nature. The Government's dilatory approach to these matters should be of grave concern to all honourable members of this House. How many years longer must we wait to have revealed the association between Sinclair, the Harry S. Baggs group of companies, Rogerson and his group, and the killing that has occurred? Obviously only a resolution of this House will ensure a proper investigation of the matters raised in the House this week.

Mr WRAN (Bass Hill), Premier and Minister for Mineral Resources [10.43]: It is regrettable that the Leader of the Opposition, in the obvious absence of the Attorney-General——

Mr Rozzoli: Is the Attorney-General running way?

Mr WRAN: It is regrettable that in that circumstance the Leader of the Opposition chose to move this motion this morning, for I am certain that the Attorney-General would be quite prepared to take issue with him in relation to the motion.

Mr Dowd: The Minister for Police and Emergency Services is in the House.

Mr WRAN: In response to the totally uncalled for interjection by the Deputy Leader of the Opposition, may I say that the Attorney-General is in Hobart today, chairing a meeting of Attorneys-General of all the States and the Commonwealth. In other words, the Attorney-General is performing his official duties as chairman of the committee of all Attorneys-General in relation to the National Companies and Securities Commission.

Mr Rozzoli: The Attorney-General, the Leader of the House, knew the House would sit today. He should be here.

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order.

Mr WRAN: The Leader of the Opposition made many assertions and startling allegations. How much is fact and how much is fiction, I do not know.

Mr Schipp: Then the Government should agree to an inquiry into this matter.

Mr WRAN: Perhaps the first inquiry will relate to the affairs of the honourable member for Wagga Wagga.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Wagga Wagga to order.

Mr WRAN: As I do not know how many of the startling allegations made by the Leader of the Opposition are fact and how many are fiction, I propose to bring those matters to the notice of the Attorney-General. Doubtless the Attorney-General

will take the advice of law officers in relation to the matter. I shall ask the Attorney-General to report to the House in due course. I do not know what matters are confidential and what matters will be, or have been, brought before the courts by the police or officers of the Corporate Affairs Commission and so on.

May I say that there was a spiteful and unnecessary reference to the Hon. B. J. Unsworth and radio station 2KY. Like the rest of the New South Wales public, from time to time I watch television, and have therefore seen the Harry S. Baggs advertisements on a number of occasions on television stations. No one has suggested that the television stations did anything improper by accepting those advertisements. I recall that when there was suggestion of impropriety on the part of that group of companies, and that was brought to the notice of radio station 2KY, the advertisements were cancelled.

[*Interruption*]

Mr WRAN: I do not know whether the Leader of the Opposition would make an allegation that radio station 2KY or the Hon. B. J. Unsworth has done anything improper. The fact is that the advertisements ceased to be broadcast. I thought the Hon. B. J. Unsworth acted promptly and properly in relation to the matter. I want to make it clear that I am certain the Attorney-General will examine the allegations and give them such weight as they deserve. I wish to say something else, because there is an impression in the Parliament, at least in the minds of some honourable members, that the Attorney-General is sifting through a huge number of files, poring over them and examining every word on every page, acting as if he were in a vacuum.

The reality is that the Attorney-General of this State and the Attorneys-General of all other States and the Commonwealth have the assistance of their Solicitors-General and the various legal officers of the Solicitors-General and Crown Solicitors as well as the assistance of the Bar and the legal profession generally in relation to important matters. The continual suggestion that somehow the first law officer of the State impedes investigations is, quite honesty, beyond me. Anyone with a smattering of knowledge of the way in which the legal profession works and how the office of the Attorney-General functions knows that it is absolute nonsense to keep suggesting that somehow or other the first law officer of the State can act improperly in the ways in which it has often been suggested in this House. The sooner this sort of nonsense is stopped, the better. It reflects poorly on Opposition members, especially on a lawyer, as the Leader of the Opposition is, in a sort of way. It is about time members of this House understood the way that the office of the Attorney-General functions. These constant imputations are deplorable.

[*Interruption*]

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order.

Mr WRAN: The Opposition is saying that the police are crooks and that the magistrate who conducted the inquest was either a crook or inefficient or incompetent. Why is it that everyone Opposition members speak about is either a crook or incompetent. I cannot understand that conspiratorial mentality.

Mr Punch: They have been dealing with the Premier too long.

Mr WRAN: Does the Leader of the National Party want me to start on him? I could give his history pre-Gollins or in regard to offshore coal loaders and milk quotas. If the Leader of the National Party wants to engage in a little bit of mud-slinging, I could talk about his performance, which is the worst performance in the history of this House.

Mr Punch: The Premier may do that at any time.

Mr T. J. Moore: One could drive a fleet of Volvos through the holes in the Premier's argument.

Mr SPEAKER: Order! I call the honourable member for Gordon to order.

Mr WRAN: It is deplorable that the integrity and reputation of the principal law officer of the State——

Mr Punch: What integrity?

Mr WRAN: ——his advisers and the Solicitor General are constantly attacked by Opposition members, who are willing to say anything about anyone, and never stop doing so. It is absolutely deplorable for them to attack the integrity and competence of the magistrate who conducted the inquest. According to Opposition members everyone is either a crook or they do not know what they are doing. I know nothing of the facts of this matter, apart from the bits I have read in the press from time to time and the little I have gleaned from questions that have been asked in the House. The matters raised by the Leader of the Opposition will be referred to the Attorney-General, who will obtain advice from his law officers. I have no doubt he will give the House the results of that. Urgency is refused.

Question of urgency put.

The House divided.

Ayes, 25

Mr Arblaster	Mr Greiner	Mr Schipp
Mr Armstrong	Mr Hatton	Mr Singleton
Mr Boyd	Mr Mack	Mr Smith
Mr Brewer	Dr Metherell	Mr West
Mr Caterson	Mr W. T. J. Murray	Mr Wotton
Mr Collins	Mr Park	
Mr Dowd	Mr Peacocke	*Tellers,*
Mr Duncan	Mr Punch	Mr Fischer
Mr Fisher	Mr Rozzoli	Mr T. J. Moore

Noes, 54

Mr Akister	Mr Gabb	Mr Paciullo
Mr Anderson	Mr Gordon	Mr Page
Mr Aquilina	Mr Haigh	Mr Petersen
Mr Bannon	Mr Hills	Mr Quinn
Mr Beckroge	Mr Hunter	Mr Ramsay
Mr Bedford	Mr Jackson	Mr Robb
Mr Booth	Mr Johnson	Mr Rogan
Mr Bowman	Mr Keane	Mr Ryan
Mr Brading	Mr Knight	Mr Sheahan
Mr Brereton	Mr McCarthy	Mr K. J. Stewart
Mr Cahill	Mr McIlwaine	Mr Walsh
Mr Cavalier	Mr Miller	Mr Whelan
Mr Christie	Mr Mochalski	Mr Wilde
Mr R. J. Clough	Mr H. F. Moore	Mr Wran
Mr Cox	Mr Mulock	
Mr Day	Mr J. H. Murray	
Mr Degen	Mr Neilly	*Tellers,*
Mr Durick	Mr O'Connell	Mr Flaherty
Mr Face	Mr O'Neill	Mr Wade

Pairs

Mr J. H. Brown	Mr Cleary
Mr J. A. Clough	Mr Crabtree
Mrs Foot	Mrs Crosio
Mr Pickard	Mr Ferguson

Question so resolved in the negative.

Motion of urgency negatived.

QUESTIONS WITHOUT NOTICE

HEALTH INSURANCE LEVY

Mr FLAHERTY: Is the Minister for Health aware of conflicting reports in this morning's newspapers relating to Government plans to introduce a levy on health insurance funds for outpatient fees and ambulance charges? Will he tell the House the true position?

Mr BRERETON: I was disturbed to read the two conflicting stories in this morning's newspapers. The story in the *Daily Telegraph* was totally misleading. It was at variance with the press statement released from my office yesterday. I shall inform the House of the true situation. I assure the House and the community that the levy will not cost an extra $72 a year in hospital insurance contribution rates. In fact, the majority of people will be $12 a year better off following the introduction of the levy for outpatient and ambulance services. I shall explain why. The outpatient component of the levy will be set at 80c a week for family and 40c a week for single persons. This is based on the estimated payout from funds this year for outpatient services for insured patients at public hospitals. As it is based on revenue already expected from the funds, and the funds have already allowed for this in calculating present rates, there should not be any increase in health insurance rates for outpatients.

If any funds attempt to increase the rates for the outpatient component of the levy, that action will be strenuously opposed by the Government. The move on the outpatients side will save the State about $10 million—$5 million in additional revenue and the same amount in administrative savings. The proposal will eliminate delays of up to five months in waiting time between service and payment by the funds, and also eliminate the bad debt problem which affects those with hospital insurance through people, for instance, misplacing, forgetting or disregarding bills. The outpatient levy will also reduce administrative costs. A person with hospital insurance is normally not presented with a bill on the spot at the outpatient department. It is usually posted to him—and this costs a lot of money. No fewer than seventy clerical staff in hospitals are involved full time in outpatient billing. This will no longer be necessary. The move will increase management efficiency and make it easier for the public. Anybody with health insurance will not have to give elaborate details, merely his name and the health fund number.

It is true that the ambulance component of the levy, which will cost 60c a week for a family and 30c for a single person, will lead to an increase in basic health insurance charges. But for the majority of people—I emphasize the majority—this will be fully offset by the savings made through the elimination of the ambulance contribution scheme. Most people with health insurance are also in the ambulance contribution

scheme and will receive significant benefits. By introducing the levy the Government has avoided the need to increase the ambulance contribution rate which was schedule to rise by 10 per cent—or $3—on 1st January. In addition, by imposing a levy on hospital insurance most taxpayers will be able to claim a rebate of 30 per cent from the Commonwealth Government. This will result in a saving of $9 a year to people who are now in the ambulance contribution scheme. That is why I said clearly in the press release that the majority of people will be $12 a year better off by the introduction of the levy. Furthermore, people who have paid into the ambulance contribution scheme in advance will be able to claim a refund when the levy is introduced on 1st February. This refund should cover the slight increase in hospital insurance rates because the levy rate is the equivalent of the current ambulance scheme contribution rate. I expect the health funds to deal responsibly with the levy and not try to use it mischievously as a way of increasing rates. The Government will be monitoring the situation closely.

POLICE INJURED ON DUTY

Mr PUNCH: Is the Minister for Police and Emergency Services aware that the Police Association of New South Wales is actively engaged in representing a number of police officers who have been injured in the course of their duties, discharged from the force as medically unfit, and denied sufficient compensation and pension, as was Senior Constable Squire, about whom the House still awaits the Minister's reply in answer to a question posed to him? Does the Commissioner of Police have the discretion to declare whether an injured police officer has been injured in the course of his duties and is it not a fact that he cannot be challenged on this ruling? As the Minister has expressed in the House concern about the number of police officers injured in the execution of their duties, will he assure members that the Government has not instructed the Commissioner of Police to discharge police officers in this manner, and will he assure the House that the matter will be immediately and fully investigated?

Mr ANDERSON: I shall examine the matter raised by the Leader of the National Party in the latter part of his question. The honourable member for Riverstone recently raised the subject of Senior Constable Squire. As the matter is the subject of appeal, I am limited in what I can say. It would be improper of me to canvass the facts while the case is pending. It is true that I am concerned at the level of injuries suffered by police on duty. I have given no instructions as to what is to happen in respect of police hurt on duty. I am concerned at the number of police who are awaiting medical boards to determine whether those officers shall retire early as a result of illness or injury. Only last Monday I discussed this issue with the commissioner and other officers.

A number of steps must be taken before a matter goes before the police medical board. In most instances the board has before it the medical examination material submitted by police medical officers as well as information from the officer's own doctor or medical adviser. All steps are being taken to ensure that police officers injured on duty are not disadvantaged. Also, police who suffer illnesses not related specifically to their being hurt on duty receive compassionate consideration. Cases that require urgent consideration because of the nature of the injury or illness are dealt with as quickly as possible. I shall look into the other matter raised by the Leader of the National Party to ensure that the best possible arrangements are made to assist police who have become ill or have been injured as a result of police duties.

NEWCASTLE PSYCHIATRIC CENTRE

Mr WADE: Is the Minister for Youth and Community Services aware of the enormous problem concerning homeless and intoxicated persons in Newcastle following the closure of facilities at the Wilson ward, Newcastle Psychiatric Centre? Has the Minister's department any plans to provide services to obviate the problem?

Mr K. J. STEWART: I recall that recently the honourable member for Newcastle asked my colleague the Minister for Health a question about the problems arising from the closure of the Wilson ward. In order to fill the gap, the Department of Youth and Community Services is to establish during this financial year a proclaimed place in central Newcastle at a total cost of $150,000 and another at Wickham at a cost of $45,000. The department is in the process of acquiring a property, and building work will be carried out as soon as possible to establish a centre that will be run by one of the voluntary agencies, such as the St Vincent de Paul Society or the Newcastle Central Mission. In the case of the Wickham proclaimed place, the amount of $45,000 will be provided to the Salvation Army to establish a new centre. It is an unfortunate aspect of modern life that homelessness is on the increase and this requires more suitable accommodation centres to be established as quickly as possible to handle this type of community problem.

To meet the need, the Treasurer in his recent Budget allocated an additional $925,000 to be spent this year on the establishment of six new proclaimed places. The Central Newcastle proclaimed place will be funded out of this allocation, as will the proposed new proclaimed place at Wickham to be established in conjunction with the Salvation Army. In addition to those two new centres, it is the intention of the Department of Youth and Community Services to establish new projects at a central proclaimed place in Albion Street at a cost of $250,000, a proclaimed place at Walgett at a cost of $180,000, a proclaimed place at Bourke at a cost of $150,000, and a proclaimed place at Moree also at a cost of $150,000. Last year $1.5 million was spent on this programme, but because of the increased incidence of homelessness the Government will this year spend a total of $2.5 million. By the end of this financial year a total of $7 million will have been allocated by the Government to organizations throughout New South Wales that provide accommodation for alcoholics and the homeless, that $7 million being the amount allocated in budgets over the past three years.

AERODROME FOR ST ANDREWS

Mr KNIGHT: I address my question without notice to the Minister for Planning and Environment. Does he recall a proposal to relocate the Hoxton Park aerodrome to a site near St Andrews? Following representations by, and on behalf of, residents of St Andrews, what action has the Minister taken to investigate alternative sites? Can the Minister now give an unqualified assurance that no aerodrome will be built on a site near St Andrews?

Mr BEDFORD: The honourable member for Campbelltown has shown a keen interest in this matter. It is correct that he brought a deputation from the St Andrews residential precinct to see me. Also, our colleague the honourable member for Camden raised with me the matter of possible alternative sites to the Hoxton Park light aircraft facility, which is to become part of a housing development. Following the meeting with those residents I wrote to the federal civil aviation authorities, seeking information from them on ten potential alternative sites. All of these sites were

areas that had been mentioned in previous planning studies by local government authorities or by the State. We have now had a reply from the federal authorities in which they provided generalized comments on each of the ten alternative areas as requested. The effect of the advice is to rule out eight of the sites proposed because of conflict with a possible second Sydney airport alternative, which is part of the MANS Study, and the other two sites because of their excessive distance from Hoxton Park. Conflict with existing flying training areas and parachuting operations is a further disadvantage of several of the sites.

I am therefore able to advise the honourable member for Campbelltown that the State Government does not intend to take any further action to establish an aerodrome on the site referred to near St Andrews or in respect to any of the other sites investigated. Further, the urban planning proposals for Hoxton Park, which are the subject of an environmental study report by consultants to the Department of Environment and Planning, will have regard to the continued operation of Hoxton Park airport and will provide for recommendations to minimize conflict between existing aerodrome operations and future urban development in that locality. Following these further investigations by the federal authorities, the honourable member for Campbelltown may now safely advise his constituents in the St Andrews area that no airport is to be sited there.

DRAYTON COLLIERY

Mr FISHER: I ask the Premier and Minister for Mineral Resources a question without notice. Is he aware that coal is ready to be mined at Drayton colliery with jobs for 119 people available immediately and up to 400 jobs available when the mine is fully operational? Is it a fact that people are being kept out of these jobs because of local bans by the mining unions in the Hunter Valley, and further that the company is being prevented from meeting its export orders because of these bans? Will the Premier inform the House how much longer the State Government intends to allow interunion power struggles and jealousies to decay and destroy the export coal industry, deprive the unemployed of work, and reduce Government authority to impotence?

Mr WRAN: This is the second occasion on which the honourable member has raised the matter of Drayton colliery in this House. I shall respond to him today in the same way as I recollect responding to him on the first occasion; that is, that the Government's view is that the Drayton mine should be open and operated. The Government has been responsible in endeavouring to achieve some resolution of the matter. I have chaired meetings for that purpose between the colliery proprietors and the unions concerned. I regret that the matter has not yet been resolved and that part of the mine is not open. The Government and the Joint Coal Board will continue efforts to have the Drayton mine operative. In response to the second part of the honourable member's question, there are local bans. The answer to that part of the question is, yes.

In reply to that part of the question asking whether the colliery proprietors are being prevented from fulfilling export orders, the answer is no, because what is in dispute is an open-cut mine and the Buchanan Borehole Mine, which is in the ownership of the same proprietors, is adjacent and for the time being, that mine is satisfying export orders, though it must be conceded it is doing so at differential cost. I am certain that the honourable member did not ask the question in a mischievous way; it was asked in a serious attempt to advance a solution to the problem. If he has some solution to the problem and can show me how to get people who do not want to

dig coal to dig coal, I shall be delighted to see him in my rooms after question time. If he knows how to resolve the dispute, then he has worked out something that no one else has been able to do. If the honourable member has some solution, he has an open invitation to come and see me. If he has the solution I am certain that he will be included in the New Year's honours list.

