PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

14 November 2000

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Tuesday, 14 November 2000

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.03 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent on 8 November to:

Anglican Trusts Corporations (Amendment) Act
Associations Incorporation (Amendment) Act
Children and Young Persons (Reciprocal Arrangements) Act
Essential Services Legislation (Dispute Resolution) Act
Interpretation of Legislation (Amendment) Act
Land (St Kilda Sea Baths) Act
Plant Health and Plant Products (Amendment) Act
Tattersall Consultations (Amendment) Act
Training and Further Education Acts (Amendment) Act
Transport (Miscellaneous Amendments) Act
Water Industry (Amendment) Act

QUESTIONS WITHOUT NOTICE

Electricity: Yallourn dispute

Hon. PHILIP DAVIS (Gippsland) — My question without notice is directed to the Minister for Energy and Resources. Mr Luke Van der Meulen from the Latrobe Valley branch of the Construction, Forestry, Mining and Energy Union publicly claims to have a promise from the government of support in the union's action against Yallourn Energy. Will the minister advise whether the CFMEU is correct?

Hon. C. C. BROAD (Minister for Energy and Resources) — In response to the honourable member's question, he would have heard when the house last sat emphatic statements by ministers — —

Opposition Members — Not you!

Hon. C. C. BROAD — If I may continue, public statements were made by ministers, including the Premier and me. In short, in Parliament and outside the government has made its position in relation to the outrageous action taken last Thursday week perfectly clear. Those statements stand and are reiterated by the government.

Industrial relations: tribunal

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Industrial Relations advise the house how the federal government's running down of the Australian Industrial Relations Commission impacts on the need for a Victorian fair employment tribunal?

Hon. M. M. GOULD (Minister for Industrial Relations) — The federal government's action to starve the Australian Industrial Relations Commission of funding is having a detrimental effect on industry. Now the president of the AIRC, Justice Giudice, who was appointed by the federal government, has acknowledged the malaise in commission proceedings and has warned that the situation is likely to get worse unless more tribunal members are appointed. Those set to suffer most are the people of Victoria and the state's economy.

To put it plainly, the commission and its registry are facing a crisis as a result of funding cuts by the federal Minister for Employment, Workplace Relations and Small Business, Peter Reith, who has been hiving off money to his mate the federal Employment Advocate in a partisan manner rather than looking after the commission.

Since the Howard government came to power it has reduced the commission from 55 to 40 members, yet due to the federal government's stripping away of federal awards, the commission's workload has increased substantially. The time from dispute lodgment to decision has increased by more than 100 per cent — from 77 to 100 days; and the time taken to hand down decisions has increased from 13 to 20 days. The defunding of the AIRC has taken place since the former Kennett government gave most of Victoria's industrial powers to the commonwealth.

The opposition stands condemned for not bothering to ensure that employers and employees have a proper facility for a Victorian industrial relations system to continue. The opposition says, 'Why do we need a Victorian system when we have the federal commission?', but the federal commission is not working. The situation in the AIRC gives more urgency to the need to pass the Fair Employment Bill, which is now in the other place.

I assure the house that in line with the government's policy to support a unitary industrial relations system — it is clear the federal government wants changes that are not fair and are not considered to be fair by the state — it had discussions with federal Minister Reith from December until February.

Hon. M. A. Birrell interjected.

Hon. M. M. GOULD — The government had discussions with him from December to February, but its requests were denied by Minister Reith and no

alternative suggestions were put by him to the Victorian government.

Mr Reith also made it clear that the policy differences between his government and this government left no room for common ground. It would be negligent of this government to wait any longer and not look after the Victorian workers who have been left behind. The gutting of the AIRC has meant the commission has subsequently been unable to deal with industrial disputes in a timely manner as set out by the president of the commission. The establishment of a fair employment tribunal will have the capacity to address some of those issues. It is anticipated that the bill will create a valuable opportunity for mediation in industrial disputes that currently does not exist. It will bring parties together at a time when Peter Reith's Workplace Relations Act is cutting away the commission's ability to deal with issues.

The Fair Employment Bill will allow for the timely discussion and mediation of disputes whereas the Workplace Relations Act does not, because the commission's ability has been stripped away. If the opposition does not agree that this is a timely matter it has not been looking at what has been happening at the commission where disputes have been continuing for too long. The Fair Employment Bill will allow for appropriate mediation to take place to prevent disputes from happening.

Electricity: Yallourn dispute

Hon. ANDREW BRIDESON (Waverley) — I ask the Minister for Energy and Resources how long the government will monitor the audit under part 3 of the Electricity Industry Act about the industrial dispute in the Latrobe Valley.

Hon. C. C. BROAD (Minister for Energy and Resources) — Orders that the Governor put in place last Thursday week on the government's advice will remain in place until such time as the government judges there is no longer any need for them to continue.

Electricity: tariffs

Hon. T. C. THEOPHANOUS (Jika Jika) — Will the Minister for Energy and Resources explain what benefit business customers will receive from the introduction of full retail contestability in 2001? When will domestic and small business customers also benefit from full retail contestability?

Hon. C. C. BROAD (Minister for Energy and Resources) — When the Bracks government was elected to office it was clear that although the previous Kennett government had made various announcements about retail competition being introduced from the start of last year for some 2 million Victorians — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the house to settle down and allow the minister to answer the question. Please keep quiet.

Hon. C. C. BROAD — Although the previous government, including the former Treasurer, had made many pronouncements about retail contestability commencing from the start of next year for around 2 million consumers in Victoria, there were few arrangements in place to properly manage such a significant change in circumstances for households and small businesses.

Hon. R. M. Hallam interjected.

Hon. C. C. BROAD — The Honourable Roger Hallam of the National Party obviously wants his role in the previous government to be noticed by this house. I am more than willing to acknowledge Mr Hallam's role in the previous government by making those pronouncements and doing precisely nothing about it. Before the previous government established legal and commercial arrangements for the electricity industry, which meant that the current tariff regime — —

Honourable members interjecting.

The PRESIDENT — Order! The house is being unfair to the minister. The minister has been asked a question and is entitled to be heard. I ask members on my left to keep quiet while the minister responds.

Hon. C. C. BROAD — Under the arrangements put in place by the previous Liberal government, the current tariff regime — —

Hon. R. M. Hallam — Coalition government!

Hon. C. C. BROAD — Again, Mr Hallam, on behalf of the National Party — —

Hon. R. M. Hallam interjected.

The PRESIDENT — Order! I have Mr Hallam listed for the next question, not this one. The minister, concluding.

Hon. C. C. BROAD — I am more than willing to acknowledge Mr Hallam's role in the previous government. However, given that the National Party has split from the Liberal Party and the non-existence of the previous coalition, it seems a rather odd strategy

for the honourable member to continue to draw attention to the role of the National Party under the previous government.

The current tariff regime put in place by the previous government, with which small business and domestic customers are familiar, comes to a close at the end of this year. The systems required to administer the transfer of customers between retailers and the mechanisms required to settle purchases in the wholesale market are extremely complex, and the resources required to inform customers of their rights and opportunities in the new retail environment are significant.

The Bracks government has significantly progressed the development of systems and procedures to administer the transfer of customers between retailers. As a result of progressing that work, I recently announced that some 35 000 customers who spent at least $5000 — —

Hon. R. M. Hallam — On a point of order, Mr President, I refer to items 5 and 6 on the notice paper of 14 November. I suggest that the minister is anticipating debate on those bills.

Hon. C. C. BROAD — On the point of order, Mr President, the matters to which I am referring are not matters that are related to the items on the notice paper.

Hon. R. M. Hallam — On a further point of order, Mr President, I refer the house to government business, order of the day 6, Electricity Industry Legislation (Miscellaneous Amendment) Bill. If ever there were a chance for the minister to canvass the matters she is now providing to the chamber, it would most certainly be under the aegis of that bill.

The PRESIDENT — Order! I am not familiar with the details of the bill.

Hon. C. C. BROAD — On the point of order, Mr President, the matters I am endeavouring to refer to in answer to the question are not matters that go to the bill on the notice paper.

The PRESIDENT — Order! Based on that assurance from the minister, I do not uphold the point of order. There will be a later debate when all honourable members get a chance to explore those matters.

Hon. R. M. Hallam interjected.

Hon. C. C. BROAD — I should like to get to the conclusion, if Mr Hallam would only allow me to do so.

Compared with some 10 000 customers who have choice of retailer at present, as a result of the actions of the previous government, which were of considerable benefit to large business, this government is looking forward from the beginning of next year to benefits being extended particularly to small business customers, which are large energy users. The Office of the Regulator-General has also commenced a customer education campaign to ensure that those customers are properly informed of their entitlements.

Importantly, I have also announced that all remaining customers will have choice of retailer by the end of next year. For that to be deliverable, however, major work needs to be completed — —

Honourable members interjecting.

Hon. C. C. BROAD — The Office of the Regulator-General will play a principal role in the coming year in advising customers as to how they can ultimately select their choice of retailer.

Electricity: Yallourn dispute

Hon. R. M. HALLAM (Western) — My question is to the Minister for Industrial Relations.

Hon. C. C. Broad — I don't know why we should listen, Mr Hallam, given your interruptions.

Honourable members interjecting.

Hon. R. M. HALLAM — I suggest to the minister that she can please herself.

Honourable members interjecting.

Hon. C. C. Broad interjected.

The PRESIDENT — Order! The minister will keep quiet.

Hon. C. C. Broad — Mr President — —

The PRESIDENT — Order! The minister will keep quiet. I have called the Leader of the National Party to ask his question; now is not the time to interject. The Leader of the National Party.

Hon. R. M. HALLAM — Given that the Minister for Industrial Relations describes her role as that of honest broker, I ask: what personal contact has she had with Mr Van der Meulen since he led the wildcat strike

in the Latrobe Valley last Thursday week and what message has she conveyed to him via any such personal contact?

Hon. M. M. GOULD (Minister for Industrial Relations) — I met with a delegation of Latrobe Valley workers yesterday evening.

Hon. M. A. Birrell — That was urgent.

The PRESIDENT — Order! Ignore the interjections.

Hon. M. M. GOULD — There were a number of representatives from various trade unions in that delegation and one of them was Mr Luke Van der Meulen. I indicated to him the same comments that I made in response to a matter raised by the Honourable Mark Birrell in the adjournment debate on Thursday, 2 November when I said that in the government's and my view the wildcat strike action taking place was unacceptable, was condemned and was not condoned by the government, and that that was the position the government had maintained and still maintains, and assured him that the government's position on the matter had not changed.

Scooters: safety

Hon. D. G. HADDEN (Ballarat) — Will the Minister for Consumer Affairs inform the house of any action the government is taking to promote greater safety in the use of scooters?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — Members will be aware that yesterday Kidsafe along with Western Health launched a safety program for scooter use by children. Part of that program is to reinforce to parents in the lead-up to Christmas, when scooters are at the top of the list for a number of families, that safety equipment needs to be purchased to go with the scooters, and that includes helmets, elbow guards, wrist guards and knee pads. As I said, we launched that campaign yesterday. There has been an increase in the number of accidents to children arising from the use of scooters.

Hon. G. R. Craige — Because more people are using them. Have you thought of that?

Hon. M. R. THOMSON — Absolutely. That is part of it. As at July this year 48 children had been treated by Victorian doctors for relatively serious injuries, whereas there were only 38 injuries for the previous four years. There has been an increase in usage of scooters, but we are conscious of the need for parents, if they are purchasing scooters, to ensure that they are suitable for the age of the child and are assembled properly. Preferably people should deal with a retailer who knows something about the product they are purchasing so they can get proper advice.

Standards Australia has established an expert committee — on which Consumer and Business Affairs Victoria will be represented — to set scooter standards to ensure that both consumers and retailers are involved as part of the standards process, but it will be some time before the standards are actually implemented. So it is vitally important that parents take heed of the warnings, that they are careful about the scooters they purchase for their kids, and that they make sure their children are not using the scooters near roads. I had a personal experience of a scooter darting out in a court in a serious attempt to play dare with a vehicle I was in. It is important that children are supervised and instructed on how to use scooters safely.

Electricity: Yallourn dispute

Hon. M. A. BIRRELL (East Yarra) — My question is to the Minister for Industrial Relations. In respect of the Yallourn electricity statewide blackout and industrial relations dispute, the secretary of the Trades Hall Council, Mr Leigh Hubbard, said on radio, 'I think the state government has to play a more proactive role in bringing the parties together'. Does the minister share Leigh Hubbard's view?

