

not refer to a single problem in the rural community or to the hundreds of farmers in the State who are fighting for survival in this crisis.

What did the Government do? The Governor's Speech does not offer a single contribution to assist the farmer. The Premier and his Ministers should take a close look at the situation and arrange for urgent financial assistance to help the dairying and fruit-growing industries to survive the present crisis—the sooner the better.

Mr. FRANCIS (Caulfield): Mr. Speaker, may I begin by paying a tribute to the former member whom I have the honour to replace. Sir Edgar Tanner served this State well in this House for some 21 years, but I believe he will be even better remembered for his services to the community in other fields.

He will be remembered as the man pre-eminent in obtaining the Olympic Games for Melbourne in 1956. Thereafter he made a notable contribution to Australia's participation in four subsequent Olympic Games. For these activities in particular, and for his other contribution to sport, I believe he will forever be remembered gratefully by this State.

Finally, in relation to Sir Edgar Tanner, may I say that, when I was campaigning in the recent election I was surprised at the number of constituents who told me how willing he had always been to help them with their personal problems. For that reason also he will always be remembered with gratitude within the electorate of Caulfield.

As the member for Caulfield hereafter I hope that I shall never lose sight of the fact that one of the most important duties of every member of Parliament is to look after the constituents within his electorate and in particular those people who through no fault of their own are unable to properly look after themselves in this complex community in which we live. I hope that when I pass from this House I will be remem-

bered by my constituents in that regard.

In his Speech, the Governor said—

The Government welcomes the new federalism initiatives by the Commonwealth, and the opportunity to build a genuine co-operative federalism in partnership, so as to secure a proper arrangement of financial resources and responsibilities between Federal, State and local government in Australia.

As this forty-seventh Parliament moves into its first days it is important that we should for a moment consider the significance of the proper maintenance of our federal system.

Some of us may be a little cynical about the reason for our presence here today. Perhaps we are even more cynical, each representative of a party, about the presence of the members of the other parties. Ultimately all honorable members are here because they believe they have a major part to play in the good government of Victoria and in providing for the health, the education, the quality of life, and ultimately all those many factors which make for the happiness of the people of Victoria.

But this is a task which can never be performed properly unless the State Government has adequate financial resources and, above all, has the guarantee that it can itself exercise a proper measure of control over such resources as it may bring to it.

On 1st January, 1901, when the partnership between the States and the newly-founded Commonwealth came into existence, nothing could have been further from the minds of our founding fathers than the possibility that in 1942 a uniform tax Act would be enacted and that thereafter that Act would operate in such a way that the Commonwealth Parliament would be able to determine that it should have priority in the collection of income tax, and that any liability to pay tax to the States would arise only after the Commonwealth had had its share of "the cake".

As we all know, the enactment of the uniform tax Act, and the subsequent interpretation of the law by the High Court, effectively prevented all the States of Australia from ever thereafter entering the field of income tax. We all know it meant that we in Victoria were deprived of what is for most States in this modern world the major source of revenue by which is achieved good government of our institutions, and the running of the State by those in whose hands lies the duty to carry out effective government for the people.

Although the Commonwealth Government must obviously continue to guide the destinies of the nation, it is we in this State Parliament House who, by our practicality and common sense, and I hope our wisdom, determine the ordinary bread and butter issues which so vitally concern the people of Victoria each day in their personal lives.

To perform that function properly in the immediate future it is my belief that our State Government should hereafter negotiate with the Commonwealth Government to ensure, so far as it may do so, some amendment of the Australian Constitution, if it be the will of the Australian people, so that the States will hereafter have a constitutional guarantee of at least a fixed minimum proportion of all income tax levied within the State.

I appreciate the complexity of the issues involved, but experience indicates that such a system has operated successfully in Canada for a number of years. Ultimately, therefore, it is submitted that it is very much in the interests of all of us that this State, together with the other States, should approach the Commonwealth Government to ensure some permanent guarantee by constitutional amendment so that hereafter a fixed proportion of our financial resources will always be available to us so that we may properly and effectively govern this State. That to my mind is the greatest and most major law reform which is necessary in Australia today.

*Mr. Francis.*

It pleases me that the Government hereafter will be concerned with other matters of law reform. Law reform must always be a part of that process of eternal vigilance which is necessary if the law is properly to serve the interests of the State. Communities change in their technologies; they change in their outlook and it is only by a process of eternal watchfulness that the law can keep up with those changing needs.

Victoria is fortunate in that it has a commission inquiring into questions of law reform and it is, in particular, fortunate that that commission is headed by a very great lawyer, Mr. Justice Smith, who was formerly one of the most outstanding and distinguished judges in our Victorian Supreme Court. The law, like every human institution, can be improved. However, when we come to tamper with it, we should not be unmindful of the fact that our common law—in contra-distinction to our statute law—does represent the accumulated wisdom of some 900 years; not necessarily the wisdom of lawyers only, but also the wisdom of the English-speaking people who have participated in the development of those institutions.

However, there are factors which indicate that it is not simply for lawyers to look after the question of law reform and indeed which indicate that they have sometimes fallen far short in the process. I turn briefly to consider two aspects of law reform which were mentioned in the Speech of His Excellency, the Governor. I shall first say something about probate law. It is pleasing that the Government proposes to introduce reforms in this field. It is regrettable that lawyers, although they have handled probates now for some hundreds of years, never saw the injustices that the present system perpetrates. Let us analyse what is here meant.