TUGGERAH BRIDGE

Mr H. F. MOORE: I address my question without notice to the Minister for Consumer Affairs and Minister for Roads. Will the Minister inform me and the House of any plans for the replacement of the timber bridge over the Tuggerah Lakes at Toukley?

Mr WHELAN: The honourable member, who has maintained a consistent interest in this matter, might be aware that the old timber bridge is 175 metres long. Recently I inspected it with him and witnessed the large number of heavy vehicles, domestic traffic and caravans that use the bridge. Though extensive repairs and widening were carried out in 1977, the bridge is certainly inadequate to cope with the increasing amount of tourist and domestic traffic. For these reasons I am happy to advise the honourable member that the design of a new bridge to replace the existing structure is well in hand. The Department of Main Roads expects to be in a position to invite and accept tenders for the construction of a new bridge at the end of the financial year. The construction of a bridge of this magnitude, which will be about 206 metres long and will cost about $2 million, would normally take about twelve months. The honourable member's persistence about this matter since he became a member of Parliament in October 1981 has been rewarded.

PEEL HIGH SCHOOL

Mr MULOCK: In my absence from the House yesterday during question time the honourable member for Tamworth directed a question without notice to my colleague the Treasurer concerning the Peel High School. The Treasurer has referred the matter to me for my investigation. As stated by the honourable member for Tamworth, earlier this year the science rooms of that school were destroyed by fire. I am pleased to inform the honourable member and the House that the expenditure of $540,000 has been approved to permit restoration work to be carried out. The building construction and maintenance branch of the Department of Public Works will be requested to undertake the work as soon as possible.

STAMP DUTIES (FURTHER AMENDMENT) BILL (No. 2)

MOTOR TRAFFIC (ROAD SAFETY) AMENDMENT BILL

CRIMES (ROAD SAFETY) AMENDMENT BILL

Declaration of Urgency

Mr BOOTH (Wallsend), Treasurer [11.23]: I declare that these bills are urgent.

Mr Greiner: On a point of order. I draw attention to entry No. 8 in *Votes and Proceedings,* No. 3, of 3rd November, 1981, and particularly the part about when the question that the bills be considered urgent bills may be put. I refer to the words "and

copies have been circulated among members". Copies of the Stamp Duties (Further Amendment) Bill (No. 2), which is included in the Minister's motion, have not been circulated, though they are in the Government Business order No. 2 box on the table of the House. No member on the Government side of the House other than the Treasurer has a copy of the bill. It defies commonsense to suggest that putting a copy of the bill in that box at 11 o'clock this morning constitutes circulating the bill.

Mr SPEAKER: Order! I must interrupt the honourable member for Ku-ring-gai. Obviously he is not aware that copies of the bill have been available on the table of the House since the House met for business this morning. No point of order is involved.

Question—That the bills be considered urgent bills—put.

The House divided.

Ayes, 56

Mr Akister	Mr Gabb	Mr O'Connell
Mr Anderson	Mr Gordon	Mr O'Neill
Mr Aquilina	Mr Hills	Mr Paciullo
Mr Bannon	Mr Hunter	Mr Page
Mr Beckroge	Mr Jackson	Mr Petersen
Mr Bedford	Mr Johnson	Mr Quinn
Mr Booth	Mr Jones	Mr Ramsay
Mr Bowman	Mr Keane	Mr Robb
Mr Brading	Mr Knight	Mr Rogan
Mr Brereton	Mr Knott	Mr Ryan
Mr Cahill	Mr McCarthy	Mr Sheahan
Mr Cavalier	Mr McGowan	Mr K. J. Stewart
Mr Christie	Mr McIlwaine	Mr Walsh
Mr R. J. Clough	Mr Miller	Mr Whelan
Mr Cox	Mr Mochalski	Mr Wilde
Mr Day	Mr H. F. Moore	Mr Wran
Mr Degen	Mr Mulock	*Tellers,*
Mr Durick	Mr J. H. Murray	Mr Flaherty
Mr Face	Mr Neilly	Mr Wade

Noes, 26

Mr Arblaster	Mr Fisher	Mr Rozzoli
Mr Armstrong	Mr Greiner	Mr Schipp
Mr Boyd	Mr Hatton	Mr Singleton
Mr Brewer	Mr Mack	Mr Smith
Mr Cameron	Dr Metherell	Mr West
Mr Caterson	Mr W. T. J. Murray	Mr Wotton
Mr Collins	Mr Park	*Tellers,*
Mr Dowd	Mr Peacocke	Mr Fischer
Mr Duncan	Mr Punch	Mr T. J. Moore

Pairs

Mr Cleary	Mr J. H. Brown
Mr Crabtree	Mr J. A. Clough
Mrs Crosio	Mrs Foot
Mr Ferguson	Mr Pickard

Question so resolved in the affirmative.

Declaration of urgency agreed to.

PRIVATE HEALTH ESTABLISHMENTS BILL

MEDICAL PRACTITIONERS (PRIVATE HEALTH ESTABLISHMENTS) AMENDMENT BILL

COMMUNITY WELFARE (PRIVATE HEALTH ESTABLISHMENTS) AMENDMENT BILL

In Committee

Consideration resumed (from 25th November, *vide* page 3223).

Clause 19

[Provisions relating to applications generally]

Mr SINGLETON: Mr Chairman——

Mr FLAHERTY (Granville), Government Whip [11.32]: I move:

That the question be now put (S.O. 175B).

The Committee divided.

Ayes, 55

Mr Akister	Mr Gordon	Mr O'Neill
Mr Anderson	Mr Hills	Mr Paciullo
Mr Aquilina	Mr Hunter	Mr Page
Mr Bannon	Mr Jackson	Mr Petersen
Mr Beckroge	Mr Johnson	Mr Quinn
Mr Bedford	Mr Jones	Mr Ramsay
Mr Booth	Mr Keane	Mr Robb
Mr Bowman	Mr Knight	Mr Rogan
Mr Brading	Mr Knott	Mr Ryan
Mr Brereton	Mr McCarthy	Mr Sheahan
Mr Cavalier	Mr McGowan	Mr K. J. Stewart
Mr Christie	Mr McIlwaine	Mr Walsh
Mr R. J. Clough	Mr Miller	Mr Whelan
Mr Cox	Mr Mochalski	Mr Wilde
Mr Day	Mr H. F. Moore	Mr Wran
Mr Degen	Mr Mulock	
Mr Durick	Mr J. H. Murray	*Tellers,*
Mr Face	Mr Neilly	Mr Flaherty
Mr Gabb	Mr O'Connell	Mr Wade

Noes, 26

Mr Arblaster	Mr Fisher	Mr Rozzoli
Mr Armstrong	Mr Greiner	Mr Schipp
Mr Boyd	Mr Hatton	Mr Singleton
Mr Brewer	Mr Mack	Mr Smith
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Mr Caterson	Mr W. T. J. Murray	Mr Wotton
Mr Collins	Mr Park	*Tellers,*
Mr Dowd	Mr Peacocke	Mr Fischer
Mr Duncan	Mr Punch	Mr T. J. Moore

Pairs

Mr Cleary	Mr J. H. Brown
Mr Crabtree	Mr J. A. Clough
Mrs Crosio	Mrs Foot
Mr Ferguson	Mr Pickard

Resolved in the affirmative.

The CHAIRMAN: Order! It being after 11.15 a.m., the time specified in the notice given under Standing Order 175B for the completion of all remaining stages, the question is, That clause 19 as read stand a clause of the bill.

Clause agreed to.

Clauses 20 to 52 and schedules 1 to 3 agreed to.

Clauses and schedule of cognate bills agreed to.

Adoption of Report

Bills reported from Committee without amendment, and report adopted.

Third Reading

Bills read a third time.

STAMP DUTIES (FURTHER AMENDMENT) BILL (No. 2)

Debate resumed (from 25th November *vide* page 3169) on motion by Mr Booth:

That this bill be now read a second time.

Mr GREINER (Ku-ring-gai) [11.41]: The measure before the House is the culmination of a saga of ministerial and public service incompetence probably without parallel except for the financial institutions duty fiasco, which legislation has been deferred yet again from today's programme of government business. Nevertheless, the form of the bill before the House is in principle substantially what has been advocated by members of the Opposition, including the shadow Attorney-General, the honourable member for Gordon and me for some considerable time. Therefore, the Opposition supports the bill in substance and will be voting for it. The bill, as I have said, has been the result of reaction to initiatives taken by a whole range of people, including members of the Opposition.

At the outset I say that the Opposition disagrees with two major provisions of the bill. In Committee the Opposition will move amendments and divide on those provisions of the bill dealing with a director's liability to pay stamp duty and the imposition of duty on building society cheques. The Opposition proposes to move a series of amendments to schedule 3, although these amendments will be mostly of a technical nature. The Opposition will not divide the House if the amendments are refused. I am pleased that the Minister, and more particularly those responsible for the bill's drafting, have accepted—although they do not admit to that—a number of the more technical drafting amendments that the honourable member for Gordon and I have submitted. That is to the Government's credit. The Government has addressed itself to major blunders in the retrospective provisions of the bill. The Government has taken the opportunity to improve the bill by making the technical

changes suggested by members of the Opposition, the Law Society of New South Wales and others. I pay tribute to the Treasurer and his staff, who have worked fairly constructively to improve the original bill after the initial complete shemozzle.

I shall deal in a general way with the retrospectivity provisions of the bill. I acknowledge that the Government has deleted some objectionable clauses from the bill. The arguments put by Government supporters, the Minister and the Under-Secretary of the Treasury, the senior Deputy Commissioner of Stamp Duties and others are totally and utterly nonsensical in view of the situation that has been prevailing in New South Wales for the entire period that the Government has been in office, and for a considerable number of years before that. There have always been loop-holes in the Stamp Duties Act. They have always been known to the public service, to many members of the Government who have legal backgrounds, to practitioners in law, accounting, real estate, and the general community. The Government actively condoned its instrumentalities participating either directly or tacitly in conniving to avoid stamp duty tax, especially by the keeping of documents outside New South Wales.

The abject nonsense that the Minister put forward in his second reading speech on the first occasion the bill was introduced is an absolute travesty. It has been normal practice in the world of commerce to avoid stamp duty. That practice has not been exceptional or something that smart people in the financial or legal profession have undertaken occasionally, nor has it been the product of the brilliant minds of sharp accountants. For anyone to suggest the contrary is utter nonsense. These practices were the standard legal advice provided by lawyers throughout New South Wales. Does the Treasurer really believe that the Attorney-General, the Minister for Housing, the Minister for Consumer Affairs and Minister for Roads and the Premier would not have been aware of the loopholes and that the firms employing them as solicitors would not have given legal advice to the effect that certain transactions should be executed in the Australian Capital Territory or elsewhere to avoid the payment of stamp duty? Of course the Treasurer would believe that.

I have evidence of specific transactions undertaken by two present Ministers of the Crown. These Ministers or their family companies have engaged in real estate transactions and have taken advantage of the loophole. So they should have. If their legal advisers had not advised them to that affect, it would clearly not have been good advice. It is important as a background to understand that these loopholes were normal practice until 20th October. They were known to everyone. To suggest that they were somehow or other an aberration or being used only because the penalties were not severe enough, merely flies in the face of reality. At the conclusion of the Minister's remarks in his second second reading speech he repeated word for word these remarks at the end of his first second reading speech:

> The Government has been accused of being tardy in overcoming avoidance of duty. A number of amendments have in fact been introduced over the years where evidence could be obtained of the nature and extent of the practices being adopted.

New South Wales, as is usual in such matters, has been the last government to act to close the loopholes—by about two or three years. That is particularly galling for a government that, on its own admission, is strapped for cash and has lost more revenue then has any other State government, having regard to the many financial transactions that are undertaken in New South Wales and Sydney, in particular.

The New South Wales Government has been the last to act to close the loopholes. It has been the loser over all the years of its administration, because of these loopholes. One might well ask, what sort of advice was given by the Commissioner

Mr Greiner]

for Stamp Duties to his previous ministerial heads? What sort of advice, if any, did the Premier receive when he was Treasurer? What sort of advice, if any, did the Hon. J. B. Renshaw receive when he was Treasurer? Did he receive advice that there was substantial evidence that the Government was losing millions of dollars? Certainly that knowledge was in the minds of officers in the Stamp Duties Office and the Treasury generally—and they would not deny it. If any of the former Treasurers, including the present Treasurer, received that advice why did they not act? Was the advice such that it was impossible to do anything unless detailed knowledge could be obtained of such transactions? I shall return to that matter later.

For the past six years the present Government and the Treasurer have been actively involved in losing revenue that should have been collected for stamp duties. That revenue amounts to about $300 million. No excuse can be put forward of legal, or ministerial incompetence. It is a straight out derogation of duty that the public service has not seen fit to act; or, alternatively, if it has acted, ministerial heads have not taken action until they were compelled to do so over the past six months. I shall deal specifically with the aspect of knowledge. It is an argument put forward by government spokesmen or by senior public servants who have publicly commented that the Government really could not act because it did not have knowledge. The *Sydney Morning Herald* of 11th June this year quoted the Under-Secretary of the New South Wales Treasury, Mr Oakes, in these terms:

> There was little the State could do to detect transactions that did not take place in New South Wales or could not be linked to property in the State even though New South Wales companies might be involved. The Government had no way of estimating the loss of revenue involved but he agreed it could be substantial . . .

We should all be grateful that he agreed to that. Mr Oakes emphasized that such transactions were legal. That sits interestingly, although not consistently, with some of the other comments made by other senior public servants and members of the New South Wales Government over the period of the debate while the retrospective nonsense clause was still in the bill. That was Mr Oake's view of the world back in June when responding to statements made by the honourable member for Gordon and me on the extent of the loopholes. I turn from Mr Oakes to Mr Hadley, Senior Commissioner of Stamp Duties (Deeds), who in 1979 at a seminar on revenue aspects of stamp duty said:

> Reference is made by Mr Wallace to section 38 and he has expressed the doubt that liability arises immediately on the execution outside New South Wales of an otherwise dutiable instrument, that is, one relating to property or matters within New South Wales.

I regard his view of section 25, which imposes fines for the late payment of duty, as totally inconsistent with reality. It is inconsistent with the knowledge and understanding of all practitioners in the field. There is a legal argument which is not fundamental to the question of the retrospective debate. That legal argument is not one-sided and as clearcut as the Treasurer would suggest. There are clear divisions on the matter and members of the legal profession take opposite views. Indeed, two writers of textbooks on stamp duty take diametrically opposing views and it is not true to suggest that it is a simple matter in which there has always been a liability. One then comes to the heart of Mr Hadley's comment:

> Neither the present commissioner nor any of his predecessors has yet sought to impose the duty charged on the person primarily liable in respect of executed instruments retained outside the State, for example in the ACT. However——

This was obviously meant to be the witticism in the speech——

> ——should any taxpayer care to test the issue and submit suitable evidence to enable the amount of duty to be assessed, the department would be happy to co-operate.

I did not have the pleasure of being at the seminar, but I am sure that comment brought a wry smile to the faces of everybody present. Surely the deputy commissioner was not suggesting that people should voluntarily offer themselves up with the comment, "We want to pay tax, and here is the evidence that we want the department to test". That is a direct reversal of the normal onus. The situation was clear in the Stamp Duties Office. It is nonsensical to say that the onus is on the taxpayer or potential taxpayer to bring evidence to enable the matter to be tested.

Let us examine whether it would have been possible for the Government to take action on this matter earlier or more easily than either Mr Hadley or Mr Oakes or the Treasurer in some of his public announcements have suggested. In practical terms, if the Government had announced at any point in time, as it did on 20th October this year, that it proposed no longer to condone avoidance practices and would bring in legislation to close loopholes, that would have had a significant impact on the actions of the legal community in the advice given to clients. Section 130 of the Stamp Duties Act, 1920, gives the commissioner clear powers. Incidentally, it is not as though the people dealing with these matters were unknown to the department. They were leading law firms in Sydney, as well as leading accounting firms, large real estate developers and people with whom the Stamp Duties Office and the Government deal on a daily basis. Section 130 of the Stamp Duties Act reads:

> (1) For the purpose of obtaining information respecting the liability of any person in respect of any duty under this Act the Commissioner may summon before him and examine on oath any person whom the commissioner deems capable of giving information as aforesaid.
>
> (2) On any inquiry under this section the Commissioner shall have all the powers of a person appointed sole Commissioner under the Royal Commissions Act, 1923.

Although there may be legal argument on the extent of that power and its nature, it is my clear and unequivocal advice that the Stamp Duties Commissioner, both under that power and in terms of exercising normal day to day dealings with the major people who participate in these transactions, would have had the power to find the information and to pursue a test case, if required. He could have prosecuted that case, settled the matter one way or another, and eventually closed the loopholes. It is misleading for the Government to say that there was no knowledge of these matters and no ability to discover that knowledge. Mr Oakes considered it was all the fault of the federal Government. Undoubtedly, Mr Oakes had been listening to Labor Treasurers for too long. If there had been any will among the last three Treasurers of New South Wales, or even their predecessors, to control a situation which has escalated dramatically in financial significance to the State, the knowledge and ability to obtain that knowledge already existed. The ability to close the loophole could have been used without their having to employ the ridiculous sledge-hammer tactics contained in the first unfortunate version of this legislation.