Hon. M. M. GOULD (Minister for Industrial Relations) — I have indicated to the house on more than one occasion the number of meetings that I have had with senior members of the unions involved in the dispute in the Latrobe Valley and with senior members of the company — the general manager and the overseas general manager of the company — encouraging them to do what they are doing now — that is, to conciliate and try to resolve the dispute. The government, my office and I have been involved in discussions with the parties for some time and will continue to be so involved.

National Youth Week

Hon. JENNY MIKAKOS (Jika Jika) — Will the Minister for Youth Affairs inform the house what steps he is taking to ensure that forthcoming National Youth Week activities are accessible to all Victorians?

Hon. J. M. MADDEN (Minister for Youth Affairs) — Honourable members may be aware of the

recent involvement by Victoria in National Youth Week. I am pleased to announce that Victoria will continue its involvement and that National Youth Week will take place between 1 and 8 April 2001. The theme — and the opposition will no doubt appreciate it — is 'Get into it', and that has evolved from collaboration with and input from young people and in particular market research and consultation with state and territory government representatives.

The objectives of National Youth Week 2001 are to give young people aged between 12 and 25 an opportunity to express their ideas and views, to raise issues of concern, act on issues, and create and enjoy entertainment. It will also give the community the opportunity to listen to young people, to acknowledge and celebrate positive contributions and achievements, and allow young people to highlight issues of their concern to the broader community.

I am pleased to announce that $100 000, which includes a 50 per cent contribution from the commonwealth, will be made available for National Youth Week activities across the state. Local government agencies and community organisations are invited to apply for small grants of between $500 and $1000 to assist them in holding National Youth Week events in their local communities targeting those age groups — that is, young people between 12 and 25.

Honourable members may be interested to know that application forms and grant guidelines are available from the web site, www.freeza.vic.gov.au or www.youth.vic.gov.au. Grant applications will close on 31 December and successful applications will be announced on 31 January 2001.

Industrial relations: reforms

Hon. BILL FORWOOD (Templestowe) — I address my question to the Minister for Small Business. I refer firstly to a letter to the Premier from Tim Piper, the executive director of the Australian Retailers Association Victoria in which he says that the government's proposed Fair Employment Bill would cause significant difficulties for small and particularly regional retailers and would 'inevitably cause unemployment in the retail industry'.

I further refer to VECCI's press release of 27 October which states:

> VECCI estimates … point to 22 000 jobs at risk when you factor in the inevitable consequences of the new IR laws. The small business sector and regional Victoria will be the hardest hit.

In the light of those two statements does the minister accept that the so-called Fair Employment Bill will inevitably lead to small business job losses?

Hon. M. R. THOMSON (Minister for Small Business) — The report relating to the Fair Employment Bill indicates 1900 job losses over a 10-year period. The government wants to ensure that employers who are treating their employees properly and with respect by recognising the contribution they make to the success of their businesses are given a fair go.

A number of employers have raised with me the fact that they are being dealt a poor hand when other employers are able to undercut them because they treat their employees with respect and want to provide conditions to ensure employees are happy to stay in their current employment.

Victoria is the only state where certain employees are not covered. There will be a period of adjustment for employers and an opportunity for their personal needs regarding their businesses to be considered by the tribunal. The government will put in place a system to protect employers and employees and ensure everyone is protected and looked after.

Electricity: Yallourn dispute

Hon. G. D. ROMANES (Melbourne) — Is the Minister for Industrial Relations aware of statements by the peak employer group, the Victorian Employers Chamber of Commerce and Industry, about the government's actions in handling the recent power dispute? If so, what is her response?

Hon. M. M. GOULD (Minister for Industrial Relations) — I confirm that the Bracks government's handling of the wildcat strike by power workers in the Latrobe Valley on 2 November received the endorsement of the peak employer group, the Victorian Employers Chamber of Commerce and Industry. I was interested to note that none other than David Gregory of VECCI said on ABC radio on 3 November that the wildcat strike:

> … does seem to be consigned to a group of employees acting very much on their own without the support of the union, and as I say, given a proper response to that action by government and others the impacts have been minimised …

Employers know the strike action that took place on 2 November was not foreseen by anyone except those participating. Unlike the opposition, VECCI is not seeking to score political points. Like the government, it is more interested in having the matter resolved. The parties are now before the Industrial Relations

Commission as part of the conciliation process. If that process is not successful I understand the commission will order the parties into arbitration. That will be done as soon as possible.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — By leave, I move:

> That so much of the standing orders as require answers to questions on notice to be delivered verbally in the house be suspended for the sitting of the Council this day and that the answers enumerated be incorporated in *Hansard*.

The question numbers are: 868, 877, 881, 895, 964, 969, 970, 972–6, 979, 1066–76, 1086–9, 1094, 1108, 1111, 1115–6, 1119, 1121-4, 1135, 1137, 1140, 1142-58, 1162, 1164–6, 1169-72, 1175, 1177, 1182–4, 1187, 1188, 1195, 1198, 1215, 1216, 1238, 1239, 1244, 1247, 1254, 1255, 1324, 1325.

Motion agreed to.

BUSINESS OF THE HOUSE

Sessional orders

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

> That so much of the sessional orders be suspended as would prevent general business taking precedence of government business from the conclusion of the time for asking questions without notice and the giving of answers to questions on notice until 5.00 p.m. during the sitting of the Council on Wednesday, 15 November 2000.

Motion agreed to.

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

> That so much of the sessional orders be suspended as would prevent new business being taken after 8.00 p.m. during the sitting of the Council this day.

Motion agreed to.

PETITION

Rail: Pakenham station

Hon. N. B. LUCAS (Eumemmerring) presented a petition from certain citizens of Victoria praying that the government maintain the current V/Line services at Pakenham railway station (179 signatures).

Laid on table.

HEALTH SERVICES COMMISSIONER

Annual report

Hon. M. M. GOULD (Minister for Industrial Relations) presented report for 1999–2000.

Laid on table.

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Effects of television and multimedia

Hon. G. D. ROMANES (Melbourne) presented report, together with appendices, extracts of proceedings, minority report and minutes of evidence.

Hon. G. D. ROMANES (Melbourne) (*By leave*) — The report is very important. The inquiry considered the way television and new and emerging forms of multimedia technology, such as videos, video games and the Internet, affect children and families in Victoria. The terms of reference included the relationship between violence on television and violent behaviour in families.

The terms of reference given to the previous Family and Community Development Committee of the 53rd Parliament required that the committee consider a vast amount of literature on a wide and growing range of issues surrounding multimedia. The current committee congratulates the previous committee on the rigorous way it conducted the process of collecting and analysing information, much of the groundwork being done before this Parliament was constituted.

While the previous and current committees have been deliberating on these matters, technology has continued its rapid advance. The recommendations in the report address the considerable challenges that a convergence of television and multimedia technology pose for the government, industry, the community and parents in the identification and selection of appropriate content. The recommendations also address the opportunities in education and communication for the skilling of young people for the future. The report highlights the complexities of this area and how it is imperative that there be a positive impact for Victorian children and their families.

On behalf of the government I thank all members of the committee of both the 53rd and 54th parliaments for their contributions, in particular the Honourable

Jeanette Powell and the honourable member for Bentleigh in the other place, who provided invaluable continuity in committee membership across both parliaments, and whose ideas and input greatly contributed to the report.

I also thank the staff for their good work and their contributions, including the former executive officer, Mark Cowie; office managers, Julie Burns and Lara Howe; and research officers Helen Gwilliam and Iona Annett. In particular I thank the current executive officer, Mr Paul Bourke, who has served on both committees and has provided excellent support and guidance to the Family and Community Development Committee.

The committee is delighted to see the outcome of its work finally in the public arena. The report will contribute to further debate about the role of technology.

Laid on table.

Ordered that report, appendices, extracts of proceedings and minority report be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 11

Hon. M. T. LUCKINS (Waverley) presented *Alert Digest* No. 11 of 2000, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Auditor-General — Report on the Finances of the State of Victoria, 1999–2000.

Broiler Industry Negotiation Committee — Minister for Agriculture's report of 2 November 2000 of receipt of the 1999–2000 report.

Dairy Industry Authority — Report, 1999–2000.

Dental Health Services — Report, 1999–2000.

Director of Public Prosecutions Office — Report, 1999–2000.

Electoral Commission — Report, 1999–2000.

Equal Opportunity Commission — Report, 1999–2000.

Forensic Medicine Institute — Report, 1999–2000.

Forensic Mental Health Institute — Report, 1999–2000.

Health Services Act 1988 — Report of Community Visitors, 1999–2000.

Highlands Regional Waste Management Group — Minister for Environment and Conservation's report of 8 November 2000 of receipt of the 1999–2000 report.

Legal Ombudsman's Office — Attorney General's report of failure to submit 1999–2000 report to him within the prescribed period and the reasons therefor.

Museum Board — Report, 1999–2000

Nurses Board — Minister for Health's report of 13 November 2000 of receipt of the 1999–2000 report.

Office of Public Employment — Report, 1999–2000.

Pharmacy Board — Report, 1999–2000.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Mount Alexander Scheme — Amendment C4.

Ballarat Planning Scheme — Amendment C17.

Baw Baw Planning Scheme — Amendment C10 (Part 1).

Boroondara Planning Scheme — Amendment C11.

Casey Planning Scheme — Amendment C24.

East Gippsland Planning Scheme — Amendment C1.

Horsham Planning Scheme — Amendments C3 and C4.

Hume Planning Scheme — Amendment C2.

Macedon Ranges Planning Scheme — Amendment C4.

Maroondah Planning Scheme — Amendment C5.

Melbourne Planning Scheme — Amendment C35.

Mildura Planning Scheme — Amendment C3 (Part 1).

Moorabool Planning Scheme — Amendment C1.

Mornington Peninsula Planning Scheme — Amendment C22.

Murrindindi Planning Scheme — Amendment C4.

Stonnington Planning Scheme — Amendment C1.

Wyndham Planning Scheme — Amendment C15.

Police — Chief Commissioner's Office — Report, 1999–2000.

Public Advocate's Office — Report, 1999–2000.

Radiation Advisory Committee — Report, year ended 30 September 2000.

Rural Ambulance Victoria — Report, 1999–2000.

Statutory Rules under the following Acts of Parliament:

Building Act 1993 — Nos. 109 and 110.

Fisheries Act 1995 — No. 107.

Victorian Civil and Administrative Tribunal Act 1988 — No. 108.

Strawberry Industry Development Committee — Minister for Agriculture's report of 8 November 2000 of the receipt of the 1999–2000 report.

Victorian Relief Committee — Report, 1999–2000.

Proclamations of His Excellency the Governor in Council fixing operative dates in respect of the following Acts:

Chinese Medicine Registration Act 2000 — Parts 1, 6 and 7 and section 95 — 8 November 2000 *(Gazette No. G45, 9 November 2000).*

Interactive Gaming (Player Protection) Act 1999 — Remaining provisions — 8 November 2000 *(Gazette No. G45, 9 November 2000).*

FISHERIES (AMENDMENT) BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

The bill introduces a suite of reforms to provide for the continued improvement for management of fisheries resources through stronger enforcement provisions as well as changes to management and administrative processes.

In July, a draft Fisheries (Amendment) Bill was released for comment and I am pleased to say that the proposed bill includes a number of improvements that have been made as a result of submissions received.

The bill delivers on the government's election promise to establish a trust account for revenue from the recreational fishing licence and to create a fisheries revenue allocation committee to provide advice on expenditure from the trust account.

All revenue collected from the recreational fishing licence will be paid into the recreational fishing licence trust account and priorities for allocation of these funds will be determined by the minister based on advice from the fisheries revenue allocation committee. Funds from the trust account may only be paid out for purposes of improving recreational fishing or to cover costs and expenses incurred in the administration of recreational fishing licences and the fisheries revenue allocation committee. The minister must provide a report to both houses of Parliament each year outlining how funds paid into the account were disbursed.

Further provisions in the bill relate to protection of resources through enforcement. Without effective enforcement measures, fisheries resources may become depleted so that they can no longer support sustainable commercial catches or provide large numbers of recreational fishers with a source of great enjoyment. To ensure that fisheries resources remain sustainable, strong and decisive action needs to be taken against those who fish illegally.