In the past most marriages were a partnership and in that partnership the two often agreed that the wife would remain in the home. She would

effectively run the home, cook the meals, look after her husband's clothing and look after the children. The husband would go out to work and earn the money to provide for the home, but it was a partnership in which each was making an equal contribution. Yet because the husband received the actual wage, and the money came into his hands, if the husband died first the law assumed that all the money was his and the widow in her hour of greatest need had to pay probate duty on that money. However, if the wife died first, the assets still remained in the name of the husband and no probate duty was payable.

To me it is somewhat of an indictment of the legal profession that although we handled probates for hundreds of years we did not see the injustice of this situation. It was primarily the women of this State who were responsible for bringing attention to this injustice. That I believe is a perfect example of a reform which was achieved primarily by non-lawyers.

I now turn to the proposed law reforms in relation to rape trials, which is a far more complex issue and one which will undoubtedly require the assistance of lawyers. As a lawyer it is clear to me that women are often not given sufficient protection when they are involved in rape trials. However, it seems to me that some of the more radical suggestions for reform in this area will only create injustice in so far as they seek to introduce procedures which could well prevent the proper determination of questions of guilt or innocence.

The honorable member for Melbourne spoke rightly when he referred to human rights and the need for vigilance in relation to those questions. I do not believe, however, that human rights are always necessarily best guarded by Acts which declare that such and such a particular human right should thereafter be guaranteed by the Government. Often it is our institutions themselves, rather than any declaration within a statute, that

can best serve the situation in which a citizen needs to have his rights enforced.

However, I am not unmindful that this is not always the case. May I briefly refer to section 92 of the Australian Constitution. Section 92 was brought into being by what lawyers sometimes refer to a little contemptuously as ordinary lay men. It was not the lawyers who enacted this section; it was primarily the farmers, the business men and people outside the law who saw the need for some sort of constitutional guarantee of a particular freedom. The lawyers protested, and said that section 92 was not clear in its meaning and that it required further drafting. In that they were at least proved right.

However, if the Australian community had waited until the Australian lawyers were able to agree on what they thought would be appropriate phraseology, they might have waited many decades. That section went into our Constitution in its present form against the wishes of the lawyers and yet so often we have had to turn to it as a guarantee of our personal freedoms and in particular freedom in relation to enterprise and the rights of those who move between the States. It is a little ironical that the lawyers who opposed the enactment of this section perhaps often obtained the greatest benefit from it because, as honorable members know, section 92 proved to be a legal bonanza when interpretation had to be determined thereafter in the courts.

I hope the Government will continue to be eternally vigilant and that all those laws and legal procedures which create injustices will be eventually removed. Of course, I appreciate that sometimes if reforms are enacted too swiftly and without proper analysis of the problems, we may move from one situation to an even worse situation and one which may lead to endless litigation in the determination of what the new legislation is intended to do. Nevertheless we must move forward and must be eternally vigilant.

Finally on behalf of the constituents of Caulfield I pledge our loyalty to Her Majesty Queen Elizabeth II.

On the motion of Mr. BILLING (Springvale), the debate was adjourned.

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

### ADJOURNMENT.

CORPORATE AFFAIRS OFFICE—SPEED LIMIT SIGN AT CORIO — HOUSE BUILDERS' LIABILITY — HEPATITIS — LEONGATHA PRIMARY SCHOOL — PEDESTRIANS ON BEACONSFIELD PARADE — PUBLIC BUILDING REGULATIONS.

Mr. THOMPSON (Minister of Education): I move—

That the House, at its rising, adjourn until Tuesday, April 27, at half-past three o'clock.

The motion was agreed to.

Mr. THOMPSON (Minister of Education): I move—

That the House do now adjourn.

Mr. WILKES (Northcote): I raise a matter for the Minister representing the Attorney-General in this Chamber. In the Corporate Affairs Office of the Law Department there are 28 investigators including two detective sergeants seconded from the Company Fraud Squad.

Their investigatory duties are fairly extensive. They must travel to many parts of the State and throughout the metropolitan area to investigate company failures, company defalcations, and company fraud and to undertake a number of other responsibilities. It is incredible that only one motor car, a Holden Torana that is actually attached to the prosecution squad of the Law Department, is available on loan to investigators from the Corporate Affairs Office, at certain times. Those times are not frequent. On other occasions taxis are used.

I hope the Minister can envisage the number of taxi fares and the cost incurred to this State by investigators from the Corporate Affairs Office because this Government has failed to provide motor cars for the investigators. The situation could occur of two detective sergeants being expected to go out on an investigation, perhaps to arrest somebody, and having to take a taxi, if they could get one. It is a ridiculous situation. Nobody doubts the wisdom of the Corporate Affairs Office and the tremendous job it is carrying out with the commercial immorality which takes place in Victoria, largely as a result of the policies of this Government. However, not one motor vehicle is at the disposal of the officers concerned.

I suggest to the Minister representing the Attorney-General that there should be an end to this farce of having to use taxis to carry out investigations and wasting perhaps thousands of dollars of public money which could be used as a down payment on a motor car. The Government makes down-payments on buildings that it buys and the same procedure could be used for the purchase of motor cars for the Corporate Affairs Office.

Mr. TREZISE (Geelong North): I address to the Minister of Transport what may seem to be a minor matter but what is really a dangerous matter for people in the Corio area. Recently a set of traffic lights was installed at the intersection of Princes Highway and Plantation Parade, Corio. Those lights were indeed needed but complaints have now been made by motorists that the 80 kilometre speed sign is positioned approximately 50 yards before the traffic lights. One night last week a heavily laden motor truck coming from Melbourne approached the speed sign doing a speed in excess of 80 kilometres an hour and when it passed the speed sign and slowed to 80 kilometres the caution lights came on. The truck could not stop and went through the cars stopped at