I deal now with the details of the legislation. The Opposition is happy with the amended version relating to the date of operation. The Opposition suggested that self-same version to the Treasurer and to the public. The operative date of 20th October was always the date that should have been used. Clearly, the Treasurer did not understand what his press release of 20th October said. That was one of the most disgraceful efforts by a Minister of the Crown that I can remember—though I

am aware that my memory on these matters is not as long as it might be. The Opposition is happy with clause 25 (1) as it now stands. We support the closing of loopholes in respect of prospective applications from the time the Minister issued his press release. However, we are a great deal less happy with the Minister's insistence that the provisions on directors' liability be retained. The Minister addressed the question in his second reading speech yesterday when he said:

> Strong representations have been made concerning the liability placed on directors and it has been suggested that the penalties placed on the company are sufficiently onerous as to ensure that duty will be paid. These representations have been carefully considered, but I feel they overlooked the fact that before a director can be charged with an offence a charge must have been laid against the company and a conviction obtained. If a director can prove he exercised due diligence, I do not believe any Minister would approve of a charge being made against him. However, there could be some instances of blatant disregard in which case action would be clearly warranted.

Let me put forward the Opposition's view on the continuation in the bill of the provisions in respect of directors' personal liabilities. There is no precedent for the onerous, Draconian, personal criminal liability on directors to exercise due diligence to see that tax is paid. I should welcome the Minister advising me in his reply precisely why one needs that much greater power with respect to stamp duties than with respect to payroll tax or liquor licence fees or any of the myriad of other things on which the State Government taxes businesses. If a director does not exercise due diligence with respect to the payment of payroll tax of, say, $10,000, is that somehow a lesser sin or is it somehow more defensible? Do we need less power, less onus, less coercion on the director with respect to payroll tax than we do with respect to stamp duties? Are people more apt in principle to avoid stamp duties? Of course not. It is simply that until the legislation was changed it was rather easier legally to avoid stamp duties than it was to avoid some of the other State government taxes. Members of the Opposition do not believe any grounds have been made by the Minister for taking the unprecedented step of imposing this sort of liability to try to make doubly or triply sure that directors exercise due diligence.

Further, members of the Opposition believe the section is totally unnecessary. Existing responsibilities for directors under the companies code are adequate to ensure that directors exercise reasonable diligence in this regard. I think the Treasurer basically accepts that argument, but what he is saying, by way of a fall-back position in his second reading speech, is that this will not happen often; it will happen only in cases of blatant disregard or flagrant breaches. One might well ask why it is any different from flagrant breaches of any other tax that the Treasurer administers. Nevertheless, it is a sledge-hammer approach. We propose to move for the deletion of proposed section 25 (1c). Let me state also that when the opportunity occurs in the future, the Liberal Party and the National Party would propose to repeal that section of the legislation. The Treasurer's argument ultimately says that he has ministerial discretion; he is a reasonable person; he would not exercise ministerial control unless the position was utterly outrageous; therefore the power should be included in the bill. I put to the House, and the Opposition parties put it to the House, that to have that discretion for what the Treasurer by his own admission says will be a rare case, must be justified by having some redeeming public merit. I do not see that the Treasurer, either in his first attempt or in his second attempt yesterday, has offered any convincing argument for stamp duties to be singled out in this way or why it is necessary to have this sort of sledge-hammer approach, when any lawyer will tell the Treasurer and his officers that no effort will be made to avoid the stamp duties legislation as it now stands, and that the legislation, now that schedule 4

has been included in it—with which we agree—is more than sufficiently watertight to make a provision of this sort unnecessary. The Opposition parties consider that the provisions of proposed section 25 (1C) are abhorrent and we will oppose them in Committee.

In respect to trusts, I agree totally with the Treasurer when he says that this is a most complex section of the law. He has never spoken truer words. Essentially the Opposition agrees with the thrust of the amendments made by the Government with respect to trusts, but once again suggests that there has been a deal of sledge-hammer subtlety involved in the approach because the amount of revenue forgone by the loopholes that have been closed may not be offset by the amount of damage or impediment caused to commercial practice by the changes that have been made. The Opposition does not oppose in principle the broad thrust of schedule 3. In Committee we propose to move a series of amendments. I am pleased that the Treasurer considered that the amendments submitted by the Opposition and the Law Society and others were not without merit. I thank him for that concession. It is a pity that he did not choose to accept more than two of them, which were fairly minor and technical in their thrust. I do not really accept the argument—which is a sort of one line throwaway—in the Minister's second reading speech, that to accept the bulk of the amendments that the Opposition will move in Committee, which I shall not traverse now, would be to create the loopholes. In fact, I should be grateful if the Minister would demonstrate to me in Committee just how the amendments we propose would recreate the loopholes, as he said in his second reading speech. I do not believe it is capable of demonstration.

Next I shall deal with the impact on superannuation funds of the trust provisions. The only real change that has been made in the second version of the Stamp Duties (Further Amendment) Bill is the addition of what amounts to an escape clause—namely, proposed section 73 (2A)–(2AD)—which really consists of setting up a process where, by regulation—which again involves a significant amount of discretion, given the inadequate nature of the regulatory overview process in this Parliament—the Minister and the Government can use their discretion to exempt certain persons or certain classes of persons from the provisions with respect to trusts. Members of the Opposition do not consider that that goes far enough. I shall postulate a situation with respect to a transfer of superannuation funds assets following a change of trustees, as we see it. I think it is relevant to set it down, though I acknowledge that the Government does not propose to change, having made the concession that it has, which is clearly a forward move.

In the normal situation, a superannuation fund is established by the donation of a small sum of money to the trustee when the deed is executed or at the time the deed is executed there are no funds held by the trustee. Contributions are then received by the trustee on behalf of the relevant employees, investments are made and income is derived by the trustee. As the Act stands before these changes, when a trustee of a superannuation fund—or, for that matter, a trustee of any other trust—retires, and a new trustee is appointed in his place, any transfer of the assets of the superannuation fund from the name of the old trustee to the name of a new trustee is liable to stamp duty of $1, pursuant to section 73 (2A) and paragraph 4 (f) under conveyances of property in the second schedule. The amendment proposed by the bill to section 73 (2A) and paragraph 4 (f) under the heading "conveyances of any property" will have the effect that a conveyance by an old trustee to a new trustee following a change of trustees will be liable to *ad valorem* duty if at the time the superannuation fund was established the asset was not vested in the trustee and, accordingly, *ad valorem* duty was not paid on the deed, unless the Commissioner of Stamp Duties is satisfied that none of the trustees is or can become a member or a beneficiary of the superannuation fund.

Mr Greiner]

The bill goes on to provide that a refund of duty in excess of $1 will be made by the Commissioner of Stamp Duties if there is a subsequent transfer of that asset to the members of the superannuation fund. We propose to move an amendment with respect to that, which essentially reverses the process so that rather than getting a refund, the Government would get its money later. As the bill stands it provides that a refund of amounts in excess of $1 will be made by the commissioner if there is a subsequent transfer of that asset to the members of the superannuation fund—in other words, the beneficiaries of the trust, under and in conformity with the trust contained in the trust instrument which in relation to most superannuation funds would not occur, as either a pension or a cash lump sum would be paid to the member as distinct from the asset purchased by the trustees. These provisions may cause extreme hardship where the trustees of a superannuation fund are changed, and that is the problem that the Government is trying to do something about.

In relation to large superannuation funds, where there is a corporate trustee, the problems will not be as severe, for there will be less need for changes of trustees. But in the case of a large number of small superannuation funds, where the trustees are individuals, a change of trustee will occur quite often. For example, a need to transfer superannuation assets to the name of a new trustee, especially land and shares, will arise by the death of a trustee or in the situation where an accountant or a solicitor is one of the trustees of the fund and the client chooses to change his professional adviser. In situations where a superannuation fund has individual trustees, in most cases one or more of the trustees will be a beneficiary or member of the fund or would be capable of becoming a member of the fund. In the case of a company trustee, if an individual trustee were appointed in lieu of the company trustee, the same problems would of course apply.

Accordingly, it is my view that, especially in relation to superannuation funds that have individual trustees, the bill may well impose an unreasonable amount of stamp duty on a transfer of superannuation fund assets. In a simple situation where a trustee is changed and there is no question of a change in the beneficial ownership of the assets, I do not believe the technique that has been used—probably for convenience, given the fact that the people drafting it were under some pressure—of simply adding another clause providing the escape route by ministerial discretion by regulation is really satisfactory.

I refer briefly to another anomaly with superannuation funds that has been brought to my attention and it relates to reconstituting a superannuation fund. I draw the Treasurer's attention to the practice note in a document dated 7th January, 1964, issued by the former Commissioner for Stamp Duties, and headed "Stamp Duty on Instruments Involved in the Reconstitution of Superannuation Scheme". The effect of that practice note is that where a deed is executed which reconstitutes a superannuation fund, for example for substituting a new set of rules governing benefits, *ad valorem* duty could well be payable on the deed under the provisions of the Act and calculated according to the amount of assets in the superannuation fund at the date of the reconstitution. The practice note revealed that the Stamp Duties Office took the view that although *ad valorem* duty may be payable, only $6 of that duty would be collected from the trustee and any duty in excess of that amount payable on the document would be collected from the Treasury. If the principles contained in that practice note continue to be applied following the passage of the bill through this House, an anomaly will arise in that a deed establishing a superannuation fund will be liable to a minimum of $200 whereas a deed reconstituting a superannuation fund, although liable to *ad valorem* duty, will require the trustee to pay only $6. That is but a small technical matter to which the Government might direct its attention. In Committee I shall deal further with trusts.

The Opposition supports completely the measures taken by the Government designed to close loopholes with share transfers, involving the now famous Darwin shuffle, motor vehicle registration and the layered insurance trick. For some time the Opposition has been drawing attention to these particular ruses involving insurance and share transfers. The Opposition supports the schedules relating to these matters, although in Committee it will move an amendment of a technical nature relating to the type of information that can be obtained. I shall deal briefly with stamp duty payable on building society cheques. This proposal is not fundamental to the basic thrust of the bill but the Government has taken the opportunity to impose a new tax to be paid by people using building society cheques. In his second reading speech the Treasurer said on this matter:

> For some time now concern has been felt of the growing practice whereby permanent societies and non-terminating societies issue cheques on behalf of their members, which are free of duty. This arises because of the wording of the general exemption in the second schedule. The Government has made no secret of its concern, and as the practice is now quite prevalent the only effective course is to remove the exemption altogether.

The Opposition agrees with that analysis of the problem. It agrees also that the nature of building society business has changed substantially. Rapidly they are becoming quasi-banks. The Treasurer made reference to the anomaly. The Opposition parts company with the Government's view on the nature of the answer to the problem. It will be obvious to the Treasurer and to his advisers that there are two ways of overcoming the anomaly. One way, which the Government has adopted, is to impose duty on building society cheques. The other way is to remove the duty on cheques in general. The Treasurer would be well aware that his Labor Party colleagues in government in Victoria have taken that latter course in conjunction with the introduction of the financial institutions duty.

In passing, I mention that the Victorian draft bill on the proposed financial institutions duty in that State was available some twenty-four hours ago. The New South Wales Government, through unwillingness or inability, did not make available for scrutiny its version of the same legislation before ramming it through this Parliament. One assumes that the measures in both States will be identical. This haste by the New South Wales Government is indicative of its attitude on disclosure and discussions and more particularly the inefficiency of the Minister and his department. When introducing the financial institutions duty legislation in the Victorian Parliament, that State's government undertook to eliminate stamp duty on all cheques. Obviously that is the alternative way of removing the anomaly that the Treasurer has correctly identified. The Opposition considers that that is the appropriate direction in which to move. The Government is imposing a new tax on certain people, namely, members of building societies. The Government expects to raise between $750,000 and $1 million a year from the tax. Although I do not suggest that it is a major event, it is a small but niggly tax which in a small way will help the Government.

In summary, the Opposition supports the thrust of the proposed legislation. Action has been taken by the Government as a result of initiatives taken by honourable members on the Opposition side of the House. We support the closing of the loopholes that have been closed in a prospective fashion from 20th October. However, the Opposition takes strong exception to the provisions that require directors to be personally liable as that approach is unnecessary and unjustified. The Opposition takes exception also to the manner in which the Government has sought to overcome the

anomalies arising from the imposition of stamp duty on some cheques by imposing another tax. The Opposition will support the second reading of the bills but in Committee will move a series of amendments along the lines that I have mentioned.

Mr BOYD (Byron) [12.16]: The main thing that can be said about the bill is that it is a better measure than the bill introduced previously into this House. One reason that is is better legislation is that time was made available to permit public scrutiny and input. On previous occasions the Government has proved the worth of permitting sufficient time for legislation to have public scrutiny and input. Unfortunately the Opposition has not had sufficient opportunity to study the bill in any worthwhile way. As I have said on previous occasions. it is not good enough for the Opposition to be required to debate a bill immediately after it is made available to it. The Government should be more efficient. The principle of providing the people of New South Wales with the best legislation of which the Parliament is capable should be paramount to ramming legislation through the Parliament in the interests of Government supporters. That procedure reflects badly on the Government's administration and on the quality of the legislation that comes before this House.

The bill before the House reflects the value of public input. That concept should be encouraged in every way. With the help of many people working in the marketplace and of the Opposition's contact with those people and the ability to bring pressure on the Government the hated and hurtful aspects of the first bill, namely the retrospectivity provisions, were removed. Had that original measure been pushed through the Parliament the Government would have had a lot of egg on its face. Further, it would have injured seriously many people engaged in commerce in New South Wales. The Treasurer should remember those principles when presenting all legislation before the House. The Opposition, and I am sure the people of New South Wales, would think more of the Government if it were to act in that way. The Opposition accepts and supports strongly the principle of the bill, which is to remove certain objectionable procedures in the business world whereby some people were not pulling their weight and were taking a mean advantage of their fellow-man by not paying their just share of taxes.

The honourable member for Ku-ring-gai said that the Opposition would have liked more time to examine the bill and discuss it among party members and persons who deal daily with the matters affected by it. It is a pity that that is not possible, as the bill is important. In the second reading speech the Minister made the point that action under the offence provisions must be instituted before a court and that the onus is to be on the taxpayer to prove that a document has been stamped. One wonders whether in this day and age the onus of proof should not be on the Government. It is becoming more and more common to drift away from the principle of justice that the onus of proof be on the accuser. That is an anomaly that is creeping into recent legislation. I mentioned that because, although it will make it easier for the department to administer the legislation, care must be taken that the department does not become so powerful and overbearing that it considers the individual guilty before the accused person has a chance to prove his innocence. I believe the onus should be on the department to prove guilt under all legislation that it administers. In his second reading speech the Minister said:

> I emphasize that proceedings under these provisions can be undertaken only with the consent of the Minister. Only major matters, and those where the offence is flagrant or tantamount to evasion, could be expected to be taken to court.

Once again the Minister will sit as the judge of a case and will determine whether the matter should be taken before a court. That is not good enough. I am not opposed to ministerial discretion, for I believe it is proper in almost any legislation. However, in serious matters I believe the Minister should not have a discretion and that they should be heard by a court. I know the Treasurer is fair-minded and would administer the legislation well, but a future Minister might not be so reasonable in his approach to administration. The discretion should be more clearly defined. In his second reading speech the Minister stated he believed that if a company director can prove he exercised due diligence, no Minister would approve of a charge being laid against that director. Once again that provision is too open ended. It is not good enough for the Minister to state in this House albeit sincerely that that will be so. Another Minister might view the legislation differently. Any legislation as important as this should be defined clearly.

I should now like to consider proposed section 129C, which relates to services of notices and other matters. I find this a distasteful provision, for the legislation proposes that service of a notice or other document in accordance with subsection (1) (b) of proposed section 129C shall, prima facie, be deemed to have been effected at the time when it would be delivered in the ordinary course of post. The proposed section is sloppy in the extreme. It should be remembered that it provides for the service on persons of notices to attend court to defend their honour or answer charges. The person or organization that wishes an individual to attend court should prove the individual has been served with such notice. From time to time the department has extreme difficulty in locating and serving notice on such persons, and no doubt that is frustrating. Notwithstanding that, I believe it is the responsibility of government departments to locate those persons and to ensure that they are served with notice in a proper fashion. Of course, some alleged offenders will attempt to evade service and their attempts would be made easier if service were to be effected in what I consider a proper fashion. However, others who are accused but who are not guilty will suffer because of the sloppiness of this provision of the bill. At the Committee stage I shall propose that the provision be amended.

As the bill has the urgent stamp upon it, my prediction is that honourable members will have little time to consider it in Committee. If that occurs, it will be a pity, for the legislation relates to monetary matters and therefore deserves the close attention of all honourable members. I repeat, through proper parliamentary procedures the Act has been improved already, and with a little more dedicated application it could be further improved.

Mr BOOTH (Wallsend), Treasurer [12.28], in reply: I thank the honourable member for Ku-ring-gai and the honourable member for Byron for their contributions. The legislation has created problems for me and officers of my department. However, as to the suggestion that the Government is ramming the bill through the House and that that is an innovative practice, I remind the House that when I was on the Opposition benches and spokesman on education Sir Charles Cutler and Sir Eric Willis did not treat the Opposition as sympathetically and helpfully as this Government. A classic example of those governments was seen with the introduction of the teaching service legislation, which the Opposition of the day considered worthy of close investigation. However that legislation came before the House without members of the Opposition having been supplied with a copy of it. It was pushed through within an hour and a half, despite the fact that no one—not even the Teachers Federation—had seen a copy. The Wran Government's attitude is in sharp contrast to my experience for about six years as Opposition spokesman on education.