The bill provides for court orders to be issued to prevent repeat offenders against fisheries rules from being in or on specified Victorian waters without a lawful purpose. Prevention orders will also be able to be applied in Victoria to persons who have similar orders applied against them by another state, territory or by the commonwealth.

The bill provides for several different types of notices to be issued against persons in particular enforcement situations. Retention notices may be issued against persons in situations where offences have occurred but where seizure of fish or equipment is impractical. These notices require owners not to sell fish or equipment for a certain period so that further investigations may be undertaken before it is decided whether to instigate proceedings against the person.

In situations where an aquaculture licence has lapsed or has been cancelled and as a result there is unwanted equipment or fish to be removed from public land or waters, removal notices will be able to be issued.

The bill also facilitates the issue of infringement notices against persons who exceed legal catch limits by a small amount. While it is appropriate for large-scale fisheries offences to be prosecuted through the courts, it is often not appropriate or cost effective for court proceedings to be commenced for minor breaches of recreational bag limits. In such cases an on-the-spot fine is usually a sufficient deterrent.

Under the Wildlife Act 1975, there are provisions that provide authorised officers and police officers with immunity from prosecution for serious specified offences. This has enabled undercover operations to be effected against illegal operators. The bill introduces similar provisions in relation to the Fisheries Act so that undercover fisheries enforcement operations may take place under written instruction given in relation to a particular case by the secretary. This would only occur

after the secretary has established that the authorised officer(s) involved has the appropriate training and experience.

The bill also makes available further tools and options for management of commercial fisheries. Advances in technology now make it possible for vessel monitoring systems to improve compliance in commercial fisheries, and Victorian legislation will now enable such systems to be considered for adoption after consultation with industry. Additionally, the bill provides the ability to allow permanent transfer of quota to take place between licence-holders in quota-managed fisheries. The bill also enables changes to classes of licences and conditions on classes of licences when giving effect to declared management plans.

The bill is presented to Parliament following extensive consultation with relevant authorities and stakeholders, and the level of support received confirms the timeliness of these reforms. I look forward to the continued development of best practice and sustainable management of our fishery resource. The bill is a significant advance towards that goal.

I commend the bill to the house.

Debate adjourned for Hon. PHILIP DAVIS (Gippsland) on motion of Hon. C. A. Furletti.

Debate adjourned until next day.

AGRICULTURAL INDUSTRY DEVELOPMENT (AMENDMENT) BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

The Agricultural Industry Development Act 1990 (the act) enables the making of ministerial orders to establish committees to administer compulsory charges collected from producers for research, pest and disease control, market promotion and related activities. The act also provides for negotiating committees to be established to recommend prices to be paid by processors to producers, fix or recommend terms and conditions of payment and resolve disputes between producers and processors.

During 1998, independent consultants appointed by the Victorian and New South Wales governments carried out a national competition policy (NCP) review of the act and five orders made thereunder relating to wine grapes in the Murray Valley region, fresh tomatoes in northern Victoria, strawberries and emus. The review included two complementary orders relating to wine grapes in New South Wales districts of the Murray Valley and which were made under the Marketing of Primary Products Act of NSW.

Following extensive consultation with industry organisations, both governments have accepted and agreed to implement all recommendations of the review.

In regard to the order establishing the Murray Valley Wine Grape Industry Negotiating Committee, the NCP review found that recommended prices do not have a significant effect on actual prices and do not provide price stability to growers. The review concluded that, while the setting of recommended prices was not operating to restrict competition, the negotiating committee process had the potential to restrict competition and the parties involved were at risk of breaching the Trade Practices Act 1974.

The review recommended that the order establishing the Murray Valley Wine Grape Industry Negotiating Committee not be renewed when it expired and that the provisions relating to negotiating committees and pricing arrangements be removed from the act.

The NCP review found that the four orders which established committees to administer compulsory charges on producers addressed market failure due to under-investment in research and development and promotion activities and did not restrict competition. It concluded that individual growers in the three relevant industries were unlikely to undertake research and development and promotion and that some legislated arrangement for the pooling of contributions was justified to generate a sufficient level of funds for effective research and promotion activities.

The NCP review noted that some committees have substantial unexpended revenue and that there is no formal requirement that the committees justify such retention of funds. The review recommended that the act be amended to require that reasons for the retention of substantial financial reserves be published in a committee's annual report.

The NCP review also concluded that the power of a committee to act as a purchasing agent is not directly related to the purposes of the legislation, is unrelated to market failure and should be repealed.

While not based on the findings of the NCP review, the bill responds to requests from producers in some industries to allow processors who produce agricultural

commodities for their own use to have the option of being covered by orders and to provide the option of more equitable approaches to voting under the act.

The current voting system of one vote per producer means that the result can be unduly influenced by a large number of small enterprises that produce a small proportion of the total production. Given that the key objective of a committee is to increase the competitiveness of the industry and that this will largely depend on the performance of medium and large enterprises, it is arguable that these producers should have a greater proportion of voting power.

A voting system in which the number of votes cast by a producer is directly or indirectly related to the amount of charges paid by the producer would be more equitable. However, the bill provides that the basis of voting be decided by producers in the industry concerned and specified in the order. The government acknowledges and respects the decision of the Victorian and Murray Valley Wine Grape Growers Council to retain the current system of one vote per grower for future votes by wine grape growers in the Murray Valley.

The bill also addresses legal advice to the government that the current powers of committees to impose compulsory charges may be invalid pursuant to section 90 of the commonwealth constitution, which prohibits the use of state laws to impose a duty of excise.

Currently, the scope of services provided by a committee is limited only by the functions specified in the order and funding priorities set out in its broad plan of operation. While any variation to the charge must be approved by a majority vote of producers, there is no obligation on the committee to seek formal producer approval of the details of specific projects to be undertaken and of the project costs to be met by the compulsory charge on all producers.

New accountability measures, including procedures for determining the charge for specific projects and new financial accountability procedures, are needed to ensure that charges imposed by a committee relate to specific services approved by producers and do not constitute a tax on production of the commodity and therefore a duty of excise.

I now turn to the main provisions in the bill.

The bill implements the government's response to the NCP review by amending the Agricultural Industry Development Act 1990 to:

repeal all provisions relating to negotiating committees and functions of committees to recommend prices of agricultural commodities to be paid by processors to producers, fix or recommend terms and conditions of payment by processors to producers and settle disputes between processors and producers;

repeal the power for a committee to act as an agent for the purchase of equipment, machinery, planting material, fertiliser or other things used in the production of the relevant commodity;

provide that the reasons for the retention of financial reserves at the end of the financial year which amount to more than 20 percent of the total charges collected from producers in that year must be published in the annual report of a committee.

The bill amends the definition of 'producer' to allow processors who produce agricultural commodities for their own use to have the option of being covered by orders.

To enable the industry concerned to decide on the basis of voting under the act, the bill inserts new provisions requiring the criteria for determining the number of votes a producer may cast in voting under the act to be specified in the order and, in the case of a proposed new order, the department head's report. Criteria must be specified for voting:

in polls on whether or not an existing order is continued or a proposed new order is made; and

at general meetings of producers called to consider and vote on whether or not a committee's recommendations on an annual action plan, new projects and the transfer of money between funds are approved.

The bill inserts a number of new provisions in the act to ensure that orders imposing compulsory charges on producers for industry services are constitutionally valid.

The bill provides that a committee which proposes to impose a charge on producers in any year must prepare a recommended annual action plan, including details of each project to be funded by the compulsory charge and the reasons for the retention of financial reserves.

Recommendations on each project, including any new project proposed during the year, must include the project objectives and methodology, project duration, major activities and outputs and a budget specifying the

proportion of total project costs to be funded from the compulsory charge.

Provision is made that a committee's recommendations on the annual action plan and any new projects must be provided to all producers at least 14 days before a general meeting of producers to consider the recommendations and must be approved by the majority of votes cast by producers present or voting by proxy at the general meeting.

To ensure greater transparency and accountability in a committee's financial transactions, provision is made that a committee must establish a project fund for each approved project and a general fund. Payments into and expenditure from a project fund must relate specifically to the approved project. Money received that does not relate to a project, money remaining in a project fund after the project has been completed and all interest received on money invested must be paid into the general fund.

Provision is made that the transfer of money between funds to cover unexpected expenditure overruns on any projects or to fund any new projects must be approved by the majority of votes cast by producers present or voting by proxy at a general meeting of producers.

Transitional provisions specify that the amended act applies to all existing and new committees and empower the minister, by notice published in the *Government Gazette*, to make consequential amendments to existing orders.

I commend the bill to the house.

Debate adjourned for Hon. PHILIP DAVIS (Gippsland) on motion of Hon. C. A. Furletti.

Debate adjourned until next day.

PUBLIC LOTTERIES BILL

Committee

Resumed from 2 November.

Clause 25

Hon. C. A. FURLETTI (Templestowe) — Clause 25 refers to the report to the minister by the secretary, and my question about it relates equally to clause 24. I ask the minister what rights if any does an applicant have to contest or review the content of any such reports?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised there is not any.

Hon. C. A. FURLETTI (Templestowe) — Am I then to assume that if there were to be an error in any such report, the applicant would have no right of appeal to anyone?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that natural justice and procedural fairness issues would still apply.

Hon. C. A. FURLETTI (Templestowe) — I appreciate the minister's answer and thank him for it. However, that right would be to appeal to which court or tribunal?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised it would be to the Supreme Court.

Hon. C. A. FURLETTI (Templestowe) — Just so that is perfectly clear, would that be on the ground that there was a breach of natural justice?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — As I mentioned previously, I am advised that that would be the case.

Clause agreed to.

Clause 26

Hon. C. A. FURLETTI (Templestowe) — I note that the determination of applications is in the hands of the minister and is, it appears, at the minister's absolute discretion. Could the minister explain to the committee why it is in the hands of the minister and not, for example, the independent Victorian Casino and Gaming Authority?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the authority would supply a report to the minister and that it would be appropriate for the minister to pursue the recommendations of that report.

Hon. C. A. FURLETTI (Templestowe) — Perhaps the minister misunderstood the question. Will he clarify why the minister has the discretion and the power to grant the applications? That was the question.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Pursuant to my previous answer, I am advised that it is appropriate for government to make those decisions via the minister.

Hon. C. A. FURLETTI (Templestowe) — I accept that answer. I refer the minister to his second-reading speech and the comments he made on clause 26(2), which states that in the granting of any application the public interest will be taken into account, as will the relevant matters referred to in the two previous clauses. Will the minister advise the committee of the types of issues that would be considered as public interest issues?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised it is what is deemed in the best interests of the whole of the Victorian public.

Hon. C. A. FURLETTI (Templestowe) — I refer the minister again to his second-reading speech where he refers to — and I am happy to quote if the minister does not recall — two reports that need to be taken into account in determining the application. Will the minister clarify which two reports he is referring to?

Hon. J. M. Madden — Can I ask the member to repeat the question?

Hon. C. A. FURLETTI — Your second-reading speech, in referring to this clause, indicates that the minister may grant a licence application only if he or she is satisfied that the granting of the application is in the public interest, taking into account the matters referred to in the two reports.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that those are the reports from the Victorian Casino and Gaming Authority and the Department of Treasury and Finance.

Hon. C. A. FURLETTI (Templestowe) — I then refer back, just for the purposes of clarity, to the second-reading speech, which goes on to say that the minister is entitled to rely on any findings or recommendations contained in the reports of the authority or the secretary.

I should have thought they refer to the two the minister has just indicated in his answer. There seems to be a difference. The second-reading speech in the first paragraph at page 547 of *Hansard* sets out that the minister, in determining whether to grant or refuse an application, takes into account the matters referred to in the two reports and any other matters the minister considers relevant, and then it goes on:

> In making a determination the minister is entitled to rely on any findings or recommendations contained in the reports of the authority or the secretary.

Those latter reports seem to be the ones referred to in clauses 24 and 25. The question I am putting to the minister is: is that a repeat of the two reports referred to in the preceding sentence?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer to that question is yes.

Hon. C. A. FURLETTI (Templestowe) — Going further into subclause (2), will the minister indicate what would constitute 'any other matters the minister considers relevant'? Is there any limit to those words?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that as well as those reports it might be worth while considering what the government policy of the day is in relation to the specific issues.

Hon. C. A. FURLETTI (Templestowe) — With respect to subclause (3), and to clause 26 generally, is it envisaged that at this point the minister would entertain objections from persons other than the secretary or the authority to the granting of any licenses?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it is not anticipated that he would, but qualifying that, other licensees would also have the opportunity of objecting.

Hon. K. M. Smith — On a point of order, Mr Chairman, the President gave a ruling on Tuesday, 30 May, regarding the conduct of the committee. The previous Wednesday the Minister for Industrial Relations had taken some time in responding to issues during the committee stage of the Accident Compensation Bill. In his ruling the President said:

> The minister is meant to be in command of the bill that he or she is fostering through the house, even if the bill is the primary responsibility of a minister in the Legislative Assembly. Minsters in the past in this house from all sides of politics have shown the capacity to handle legislation in committee competently and to provide answers to queries posed during the committee process.

The ruling further states:

> Together with the Chairman of Committees —

being you, Sir —

> I am concerned at the effects of this emerging trend and its detrimental effect upon the efficient operation of the house. I will not allow this situation to continue. Ministers who come to this house in charge of legislation must be fully briefed and equipped with briefing notes that anticipate obvious questions …

The reason I raise this is that we were in here last Thursday week discussing this bill for some hours in

committee. The minister did exactly the same thing then. At every question asked of him he made a beeline for the advisers' box. The questions were and are not detailed; they are questions he should have been able to answer to the satisfaction of our members. He obviously has not used any of the time between this sitting and the last to get a proper briefing on the bill.

I would like you, Sir, to direct the minister to have himself fully briefed on this bill, even if it means we have to report progress until that is done. It is just not satisfactory. At the time the President said he had not seen anything like this in all the years he had been a member of this Parliament. I think it is very poor form.

Hon. J. M. MADDEN — On the point of order, Mr Chairman, I appreciate the comments made by Mr Smith, but I have at all times consulted with my advisers in relation to answers, because no doubt members would appreciate that as this bill relates to significant finances it would be imprudent of me not to consult with my advisers in relation to answers given in the house. At all times when I have sought those answers I have done so as quickly as possible. The ruling of a period of 60 seconds in which to arrive at answers has been upheld. I ask you to rule that there is no point of order.

Hon. G. D. Romanes — On the point of order, Mr Chairman, the minister has not gone to the advisers' box on every occasion, as Mr Ken Smith said; he has gone to the advisers' box only briefly for reference and advice on the questions asked of him. The issues are important and the committee would prefer that the minister delivered answers that help address the questions asked rather than the minister becoming involved in the indeterminable questioning by the opposition in the many stages of the bill's passage.

Hon. C. A. Furletti — On the point of order, Mr Chairman, I wish to set the record straight in saying the minister has gone to the advisers' box on many occasions. I do not deny him that right, but I agree with the Honourable Ken Smith that the minister's seeking advice is taking an inordinate length of time. It is obvious that the minister has not been adequately briefed to answer the simplest questions in performing his ministerial duties. If that continues, I will note every occasion the minister goes to the advisers' box to seek advice.

Hon. J. M. MADDEN — Further on the point order, Mr Chairman, as to the length of time the committee has taken on the bill, the honourable member will recall the previous committee proceedings on the bill and will appreciate that a significant component of such concerned clause 2. The vast majority of questioning, including prolonged questioning, was on that clause and issues surrounding the bull's introduction. I also ask the honourable member to recall that on the vast majority of occasions I have referred to the advisers' box because, as I said, I want to ensure my answers are comprehensive and will assist the Honourable Carlo Furletti and opposition members. I want to ensure my answers are clear, concise and succinct in the sense that they cannot be misinterpreted.

I ask the Chair to appreciate that although my answers to the questions have been succinct, questions asked by members of the opposition have been significantly prolonged by their rather extensive preambles. I have had to ask a number of honourable members to repeat their questions because of the length of their queries. I wish to be clear in my answers through being clear on the questions. The questions have been followed by rather comprehensive and extensive preambles to the point where members are virtually debating the issues rather than questioning clauses succinctly and precisely.

Hon. K. M. Smith — Further on my point of order, Mr Chairman, I do not know whether the minister understands that as a minister of the Crown he is responsible in this chamber for the passage of the bill. It is incumbent on him to understand what the bill is about and to be able to answer questions.

When debates occurred in committee under the previous government ministers sat at the table and rarely sought advice from the advisers' box. I am not saying the minister must answer every question without seeking advice, but ministers have cheat sheets and are able to turn pages to find answers to be given to likely questions. However, this minister does not seem to want even to do that; he continues to go to the advisers' box and — —

The CHAIRMAN — Order! Members are beginning to debate the issue. I have heard a lot on the point of order and I am now prepared to rule on it.

Firstly, Minister, the point of order was about the number of times ministers — that applies to all debates in committee — have consulted and sought advice. The point of order is certainly not about the length of time it has taken for various honourable members to ask questions or the length of ministerial answers. The point of order is well made.

Mr President and I have expressed some concern about the proceedings of previous committee debates and said that for the good running of the chamber, future

committee debates should not be extended due to the consulting process by ministers. To that end, Mr President made a ruling imposing a maximum time of 1 minute for consulting, to which the committee will adhere. When I call the minister back to the table that will be noted in *Hansard*.

Although the point of order is well made, no real judgment can be made on it as it is really an explanation. I invite the committee to continue.

Hon. R. M. HALLAM (Western) — Clause 26(3) states, in part:

> … the minister is entitled to rely on any findings or recommendations contained in the report of the authority or secretary.

In his answer to the Honourable Carlo Furletti, I took the minister to expand on that provision and to say other licensees may have an opportunity to plead a case at that time. Does that mean the granting or refusal of the licence is at the absolute discretion of the minister?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I believe I made that clear in my previous statements in that at the end of the day the minister, as part of the government, makes that decision.

Hon. R. M. HALLAM (Western) — Does the fact that the licensee now has the opportunity to become involved mean that other persons who have a claim or interest in that refusal or grant may also be heard on the process?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the basis on which the minister would make his decision would be those two reports, although I qualified that. Potentially, a licensee may have the opportunity to indicate to the minister issues he or she may have, and policy issues of the government of the day may also be considered. However, I am advised that that would be the extent of the consideration.

Hon. R. M. HALLAM (Western) — The qualification the minister has offered the committee intrigues me, and I am trying to establish the parameters of that qualification. The minister has said that, notwithstanding that the minister should rely upon the advisory report of the Victorian Casino and Gaming Authority or the secretary to the Department of Treasury and Finance, the licensee may become involved. I want the minister to consider whether other persons may be considered in that process. I am careful with that question. The minister referred to licensees having opportunities and I am inviting the minister to clarify whether other persons may have the same opportunity.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I believe I have already made that point in that it would be expected that anybody else would be encompassed in those reports made to the minister. The minister is entitled to rely on any findings or recommendations contained in the report of the authority or the secretary.

In relation to licensees, I am advised that it may only be issues they may take up in relation to the viability of their licence that may be made relevant to the minister. I make the point again that the minister is entitled to rely on the findings and the recommendations contained in the report of the authority or the secretary and would make decisions accordingly.

Hon. R. M. HALLAM (Western) — I cut to the kill. If the minister is now saying that the licensee may have the opportunity to be heard in respect of that grant or refusal, is he prepared to give a commitment on behalf of the government that a licensee in those circumstances would be heard?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that those issues would be expected to be made clear within the reports of either the authority or the secretary. That would again be the basis on which the minister would consider his determination.

Hon. R. M. HALLAM (Western) — I heard what the minister said and understand that the views of the licensee may be canvassed in the reports of both the secretary and the authority, but that is not the issue at question. What the minister has invited the committee to consider is that the minister in deciding to grant or refuse a licence may give the licensee the opportunity to be heard. That is separate from the content of the reports on which he is required to rely. The minister has said that the licensee may have the opportunity. I am simply inviting the minister to clarify what that means — does it mean that a licensee caught up in the process should expect the opportunity to plead a case with the minister before the decision is taken?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The minister would make the decision, but the licensees should not necessarily expect the opportunity to consult directly with the minister: they should expect to be considered within either of the reports presented to the minister.

Hon. R. M. HALLAM (Western) — We are going around the mulberry bush, but this would be of critical importance to a licensee caught up in this process. Would a licensee have the right to lodge an objection to a decision taken by the minister?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I refer to my previous answer about access to natural justice.

Hon. R. M. HALLAM (Western) — I am uncertain where that takes us. I know about natural justice also, but this clause talks about the right of the minister to grant or refuse a licence application, and says that the minister is entitled to rely upon the findings or recommendations contained in the report of the authority or the secretary. We have got to that point and I understand the process. Now the minister is saying in addition to that that the applicant may have access to the minister. I understand that is in the spirit of fair play and natural justice. What I am trying to get, Minister, is that in the name of natural justice the applicant in each case would have the right to plead a case with the minister before that decision was taken, irrespective of what is said in the reports of either the authority or the secretary.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I can see the point Mr Hallam is trying to make. Where was the question mark in that statement?

Hon. R. M. HALLAM (Western) — I am not trying to make a point; I am trying to clarify the circumstance confronting an applicant for a licence. I am not sure how much more succinctly I can cite it, but the clause says, here comes the applicant, who puts in his application for a licence and it goes to the minister, who is able to rely upon the finding of the authority on the one hand and of the secretary on the other hand. Now the minister tells us that there should be an issue of natural justice. I am trying to find out how that natural justice process shall apply to the licensee or the applicant.

The minister has informed the committee that the applicant or the licensee may have the opportunity to appeal to the minister. What I am trying to get the minister to give the committee is whether in the name of natural justice the licensee should have that avenue of appeal to the minister. One may talk about the Supreme Court or a whole range of other things, but it is what happens before we get there in the name of natural justice that is of concern. Will the minister be bound in every case by what the authority or the secretary tells him, or will the applicant actually plead a case before the minister? I should have thought that was a simple proposition.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Mr Hallam mentioned potential licensees and licensees. I am advised that, in a situation based on the reports being made to the minister, the licensees may want to present themselves to the minister — whether the minister seeks to meet with them may be at his discretion — to raise issues that they believe may not have been considered in the reports but that may have occurred prior to the issuing of a licence, not after the event.

Hon. C. A. FURLETTI (Templestowe) — I shall pre-empt the provisions of clauses 39 and 40, which refer to the minister notifying anybody who may be adversely affected by any amendments to a licence and allowing for persons who may be adversely affected to object to the amendment. Is there a process or the possibility for a person adversely affected to object to the grant of the original licence, given that there is a right to object to amending the conditions of a licence that has been granted?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Mr Furletti referred to clause 39. Will he clarify the question in a more succinct way? I know there are issues about clause 39.

Hon. C. A. FURLETTI (Templestowe) — I was not referring to clause 39 other than referring the minister to the provisions for persons to object, as provided in clause 39. Those provisions relate to a person adversely affected being able to object to an application for amendment to the conditions of an existing licence. I am pleased to see that the minister has read the bill and knows what I am talking about. Given that that right exists in the case of amendments, is there a similar right for a person who could be adversely affected to object to an initial grant of a licence?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that in the spirit of clause 39 it is existing licensees that have that right. If changes disadvantaged existing licensees, they have the right to object. I am advised that that does not apply in the issuing of new licences.

Hon. R. M. HALLAM (Western) — Going back to clause 26(3), can the committee take it from that answer that in that case the clause would read 'this clause applies only to an application from a new applicant rather than to an application for a renewal by an existing licensee'?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that in the issuing of a new licence that would not be the case. Bear with me.

Hon. R. M. Hallam — This is very important.

Hon. J. M. MADDEN — I am advised that under clause 26 other licensees would not have the ability to object.

Hon. R. M. Hallam — That was not the question.

Hon. C. A. FURLETTI (Templestowe) — I note that the minister sought advice from his advisers on two occasions for that one question. I would like to have that on the record.

I will rephrase the question. It would appear to me that in the majority of cases the granting of a new licence would be far more detrimental to an existing licensee than changes to an existing licence. Therefore, I ask as succinctly as I can: what are the rights of objection of an existing licensee to an application for a new licence? Is that succinct enough?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that no new licences would be issued if existing licences have been guaranteed exclusivity or no new licences.

Hon. R. M. Hallam — What was the second half of that?

Hon. J. M. MADDEN — I will say that again: no new licences would be issued if existing licences have been guaranteed exclusivity or no new licences, if that is the guarantee.