For some time officers of the Stamp Duties Office throughout New South Wales have been meeting regularly. They could not provide any answer to the best way to approach this matter. Other governments have already introduced legislation dealing with stamp duty collection, which, unfortunately, has been inadequate. The New South Wales Government wanted to see what happened in Victoria and South Australia. Departmental officers and others involved in this matter were testing the temperature of the water. As a result, the Government hopes to amend the Act to close the loopholes that have existed for some time. I know that Opposition members share that hope. In the past few years there has been a heavy concentration of persons avoiding stamp duties. Unfortunately, such practices have received acceptance in the community. There has been a concentration of attention on tax avoidance in the community, particularly so far as stamp duties are concerned.

The maintaining of documents outside New South Wales should not escape the payment of duty. The liability to pay duty on documents has always been a provision of the Act. Support for this view can be found in a number of legal texts. I agree with the remarks of the honourable member for Ku-ring-gai that many people and authors of textbooks differ in their interpretation of the Act. After examining the legislation lawyers give different interpretations. The difficulty has always been for the commissioner and his officers to obtain information that would enable the circulation of an assessment of duty, or to obtain the identity of persons so as to issue the assessment. In drafting the legislation the Government had the advice of senior counsel, who advised in the way I have suggested. The Government has not entered into any arrangements lightly. New South Wales inspectors cannot operate in the Australian Capital Territory. If there is a document lying in the Australian Capital Territory, there is no way the Government can sight that document or have an assessment made of the payable duty.

The honourable member for Ku-ring-gai spoke about the address the senior deputy commissioner made to chartered accountants. Notwithstanding the honourable member's comments, it is always impracticable to obtain information for an assessment of stamp duty to be made. A case is proceeding before the court on liability and is being argued on the provisions of section 38 of the principal Act. The case concerns two independent documents, one of which is in Canberra. A copy of the document held in Canberra came under the notice of the commissioner. Quite frankly, that was by sheer accident. That is the only way that any knowledge of the document would have been brought to attention. Notwithstanding the reference by the honourable member for Ku-ring-gai to the various inspection powers of the commissioner, the Crown Solicitor has advised that it is necessary to have some knowledge of a transaction. An inspector cannot compel a solicitor to allow him to look at records and documents held in the solicitor's office. Many restrictions handicap the Stamp Duties Office and that department's officers.

The honourable member for Ku-ring-gai has given notice that he will move amendments in Committee. I shall refer briefly to the proposed amendment with regard to directors. Stamp duty legislation in the Australian Capital Territory and the Northern Territory imposes offence provisions for avoiding or evading the payment of duty. Those provisions make a servant or an agent of a company punishable, as well as a director, when an offence has been committed. I emphasize that the company must be convicted before a director becomes liable. A director will not become liable if he exercises due diligence. Under clause 25 (1D) no proceedings can be commenced without the consent of the Minister. I accept ministerial responsibility for that. I had similar experience when I was Minister for Sport and Recreation when people, particularly bookmakers, could not be made the subject of legal proceedings without my consent. Before giving such consent I always sought legal advice. There are safeguards.

The Minister must accept that sort of responsibility. The Minister will be called upon to exert authority in that regard. Maybe honourable members opposite have overlooked the fact that a host of companies have a paid-up capital of only $2, which makes the collection of stamp duty most difficult for a government.

The Government has considered in detail all representations made to it about the amending legislation. The Government considers that the legislation should be introduced. Opposition members should put forward arguments to their Commonwealth colleagues about duty to be paid on building society cheques. For the first time, the Commonwealth Government has entered into a field that was previously the province of State governments. Any concession made with regard to stamp duty on cheques, should come from the Commonwealth Government. If that is not done, States will be encouraged to collect revenue by such methods as this measure provides. I thank honourable members for their contributions to the debate. I commend the bill.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

[Non-Production of Instruments for Stamping]

Mr GREINER (Ku-ring-gai) [12.38]: I move:

That at page 5, line 6, after the word "is" there be inserted the words "prima facie".

The amendment, which I admit is only a technical one, but which is significant, seeks to change the meaning of the clause 25 (1B) so that it will read, "An allegation in an information for an offence under subsection (1A) of this section, that a specified instrument has not been duly stamped or marked 'interim stamp duty' only is prima facie evidence of the truth of the allegation." I should have thought the purport of that amendment would be self-evident. Frankly, I do not understand why it was not made when similar amendments were accepted by the drafting officers.

Mr BOOTH (Wallsend), Treasurer [12.39]: The advice of the Parliamentary Counsel confirms that it is unnecessary to add the words prima facie before the word evidence in clause 25 (1B). Also, it is not the practice to include any reference to Latin phrases in drafted legislation. The Government took those matters into consideration.

Mr GREINER (Ku-ring-gai) [12.40]: I understand the point made about the non-use of Latin phrases. I am sure there is an English phrase with comparable meaning. It would be preferable to have a word with the meaning of prima facie before the word evidence. Though it is not necessary, it is desirable.

Amendment negatived.

Mr GREINER (Ku-ring-gai) [12.41]: I move:

That at page 5, all words on lines 8 to 19 be left out.

The amendment relates to the subject of directors' liability. The principal amendment seeks to eliminate the addition of an onus involving the personal criminal liability of directors. I do not accept the Minister's argument that because Australian Capital

Territory and Northern Territory legislation has what might be construed as similar and in some ways broader clauses it justifies the use in New South Wales of this provision. It is no argument to say that because another State has a provision it is automatically good. The Opposition is firmly of the view that no case has been established to pick out stamp duties in this way. The proposal will create an undesirable precedent in New South Wales taxation. The Treasurer has not said whether he proposes to introduce similar clauses in other tax legislation, or whether a similar onus will be placed on directors in respect of all other forms of taxes. Because of the lack of justification in terms of principle or practice, the Opposition believes that clause 25 (1c) should be deleted. Accordingly, the Opposition intends to divide the Committee on this matter.

Question—That the words stand—put.

The Committee divided.

Ayes, 55

Mr Akister	Mr Gabb	Mr O'Connell
Mr Anderson	Mr Gordon	Mr O'Neill
Mr Aquilina	Mr Hills	Mr Paciullo
Mr Bannon	Mr Hunter	Mr Page
Mr Beckroge	Mr Jackson	Mr Petersen
Mr Bedford	Mr Johnson	Mr Quinn
Mr Booth	Mr Jones	Mr Ramsay
Mr Bowman	Mr Keane	Mr Robb
Mr Brading	Mr Knight	Mr Rogan
Mr Brereton	Mr Knott	Mr Sheahan
Mr Cavalier	Mr McCarthy	Mr K. J. Stewart
Mr Christie	Mr McGowan	Mr Walsh
Mr R. J. Clough	Mr McIlwaine	Mr Whelan
Mr Cox	Mr Miller	Mr Wilde
Mr Day	Mr Mochalski	Mr Wran
Mr Degen	Mr H. F. Moore	
Mr Durick	Mr Mulock	*Tellers,*
Mr Egan	Mr J. H. Murray	Mr Flaherty
Mr Face	Mr Neilly	Mr Wade

Noes, 26

Mr Arblaster	Mr Fisher	Mr Rozzoli
Mr Armstrong	Mr Greiner	Mr Schipp
Mr Boyd	Mr Hatton	Mr Singleton
Mr Brewer	Mr Mack	Mr Smith
Mr Cameron	Dr Metherell	Mr West
Mr Caterson	Mr W. T. J. Murray	Mr Wotton
Mr Collins	Mr Park	*Tellers,*
Mr Dowd	Mr Peacocke	Mr Fischer
Mr Duncan	Mr Punch	Mr T. J. Moore

Pairs

Mr Cleary	Mr J. H. Brown
Mr Crabtree	Mr J. A. Clough
Mrs Crosio	Mrs Foot
Mr Ferguson	Mr Pickard

Question so resolved in the affirmative.

Amendment negatived.

[*The Chairman left the chair at* 12.48 *p.m. The Committee resumed at* 2.15 *p.m.*]

Mr GREINER (Ku-ring-gai) [2.15]: I move:

That at page 6, all words on lines 4 to 7 be left out.

This amendment would remove the presumption that the Minister's consent has been obtained unless the taxpayer can prove to the contrary, which would be difficult. The direction of the onus is unfortunate. That is why I have moved that amendment.

Mr BOOTH (Wallsend), Treasurer [2.15]: For the reasons outlined earlier, the Government cannot accept the amendment.

Amendment negatived.

Schedule agreed to.

Schedule 3

[Trusts]

Mr GREINER (Ku-ring-gai) [2.16]: I move:

That at page 9, after line 15, there be inserted the words

Where the Commissioner is not satisfied as provided by paragraphs (i), (ii), or (iii) of subsection (1) (b) of this section the duty chargeable on a conveyance of property that would otherwise fall within section 73 (1) (b) shall be reduced by the amount of the ad valorem stamp duty paid on the conveyance, declaration of trust or other instrument referred to in section 73 (1) (b) which relates to the property the subject of the conveyance to the beneficiary.

This amendment is designed to ensure that where the conveyance to the beneficiary is not exempt from *ad valorem* duty because it fails the test in section 73 (1) (b) (i) to (iii), there will at least be a credit from the *ad valorem* duty payable on that conveyance for any duty that was paid on the instrument first putting that property into the trust.

Mr BOOTH (Wallsend), Treasurer [2.17]: The Government cannot accept the amendment.

Amendment negatived.

Mr GREINER (Ku-ring-gai) [2.17]: I move:

That at page 11, the words "is the same duty" on line 32 and all words on line 33 down to and including line 6 on page 12 be left out and there be inserted in lieu thereof the words "is one dollar".

At present, proposed section 73 (2AB) to (2AC) is designed to provide that where there is a conveyance to a trustee, and the commissioner is not satisfied within the terms of section 73 (2A) (c) (d) because it is impossible for the trustee to become a beneficiary, then that conveyance to the trustee is dutiable *ad valorem*, but if subsequently the property is transferred to a beneficiary who is not a trustee, at the time of the later conveyance there is a refund of the *ad valorem* duty paid earlier on the conveyance to the trustee. The amendment I have proposed is designed to reverse this situation so that at the time of the conveyance to the trustee, just because it is possible that the trustee may later become a beneficiary, this will not prevent only nominal duty on that conveyance. Then, if at a later time that property is actually transferred to that trustee as beneficiary, at that later time the *ad valorem* duty is paid and there is then no need for a refund of duty paid earlier.

Mr BOOTH (Wallsend), Treasurer [2.18]: The attitude of the Government is that once the title to the property is in the name of the trustee who is also a potential beneficiary, there is no need for any further documentation to confirm that title is in his name and no duty should be chargeable when the trustee becomes the beneficiary. If I were transferring some property to the honourable member for Ku-ring-gai, he would become the beneficiary and we say that there is no need for any further paperwork. There is no need for any title in his name; it is already there. There is no duty, That is where we differ in our interpretation. We cannot accept the amendment.

Amendment negatived.

Mr GREINER (Ku-ring-gai) [2.19]: I move:

That at page 12, after line 32, there be inserted the words

(2AE) A conveyance of property made for nominal consideration from a person to a trustee or nominee to be held solely as trustee or nominee of such person without any change in beneficial ownership is to be charged with a duty of one dollar provided that the Commissioner is satisfied that immediately before and immediately after such conveyance beneficial ownership in such property is held by the transferror and such beneficial ownership or part thereof is not held by such trustee or nominee.

This amendment is designed to ensure that only nominal duty is payable where property is transferred to someone purely to hold on that person's behalf as that person's trustee or nominee and where it is not intended that this trustee or nominee hold any beneficial interest. Because the bill has sought to overcome duty avoidance problems arising out of the DKLR case, it seems only just that an amendment be made to avoid a double duty situation again arising out of the DKLR case.

Mr BOOTH (Wallsend), Treasurer [2.20]: The inclusion of a provision such as has been proposed would defeat the purpose of the bill. The legislation does not require more than one *ad valorem* duty to be paid on property subject to a trust. For that reason the suggested amendment cannot be accepted. If it were, the loophole now in the Stamp Duties Act would remain. The amendment is very much akin to the previous amendment that the honourable member for Ku-ring-gai moved. We believe there is no need for another piece of paper; that title already exists. Here again we differ in our interpretation.

Amendment negatived.

Schedule agreed to.

Schedule 8

[Transfers of Shares]

Mr GREINER (Ku-ring-gai) [2.22]: I move:

That at page 24, lines 20 and 21, the words "such particulars and information as may be prescribed" be left out and there be inserted in lieu thereof the words "relating to the transfer of shares (not being a transfer occurring prior to 20th October, 1982) such particulars and information as may be prescribed".

The reason for this amendment is that the wording of the proposed section as it stands would theoretically at least enable the commissioner or the Government to seek particulars and information over a far broader range of matters than is necessary to implement the purposes of the legislative changes to close the Darwin share transfer loophole as it applies to events after 20th October. The amendment is designed simply to narrow the type and quality of information that is available.

Mr BOOTH (Wallsend), Treasurer [2.23]: The Government cannot accept the amendment.

Amendment negatived.

Schedule agreed to.

Schedule 9

[General Exemptions from Duty]

Mr GREINER (Ku-ring-gai) [2.24]: I do not propose to canvass further the arguments I advanced at the second reading stage. The Opposition proposes that the Committee divide on this schedule, part of which relates to the imposition of a tax on building society cheques. The Opposition considers that the appropriate way to overcome the anomaly between building society cheques and other cheques is to remove the stamp duty on cheques in general. The Opposition opposes the schedule.

Mr BOOTH (Wallsend), Treasurer [2.25]: For the reasons I gave in my second reading speech the Government cannot accept the proposition advanced by the Opposition.

Question—That the schedule stand—put.

The Committee divided.

Ayes, 49

Mr Akister	Mr Face	Mr O'Neill
Mr Anderson	Mr Gabb	Mr Paciullo
Mr Aquilina	Mr Gordon	Mr Page
Mr Bannon	Mr Hills	Mr Petersen
Mr Beckroge	Mr Hunter	Mr Ramsay
Mr Bedford	Mr Johnson	Mr Robb
Mr Booth	Mr Jones	Mr Rogan
Mr Bowman	Mr Keane	Mr Sheahan
Mr Brading	Mr Knight	Mr K. J. Stewart
Mr Cavalier	Mr Knott	Mr Walsh
Mr Christie	Mr McCarthy	Mr Whelan
Mr R. J. Clough	Mr McGowan	Mr Wilde
Mr Cox	Mr Miller	Mr Wran
Mr Day	Mr Mochalski	
Mr Degen	Mr Mulock	*Tellers,*
Mr Durick	Mr Neilly	Mr Flaherty
Mr Egan	Mr O'Connell	Mr Wade

Noes, 24

Mr Arblaster	Mr Fisher	Mr Punch
Mr Armstrong	Mrs Foot	Mr Rozzoli
Mr Boyd	Mr Greiner	Mr Singleton
Mr Brewer	Mr Hatton	Mr West
Mr J. H. Brown	Mr Mack	
Mr Caterson	Dr Metherell	
Mr Collins	Mr W. T. J. Murray	*Tellers,*
Mr Dowd	Mr Park	Mr Fischer
Mr Duncan	Mr Peacocke	Mr T. J. Moore

Pairs

Mr Cleary	Mr J. A. Clough
Mr Crabtree	Mr Pickard
Mrs Crosio	Mr Smith
Mr Ferguson	Mr Wotton

Question so resolved in the affirmative.

Schedule agreed to.

Schedule 10

[Miscellaneous Amendments]

Mr BOYD (Byron) [2.33]: At the second reading stage I expressed concern about some provisions of this Bill and in particular about the provision for the service of notices and other documents. The whole of proposed section 129c should be deleted from the bill.

[*Interruption*]

The CHAIRMAN: Order! I call the honourable member for Liverpool and the honourable member for Burwood to order.

Mr BOYD: I have had considerable experience on local land boards, and even though they might be considered to be instruments of a minor jurisdiction, the boards considered it imperative that they be satisfied that documents served in that jurisdiction be duly and properly served. The bill before the House could be said to deal with a much more important jurisdiction and therefore it is not good enough that a provision such as proposed new section 129c become part of the Stamp Duties Act. That provision would absolve the commissioner from responsibility to make sure that notices and other papers are served in proper fashion. That is obvious from a reading of proposed section 129c (1), which provides:

> A notice or other document required or authorised by this Act or the regulations to be served or given by the Commissioner shall be deemed to have been duly served or given—
>
> (a) if delivered personally to, or if left at the last known place of abode or business in or out of the State of, the person on or to whom the notice or other document is to be served or given; or
>
> (b) if sent by prepaid letter post, addressed to that person at his last known place of business or abode in or out of the State.

No provision could be more general. It is sloppy legislation. Under it, one would have to prove only that a letter was posted to the last known place of business or abode of the person sought to be served with such notice. It is an unfair provision, and I ask the Treasurer to consider its removal from the bill.