Hon. C. A. FURLETTI (Templestowe) — Will the minister direct the committee to the clause that allows the granting of exclusive licences?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that nowhere does the bill provide for exclusivity.

Hon. C. A. FURLETTI (Templestowe) — I refer the minister to his previous answer, in which he indicated that the Minister for Gaming would have the right to guarantee exclusivity. What did the minister mean?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the government may choose to provide only one licence — that the bill does not exclude that possibility.

Hon. ANDREW BRIDESON (Waverley) — Clause 26(4) provides that:

> If the minister refuses a licence application, he or she must give written notice to the applicant.

Can I assume that, in accordance with principles of natural justice and procedural fairness, written reasons would be given?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — It is clear that written notice would be given to the applicant.

Hon. ANDREW BRIDESON (Waverley) — Can I confirm, then, that written reasons would be given in the refusal notice, or is the intention to just give notice, saying, 'Your application is refused'?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the minister may choose to.

Hon. C. A. FURLETTI (Templestowe) — To follow that, will the minister clarify that the Minister for Gaming will have unfettered discretion in what will be disclosed to the applicant with respect to the result of its application?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Will Mr Furletti clarify the question? I think he was trying to make a point rather than asking a question, so could I ask him to rephrase the question?

Hon. C. A. FURLETTI (Templestowe) — I was certainly not making a point. The question was very clear: will the Minister for Gaming have total and unfettered discretion with respect to whether reasons are given, and if so, to the extent of those reasons, in the determination of an application for a licence?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I believe I answered that previously: it is up to the minister's discretion as to whether he gives reasons in that notice.

Hon. C. A. FURLETTI (Templestowe) — I added a couple of adjectives. If I might direct the minister's attention to those adjectives, which were in the minister's 'total' and 'unfettered' discretion.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — They are Mr Furletti's adjectives, not mine.

Hon. C. A. FURLETTI (Templestowe) — It is also my question and I believe the minister is obliged to answer the question, if he is able to do so. If he does not

know the answer, he can certainly go to his advisers, as he has been doing all afternoon. It is a pertinent question because although the minister suggests blithely that the Minister for Gaming may give reasons, I am asking whether it will be in the minister's total and unfettered discretion as to whether he gives reasons.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that is the case.

Hon. R. M. Hallam — Just 'yes' would have done in the first place.

Hon. C. A. FURLETTI (Templestowe) — Given that the minister has an absolute and unfettered discretion whether he gives a reason, will he indicate to the committee whether there is any right of review or appeal against the minister's decision?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — As I said previously, I am advised that other than through the process of procedural fairness and natural justice, the answer is no.

Hon. C. A. FURLETTI (Templestowe) — For the purposes of the record, I am sure that the minister is aware that natural justice is a rarely used and extreme resource and, of course, takes it outside the ambit of ministerial discretion, such as errors or mistakes in the report the minister is given or where the minister is badly advised. Is the committee to understand that the minister is saying that other than in those cases where blatant errors have occurred there will be no right of review of the minister's decision?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is yes.

Hon. C. A. FURLETTI (Templestowe) — Am I to understand that would include appeals to the Supreme Court on the basis of the minister's decision?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I ask Mr Furletti to restate his question. I am not sure whether he is just making a comment.

Hon. C. A. FURLETTI (Templestowe) — It was: the lack of availability of an appeal to the Supreme Court on the decision of the minister other than in the case of a breach of natural justice.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is yes.

Clause agreed to.

Clause 27

Hon. C. A. FURLETTI (Templestowe) — I refer to the committee the minister's previous answer last Thursday week during the debate on the gaming and betting legislation when he referred to a legal opinion about the repercussions of further licences being issued. I ask the minister whether he would make that legal opinion available to the committee.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that to make that legal opinion available may prejudice the government's position. I can take up the matter with the relevant minister, but I suspect the response will be similar.

Hon. C. A. FURLETTI (Templestowe) — I would be pleased if the minister would take up that issue because the committee would accept the legal advice on a confidential basis. It would expect that this open and accountable government would give the committee access to the legal opinion. Will the minister indicate whether tenders for the licence are still open?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that if Mr Furletti is referring to the football tipping competition the tender is not yet completed.

Hon. C. A. FURLETTI (Templestowe) — I take that answer to mean the tender is still open. Will the minister advise when the tender will close?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the tender process is still underway, but the deadline for submissions has closed. I will clarify my answer further. The tender process is still underway, although the cut-off point for submissions has closed. My understanding and advice is they are still being assessed at the departmental level.

Hon. C. A. FURLETTI (Templestowe) — Am I to understand that the time for submitting applications for the licence has closed but that no determination has yet been made as to the best bid.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that is correct.

Hon. C. A. FURLETTI (Templestowe) — On that basis will the minister indicate whether any bidders have met with any government members?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the government is not aware of the names of the bidders and that one of the

conditions was that bidders must not approach government members.

Hon. C. A. FURLETTI (Templestowe) — The minister may be aware that I indicated during the second-reading debate that not only government members were not able to communicate with bidders, but all members of this place were not able to communicate with bidders. Will the minister indicate how many bidders there are?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that advice has not been made known to the government.

Hon. R. M. Hallam interjected.

Hon. J. M. MADDEN — The number of applications has not been made known to the government. As I said in my answer to Mr Furletti's question, that process has not been completed.

Hon. C. A. FURLETTI (Templestowe) — The minister may not be aware of the number of bids received, but he should be aware of the number of licences intended to be issued under the bidding process. Will the minister advise the committee of what that number is?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the government has made it quite clear that there will be only one football tipping licence issued.

Hon. R. M. HALLAM (Western) — I am bemused. If submissions have closed, why would the government not know how many had been lodged?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I believe I have answered that question. The process is not yet complete. The department is still reviewing those applications.

Hon. R. M. HALLAM (Western) — Mr Chairman, with respect to the minister, that does not answer my question. The minister has reported to the committee that although the tender process has not closed — I am at a loss to understand the difference between tenders and submissions — the date until which submissions would be accepted has passed. I presume the submissions would have been made to government, and I again ask the minister to explain to the committee why on the one hand he can attest that submissions have closed yet on the other hand he can report that the government does not know how many have been lodged?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I will clarify what I said before: the date for submissions has closed. Because they are still being assessed the evaluation process of that tender is still under way. That is what I meant when I said the tender process is not complete, because the assessment of those submissions is not yet complete.

Hon. R. M. HALLAM (Western) — My question was not about the assessment of the tenders, it was about the submissions. I take the minister back to the advice he offered to the committee. He has reiterated that the submission date has passed, and I presume from that that no further submissions will be accepted. I find it incomprehensible that the minister should report that the date has passed for submissions, yet he is unable to report how many have been received. I am sure I am not the only member of the committee who is confused by the process. I repeat the question: how many submissions have been lodged?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the department has not yet reported to the minister on the number of submissions; so, being a minister I do not have that information either, Mr Hallam. It is not readily available to the minister because it is still being assessed by the department.

Hon. R. M. HALLAM (Western) — Mr Chairman, that is different from what the minister advised the committee a moment ago. To be kind to the minister and to carefully paraphrase what he said, the minister said the government was not aware of the number of submissions. Now he reports that one department apparently is aware. I am tempted to suggest that we report progress to give the minister the opportunity to locate the evidence that apparently is so difficult to locate, but I would be prepared to move on if the minister were prepared to give the committee a commitment that he will determine those figures during the currency of the debate and report them to the chamber.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I do not believe I can give the committee that guarantee. I am prepared to take the question on notice, but I do not believe I will have that answer for the committee by the end of the committee stage today.

Hon. R. M. HALLAM (Western) — It could be arranged for the committee stage to be extended, if that would suit the minister's convenience. I simply make the point that the committee is discussing a fundamental issue. Perhaps I should ask an associated

question of the minister: if the date for acceptance of submissions has closed, and we are therefore to presume there will be no further submissions, how does the minister explain his reticence to release the legal advice he says has been secured by the government on the basis that it would prejudice a potential tenderer?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Mr Hallam, to clarify both issues, the legal advice related to issuing licences. The other issue on which you seek clarification relates to the number of submissions. The legal advice is not directly relevant to those submissions; it is about the potential licences of other forms of product.

Hon. A. P. OLEXANDER (Silvan) — What was the final date for the acceptance of submissions?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the final date was last week. If Mr Olexander wants a particular date, I can take that on notice.

Hon. A. P. OLEXANDER (Silvan) — I ask the minister for a particular date, and in due course I hope that will be provided. If the department has been in possession of submissions, in the plural, as the minister has said repeatedly during the committee stage, how is the minister aware that there is more than one submission if he is not aware of the number of submissions?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I have used the word 'submissions' in the plural form in a generic sense, in the same way one might put an 's' on 'tenders' rather than say 'tender'. There is a generic use of the plural of the word, and that is how it has been used. It may be the case that there is only one submission. I do not have that information, so I have used the word 'submissions' in a generic sense.

Hon. A. P. OLEXANDER (Silvan) — Why, after the passing of a week, is the minister not aware of the number of submissions, or even of the date on which submissions closed?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — On the issue of the number of submissions, I again reinforce the point that they are being assessed by the department, and that information has not been forwarded to any ministers.

Hon. R. M. Hallam — Assessed by which department?

Hon. J. M. MADDEN — I have lost my train of thought. They are being assessed by the department, and information has not been forthcoming to any ministers. On the matter of the date, I did not think it was directly relevant to the bill. I am happy to get that information for Mr Olexander.

Hon. A. P. OLEXANDER (Silvan) — Which department or departments were responsible for the receipt of the submissions and which department or departments are responsible for the assessment of those submissions?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised the Department of Treasury and Finance.

Hon. A. P. Olexander — In both cases?

Hon. J. M. MADDEN — In both cases.

Clause agreed to.

Clause 28

Hon. C. A. FURLETTI (Templestowe) — The opening stanza of clause 28 indicates that the Minister for Gaming:

> … may impose any conditions he or she thinks fit on a licence …

It then goes on to refer to three inclusive subclauses. Can the minister indicate what criteria will be used for the imposition of those conditions?

Hon. J. M. Madden — I failed to grasp the last sentence.

Hon. C. A. FURLETTI — What criteria will the minister use to impose conditions on a licence?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised it will be the public interest and any other conditions that the VCGA might recommend.

Hon. C. A. FURLETTI (Templestowe) — That is very broad. Would it be fair to say the minister has absolute and unfettered power in respect of the terms and conditions that will be imposed on a licence?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Again, I suppose we are splitting hairs over adjectives, but the answer is yes.

Hon. C. A. FURLETTI (Templestowe) — I assure the minister there is no splitting of hairs; the adjectives are intentional. In terms of establishing those conditions, with whom is it intended that the minister will consult?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I ask Mr Furletti to repeat his question. The intonation and the way the honourable member phrased the question was not clear to me. I ask him to repeat it.

Hon. C. A. FURLETTI (Templestowe) — Not a problem, Minister. The question I asked was to determine which conditions will be applied. With whom is it intended that the minister will consult? In other words, who will he talk to before determining what conditions he will put on a licence?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that he would seek advice from his department and the VCGA.

Hon. C. A. FURLETTI (Templestowe) — Can you indicate whether there will be any review process or any appeal against any of the conditions the minister imposes or places on the licence?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Could you qualify the review process you might be implying?

Hon. C. A. FURLETTI (Templestowe) — Certainly, I would be pleased to. As you admitted earlier, absolute and unfettered discretion is placed in the hands of the minister to impose conditions on the licence. My question is simply: is there any review or appeal against the minister's imposition of conditions on that licence?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the minister would be able to determine those conditions but he would be mindful of the commercial realities required in terms of making licences viable and the implications of those conditions.

Hon. C. A. FURLETTI (Templestowe) — With respect, Minister, my question was: is there any avenue of review or appeal against the minister's decision as to the conditions on a licence? It was a very specific question.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised the answer is no.

Hon. C. A. FURLETTI (Templestowe) — I assume from your answers to earlier questions that means — a serious breach of natural justice aside — there is no appeal to the Supreme Court?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that an appeal to the Supreme Court would be on a matter of law.

Hon. C. A. FURLETTI (Templestowe) — Am I to take it from your answer, Minister, that in your answers to the previous questions — I am happy to go back through and find the clauses; I think it was clauses 26 and 25 — you misled the committee on each occasion?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Again, I am advised that my answers have been consistent in that all those answers have nominated the same appeal mechanisms to the Supreme Court on a matter of law.