Mr BOOTH (Wallsend), Treasurer [2.36]: During the luncheon break I sought advice from two officers of the Stamp Duties Office. I have been informed that there is precedent in other Acts for wording such as is contained in proposed section 129c. The Government believes the provision is satisfactory and that there is sufficient and adequate safeguard against possible abuse. The Government does not agree to amend the provision or to delete it from the bill.

Schedule agreed to.

Adoption of Report

Bill reported from Committee without amendment, and report adopted on motion by Mr Booth.

Third Reading

Bill read a third time on motion by Mr Booth.

MOTOR VEHICLES (TAXATION) FURTHER AMENDMENT BILL

Second Reading

Debate resumed (from 23rd November, *vide* page 2768) on motion by Mr Whelan:

That this bill be now read a second time.

Dr METHERELL (Davidson) [2.37]: Though the Minister has given an assurance that this is a machinery bill and that its provisions will not alter the rate or incidence of taxation, it will amend the Motor Vehicles (Taxation) Act so that the indices used for the indexation of the motor vehicle tax levy and weight levy may be varied by the Government without the necessity to amend the principal Act on each occasion. Already two recent amendments have been made to the Act as a result of changes to indices by the Australian Statistician. The Opposition understands the technical difficulty that is created for the Government and the Minister by the requirements of the Act and therefore understands the need for the machinery change. What concerns the Opposition is that the Act, as is proposed to be amended, will give the Governor, on the advice of the Minister, power to alter the indexation factor.

The indexation formula contained in the bill is complex. It is certainly too complex for me to understand, and I suspect it is also too complex for the Minister to understand. The Opposition seeks from the Minister an assurance that the Opposition support for the machinery change will not be interpreted as support for any future increase in the indexation factor. It seeks also an assurance that it is not the intention of the Government to alter the indexation factor by means of the new device of giving that power to the Governor, who would exercise it on the advice of the Government. The reason for the Opposition's concern is the possible increase in the indexation factor to reduce the Budget deficit that faces the Government. It has been admitted by the Treasurer that there has been a marked Budget blowout, which will not be assisted greatly by the estimate that the financial institutions duty will bring in less revenue than was anticipated earlier.

The Government has conceded that the State Rail Authority's revenue has tumbled and there has been a Budget blowout. A Budget blowout will occur in public servants' salaries because insufficient allowance has been made for them in the Budget. To put a pleasant gloss on it, there will be major inaccuracies in the Budget forecast. The Government will be sorely tempted to increase vehicle registration tax between now and the next Budget. No doubt it will do that in future years also. My National Party colleague, the honourable member for Goulburn, will deal with the magnitude of increases in registration charges in recent times. The Opposition seeks an assurance from the Minister that he does not intend to abuse the powers given to him by the legislation to alter the indexation factor. The legislation merely contains narrow machinery measures. The Opposition does not intend to oppose the bill. The Opposition supports the bill and understands the difficulties involved in having

to move minor amendments every few months because the Australian Statistician changes the indices. It is hoped the legislation before the House will resolve that problem.

Mr BREWER (Goulburn) [2.42]: The National Party does not oppose the legislation, although it opposed the original legislation because it believed that any increase in taxation or charges should be a matter for the Parliament. The automatic increases with regard to motor tax levy and weight levy are based on the Australian Statistician's indexation formula. I am informed that that formula has been altered twice recently and it has therefore been necessary to bring legislation before the Parliament to amend the Act. As the honourable member for Davidson said, because of the Government's Budget blowout, the Minister for Consumer Affairs, as well as the former Minister who devised the formula, are probably protecting the New South Wales motorist on this occasion. In recent times other government taxation rates and charges have increased substantially. Motor vehicle registration fees and weight tax have been increased significantly. In recent times the total increases have amounted to about 70 per cent. The National Party does not oppose the measure. It is a commonsense measure. I hope that the Minister will give a similar undertaking to the National Party as has been sought by the Liberal Party and that there will be no attempt to change the formula by regulation.

Mr WHELAN (Ashfield), Minister for Consumer Affairs and Minister for Roads [2.45], in reply: I thank honourable members who have contributed to the debate. The amendments to the Motor Vehicles (Taxation) Act are machinery and relatively inconsequential. I assure the House and honourable members who have raised queries about the legislation that under the provisions of the Main Roads Act funds received from motor vehicle taxation must be expended on roadworks. The honourable member for Goulburn raised an issue, the answer to which is contained in schedule 1 to the bill which refers to the percentage change in the average weekly earnings for employees or a class of employee. The new regulations will have to be gazetted. As honourable members will be aware, regulations are tabled in this House and honourable members may move a motion seeking their disallowance. It may be that in view of the sympathetic treatment Opposition members give to motorists, taxation and registration fees, they will be willing to join with me in trying to get their federal counterparts in Canberra to show more sympathy to motorists.

Motion agreed to.

Bill read a second time.

Third Reading

Bill read a third time, on motion by Mr Whelan.

MOTOR TRAFFIC (ROAD SAFETY) AMENDMENT BILL

CRIMES (ROAD SAFETY) AMENDMENT BILL

Second Reading

Debate resumed (from 24th November, *vide* page 2975) on motion by Mr Cox:

That these bills be now read a second time.

Dr METHERELL (Davidson) [2.46]: The Opposition congratulates the Government for bringing forward so promptly the random breath testing package. The substantial part of that package came from the recommendations in the first report of

the Staysafe Committee, which is a joint committee on road safety. Before I deal with the detailed recommendations of Staysafe and how the Government has responded, I shall say something in general about the road toll and road safety in New South Wales. I shall deal with some of the arguments put forward against random breath testing in past years, and those propounded in the news media by persons and groups in recent weeks. I do not want those arguments to go unanswered, because we are approaching what will be a most important period for road safety in the history of New South Wales, namely, the 3-year trial period for random breath testing.

The first argument is whether random breath testing is worth the infringement of a person's civil liberties. I refer honourable members and those persons concerned with this issue to the foreword to the first Staysafe report which was prepared by the honourable member for Liverpool, the chairman of that committee. On the second page of the foreword there are figures prepared by the Neurosurgical Society of Australia relating to the cost to New South Wales of injuries to the head, spine and peripheral nerves known as neurotrauma. The costs set out in the report provided by the Neurosurgical Society reveal that the cost of neurotrauma in New South Wales five years ago was $949 million. Road accident victims accounted for 34 per cent of all hospital admissions; 27 per cent of all surgery undertaken; 55 to 60 per cent of permanently disabled people in the community; and 66 per cent of all deaths on the road were caused by neurotrauma. If one brings the figures up to date—not merely in terms of the increase in casualties, but in regard to the indexation of that $949 million—one arrives at a figure, on 1982 costs, of $1,307 million. To put that in perspective, it is approximately one-fifth of the total New South Wales State Budget. A phenomenal toll is borne by members of the community and the families of persons who are casualties or fatalities. However, the cost is borne by everyone in the community through maintenance of health care facilities, accident prevention facilities, and the cost of health insurance.

On page 3 of the foreword a dramatic statistic in official Health Commission figures shows that patients treated in public hospitals as a result of road accidents in 1980 occupied an average of 549 beds every day. The cost was $27 million for inpatient care alone. That is a small part of the total cost of road accidents and is a burden borne merely by our public hosiptals. Somewhere between 40 and 50 per cent of all road fatalities show illegal blood alcohol levels. If no action is taken in this regard by 1990, there will be 10 000 additional road deaths in New South Wales and 160 000 more hospital casualties. I present those statistics to dramatize the enormous cost to the community, and to convince those who try to suggest that random breath testing is not worth the infringement of civil liberties. Those stark statistics demonstrate that random breath testing is worth a 3-year trial period. Surely testing must be brought in to reduce the appalling road costs and the casualty figures. Against that background the infringement of civil liberties is but small in comparison.

Arguments against random breath testing have pointed to the contrast between the figures in New South Wales and Victoria. On that basis it is said that random breath testing in Victoria has not worked. That statement flies in the face of all the facts. Many of the facts are contained in the Staysafe report and others have been published by government departments. In examining the road casualty figures in both States, one finds that in 1970 New South Wales accounted for just over 55 per cent of total road deaths in Victoria and New South Wales added together—in other words, the share borne by New South Wales of the two States was 55 per cent. By 1980 that share of road deaths in the two States had risen to 66.5 per cent. In 1982 the estimates from the Traffic Accident Research Authority point to the fact that the figure will be 66 per cent yet again. In other words, in the space of ten years, New South Wales has

moved from contributing just over half of the road deaths in the two States to contributing two-thirds. Other factors have not changed dramatically in that time. One hears spurious arguments to the effect that Victoria is a smaller State than New South Wales, that it has better roads and all the rest of it. Those factors have remained constant, but what has not remained constant is the ratio of road deaths between the two States. The contribution by New South Wales to road deaths has increased dramatically.

That is not the only indicator demonstrating a marked difference in the record of New South Wales compared to that in Victoria. Since 1976 when random breath testing was first introduced in Victoria, Victoria's traffic crash fatalities per million residents have fallen from 246 in 1976 to 194 in 1981—a marked fall of about 21 per cent in a 5-year period. Yet in New South Wales the traffic crash fatalities per million residents have remained almost constant—namely, 255 in 1976 and 247 in 1981. There has been a small reduction of about 3 per cent. I emphasize that the reduction in Victoria was 21 per cent and that in New South Wales it was only 3 per cent. If one examines traffic crash fatalities per 100 million vehicle kilometres—another recognized measure of crash fatality rates—one finds that the rate in Victoria has fallen massively from 3.5 in 1976 to 2.98 in 1979—a fall of about 15 per cent. In New South Wales it has fallen from only 3.93 to 3.62—a fall of only 8 per cent. As a measure of crash fatalities per 100 million vehicle kilometres, Victoria's record is twice as good as that of New South Wales, although other factors have remained substantially constant. If one needs a further indicator of how wrongheaded are the people who say that random breath testing is not working in Victoria, one has only to look at the picture between 1978, when random breath testing in Victoria was intensified, and 1981. In 1978 Sydney's fatalities were only 14 per cent higher than Melbourne's, but by 1981, only three years later, with the dramatic intervention of such testing in Victoria, Sydney's record was 55 per cent worse than the Melbourne record. On that basis alone we can expect to save 120 lives a year here in New South Wales if we can get back to that difference of 14 per cent between New South Wales and Victoria.

Let me deal with another of the common arguments put up against random breath testing. It is said that alcohol is not the major factor contributing to death and injury on the roads and that one must not single out one factor and ignore others. Some people instance road quality, education, driver motivation and other matters to which the figures may be ascribed rather than alcohol. That argument is commonly put up by the hotels association, the clubs movement, the liquor industry and others. I refer those vested interests to the news media release from the Minister for Health of 12th November this year and to the reports in the daily press that followed. What did research carried out by the Sydney University Department of Pharmacy find? Did it find alcohol was not a factor, or was only one of a number of factors, or an insignificant factor? What it found was that alcohol was present in the blood of 51 per cent of New South Wales road accident fatalities. That is a factor which the vested interests are asking us to ignore. It was found that alcohol only was involved in 47 per cent of road accident fatalities. Alcohol and other drugs comprised an additional 4 per cent —that is, people with alcohol and tranquilizers in their blood at the same time. Other drugs only—this covers legal drugs such as tranquilizers—were found in the blood of an additional 6 per cent of cases. That makes an appalling grand total of drug affected drivers involving fatalities on the roads of 57 per cent, with alcohol contributing 51 per cent of the figure. This will become an increasingly controversial factor. I must stress that that figure does not include the measurement of marihuana and cannabis products in drivers' blood. That factor was not tested.

A survey of the blood content of hospitalized casualties admitted to Hornsby hospital found in two independent samples that between 17 and 25 per cent of admittances had traces of cannabis in their blood. In addition to alcohol and tranquilizers one has an already substantial and growing problem of cannabis-affected drivers. Obviously much more research needs to be carried out in that area than is now being undertaken. Researchers are on the brink of discovering another great contributory factor to the road toll. One is probably looking at a figure of between 60 and 70 per cent of all road accident fatalities as being drug-affected by legal or illegal drugs. We know from the Minister for Health that 57 per cent are affected by legal drugs, alcohol and tranquilizers, but we shall have to add the illegal drug of marihuana and others that are more difficult to test. The statistics showing that between 60 per cent and 70 per cent of fatalities on our roads involve drug affected drivers are frightening and appalling. The Staysafe committee will be examining this matter further in the future as further evidence and research becomes available.

I turn to the recommendations of the Staysafe Committee. The most important of the recommendations was the introduction of random breath testing. The committee recommended a trial period of not less than two years. The Government has proposed a trial period of three years. I commend the promptness with which the Government has moved in this area. No member of the committee would quibble over the period of three years. Some members of the committee see an advantage in random breath testing being taken out of a pre-election context that would have arisen if the Government had adopted the two-year period, which would place the end of the trial about twelve months before the probable date of the next election. The matter will now be taken out of the arena of pre-election politics. The committee made a number of important recommendations about how random breath testing should be introduced. At this point I emphasize that the committee was proposing to the Government and the community a package that involved more than random breath testing. The committee considered the package indivisible. All the package should have been adopted. The committee underlined the fact that random breath testing would not work except in certain conditions and then set out what those conditions were.

We mentioned the need for new equipment. The Government has said—though we do not know for certain what will be done in that area—that it will respond with new equipment. It must be the latest digital equipment, which is quick and easy to understand. In the words of one senior police officer, the new equipment is fail safe even in the hands of a patrolman working at the roadside. That is an important factor. It is good for the morale of members of the police force to be using the latest equipment, to feel that one is working at the frontiers of knowledge rather than being supplied with ancient equipment. The use of the latest equipment is vital also in selling the whole concept of random breath testing, so that the motorist can be shown, at the window of his or her car, the reading that is being received on the machine as a result of the breath test. The motorist will not be dependent on the vague and problematical changing of the colour of crystals under lights at night. Under that system there can be a great deal of argument about whether the crystals have changed colour and by how much. The new equipment gives a digital readout that is clear to the policeman and equally clear to the motorist and it can be backed up, if necessary, by the more detailed breathalyzer test later in what has become known as the booze bus.

The committee made a number of other important proposals, one of which the Government has not responded to. I refer to the concept of an on-the-spot traffic infringement notice being applied to random breath testing. The committee members believed, on the basis of all the evidence brought before the committee, that random breath testing should be backed by a simple, easy to explain system of penalties, with

immediate and certain effect. This has led to a good deal of argument. On the one hand there are those who say that an on-the-spot system of penalties in connection with random breath testing would diminish the seriousness of the offence; that it is better to have the deterrent of law enforcement—to arrest the offenders at the roadside, take them to a police station, fingerprint them and compel them to appear in court to underline the seriousness of the offence. On the other hand, there is a great deal of evidence—in the area of road safety and in a large number of other areas—that the further away from the commission of an offence the penalty is, the less effect the penalty has on the person involved and the greater his sense of injustice, for he no longer recognizes the connection between the penalty and the commission of the offence.

It was with those factors in mind, balancing them against each other, that the committee came to the conclusion that a system of immediate penalties was to be preferred, at least as an option. If someone felt aggrieved, he could go to the court. Though the committee supported an on-the-spot ticket system, the Government, after considering the matter, did not accept that recommendation. I feel strongly about this matter. I do not criticize the Government's decision in a political sense, for I realize that there are real differences of opinion in the community and among all objective people about this matter. It is not a political question. I simply ask the Government, now that it has made a decision, not to close its mind permanently on that issue. It may find later on, as the problem of road safety increases in magnitude and as community awareness and community objection to the number of road fatalities and accidents increase, that stronger measures are called for. The Government may be willing to go back and reconsider some of the decisions it has taken.

The committee recommended zero blood alcohol for first year drivers of all ages. This refers mainly to P-plate drivers. This is the Tasmanian system. It is important to deal with these matters in as objective a manner as possible, and not in a partisan way. The committee made this recommendation for a reason. It did not regard it as the first step in an elaborate system of penalties or as singling out first year drivers. It regarded it as the culmination of a programme of education, starting in the primary schools with bicycle and pedestrian education, moving on to road safety, and then in later years of high school moving into driver education, culminating in a requirement that in the first year of licence holding with a P-plate there should be zero blood alcohol. It was attempting to build upon an attitudinal change in the schools.

It was saying to first year drivers, "Separate your early year of drinking when you are learning to drink"—as we know people are at that age—"from your first year of driving when you are learning to drive". This was not an attempt to penalize; it was an attempt to educate. It would have the additional advantage—to which I invite the attention of the Minister—that by delaying by one year the drink driving problem, we would be saving the lives of tens, if not hundreds, of young drivers who would otherwise be killed on the roads. The committee was seeking to shorten their drink driving life by one year in the best sense, instead of them perhaps shortening it in the worst sense, by killing themselves.

I concede, as I am sure each member of the Staysafe committee concedes, that there is no scientific evidence for zero blood alcohol for P-plate drivers. The Tasmanian experience is not yet conclusive. There is no international experience and evidence that is conclusive. I ask the Minister to keep this matter also in mind when he is reviewing the legislation, as we know he will. The committee has asked the Government to review all these recommendations every six months and to report progress to it. This would mean that as circumstances change and as the problem

increases in magnitude—as I believe it will continue to do for some time—and as public awareness increases on this question, the Government will reconsider zero blood alcohol for first year drivers.