Hon. C. A. FURLETTI (Templestowe) — I take issue, Minister, and I am happy for you to have *Hansard* record that, but generally an appeal to a Supreme Court on a question of law is from a determination of another jurisdiction. Would you enlighten the committee through your advisers as to how that should take place?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that if the committee gets into issues directly outside the bill about the operation of the law, I would have to take questions on notice. I am no lawyer and nor are my advisers.

Hon. C. A. FURLETTI (Templestowe) — I accept the minister's comment, but the simple point I am trying to make is that I want him to enlighten the committee on what avenues of appeal are available against the minister's decisions. I forewarn the minister that it is very early in the piece and that I will be addressing a number of other provisions in exactly the same way. I will be asking what avenues of appeal are available against the exercise of that ministerial discretion, that absolute and unfettered ministerial power, and those areas in which the government has politicised the process of granting applications. That is the question I put to the minister in this instance in relation to clause 28.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Again, I believe I have answered that question.

Hon. A. P. OLEXANDER (Silvan) — The minister has already said in response to a question that the Minister for Gaming would rely on advice from his department and the Victorian Casino and Gaming Authority with regard to the conditions that the minister may impose on a licence. Has the department or the VCGA developed any standard guidelines for conditions for the minister's use in that instance?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the Victorian Casino and Gaming Authority and the department have not yet issued reports to the minister, but that it is likely those criteria would be contained in those reports.

Clause agreed to.

Clause 29

Hon. C. A. FURLETTI (Templestowe) — A simpler question: will the minister please explain to the committee subclause (4), which provides for a licence being extended only once?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Clause 29 sets out the term of a licence and allows for a once-off extension of 12 months on an application made during the currency of the licence. Under subclause (4) a licence may be extended only once, and if during the currency of the licence it is extended for 12 months, that is the one-off licence extension.

Clause agreed to.

Clause 30

Hon. C. A. FURLETTI (Templestowe) — As the minister is aware, clause 30 refers to the minister's discretion in determining a premium payment by the successful applicant for a lotteries licence. Will the minister tell the committee how that premium would be calculated?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that would be part of the competitive bidding process.

Hon. C. A. FURLETTI (Templestowe) — Thank you. Is the premium to be determined by the Minister for Gaming?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I refer to my previous answer. What is offered through the competitive nature of the submission or tender process becomes by agreement the tax.

Hon. C. A. FURLETTI (Templestowe) — Let me be clear. I do not know if the minister has read the clause, because subclause (1) states:

> The minister may require a licensee to pay, as consideration for the licence, one or more amounts determined by the minister as the premium payment.

The question I ask is simple: does the minister confirm that the Minister for Gaming is the person to determine the premium payment?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is yes.

Hon. C. A. FURLETTI (Templestowe) — Thank you. How is it proposed that the minister will calculate the premium?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Again, I refer to my previous answers. The minister would be assisted in determining that by the competitive nature of the submissions. That process would assist the minister in determining what that premium payment would be.

Hon. C. A. FURLETTI (Templestowe) — Will the minister assist the committee by giving an indication of some of the elements that would be involved in that process of evaluation?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that once the bidding process is completed, the department would provide advice to the minister in relation to that to determine what the premium payment would be.

Hon. C. A. FURLETTI (Templestowe) — Thank you. I note that on a number of occasions during the committee stage the minister has said that the Minister for Gaming will be referring matters to his department. In this instance, what criteria will the minister establish for the department to consider in evaluating the premium to be paid?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that would be what represented the best interests of Victoria.

Hon. C. A. FURLETTI (Templestowe) — I have the utmost faith in the Minister for Gaming. I do not particularly care what the Minister for Sport and Recreation as the minister responsible in this place seeks to do to avoid the question. I have asked him a question, and the simple question is: what criteria will the minister set for the department responsible for assisting him in his ministerial obligation under the act to determine the premium? What criteria will he use? I suspect it is more than the best interests of the people of Victoria.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Again, I acknowledge that I used the term 'the best interests of Victoria' broadly. However, that would certainly relate to what would be the best

commercial return, and in that sense what would be potentially the best commercial return would be the best for Victoria.

Hon. C. A. FURLETTI (Templestowe) — Thank you. I assume that the government has conducted some estimates and produced some models for what the expected return and expenditure of the process will be?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer to the question is yes.

Hon. C. A. FURLETTI (Templestowe) — On the basis that those models are available, have they been provided to anybody other than the government?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the department's estimates have not been provided to anyone.

Hon. C. A. FURLETTI (Templestowe) — But at the end of the day it is for the minister to make the determination as to the premium payment pursuant to clause 30(1). Is that not the case?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that is correct.

Hon. C. A. FURLETTI (Templestowe) — And the minister would also, I assume, concede that the amount of premium payment that would be determined, given his previous answers, would depend upon whether the licence is exclusive or not?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Can I ask the minister to repeat that question? The last element of the question was somewhat ambiguous.

Hon. C. A. FURLETTI (Templestowe) — Certainly. This is a reasonably complex area. I am sure the minister is aware that a premium payment is payable under the grant provisions for all lotteries, and apart from the Tattersall consultation licence — which currently exists and which has exclusivity up until 2004 — after 2004 the bill provides that there will be no further exclusivity. I am asking the minister whether the premium payment to be made will depend upon whether other licences are issued after 2004, so that it is no longer exclusive.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it is not unreasonable to expect that a premium payment would be higher for an exclusive licence.

Hon. C. A. FURLETTI (Templestowe) — I would agree with that, and I thank the minister for his answer. It therefore appears that an extraordinary situation exists whereby, because of the provision of clause 30(3), the minister will have the power to fix the amount of a tax, given that the premium is a tax.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Was that a question or a statement?

Hon. C. A. FURLETTI (Templestowe) — I am asking the minister to confirm what appears to be the case, as I understand it. In other words, given that under clause 30(1) the minister has the absolute discretion to determine the premium to be paid and given that under clause 30(3) the premium payment is a tax, does the minister concede that the minister has the power to fix the amount of a tax under this clause?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that assumption is correct.

Clause agreed to.

Clause 31

Hon. R. M. HALLAM (Western) — By leave of the committee, I wonder if I can suggest a way through some of the difficulties we have been experiencing. Members of the opposition have been very keen to get the government to respond on the issue of appeal where there appears to be an extraordinarily broad opportunity for a minister of the Crown to express unfettered authority.

I suggest to the committee that that issue will come up again and again. For the sake of finding a way through this, can the committee report progress and those with a direct interest in this provision sit down and work out a form of words that is acceptable to both the government and the opposition parties?

It will then apply to another four or five clauses, and it might assist the resolution of those issues further in the committee stage. If the government is prepared to give me an indication of whether it considers that is a logical way through this process, I would suggest that progress be reported.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am happy for that to occur.

Progress reported.

ELECTRICITY INDUSTRY BILL and ELECTRICITY INDUSTRY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Debate resumed from 25 October; motions of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. PHILIP DAVIS (Gippsland) — I am very pleased to have the opportunity of speaking on this conjoint or cognate legislation. The bills are part of a process established by the government to streamline the legislative framework so that the industry at the end of the day will have a clean act, which will be its primary reference. There will also be residual statutes that relate to the powers required to establish the present industry structure, but they are not really applicable to the ongoing regulation of the industry.

In other words, it is a legislative framework that is contemporary and does not rest on powers enacted by this Parliament that were necessary to restructure the industry through the 1990s.

Other aspects of the bill deal with matters relating to the further development of the competitive electricity market.

The opposition has read the purposes of the bills and does not intend to oppose them. However, my further comments may be considered circumspect because although the legislation is significant, it raises a few controversial issues, certain aspects of which need to be noted by the house.

It is clear that although the government intends to progress the implementation of full retail contestability, the implementation rate will be slower than that originally envisaged by the former government and the industry. The government has said it envisages that full competition may take up to three years from 1 January next — that is, three years longer than was originally proposed. That is a regrettable aspect of the regulatory framework and policy intent of the government. I would have preferred more energy had been injected into implementing full retail contestability. But if there is to be an excuse, perhaps it is that during the transition following the election, the government, its officers and the industry took time to adjust to a new set of policy priorities, consequently embedding delays in aspects of the implementation that may otherwise have been brought forward.

Victorians will have to live with the new framework. I am sure considerable pressure will be exerted on the minister to ensure that full contestability occurs without much further delay. I look forward to that occurring at least by the end of the next calendar year, if not earlier.

The legislation contains proposals that will simplify the regulatory arrangements for cross-ownership provisions. The original proposal was that the Office of the Regulator-General would be the responsible authority for dealing with applications, but the bills will allow authorisations or determinations to be made by the Australian Competition and Consumer Commission under the relevant merger and acquisition provisions of the federal Trade Practices Act. That important provision in the bills will simplify the nature of the process involved in the various inevitable and continuous changes that occur in ownership and the inevitability of cross-holding circumstances that may arise.

The bills also deal notionally with improved security of supply management arrangements through agreements between Vencorp and licensees under the national electricity code. They also deal with load shedding in the event of a failure of demand management.

Recently issues have arisen about load shedding and the emergency management of power supplies. I note that the measures re-enact all provisions of the existing Electricity Industry Act in relation to intervention in the market by government. Part 6 of the Electricity Industry Bill deals with emergency provisions and seeks to re-enact those parts of the existing statute that provide the opportunity for government to secure supply in the event of extraordinary circumstances.

When the house is debating electricity legislation involving government administration, it would be curious if I were not to remark on recent events. I am led to the conclusion that I must remark on those events; otherwise people might wonder why, given such an opportunity, I did not. Some of the press comments I have re-read today show that some journalists must read opposition press releases. They are surprisingly in tune with what the opposition has been saying for about 10 months. Their train of thought is very similar. To put that comment into context, I refer the house to an article by Ms Schubert in the weekend *Australian* of 4 and 5 November.

Hon. C. C. Broad — Do you have to quote it?

Hon. PHILIP DAVIS — It is succinct and makes the point well. I do not want to continue to recite the drama of the February events since the house has heard much about them. I will move forward instead to current matters.

With reference to the February blackout and the Premier's vow that there would never be a sequel to that crisis, Ms Schubert states:

> … in the 10 months since that drama, his government has failed to deliver a single concrete measure to guarantee power supplies.

That article was no more interesting than the David Wilson article in the *Sunday Herald Sun* of 5 November which states in part:

> Mr Bracks yesterday denied more could have been done to avert the snap strike on Thursday that prompted temporary power restrictions in Victoria.
>
> He said the government had plans in place to prevent similar disruptions in the future.

That is what the Premier said in February: one wonders what the plans are and what has become of them.

The government administrative issues with which the house is dealing include the government reaction after the event to a crisis that caused great harm and damage in the community, notwithstanding the clear signals provided and the warnings and cautions offered to assist the government to behave responsibly and to meet the community's expectations.

The day before the blackout the opposition asked questions in this place about the industrial dispute then in progress in the Latrobe Valley involving Yallourn Energy. The opposition warned the government to be cautious and alert to a significant industrial risk to the continuity of supply of power. Notwithstanding that opportunity to act, the government chose to ignore the opposition's warning. There had been a continuing barrage from the opposition about the risks to the security of electricity supply.

Hon. T. C. Theophanous — You set up the system.

Hon. PHILIP DAVIS — Are you proposing to change it? Grow up and sit in your place, if you want to interject. I am not interested in your comments, Mr Theophanous.

The government has chosen to sit on its hands by setting up a task force under the stewardship of the Minister for Energy and Resources. Obviously the task force came to the conclusion that dealing with industrial relations issues was not relevant to providing security of supply to Victorians because, apart from a brief acknowledgment of the coincidental fact that there was a blackout in February at the same time as industrial disruption occurred at Yallourn, it made no further reference to industrial relations as a significant cause of the disruption and as a future risk or to remedies that may reduce the risk to security of electricity supply to the community.

The government set the scene by taking no action in November, December or January, and the lights went out in February. There was a continuing concern about the ability of the generating sector in the Latrobe Valley to meet the demand as we move to a new summer period, because with increasing temperatures demand on supply increases. Nothing had been done to address the industrial relations dispute that had been running for some time: there was no attempt by the government to deal with it. Consequently the community has suffered. People have again been inconvenienced in their homes and their employment circumstances, and hospitals and aged care facilities have been affected by blackouts. People working in industries where intensive animal production takes place have also had disruption of supply of electricity for maintenance of air circulation, lighting and other support and ancillary services. There was the prospect of people having greater uncertainty about when supply would be restored because of this interruption, and it created great alarm. A certain anxiety prevails in the community about these matters when they occur.