The committee recommended also a new structure of penalties and more severe penalties. Once again, I do not wish to quibble over what the Government has done about the level of fines or the length of jail sentences that should be imposed for specific blood alcohol levels. Broadly speaking, I am not dissatisfied with the Government's 3-tiered proposal. There is a good deal of commonsense behind it. It was probably the most difficult area the Staysafe committee had to deal with when it considered how penalties should be restructured and to what level they should be increased. This was because of the inconclusiveness of evidence in this area and the lack of evidence that the committee received on the matter.

One matter about which the committee felt strongly and on which it received clear evidence was the abuse by magistrates in New South Wales of the provisions of section 556A of the Crimes Act. The Government has seen fit not to accept the committees recommendation that in all cases where charges relate to a blood alcohol level above 0.10 that the magistrate not have recourse to section 556A to let off as it were alcohol affected drivers on their first offence, people of good character, or for other reasons. The committee's recommendation was based on the most sound of reasons; it was not something plucked out of the air. The committee analysed statistics on the use—indeed on the abuse—of section 556A by magistrates in New South Wales. I read closely the Minister's press release and statements on this matter. It was clear that the Government has been led to believe—I do not consider it carried out an independent study—that the purpose of the provision was being carried out in practice by the magistrates, that is, when people with an impeccable driving record extending over a lifetime of driving were brought before the court the magistrate showed some leniency towards them. One would like to believe that was the position, but it was not in accordance with the findings of the committee.

The committee analysed information provided by the Department of Motor Transport in the form of 1981 statistics which related to 1 273 drivers who were discharged without conviction under the provisions of 556A of the Crimes Act. Of those 1 273 drivers, only 23 were below the blood alcohol level of 0.08. The worst offenders, totalling 1 085, with a blood alcohol level above 0.08 were discharged by the courts with no conviction being recorded against them. These figures are contained on page 86 of the Staysafe report, with other documentation. The committee reached the conclusion that this information showed the more severe the offence the less likely the conviction. That revealed an extraordinary misuse of the provisions of 556A, which were intended to be leniency provisions for those least likely to offend, without any previous conviction and with a low blood alcohol level. Although the committee is seeking more detailed information, it had evidence that showed that, at the least, magistrates were applying the section to those with the higher blood alcohol levels, those who faced the more serious driving charges, and those who because of the seriousness of the offences and their social position retained legal representatives to put to the court other mitigating evidence, if I may put that gloss on it, as to why they should be released without a conviction. I believe that is an abuse of the law. Unless that abuse ceases, increasing pressure will be put on the Government to remove from magistrates the ability to apply the provisions of section 556A. On the basis of this evidence the committee reached its conclusions and made its recommendations to the Government.

The Government has not seen fit to adopt the committee's recommendations on the important matter of drink-driving education. The Minister's press release and supporting statements revealed that this subject is to be kept under consideration. Almost

at the same time that the Minister made this statement, the Director-General of Education announced that certain cuts were to be made in education funds.

Mr Cox: That will not now take place.

Dr METHERELL: The cuts in funds included the new drink-driving materials programme, which had just been introduced in secondary schools. This matter was considered in detail by the committee and strongly supported by it as part of a comprehensive programme of education throughout the school system. The committee wanted that type of education material, appropriately modified, used in the earlier days of schooling and included in the Bike-ed kit used in Victoria. The Minister has said now that the cuts will not take effect. That statement by the Minister gives me some reassurance. All it means is that a relatively small amount of money spent in this experimental area will be maintained. However, it does not implement the committee's strong recommendation that there should be a substantial upgrading of road safety education, and specifically related to drink driving for more senior students. The committee recommended that this integrated programme throughout the school years be made part of the normal curriculum. When the Minister said in his press release that the matter was under consideration I had hoped that favourable consideration would be given to implementing a comprehensive programme throughout the school years and that substantial funds would be made available for that purpose. If one has in mind the startling cost figures I gave earlier, the motivational and attitudinal changes that the committee hoped would be brought about through these innovations will have immense cost benefits to the community of New South Wales.

I refer next to police resources, about which a number of points should be made. Again I applaud the Government's decision announced in the Budget to appoint an extra 500 police, a substantial number of whom I have no doubt will find their way either directly or indirectly to random breath testing duties. Extra police resources is a necessary first step. However, the New South Wales police told the committee that they could carry out random breath testing without extra police resources. One would expect that with the appointment of extra police there will be a massive application of police resources to random breath testing. I applaud the Government's decision, which would not have been an easy one to take, not to record the personal details of motorists passing through random breath testing stations when they have committed no offence. This would apply to 99 per cent of motorists passing through those stations. In Victoria substantial personal details are recorded. I, and I know other members of the committee, were appalled by the scope of the personal details of innocent persons recorded and held for a substantial time.

The only reason advanced by the Victoria police for the recording of these details was, generally speaking, to protect police against allegations by members of the public of corruption or malpractice at random breath testing stations. An elaborate bureaucratic procedure had been devised simply to allow senior policemen to determine whether a particular motorist had been at the place claimed on a particular night and had been tested by a particular policeman. The New South Wales committee considered that this was an unnecessary intrusion on people's civil liberties. They had every reason to expect that if they were innocent no record would be kept.

I wish to deal with some other matters that are not so clear although they are under consideration by the police. I refer to the visibility and frequency of random breath testing stations. In the States visited by members of the Staysafe committee where random breath testing was in operation, that is, in South Australia and Victoria, it was clear that there is an enormous difference in the effectiveness of random breath testing in areas where stations were most visible as against stations

where they were not. If one wishes to maximize the deterrent effect—which is what random breath testing is all about, deterring drivers from drinking to excess—visibility is a key matter. Drink-drivers must be made to fear apprehension. Even drivers who are not driving whilst under the influence of intoxicating liquor must see random breath testing stations frequently. Maximum visibility is needed. Everything that can be done to light up the site, including police cars associated with it, the vehicle containing the testing equipment and police officers, should be in an almost carnival lighting situation to convince drivers that police are everywhere testing for drink-drivers. The Staysafe committee considered it absolutely necessary that police have modern digital read-out equipment, if the morale of the police is to be maintained and the citizens are to be satisfied with its operation. Modern equipment is necessary also to achieve rapid throughput at random breath testing stations and to reduce costs.

Another point that has not received sufficient attention is the training of police in random breath testing. It is not clear to me, and it may not be clear to the Minister as yet, which police will be allocated random breath testing duties. The Victorian system allows for rotation of large numbers of police on and off random breath testing duties. That method has been adopted for two reasons. The first is that the resources needed are substantial and therefore, if testing is to be carried out on a large scale, many police will be required—probably more than are involved at present in traffic patrol work. The second matter is even more important. Police constables on the beat or on the highway patrol in Victoria are not happy about random breath testing for they are not convinced of its necessity or effectiveness. That is not because the evidence is against random breath testing; on the contrary, the evidence is overwhelmingly in favour of it. The problem is, rather, that the constable has not been made aware of the evidence of the significance and effectiveness of random breath testing.

Police who operate in Victoria were not so happy about the system. Senior police gave members of the committee the official story—that random breath testing is successful, operates efficiently and the men are satisfied with it. But the officers operating the hand-held equipment at the car window were disenchanted with their results. In addition, they resented not being in patrol cars and arresting motorists at a much higher rate than they could by random testing at nominated points. The latest figures in Victoria reveal that about 0.8 per cent of drivers tested at random breath testing stations recorded readings in excess of the legal limit. The policeman's training has geared him to arrests and convictions. When he is by the roadside testing people and not able to apprehend many of them—for he might go a whole night without apprehending a single driver—he becomes frustrated and disenchanted. That officer must be convinced he is doing a worthwhile job. That is an enormous educational task, and it is not being undertaken effectively in Victoria. Victorian police are rotated frequently because they do not wish to be too long on that unpopular work.

Next I come to the matter of selection of sites for random breath testing. I am sure many honourable members have been told by members of the community, particularly those who run hotels and clubs, that they fear victimization. They fear that a policeman who has taken a dislike to them may use random breath testing to drive off their business or send them bankrupt. All sorts of fears are held about ways in which the police might be corrupted by a bribe from a businessman to misuse random breathing testing in order to drive a competitor down the road out of business. Those are real fears held by members of the community. They are based on a distrust of the police force. The Government has an opportunity, indeed a challenge, to raise the status of police in the eyes of the community. People must know that the police are carrying out a worthwhile public duty in a wholehearted and civic minded

fashion. Officers operating random breath testing stations will come in contact with thousands of persons who would not otherwise come under police notice. That is a good opportunity for police to improve their public standing, and the key is the way in which the officers operate the random breath testing stations.

Other matters such as the method by which motorists are stopped and the length of the interruption to their journeys are commonsense issues but vitally important. However, the method of selecting random breath testing sites is crucial. The Minister for Police and Emergency Services and the Minister for Transport must take a keen interest in the system to be used. The system must be fair and reasonable. The sites must be unknown to the majority of police who will operate the stations. I understand that the Victorian system provides for the monthly or weekly compilation of a list of sites by a central group at police headquarters. The locations are selected on the basis of traffic black spots and bad traffic accident records on particular stretches of road. Once selected the locality is kept secret. The lists are locked in the office of a senior police officer, probably an assistant commissioner responsible for traffic.

The contents of the list are kept confidential, possibly until the Friday of a weekly cycle, when they become known to regional police groups who operate the testing stations. That is one way in which the fear of police corruption and discrimination against publicans or clubs can be removed. I commend to the Minister that he give this matter most serious consideration. He should not accept assurances from the police that whatever system they decide upon will work effectively. He should scrutinize the system, for that is one of the vital aspects of making random breath testing work. Members of the Staysafe committee emphasize that point in their report. I commend the sunset clause, which provides that if the trial period proves successful the legislation will need to be re-enacted so that Parliament has an opportunity to reassess the matter in detail. All objections and queries may be answered at that time. In terms of what was recommended by Staysafe and the package of measures of the legislation, I find little to argue with and much to commend.

One item that was not part of the Staysafe package of recommendations is contained in the legislation. I do not know how it came into the minds of the Minister and the Government, but it is a decision that will prove disastrous to the taxi industry. I refer to the issue of one hundred extra taxi plates before Christmas. I am sure the Minister will receive many representations about this matter. Perhaps he was misled by the taxi advisory council or some other body that it was sensible to issue more taxi plates as more club and hotel patrons would require them at night when those establishments close. I do not know where the idea came from. Wherever it was, it was certainly not based on research into the industry to be affected or on extensive consultation with members of that industry.

The taxi industry needs one hundred new taxiplates before Christmas like it needs a hole in the head. The industry is going through one of the worst recessions in recent memory. Depending on the night, the tax co-operatives of Sydney have between 100 and 200 taxis unused because there are insufficient drivers. The reason is that income paid to taxi drivers is extremely low at the moment, as is the return on an owner's investment. Adding one hundred extra plates, which will give the industry one hundred extra taxis, will flood the market. There is absolutely no need for such a move. The Minister could simply proceed with issuing the twenty-three plates to the taxi drivers on the seniority list. However, I do not consider even that would be a good move in the present economic climate. It would be better to wait to see whether random breath testing generates such demand. If it does, the additional seventy-seven plates could be issued. No precipitate step should be taken at this time of difficulty in the industry.

Drivers from the taxi co-operative that I have spoken to have told me that their incomes during October and November have been reduced by between 8 and 20 per cent. That is a huge reduction in such a short period. Doubtless the reduction in income has been caused by the economic recession. Normally the period immediately after Christmas is one of the slackest periods of the year for the industry. It is the time when an owner-driver takes holidays if he can. However, right at that time extra taxis are to be brought into the industry. I consider that to be a foolish decision. It was not part of the Staysafe committee's recommendations. I urge the Minister to reconsider the issuing of these plates. Probably half of those plates have not yet been issued.

I do not wish to end my speech on a negative note. I sincerely congratulate the chairman of the Staysafe committee, the honourable member for Liverpool, on the marvellous job he has done in what have always been difficult circumstances. The chairman has been subjected to great pressure for many months. The committee worked at a frantic pace. The chairman carried by far the heaviest load. I congratulate Mr Kingsley Jackson, the secretary of the committee, on his work. The committee will have him as secretary for several more years as it continues to carry out its task. Also, I pay tribute to the committee's adviser, Mr David Herbert, of the Traffic Accident Research Unit. I pay tribute to my parliamentary colleagues on the committee for their dedication and co-operation during the committee's work. I look forward to continuing to serve on the committee. I congratulate the Government on its quick response in introducing this package before the Christmas recess. I commend the bill.

Mr PACIULLO (Liverpool) [3.35]: I support the legislation, as I am sure do all members of the Staysafe committee. The honourable member for Davidson said nothing during his speech that I or my colleagues on the committee would disagree with, except for his remarks about the taxi industry. The committee did not discuss that issue at any stage. The decision to issue more taxi plates is a positive response to the possible effect that random breath testing will have on clubs and other industries. It is an attempt by the Government to ensure that every step is taken to provide adequate public transport. The speech of the honourable member for Davidson exemplifies the thrust of the general feeling of members of the committee. The recommendations of the committee were unanimous. I look forward to other members of the Staysafe committee contributing to the debate.

The committees work has been directly responsible for the road safety initiatives contained in the provisions of the bill, upon which the Government has acted. Helping to get the measure through the House has been quite a traumatic experience for me. However, it has been a most worthwhile experience. Over the years I have learned to exercise some patience, but during the past few months I have needed all the patience I could muster. I shall probably need a good deal more in future. The task of the committee has been an awesome responsibility. There can be no more complex, difficult or important task than reducing the State's dreadful road toll. I am aware that the manner in which the committee carries out its task will have a significant influence on any decision to appoint future standing committees by this or any other government on important community issues. The Staysafe committee is the first joint standing committee of this Parliament.

I am sure that in the future the establishment of the Joint Standing Committee upon Road Safety will be seen as an effective and positive decision of the Government. My belief is that the committee has already justified its existence. I shall explain why. First, it has depoliticized road safety. That is a most important factor. In addition, it has been the instrument that has quickly generated much community awareness

of road safety. I know full well that awareness will not necessarily cause behavioural change in motorists. However it is a step, and a necessary step, in the right direction. Clearly the committee members have quickly developed expertise. It has had public acceptance already as an authority on road safety. As the Minister would be aware, New South Wales has many other authorities on road safety. They all mean well. The committee has given these other authorities a common voice. That voice has been crying out and has been heard.

I shall give a further example of why the committee has justified its existence. It has become the bank for the collections of ideas, initiative and information. But most important, it can get action because it reports direct to Parliament and monitors decisions of the Parliament. That is in direct contrast to select committees, which, once they produce a report, have no further say in what occurs. Some of that action that I have spoken about is before honourable members now, thanks to the prompt work of the Minister for Transport. I clearly remember that after the committee was formed the Minister gave a public undertaking that he would immediately place the committee's reports and recommendations before Cabinet. The Minister has met that undertaking. I compliment him on that.

In my remarks I shall support the proposed legislation by showing, first, the size of the road toll in New South Wales. I shall provide some examples of local history which appear never to have been recorded in this Parliament. I shall also show why alcohol and other drugs were chosen as the first term of reference of inquiry by the committee, and the contribution of alcohol effects to the road toll—a matter which has already been touched upon by the honourable member for Davidson. I shall also draw attention to the firm evidence of the value of random breath testing as a potential means of reducing road casualties. I shall instance some misconceptions about such testing. Finally, I shall address myself briefly to the question of penalties. I deal first with the history of road casualties, which the House should find interesting. The world's first road death is thought to have occurred in London on 17th August, 1896.

The first road death in the United States of America was that of a Mr H. H. Bliss who on 14th September, 1899, was struck by an electric cab when he stepped off a trolley car in New York City and turned to assist a woman to alight. Chivalry cost him his life. By the end of 1980 in the United States 2 340 000 people had followed the fate of Mr Bliss on American roads—I imagine not many in similar chivalrous circumstances in which Mr Bliss perished. The national toll in the United States is now running at 52 000 to 53 000 every year. That seems an enormous number to which I shall return later. I shall put the matter in perspective and compare these figures with the road toll in New South Wales. Since 1970 the Australian national toll has been running at an annual average of about 3 600. In 1907 a Sydney daily newspaper quoted the words of a magistrate presiding over a traffic case in Sydney:

> Heavier penalties will be necessary if we are to stop this irresponsible and dangerous practice of speeding, particularly after sunset.

The magistrate imposed a fine of £3 2s. 6d. on the driver, who was found guilty of proceeding along Liverpool Street at a speed estimated to be 13 miles per hour. The magistrate is quoted as saying:

> We could have a serious accident this year—1907—if this wild behaviour is not checked.

The magistrate's fears were realized two years later when I am advised that the first New South Wales motor vehicle deaths were recorded. Two people were killed in that year, but in 1909, that same year, 133 people died as a result of horse accidents.

In these days it is very much the reverse—except that one can add a nought to the figure of 133. In other words, about 1 330 people are killed as a result of road accidents and only two or three die from horse-oriented accidents. But the State road toll had climbed to 168 in 1925, and 552 by the beginning of the Second World War, in 1939. It then dropped, as could be expected, to 370 by the end of the war in 1945, but only two years later quickly passed the 500 mark again. Apparently, in 1947 this prompted the government of the day to appoint the first parliamentary committee in this State to inquire into road safety. That report upon road accident casualties issued by a select committee of this Chamber makes fascinating reading. I wish I had the time to make a number of references to it, in light of the Staysafe committee's findings thirty-seven years later. Later in the debate I shall refer to one particular section of the report concerning penalties.