There was great cost to the community as a result of the electricity supply disruption. The total cost to brown coal generators was of the order of $50 million — a large sum of money. But the biggest cost, apart from the cost to the corporations that suffered a significant financial loss, was to the reputation of Victoria as a whole as a place that requires confidence to attract investment. Investors can be attracted only if Victoria has industrial stability and reasonable certainty about conducting business in a responsible manner.

In recent discussions I had with the chief executive officer of a major international utility company who was in Victoria looking at opportunities to invest in the Latrobe Valley the key issues that were relevant to that investment opportunity — looking at the purchase of one of the Latrobe Valley generators — were the industrial relations framework, the workplace culture and the ability for a corporate investor to take on generation investments in the Latrobe Valley and to turn the culture around to result in a more productive work force fully engaged with management in making management decisions.

I thought it was surprisingly coincidental that a couple of weeks after those discussions, for 5 hours parts of Victoria were blacked out at random. It was disappointing to me to find that such incidents could be

avoided by the determination of government to take a position and signal it clearly to the community. The community must have confidence that the leadership in government is sufficiently clear that it can achieve policy consistency by staking out the appropriate ground and holding to that position firmly and fairly.

Regrettably the Bracks government, under the stewardship of the Minister for Energy and Resources, has to date been equivocal in maintaining the direction of security of supply. The government made the clever political move after the disaster in February of conducting a review, the relevance of which escapes me, as I said in the house when the minister tabled the report of the review and commented on it. I responded at the time, as I do today, that if the government does not want to face up to the single critical issue upon which security of supply hinges, which is maintaining a proper industrial relations premise in the Latrobe Valley, we cannot be confident about security of supply.

Following the six-month review the conclusions in the report ignored that aspect substantially. Subsequent to the tabling of the report in September ongoing discussions took place in this house week by week about the prospect of further power supply disruptions, which the Minister for Energy and Resources in an off-handed way chose to ignore. I have no doubt she will continue to treat the opposition's concern about these issues with the contempt that she has displayed towards providing secure electricity supply for Victorians.

Not only is that my view, it is also the view expressed in an editorial in the *Herald Sun* of 4 November, which states:

> Industrial relations minister Monica Gould and her energy and resources counterpart Candy Broad clearly ignored what was happening in the Latrobe Valley.
>
> Last January, they also had their heads in the sand during a similar row that left the state with a severe power shortage.
>
> Neither is proving worthy of shouldering responsibility for electrical operations in the Latrobe Valley.

That is another reference in the press that the minister wished I did not quote. Although the opposition is not objecting to the passage of the legislation, it objects to the way the minister and her cabinet colleagues are administering the legislative framework for electricity in Victoria. It is regrettable that this year two statewide electricity blackouts have disrupted the state.

Hon. T. C. Theophanous — Is that all you've got in your speech? Why don't you speak about the bill?

Hon. PHILIP DAVIS — You will have your opportunity to speak.

The DEPUTY PRESIDENT — Order! Through the Chair!

Hon. PHILIP DAVIS — Mr Deputy President, I do not need the protection of the Chair. I will respond to Mr Theophanous, who raises concerns about my contribution. It is quite evident, as I have said, that the Minister for Energy and Resources has dealt with the chamber in a contemptuous fashion, notwithstanding that since February this year members of the opposition have raised in this place on an ongoing basis the risk to the security of the electricity supply. The minister ignored our warnings. If Mr Theophanous wants to demonstrate in this place that he is the fool we all take him for, he might as well continue to interject.

My contribution to the debate is relevant and pertinent to the significant issue that forms part of one of the aspects of the proposed legislation. The opposition's position is that the proposal to try to streamline the legislative framework is not unreasonable. By referring to the security of supply I highlight that critical aspect of the ongoing regulation of the industry which is what the proposal is about. The bills are not about yesterday's news. They are not about the internationally recognised success of the reform of the electricity industry in the state under the careful stewardship of Alan Stockdale. There is absolutely no doubt that that successful — —

Hon. T. C. Theophanous — You're right about one thing: he had more brains than you've got!

The DEPUTY PRESIDENT — Order!
Mr Theophanous will have an opportunity later to contribute to the debate.

Hon. PHILIP DAVIS — My intention is to speak for as long as I need to get my point across. That will be as long as it takes to persuade Mr Theophanous not to take issue with the points I raise. Clearly if he takes issue with them, I have not convinced him. I intend to remain on my feet until I have convinced Mr Theophanous to acknowledge that my points are valid. I will be delighted to make some additional points.

I was commenting on the previous government. Honourable members have had the pleasure previously of listening to Mr Theophanous argue the case against the reforms introduced by the Kennett government. Indeed, the stewardship of Alan Stockdale was heroic.

Hon. T. C. Theophanous — Heroic?

Hon. PHILIP DAVIS — It was heroic. Alan Stockdale and the team that supported him in Treasury to develop a new industry framework and manage and oversight the reform and privatisation delivered an outcome for Victoria for which generations to come will be grateful, even if Mr Theophanous is not.

The current government acknowledges the benefits of the reform of the electricity industry in particular and energy in general and is not seeking to turn back the clock. However, as I said, it is seeking to delay the original time frame of reform in delaying the move to full retail contestability.

I have referred to some relevant history because it must always be put on record that attaining today's industry structure was a very successful outcome. Germane to the discussion is the ongoing regulation of the industry. The government is seeking to substantially continue that regulatory framework. While some significant changes, to which I referred earlier, are proposed, the most substantial aspect of the proposal is the continuation of the mechanisms available to government to ensure a guaranteed supply of electricity for Victorians. The government's significant legislative powers to intervene will inevitably lead to a need to justify such intervention.

However, the Electricity Industry Act clearly provides for anticipation. I am disappointed that, given the knowledge of the precariousness of the circumstances surrounding the dispute with Yallourn Energy, the government had no plan of action. Given also that the statute provides for anticipation where there is a risk of security to supply, the government did not anticipate in any way the disruption that occurred on 2 November.

I am disappointed that after the fact the Premier reiterated the absurdity of his February comments saying that the government had a plan. If the government had such a plan, why were not the events of 2 November anticipated and action taken much earlier? It was evident that once the government issued the orders under part 3 of the Electricity Industry Act supply was quickly resumed.

In the meantime the community had been significantly disrupted. I have some sympathy for the shareholders of the electricity generation companies, which suffered a significant cost. I suppose that those who imposed that loss upon them by their industrial action do not feel any great remorse about it. However, if damages are awarded as a result of action now being taken by the electricity generation companies, I daresay remorse will be felt somewhere.

I am certainly not unsympathetic to the employees of Yallourn Energy, who are seeking to articulate a view about its workplace arrangements. However, I am not sympathetic to the view that those employees think they have the right to deny the community essential services.

I conclude by simply saying that the legislation is not unreasonable. What is unreasonable is the approach the government has taken by sitting idly by twice this year watching the lights turned out all around Victoria. That is unconscionable, and it is a sad day for this Parliament when such a comment needs to be made.

Hon. T. C. Theophanous — How many times are you going to repeat your speech?

Hon. PHILIP DAVIS — As many times as it takes for you to understand it, Mr Theophanous. The house is discussing a serious issue. If you wish to belittle the issue you are belittling your own side.

Hon. T. C. Theophanous interjected.

Hon. PHILIP DAVIS — You are belittling the minister, who has a complex portfolio to deal with. The reality is that it appears it is more complex than she is able to deal with.

Hon. T. C. Theophanous — Bring back Chris Strong; at least he knew what he was talking about.

Hon. PHILIP DAVIS — While I had threatened the house with responding to Mr Theophanous until he was convinced by my argument — —

Hon. T. C. Theophanous interjected.

Hon. PHILIP DAVIS — It is quite clear that that task is beyond me! I have come to realise that Mr Theophanous will be unconvinced by any case that is put in this house on any issue other than a case that he puts himself. I confirm that the opposition does not oppose the bills.

Hon. R. M. HALLAM (Western) — At the outset I am delighted that the government has agreed to debate the Electricity Industry Bill and the Electric Industry Legislation (Miscellaneous Amendments) Bill concurrently. The National Party certainly agrees with that management decision. Before dealing with the specifics of the bills I am sure that my colleagues in the conservative ranks would forgive me for spending a few moments speculating on the dimension of the re-positioning of the Labor Party in respect of the

reform of the power industry. It would have to be the greatest backflip I have seen in my time in politics in this state.

It would have to be the equivalent of three and half somersaults with pike and twist! The government talks about embracing contestability — the very thing many members of the current government railed against when they had the opportunity to discuss the issue from the luxury of opposition.

When I read the second-reading speech I could not believe it had been delivered by a Labor minister. On the first page of the second-reading speech the word 'competition' appears once in the second paragraph, four times in the third paragraph, twice in the fourth, twice in the fifth and twice in the sixth. That is 11 times on the first page! I remember very well what Mr Theophanous said about the reform of the electricity industry.

Hon. T. C. Theophanous — What did I say?

Hon. R. M. HALLAM — You said the former government was going in the wrong direction. You complained bitterly. I can take you back, Mr Theophanous, to the time when the house was debating the potential sale of the very first generator, ironically under a Labor government. I was here when that debate took place. However, I also remember that the reason for the sale of Loy Yang B had nothing at all to do with competition.

Hon. T. C. Theophanous — What are you talking about?

Hon. R. M. HALLAM — I remember very well.

Hon. T. C. Theophanous — It had everything to do with competition.

Hon. R. M. HALLAM — It had nothing to do with competition. It was the fact that your government had driven this state into insolvency.

Hon. T. C. Theophanous — Rubbish!

Hon. R. M. HALLAM — Let the record show that the government member now says, 'Rubbish'. Honourable members should have a quick look at history to recall where Labor took this state under its administration the last time it had control of the public purse. No observer would conclude that the first sale committed under Labor had anything to do with competition. The government simply had no alternative in terms of cost. Why do I see Labor's new embracing of competition to be so relevant and so significant? There are two reasons I want to postulate to the house.

The first is that the benefits of contestability are undeniable. I do not think even Mr Theophanous would argue against the results of the privatisation program pursued so diligently by the previous administration and supervised by the then Treasurer, the Honourable Alan Stockdale, that continue to bring massive advantages to the people of Victoria.

Hon. T. C. Theophanous — You can't understand that we were opposed to privatisation, but not competition.

Hon. R. M. HALLAM — Mr Theophanous may try to make that distinction now, but when in opposition he could not do it. He was running in the opposite direction.

Hon. T. C. Theophanous — I will give you another lesson.

Hon. R. M. HALLAM — I cannot wait, particularly if it is like the one Mr Theophanous gave us from opposition.

Hon. T. C. Theophanous — It is why you are over there.

Hon. R. M. HALLAM — And perhaps why you are on the backbench. I was making the point that the privatisation program pursued by the coalition government has been incredibly successful. The model developed by the then Treasurer, the Honourable Alan Stockdale, has been adopted by almost every other state and by jurisdictions not just in Australia but throughout the Western world.

The immediate impact of that privatisation program was that it overcame the incredible burden of public sector debt. Something like $20 billion was recovered as a result of the sale of the major components of the power industry. That amount dramatically improved the budgetary position of the state which is now enjoyed by the Labor administration and contributed significantly to the recovery of Victoria's AAA credit rating. I make the point that the budgetary effect of the conversion of that debt, the difference between the yield from the capital released as opposed to the dividend extracted from the former State Electricity Commission of Victoria, represents a direct impact of about $800 million a year on the budget.

The coalition parties were never fooled by Labor's taunt that the sale of the SECV simply reconstructed the

balance sheet. That is clearly not true. Every year the budget has benefited by almost $1 billion. The irony is that the Labor administration is benefiting from that significant improvement.

It is unchallenged that electricity tariffs have fallen as a direct result of the privatisation program. I defy anyone to challenge that. They have fallen by a mandated amount for householders and by about 10 to 40 per cent a year for larger consumers. That trend is continuing. Only today the Minister for Energy and Resources spoke about the advantages being enjoyed by smaller consumers.