The year 1964 saw the road toll reach the 1 000 level for the first time in this State. By 1970 it had climber to 1 309 and since then has hovered generally around the 1 300 level, with 1 291 people having lost their lives last year. The highest number of road deaths ever recorded in one year in this State was in 1978 when 1 384 people lost their lives on the roads. With about a month to go, this year, 1982, looks like being one of our worst years. It is certainly heading that way. Until four weeks or so ago it looked as though 1982 may have well exceeded the record high level of 1978. Indeed the director of the New South Wales Traffic Authority, Mr Campkin, was so concerned this year that he stated in early August:

> The Authority views the situation with serious alarm in the light of what might be the blackest year yet for road crash casualties.

On 1st September this year there were forty-seven additional road deaths in comparison to the same period last year. On 1st October, a few weeks ago, the number had been reduced to forty additional deaths and by 1st November only four weeks ago, it had dropped to twenty-seven additional deaths. As at Tuesday, 23rd November, the road toll is only ten more than in this period last year. Since the middle of September there has been extensive publicity of random breath testing with wide coverage of the Staysafe recommendations, much speculation, followed by decisions of Cabinet and the Labor caucus. I know it is early days and I know I may be accused of jumping to conclusions, but at this early stage the trend seems to be bearing out the experience of South Australia in 1981 with random breath testing and Great Britain in 1967, where under the threat of random breath testing—it had not then been introduced—a 66 per cent reduction in night time weekend serious casualties took place.

There is a lesson for this State in what occurred in South Australia. Random breath testing was introduced in late October 1981. There was controversy throughout the year in the news media. One city newspaper opposed testing and another supported it. South Australia had its lowest road toll for twenty years. This year, after the controversy abated and the Government failed to support random breath testing with Government-sponsored publicity, the toll has risen again. There is a clear message there for New South Wales. It is obvious that, in accordance with the committee's recommendations, if such testing is to be successful it must be supported. One of those supportive measures must be publicity. That underlines more than anything the critical role of the news media. A week or so ago when I was travelling interstate I picked up the Melbourne *Herald*. It sets out an example of the attention given by the news media in Melbourne to road safety. They publish on the front page a running score of fatalities each day so that the figures are before the public and there is also a comparative figure for the preceding year.

The Victorian chief police commissioner, Mr Miller, announced the beginning of "Operation Countdown" to combat the holiday road toll. The newspaper article quotes Mr Miller as saying that he is determined that this year's road toll will be

lower than the 1980 tally of 664, the lowest in twenty-one years. The chief commissioner was quoted as saying that he was critical of what he called the public's indifference to the carnage on their roads. I wonder what he would think about the indifference in New South Wales. The article continues:

> Even all the organized and professional crime in Australia could never produce casualty figures of the order of magnitude of the Victorian road toll.

I make the point that Victoria's road toll numerically is runing at about half that of New South Wales. Since 1925, on New South Wales roads 44 000 people have lost their lives. It is worth recording that this State contributed 33.9 per cent of Australia's road deaths in 1969. The proportion decreased to 31.9 per cent in 1972 following the introduction of the law making the wearing of seat belts compulsory, but it increased to 38.9 per cent last year. This year it could easily be at least that, if not more. When I visited the United States of America in May this year, to broaden my perspective of road safety, I came into possession of the 1981 edition of *Accident Facts,* which is published by the National Safety Council. I shall quote from page 71 of the report which deals with motor vehicle deaths and death rates by nations. Of forty-seven nations recorded, on a basis of deaths per 100 000 of population, only three nations have a worse record that has Australia. That shows where Australia's road toll record stands compared with that of other nations. New South Wales is dragging Australia to the bottom as one of the most dangerous countries in the world in which to be on the roads.

Probably the most accurate—though not perfect—road safety comparison of the different countries is the number of deaths per 100 000 vehicle kilometres. Again, Australia is among the worst. In New South Wales the latest figures show that our roads had 3.6 deaths per 100 000 vehicle kilometres compared with 2.2 in the United States of America. Honourable members will recall that I said about 52 000 to 53 000 people were being killed in the United States of America. That gives some indication of how bad things are in this State. Though some little comfort can be taken from the fact that the number of people killed in New South Wales has stabilized over the past ten years, bringing down fatality rates on the basis of population, licences issued and the number of vehicles registered, the sad fact is that our rates are still among the highest in the world.

By stark contrast, as the honourable member for Davidson pointed out, our southern neighbours in Victoria have reduced the number of people killed from a similar level to ours in 1970 to about half ours since 1980. It is worth noting also that since 1978, when random breath testing in Victoria was seriously enforced as a package recommended by the Staysafe committee in that State, road deaths have declined dramatically. This shows conclusively to the people of New South Wales, as it did to the committee, that the road toll is by no means inevitable and we have a lot to achieve in this State. The fact that Victoria had similar levels in 1970 and now it has half our level of road fatalities destroys the argument about the disadvantages of our State because of its being three times the size of Victoria.

Over a substantial period, the need to address this problem has been taken up by a number of the present members of this House. By perusing *Hansard* reports I noted that the present Minister for Transport raised the issue in his maiden speech in 1965. The next year he sought the reconstitution of the Road Safety Council into a commission. During that debate sixteen years ago I noted also that the honourable member for Canterbury—now the Minister for Youth and Community Services—called for action to be taken about drinking drivers. In 1979 the honourable member for Mosman called for the establishment of a joint parliamentary select committee to inquire

into and report upon the road toll. I noted with particular interest a statement made during that debate by the honourable member Burrinjuck, now the Minister for Housing, Minister for Co-operative Societies and Minister Assisting the Premier, that there should be a standing committee. I know from discussions with that Minister that he is well versed in road safety. The honourable member for Murray, who is highly respected among all my colleagues for his work on the committee, again raised the need for a parliamentary select committee earlier this year. On this occasion the Minister for Transport responded in a positive way by taking the issue to Cabinet and gaining its approval, as a result of which we now have the first joint standing committee of this Parliament.

Transferring responsibilities to a unknown group of parliamentarians takes courage. I compliment the Minister on having that courage. I suppose if he had known that I was to become the chairman of the committee he might have had second thoughts about the matter. Nevertheless, the Minister took a positive step. By serving on this committee I have found that party point scoring has taken a back seat. The representatives of the Liberal, National and Labor parties have all concerned themselves solely with the task of reducing the road toll. The unanimous recommendations from the committee were the basis for the decisions of the Government. This shows the value of the committee and its potential contribution to road safety.

Next I shall deal with why the committee chose drugs and alcohol as its first term for inquiry. Members of the committee and most parliamentarians are aware of the evidence that showed alcohol as being, among human factors, the single greatest cause of death and serious injury on our roads. I refer honourable members to page 5 of the Staysafe committee report, which indicates clearly the contribution of alcohol to the death of drivers, and other road users, and those involved in non-fatal injury crashes and non-injury crashes. The lesson to be learned from these statistics is that the more severe the crash, the greater the likelihood of alcohol being involved. The committee was aware also of the continuing debate and controversy in the community about random breath testing. It was obvious to the committee that the issue needed to be settled once and for all. Despite these valid reasons, the committee was accused in some quarters of picking on alcohol. After the committee had made known its recommendation favouring random breath testing, a *Sun-Herald* article of 14th November reported a club manager as stating that random breath testing was a lot of nonsense and that "it was brought in by bloody wowsers". I gather that he was referring to members of the committee. As one can imagine, that comment hurt some of the members of the committee.

By leave, debate adjourned on motion by Mr Paciullo.

ALLOCATION OF TIME FOR DISCUSSION

Mr BOOTH: On behalf of the Premier I give notice of business to be dealt with under Standing Order 175B: Motor Traffic (Road Safety) Amendment Bill, and Crimes (Road Safety) Amendment Bill, all remaining stages by 3.30 p.m. Tuesday, 30th November, 1982.

ADJOURNMENT

Development at Kingsford

Mr COX (Auburn), Minister for Transport [4.0]: I move:

That this House do now adjourn.

Mr DOWD (Lane Cove), Leader of the Opposition [4.0]: I wish to raise a matter of considerable gravity concerning the administration of the Local Government and Planning and Environment departments of this State. The matter to which I draw attention concerns the development of an area at Kingsford known as 42 to 56 Harbourne Road and 1 to 5 Meeks Street, for the purpose of erecting on the site an eight-storey block of 48 flats. Prior to the development, which is the subject of the matter I raise, the land was subject to the provisions of clause 60 of the Randwick planning scheme as proclaimed on 28th April, 1978. The purpose of the special clause in relation to this land appears to have been that, in the light of the then proposal to erect a totally commercial building on the site, and the long-standing policy of Randwick municipal council against highrise development, it was deemed necessary to set an arbitrary height limitation of 8 metres.

For a long time people in the Randwick area conducted a campaign against the development of highrise buildings. Honourable members will recall that the Randwick council, which was controlled by the Australian Labor Party, was dismissed from office in 1973 when the local people revolted against repeated approvals of highrise developments. Against this background, an application was lodged by Bowen and Gerathy, solicitors, of 197 Macquarie Street, Sydney, on behalf of Harbourne Plaza Pty Limited, the company which is the registered owner of part of the subject land and the beneficial owner of the remainder, to amend the Randwick scheme in such a way as to breach the general intention of the scheme. At that time, and until at least 10th December, 1980, the directors of Harbourne Plaza Pty Limited were John Bradford Gerathy and Karen Veronica Gerathy, and the shareholders were Mr Lionel Frost Bowen and Clare Francis Bowen of 24 Mooramie Avenue, Kensington, and John Bradford Gerathy and Karen Veronica Gerathy of 34 Popplewell Place, South Coogee. It is not known when the transfer later took place from the Bowens to two $2 companies called Lin Fan Pty Limited and Ah Pow Pty Limited, but this is recorded on 2nd December, 1981. John Gerathy and Karen Gerathy continued to be shareholders at that time.

On 15th July, 1980, an application was lodged by the company for the suspension of clause 60 of the ordinance which would have the effect of removing the height limitation. On 21st October, 1980, a report to the health, building and town planning committee of the council from the town planner was considered. The planner stated in that report:

> The amended application is generally considered to be in accordance with the intention of the Randwick planning scheme ordinance in that it is still proposed to provide a low scale mixed commercial–residential development on the applicant's land. The inclusion of the residential component is considered desirable in that it would increase the availability of housing stock in an area of housing shortage and is consistent with State Government policies relating to urban consolidation.

Mr Pringle, the town planner, commented on 16th October, 1980, as follows:

> In view of the applicant's intention to ultimately provide a low scale mixed commercial and residential development on the subject land in accordance with the obvious intention of the Randwick Planning Scheme, it is considered that Council should support the amendment application to the Minister for Planning and Environment for his determination.

Although the town planner drew attention to the fact that the height limitation would be removed, the above comment repeated in the summary indicated that it was the general impression that the height would not exceed the general limit of building height considered desirable in the subject area, information which was misleading to the

aldermen, as the council resolved on 25th November to prepare a scheme to amend the provisions of the Randwick planning scheme ordinance in relation to these particular properties. There seems little doubt that the aldermen believed the application would proceed under the Environmental Planning and Assessment Act with its requirements for an environmental impact statement and rights of third party appeal.

Reference is made in the resolution to "the subsequent draft environmental planning instrument" and also to the fact that "the subsequent draft local environmental plan shall adopt all of the provisions of the Environmental Planning and Assessment model provisions of 1980". Subsequently the application was forwarded to the Minister for Planning and Environment. On 1st April, 1981, the council was advised that the Minister had agreed that the proposed alteration to the deemed environmental planning instrument known as the Randwick planning scheme had reached the stage of preparation which warranted completion in accordance with clause 3 of schedule 3 of the Miscellaneous Acts (Planning) Repeal and Amendment Act, 1979. Clause 3 of schedule 3 of that Act states as follows:

> Where immediately before the appointed day a scheme under part XIIA has reached the stage of preparation which in the opinion of the Minister warrants completion in accordance with this clause, the Minister may by order published in the Gazette direct that further preparation of that scheme be continued in accordance with such of the provisions of part III of the Environmental Planning and Assessment Act, 1979, as are specified in the order as if that scheme was a draft environmental planning instrument.

The resolution to prepare the scheme was not passed until 25th November, 1980, whereas the appointed day in accordance with the Act to which I have referred was 1st September, 1980. Thus not in one's wildest imagination could the scheme be considered to be in any stage of preparation, advanced or otherwise, as the resolution to prepare it had not occurred until after the appointed day. In other words, no scheme existed on the appointed day. Therefore, the Minister has used his discretion in a manner totally outside the Act and in gross dereliction of his duty as a Minister. This action is made even more sinister by the fact that the apparent major beneficiary in this deal is a parliamentary colleague of the Minister for Planning and Environment, in the federal Parliament—indeed, not only a parliamentary colleague but a parliamentary colleague of great seniority in his party, being the Deputy Leader of the federal Opposition and the local federal member.

There are other matters involved in this development which, from a town planning point of view, give rise to great concern. For example, the lifting of clause 60 enabled the reversion of the zoning to business 3 (a) (1) under which the site could be developed for commercial purposes up to a floor space ratio of 1.5:1, or, with an additional residential component, an increased floor space ratio of 2:1. However, the proposal by the applicants Bowen and Gerathy is for purely a residential development. This appears to be outside the terms of the scheme as amended. There is no way this proposal could be described as a scheme or, at that stage of development, a proper stage of development for consideration. Notwithstanding this and other matters of grave concern touching on the breach of the council's longstanding code in regard to highrise development, the most serious matter is that to which I have adverted already namely, the gross dereliction of duty by the Minister in exercising powers that he does not have under the Acts that he administers, and the fact that those powers were exercised for the apparent benefit of a parliamentary colleague. The Minister for Planning and Environment deserves the severest criticism and he should resign from his portfolio immediately.

It is a matter for members of a Parliament in another place to consider the propriety of the actions of the Deputy Leader of the Opposition in federal Parliament. There was a transfer to certain companies. One does not know whether those assets are owned in trust. In view of the history of the Randwick council, considerable concern has been expressed by citizens in the area about the matter I have raised. Indeed, at a much later date attempts were made to rescind the motion. Concern must be aroused when an area has a general scheme for two-storey or three-storey mixed commercial development, and people are led to believe that is the development, and later the restrictions are removed and approval given to erect a block of forty-eight home units on the site. One does not need to be particularly bright to work out the considerable commercial advantage involved. I have raised this serious matter for the Parliament to consider. I ask the Minister for Planning and Environment to refer the matter to the appropriate authorities for investigation and to ascertain whether the matters I have mentioned have some explanation. On the face of it and having regard to the terms of the scheme there is no way that approval should have been given.

Mr BEDFORD (Cabramatta), Minister for Planning and Environment [4.10]: I apologize for my breathlessness but I have had to rush to the House after hearing on the amplification system in my room that the Leader of the Opposition had raised this matter on the adjournment of the House. It would have been nice had the honourable gentleman informed me of his intentions to do so. I could have been prepared to answer the accusations he has made so cowardly in the House this afternoon. The Leader of the Opposition made no effort, either by letter or other inquiry, to seek information from me on this matter. I consider that reprehensible.

Mr Cameron: What are the facts?

Mr SPEAKER: Order!

Mr BEDFORD: I am not aware of any of the facts surrounding this matter for I have not had an opportunity to peruse the appropriate file. I feel also that I am somewhat at a disadvantage in that between leaving my room and arriving in the House I missed some of the points made by the Leader of the Opposition in what could be termed a summary of matters. I shall examine the file on this matter and make the information available to the Leader of the Opposition when I have done so. I am sure that every action taken was absolutely proper. I feel certain that I will be asking for an unqualified apology from the honourable gentleman for the points he made this afternoon in a most cowardly and smearing fashion. If that is the way the Leader of the Opposition wishes to perform in respect of matters relative to my portfolio, I shall be quite happy to accommodate him.

Motion agreed to.

House adjourned at 4.12 p.m.

QUESTIONS UPON NOTICE

The following questions upon notice and answers were circulated in *Questions and Answers* this day.

PARKWAY CARRIER SEWERAGE

Dr METHERELL asked the Minister representing the Minister for Water Resources—

(1) What progress has been made on construction of the Parkway Carrier sewerage main to serve the unsewered portions of Frenchs Forest and Belrose?

(2) What are the details of the forward programme of the Metropolitan Water Sewerage and Drainage Board for the completion of the Carrier?

(3) By what date is it expected that the Carrier will be completed?

(4) When is it planned to commence reticulation works in the unsewered areas?

(5) When will these reticulation works be completed and the unsewered homes be finally connected to Sydney's sewerage system?

Answer—

The Metropolitan Water Sewerage and Drainage Board advised me that:

(1) Construction has not yet commenced on the Parkway Carrier.

(2) An allocation of $250,000 (out of a total estimated cost of $1,351,000) has been made in the Board's 1982–83 Works Programme for completion of design and commencement of construction.

(3) It is expected that construction of the Carrier will be completed during the 1983–84 financial year.

(4) A further Carrier and pumping station also needs to be constructed before reticulation of the areas can be achieved. It is the intention at present for this second Carrier to be started in 1984–85 and design of the pumping station to be completed. It may also be possible for some reticulation to commence in 1984–85. The accuracy of these forecasts is subject to the level of funding and resources which will be available to the Board during the years quoted.

(5) No firm indication can be given at this stage, as to the completion date of sewer reticulation work in existing unsewered areas.

MICHAEL PATRICK O'CONNOR INQUEST

Mr T. J. MOORE asked the Attorney-General, Minister of Justice and Minister for Aboriginal Affairs—

Will he exercise the power given to him under the Coroner's Act to permit an inquest to be held into the shooting of Michael Patrick O'Connor at Warrawong?

Answer—

I have no power under the Coroner's Act, 1980, to direct that the inquest into the death of Michael Patrick O'Connor be re-opened.

On 12 June, 1981, the Wollongong Coroner made a finding that the deceased died from a gunshot wound. Having been advised by the Senior Police Officer of the relevant Police District that a person had been charged, the Coroner then terminated the proceedings in accordance with section 19 (1) of the Act.

The inquest could only now be re-opened by the Coroner, under section 20 (1) of the Act or by the Supreme Court on the application of any person, under section 47 (1) of the Act, if the Court is satisfied that it is necessary or desirable in the interests of justice that the inquest be re-opened.

MICHAEL PATRICK O'CONNOR INQUEST

Mr T. J. MOORE asked the Attorney-General, Minister of Justice and Minister for Aboriginal Affairs—

Would an inquest into the death of Michael Patrick O'Connor at Warrawong permit any new facts or material which caused him to file a "No Bill" against Ronald David Smith on a charge of murdering O'Connor to be made public and, particularly, available to the parents of O'Connor?

Answer—

An application that no Bill of Indictment be filed in this matter was made on behalf of Ronal David Simon (not Smith) who was charged with the murder of Michael Patrick O'Connor at Warrawong on 9 November, 1981.

My direction that no Bill of Indictment be filed was given after the most extensive review of the circumstances and evidence and with the benefit of advice from Senior Crown Law Officers, however, no new evidence was available to me.

DAYLIGHT SAVING

Mr FISCHER asked the Attorney-General, Minister of Justice and Minister for Aboriginal Affairs—

(1) Has the New South Wales Government declared an official figure of 3 per cent of power consumption as having been saved following on the daylight saving extension earlier this year?

(2) Will he ensure a survey is made of the additional cost burdens caused by the daylight saving extension, particularly for country people and especially those using school buses?

Answer—

(1) Following the 4-week extension of daylight saving in March–April this year, the Minister for Energy and Water Resources advised that the extension had the effect of reducing the weekday evening peak demands for electricity by up to 400 Mw.

(2) As the Government has no intention of altering the existing daylight saving arrangements at the present time the cost of embarking on such an exercise would not be warranted. Further having regard to the time which has elapsed since the extension the value of the results of any such survey would be questionable.

PERMASTEEL INDUSTRIES PTY LIMITED

Mr T. J. MOORE asked the Attorney-General, Minister of Justice and Minister for Aboriginal Affairs—

(1) What contracts, since October 1978 have been entered into by each Department or statutory body under his Ministerial control with Permasteel Industries Pty Limited?

(2) What was the value of each such contract?

(3) What was the value of the work performed under any such contract within the State Electoral Division of Wakehurst?

Answer—

(1) None. Any such contracts would be entered into by the Department of Public Works and it is suggested that the honourable member redirect his question accordingly.

(2) Not applicable.

(3) Not applicable.

PERMASTEEL INDUSTRIES PTY LIMITED

Mr T. J. MOORE asked the Minister representing the Minister for Water Resources—

(1) What contracts, since October 1978, have been entered into by each Department or statutory body under his Ministerial control with Permasteel Industries Pty Limited?

(2) What was the value of each such contract?

(3) What was the value of the work performed under any such contract within the State Electoral Division of Wakehurst?

Answer—

The Metropolitan Water Sewerage and Drainage Board, the Hunter District Water Board and the Water Resources Commission have advised me that:

(1) The Metropolitan Water Sewerage and Drainage Board, the Hunter District Water Board and the Water Resources Commission have not awarded any contracts to Permasteel Industries Pty Ltd since October 1978.

(2) Not applicable.

(3) Not applicable.

LEGAL AID

Mr T. J. MOORE asked the Attorney-General, Minister of Justice and Minister for Aboriginal Affairs—

(1) Has the Legal Services Commission resolved that in respect of applications for legal aid, in civil matters, received by the commission on or after 6 August, 1982, the commission will pay to applicants' solicitors 80 per cent of solicitor and client costs in lieu of the 90 per cent payment which has been previously applied since the commencement of the Law Society's Civil Legal Aid Scheme?

(2) What is the reason for this cut-back being introduced?

Answer—

(1) Yes.

(2) The action was taken in conformity with the Commission's responsibility to cut its expenditure as far as possible. The effect of this cut-back is to bring the position in New South Wales in line with that in all other States where the 80 per cent rule has been applied.

RIGHT OF ENTRY

Mr DOWD asked the Minister representing the Minister for Water Resources—

Which New South Wales Acts, Regulations and Statutory instruments under his administration empower inspectors and/or other Government employees to enter any land or place, including private homes, on no more than "reasonable belief" that such Act, Regulation or Statutory instrument is being contravened?

Answer—

The Hunter District Water Board, Metropolitan Water Sewerage and Drainage Board and the Water Resources Commission have advised that:

Section 38 of the Hunter District Water, Sewerage and Drainage Act, 1938, provides for entry and inspection of premises by the Hunter District Water Board and any person authorized by it, subject to prior notice being given to the owner or occupier.

In cases of emergency, entry is authorized without notice on the authorization of a senior officer of the Board, subject to the owner or occupier being informed promptly of the action so taken (section 38 (1B)).

However, entry onto residential premises is normally restricted to daylight business hours.

Regulation 10—Inspection of Property (published *Government Gazette,* No. 102 of 1 September, 1978) prescribes the officers of the Board empowered to authorize entry under section 38 (1B).

Section 38 of the Metropolitan Water, Sewerage and Drainage Act, 1924, provides for entry for inspection purposes, *inter alia,* to detect offences against the Act and By-laws, etc., made thereunder. It does not specify that "reasonable belief" shall be a prerequisite to any entry and inspection. Notice of entry is required for a dwelling-house, except where undue delay in the opinion of a senior officer (specified by Regulation 9) would occur.

Except in the case of an emergency, entry onto residential premises is restricted to daylight business hours.

The Water Resources Commission Act provides that Commission officers may enter land in the exercise of the Commission's powers, authorities, duties and functions under the Water Resources Commission Act or any other Act.

For this purpose, relevant Commission officers are issued with an Authority to enter which is expressed to be pursuant to the provisions of:

(a) the Water Act, 1912;

(b) the Public Works Act, 1912;

(c) the Farm Water Supplies Act, 1946;

(d) the Rivers and Foreshores Improvement Act, 1948;

(e) the Water Resources Commission Act, 1975,

and which authorizes the holder of the Authority to enter any land for the purpose of making such inspections, surveys, and investigations as are authorized by the said Acts and for any other of the purposes authorized by those Acts.

The Authority is not expressed to extend to any particular place, including a private home, nor is there a requirement of a "reasonable belief" of contravention.

SEARCH WARRANTS

Mr DOWD asked the Minister representing the Minister for Water Resources—

Which New South Wales Acts, regulations and statutory instruments under his administration, permit the issue of warrants to enter and search premises?

Answer—

The Metropolitan Water, Sewerage and Drainage Board, the Hunter District Water Board and the Water Resources Commission have advised that:

There are no such provisions in Acts, regulations or statutory instruments administered by the Metropolitan Water Sewerage and Drainage Board, the Hunter District Water Board and the Water Resources Commission.

OFFICE LEASING BY GOVERNMENT

Mr WEBSTER asked the Minister representing the Minister for Water Resources—

(1) What Government Departments, Government Institutions and Statutory Authorities under his Ministerial control have re-negotiated existing leases or entered into new leases for office accommodation during the last 12 months?

(2) For these transactions, on what occasions was the advice of the Valuer-General sought on appropriate rental levels?

Answer—

The Water Resources Commission, Hunter District Water Board and the Metropolitan Water, Sewerage and Drainage Board have advised that:

(1) During the past twelve months the Water Resources Commission has entered into new lease agreements for office accommodation at East Maitland and Queanbeyan. The Commission has renegotiated leases for office accommodation at North Sydney (Head Office), Lismore, Tamworth, Bega, Cowra and Warren.

The Hunter District Water Board has entered into one lease for office accommodation at Nelson Bay.

During the past 12 months the Metropolitan Water Sewerage and Drainage Board has negotiated the lease of floors, part 11, 12 and 13 of the Capital Centre at 255 Pitt Street, Sydney, from Abbey Orchard Property Investments Pty Ltd. The new agreement commenced on 1 July, 1982, and is for a period of four years with the option for renewal of a further one year period. The Board also entered into a lease agreement with Manchester Unity Independent Order of Oddfellows for the occupancy of floors, 5, 6, 7 and part 13 at 307 Pitt Street. This lease commenced on 1 January, 1982, and will terminate on 31 December, 1985.

(2) The Water Resources Commission sought advice on appropriate rental levels from the Valuer-General in respect of the East Maitland, Queanbeyan and North Sydney accommodation. The Valuer-General's comments were not sought in the other instances as the renegotiated rental rate in each case was commensurate with the superseded rate having regard to inflationary trends in the intervening period.

The Hunter District Water Board did not seek the Valuer-General's advice as negotiations were conducted by a qualified Registered Valuer of the Board's Valuation staff.

The rentals being paid by the Metropolitan Water Sewerage and Drainage Board for these areas were determined by the Board's Valuers following discussions with Valuers at the Valuer-General's Department, who supplied details of rentals being paid for comparable office accommodation. In addition, discussions were held with representatives attached to the City Offices of large Real Estate Agencies, to obtain details of new lease agreements and the asking rentals of vacant comparable office space.

SECURITIES INDUSTRY

Mr T. J. MOORE asked the Attorney-General, Minister of Justice and Minister for Aboriginal Affairs—

(1) Does the judgment in *Daly* v. *Sydney Stock Exchange* indicate inadequacies in the then existing Securities Industry legislation in the protection of investors on the Stock Exchange?

(2) Will he consider appropriate amendments to the Act in order to provide reasonable protection to investors?

Answer—

(1) There is no doubt that the judgment in the case of *Daly* v. *Sydney Stock Exchange,* has highlighted an area calling for close examination in the interests of the investing public.

(2) A major aim of the recently enacted Securities Industry Legislation, and one which is embodied in the Formal Agreement between the States and the Commonwealth which paved the way for the legislation, is to maintain the confidence of investors in the securities market through suitable provisions for investor protection.

The main purpose of the scheme is to achieve uniformity in the laws relating to the securities industry and uniformity in their administration.

Accordingly, under the Formal Agreement, this State cannot act alone in amending legislation which forms part of the co-operative scheme. Rather, proposed amendments are the subject of a comprehensive review in all jurisdictions which participate in the scheme and the introduction of a final Bill into the Commonwealth Parliament is dependent upon the endorsement of a majority of the members of the Ministerial Council.

The problem exposed in *Daly's* case has been noted and is under consideration by advisers to the Ministerial Council in the light of the stated aims of the scheme legislation. I anticipate that recommendations will be forthcoming by the advisers as to whether or not an amendment ought to be made to the Securities Industry legislation, in view of *Daly's* case, and the form that any recommended amendment might take.

RYDE ELECTORATE TRAFFIC SIGNALS

Mr McILWAINE asked the Minister for Transport—

Which intersections in the Ryde Electorate, except the intersections of Trelawney Street, Shaftesbury Road and East Parade with Rutledge Street and Victoria Road and Bowden Street, have been approved as sites for the construction of traffic signals?

Answer—

Apart from the intersections referred to in the question, there are no others approved as sites for the construction of traffic signals in the Ryde Electorate at present. However, the position is being kept under review having regard to the availability of funds.

MURWILLUMBAH PEDESTRIAN CROSSING

Mr BOYD asked the Minister for Transport—

(1) Have there been many representations to have a pedestrian crossing established on the Pacific Highway at the Murwillumbah Railway Station?

(2) If so, why has this crossing been removed and on whose advice?

(3) Will he arrange for this facility to be replaced in the interest of public safety?

Answer—

(1) Representations have been made to Tweed Shire Council requesting the marking of a pedestrian crossing further north of this site.

(2) The original pedestrian crossing was removed by Council on the recommendation of its Traffic Committee, as a result of pedestrian and vehicle traffic counts which showed that a crossing was not warranted at that location.

(3) Council has marked a pedestrian crossing, on the Highway, 68 metres north of Prospero Street. Surveys show that most pedestrians cross the Highway at this point and in addition there is a substantial central median which may be used as a refuge by pedestrians.

SYDNEY FISH MARKETS

Mr HATTON asked the Minister representing the Minister for Agriculture and Fisheries—

(1) What facilities are available to fishermen at the Sydney Fish Markets to store unsold fish to enable it to be presented in a satisfactory condition at the market next day?

(2) Who owns these facilities?

(3) Has the Fish Marketing Authority considered a scheme to enable co-operative ownership by fishermen of adequate storage facilities in Sydney?

(4) If so, what are the details?

Answer—

(1) There are two cool rooms at the Sydney Fish Market with a total capacity to store 1 000 crates of fish.

(2) N.S.W. Fish Marketing Authority.

(3) No.

(4) Not applicable.

SYDNEY FISH MARKETS

Mr HATTON asked the Minister representing the Minister for Agriculture and Fisheries—

(1) How many buyers operate on the floor at the Sydney Fish Markets?

(2) Why is the auction system seen by the Fish Marketing Authority to be superior to agent selling?

(3) How many inspectors are employed on the market floor?

(4) What procedures are there to guard against pilfering, and wrongful seizure of fish?

Answer—

(1) There are 512 registered buyers operating on the floor at the Sydney Fish Market.

(2) A public auction system creates greater demand and competition with wholesalers, providores, retailers, restauranteurs, hawkers and members of the public all competing for the same fish as it is put up for auction, as against a system of buyers being dispersed and purchasing from various agents conducting their own individual sales.

(3) Two Fisheries Inspectors who are officers of the N.S.W. State Fisheries Department and one Council Health Inspector.

(4) The Authority operates three shifts on the auction floor as follows:

(a) An afternoon shift.

(b) A night shift.

(c) A day shift.

In the case of the afternoon and night shifts, which are mainly responsible for the receival of fish for auction, the Authority has shift supervisors on duty who are responsible for the safe custody of the fish once it is received.

With regard to the day shift which is mainly responsible for the conduct of the auction sales, the Authority has a clerk in charge of each selling bay who is responsible for the safe custody of the fish in his bay.

In addition the Authority also employs a security officer on the day shift who patrols the auction floor throughout the sales. Furthermore, the Fish Marketing Regulation 1980, provides a penalty of up to $500 for anyone convicted of removing fish from a container without consent of the consignor of that fish.

Seizures of any fish or fish which is unfit for human consumption does not come under the Authority's jurisdiction, as it is the responsibility of the N.S.W. State Fisheries Inspector stationed at the Sydney Fish Market.

WATER BOARD WORK AT WEST RYDE

Mr McILWAINE asked the Minister representing the Minister for Water Resources—

(1) Did the Metropolitan Water, Sewerage and Drainage Board authorize the dumping of rubble and soil in front of the Ryde Pumping Station in Victoria Road, West Ryde?

(2) Who was the responsible engineer?

(3) Is this action contrary to an undertaking given to me by his predecessor that this area would be kept in a clean and tidy condition?

(4) When will this rubble and soil be removed?

Answer—

The Metropolitan Water Sewerage and Drainage Board advises me:

(1) Yes. Work was undertaken in Herbert Street, West Ryde to effect repairs to the roof of the Northern Suburbs Ocean Outfall Sewer, following a 35-metre long crack having developed in this sewer. The roadway above the affected section was closed to traffic and the overburden removed as quickly as possible in view of the imminent danger of collapse of the sewer. There was no room at the site to place the excavated material, and some of it was temporarily stored on the Board's land at the corner of Victoria and Hermitage Roads, West Ryde.

(2) The Board's Sewerage Maintenance Engineer is responsible for the overall control of this major sewer line.

(3) It is considered that although it was necessary to temporarily store spoil on the area in question, it was kept in a clean and tidy condition.

(4) The material has been removed, and the area cleared and restored to its original condition.

WATER BOARD WORK AT WEST RYDE

Mr McILWAINE asked the Minister representing the Minister for Water Resources—

(1) Was the Metropolitan Water, Sewerage and Drainage Board responsible for an excavation on the southwestern corner of Herbert Street and Anzac Avenue, West Ryde?

(2) Who was the responsible engineer?

(3) Why was this excavation allowed to remain in an unsatisfactory state for such a lengthy period?

Answer—

The Metropolitan Water, Sewerage and Drainage Board advises that:

(1) The Board was responsible for an excavation on the southwestern corner of Herbert Street and Anzac Avenue, West Ryde. The excavation was made to enable repairs to be carried out on a defective sewer.

(2) The Board's Sewerage Maintenance Engineer was responsible for the work.

(3) The excavation was not left in an unsatisfactory state at any time. It was timbered and fenced so that public safety was ensured and no traffic hazard existed.

The work has now been completed and the area restored to good condition.

DOMESTIC VIOLENCE LEGISLATION

Mr ROBB asked the Attorney-General, Minister of Justice and Minister for Aboriginal Affairs—

Will New South Wales laws relating to violence against wives and children be amended to cover behaviour customarily common to isolated ethnic community practices?

Answer—

Legislation proposed as a result of the recommendations of the Task Force on Domestic Violence, is currently being enacted and will apply to all persons within New South Wales irrespective of race.