The Regulator-General has made it clear that the reliability of supply has improved by something like 25 per cent over the designated period. In addition, perhaps the hardest fact to measure but possibly the most important — the privatisation program — has made Victoria an attractive place to invest and to manufacture. There are absolutely massive spin-offs.

The second reason I am delighted to see this turnaround in Labor Party policy is that it is a total vindication of the position the coalition parties took while in government. The position taken by the then government was even more difficult for the National Party, given its supporter base and the populist position adopted by the then Labor opposition. I remember it vividly. This 180-degree turnaround by the Labor Party simply because it has changed the side of the house on which it sits is extraordinary.

I make the point that the Labor government is on the right path. I commend the government to the extent that that can be said. I am sure no-one would expect me to let such a metamorphic shift pass without comment because the government is now not just trying to say that competition is good and should be embraced, but that it actually thought of it — that this is somehow a direct result of policy pursued by the Labor Party in government!

I refer to the press release issued last Friday by the Minister for Energy and Resources regarding the benefits to smaller consumers from something she says Labor had done. Indeed, the minister had the temerity to complain about something she said the previous government had not done. The press release dated 10 November apparently quotes minister Broad saying:

> Our measures will pave the way for reductions in prices.

It is the Labor government saying not just that it will adopt competition but that it is now delivering benefits to Victorian consumers.

Hon. W. R. Baxter — Breathtaking!

Hon. R. M. HALLAM — It is breathtaking. I wonder how many people in the community will be fooled by that. I understand why the government is keen to pretend it has not changed its position. I understand the sensitivities and why the government would say that the opposition's accusations are an aberration of the position the Labor Party took in opposition. I refer to some of the recent utterances of ministers Broad and Brumby and Mr Theophanous compared with the position now taken by the Labor government. My conclusion is that the differences are so dramatic and so inexplicable that one is entitled to conclude that the Labor Party was prepared to say and do anything in respect to the power industry to win government.

I refer honourable members to the comments of the now Treasurer, the Honourable John Brumby, when he was a member of this place in September 1995. I refer to an article in the *Herald Sun* and to quotes attributed directly to the Honourable John Brumby. The byline to the article was 'Foreign buyers of Victoria's electricity assets will be forced to divest any majority ownership sold to them by the Kennett government if Labor wins the next election.'

Hon. T. C. Theophanous — That was the 1996 election!

Hon. R. M. HALLAM — I agree. I am demonstrating how Labor has changed its spots. Not only was Labor in opposition opposed to the privatisation of the power industry, but in 1996 it made an election promise and said to the world at large, 'Don't relax in respect of the sale, because if we win government we will unwind it'. A number of direct quotes were attributed to the Honourable John Brumby about the re-amalgamation of the industry to produce economies of scale. The minister now says that Labor is entitled to claim credit for the contestability introduced into the power industry.

Hon. T. C. Theophanous — That is taken out of context.

Hon. R. M. HALLAM — It is not taken out of context; it is the same minister. The Labor Party, when in opposition, opposed the privatisation of the power industry and fought it tooth and nail. It tried to torpedo privatisation on the way through and said to potential purchasers, 'Be careful, because if we win government we will wind back on the sale'. It went out and quite deliberately tried to torpedo the process. It now has the temerity to say not only is it going to embrace

contestability but it will claim credit to the extent that it has driven down tariffs across the Victorian community.

There are many more examples, including an absolute doozey that relates to the Minister for Energy and Resources. I have been trying to get the minister to advise the house of the rationale and background to the Labor Party backflip. Let me go back one step so that the record is clear: in the run-up to the last election Labor made several promises, some of which went to the question of the tariffs to apply to country Victorians. The minister did not just say that she would introduce a fair tariff regime; she went on the record with details of how she would achieve it. The minister said that it would be achieved by the retention of a maximum uniform tariff. Again and again she went out into the marketplace and pledged the retention of maximum uniform tariffs. That is why every time the minister raises the issue in the chamber she should expect to be challenged, because she went to the election with a specific commitment in words of one syllable.

On the first page of a document entitled 'Brighter ideas — Labor's vision for energy', under the heading of 'Open government', it states that Labor will:

> Maintain a maximum uniform electricity tariff across Victoria.

The document does not say anything about equity and fairness and the rest of the issues being parroted. It refers to 'a maximum uniform tariff' — that is why I was cross.

Hon. T. C. Theophanous — I am glad you said maximum this time.

Hon. R. M. HALLAM — That is interesting, Mr Theophanous, because you thought of that point only halfway through the process. I can take you back to quotes where you did not use the word 'maximum'. Do you want to hear them, because I have plenty of them? I can take you back to the time when you had not formed the word 'maximum'. That is the weasel word you tried to use on the way through.

I ask Mr Theophanous if he acknowledges that Labor went to the election with a commitment that it would retain a maximum uniform tariff. The answer is yes, he must, because it is out there for all to see. Does Mr Theophanous now concede that Labor members have abandoned that commitment? The answer is yes, it is out there for everyone to see, but they cannot bring themselves to say it. I have raised that point on a number of occasions.

The last time I raised the issue in the house the Minister for Energy and Resources went around and around the issue, but she could not bring herself to utter the words, 'Yes, we have torpedoed the maximum uniform tariff'. She could not get the words through her lips. She could not allow herself to demonstrate to the world that Labor had walked away from such a fundamental commitment.

Why is that point of such importance to me? I will tell the house. Members opposite, when in opposition, hawked that issue around country Victoria, especially in my electorate, and said again and again — they are on the record as doing so — that the National Party, in particular, had sold out on its constituents by not retaining a uniform tariff; that the fact we were not prepared to take the populist view and support a uniform tariff across the board was an indication that we had sold out on our electorates.

It is interesting that now the boot is on the other foot, because we did not go to the election with that commitment. We went into the marketplace and said that we thought there was a better alternative. However, again and again in this chamber Mr Theophanous accused me of selling out my constituents. I am delighted to have the chance to put the record straight and to say we are pleased the government has turned 180 degrees. We are pleased the government has now vindicated the stand we took when in government when we had responsibility for policy direction. However, the hypocrisy is breathtaking. Government members say this is all wonder and light for consumers in country Victoria, and they will ensure they are looked after fairly, 'But, by the way, we have decided not to proceed with the maximum uniform tariff'. I have asked the minister a number of times why that policy was torpedoed.

I know it has been torpedoed because I have seen the letter that the minister sent to the electricity companies. The *Herald Sun* of 28 September reports the minister as saying:

> … the government would not seek further equalisation of network tariffs 'at this stage'.

There was a good reason for the minister taking that position. The article further states:

> The letter was written after the government's Economic Development Committee recommended to cabinet that it reject equalisation.

Here is a lovely quote that might come to haunt Mr Theophanous:

> The committee said the costs to efficiency from tariff equalisation could outweigh any benefits from redistribution and possibly lead to higher tariffs across the state.

The government is saying it must change its policy position, but did it have the honesty to come into the house and say, 'We're sorry — we got it wrong', or even, 'Circumstances have changed, which means our previous policy was inappropriate'? No, government members have tried to defend their position and deny the extent to which this is a direct abrogation of a commitment given to my constituents in the lead-up to the election. They have tried to say that is not true, and every time I have invited the minister to address the question of why this maximum uniform tariff policy commitment has been abandoned, the response is the weasel words and talk about how fair the government is to constituents and consumers. It is a 180-degree turnaround and a vindication for the members of the conservative parties involved in that process in the first place. I am delighted to have the chance to put that on the record; I hope the government squirms every time I do so. It was obviously a disposable commitment.

The turnaround has been magnificent. Not only is the government denying its position in respect of a maximum uniform tariff, but it is now denying it ever said it. Mr Theophanous tries to squirm his way around the issue and then claims credit for the introduction of contestability. The hypocrisy knows no bounds. The National Party — I know my colleagues in the Liberal Party would share these views — agonised over the issue. On the question of what represented the best outcome for our people we could have taken the populist line that Labor took. We could simply have said, 'We will accept the notion of uniform tariffs and we will bleed for those who claim to be disadvantaged by it', but we took the longer term view. We knew there was a better way of pursuing the outcome for the community as a whole, and I am proud of the extent to which we turned aside the opportunity to be politically popular in preference to what we knew to be right.

In the same context I am unhappy with Powercor and TXU for the extent to which they have aided and abetted the Labor Party in the hoodwinking of country communities and for telling them how the pursuit of uniform tariffs — they did not even put the word 'maximum' in — is in the best interests of country communities. I know the companies did not expect to convince the Regulator-General of that, and I know they were really chasing a position in the marketplace.

I refer to the clauses contained in the bills. I am happy to put on the record that the two bills represent Labor's legislative framework for the newly privatised industry. I am happy to acknowledge that now that the privatisation program itself has been completed it is appropriate to examine the structure of the legislative framework and to acknowledge that the functional role of the legislation should be focused on the oversight of a fully privatised electricity industry.

The rationale of the structure is that a totally new and relatively simple bill be enacted to contain the rule book for the industry players, and the National Party supports that — that is, the Electricity Industry Bill. The Electricity Industry Legislation (Miscellaneous Amendments) Bill has been devised particularly to contain the myriad final transmission issues and housekeeping amendments that are so common to this sort of amendment, or reform as it is really. I am also pleased that the old law has been tidied into one act to be renamed the Electricity Industry (Residual Provisions) Act. That is a practical way to address the evolution of the privatised industry.

I turn first to the Electricity Industry Legislation (Miscellaneous Amendments) Bill. While it is a busy bill, the bulk of its effects relate to the updating of titles, references and definitions, so it is a true housekeeping bill. In addition, it contains a number of amendments to the old 1993 act. The government has assured us — and National Party members are prepared to take that assurance on face value — that while some of those amendments relate to some pretty sensitive issues, such as property easements and bushfire mitigation, the changes are purely housekeeping and clarify rights as opposed to changing them. Given that we have taken it on face value, we are prepared to indicate our support for that part of the new structure.

I now turn to the Electricity Industry Bill, which is the big one. The conservative ranks acknowledge that the background to the industry and to the bill is incredibly complex. The major factors are that Australia has adopted a national grid and a national market. That is now a fact of life. What we speculated on in advance has now come into being, and I for one congratulate all those who were brave enough to hang on to that vision and to pursue it through some difficult times.

It must be acknowledged that of the three central players, Victoria's industry now has been effectively privatised, the New South Wales industry has been corporatised, and Queensland's, to coin a phrase, has been institutionalised. The fact that the industry along the eastern seaboard is in various degrees of reform

needs to be taken into account because it has implications for the structure of the legislation and the way in which it is likely to work in the future.

Victoria's position in leading the privatisation push is both difficult in respect of running the gauntlet of the new territory and new problems, and National Party members acknowledge that, but it is also critical because if someone does not take that leadership position the process will be slow and the program itself may falter. We acknowledge that Victoria is some sort of guinea pig in this process, and that has not changed since the very day the journey was commenced. Victoria faces the prospect that other jurisdictions will gain advantages from its experience and that there may be some cost advantage to them from its pioneering. However, if Victoria slackens off — and I am happy to make this comment directly to the minister — then Victorians will be the losers because the delay in achieving the best level of contestability has costs for everyone.

Victoria cannot simply sit here in this process and invite the other states to catch up. If it does there will be great costs to the people we represent. To that extent Victoria does not have a choice, and I acknowledge that the government has inherited that background. It has to take the running. The bottom line is that the development of the entire industry across the national front depends on Victoria leading by example.

It is pretty ironic that Labor is now facing those circumstances — that it is now having not only to embrace the concept of contestability but to hasten its introduction to avoid any delay in the benefits accruing to Victorian consumers. The acknowledgment that the policy of uniform tariffs that was taken into the last election is totally inconsistent with that contestability and therefore must be abandoned must rank as something of a bitter pill for the government. While I hope I am forgiven for my recollections and my acknowledgment that the criticism of the past actually hurt me personally, I believe Victoria is heading in the right direction. There is an enormous advantage for the people we represent in our pursuing and embracing contestability. Nonetheless, I remember well the taunts of Labor and the extent to which it made the former government's program difficult when in opposition.

The operational amendments in the bill have three main purposes. The first is implementing retail competition. I remember the first issue well because the Honourable Theo Theophanous kept using it as a reason for honourable members to oppose the introduction of contestability. The first practical problem was allowing electricity consumers to swap suppliers without their meters being able to accommodate that in the short-term context. On the surface that would require some pretty smart metering — it would require the meters to register consumption on probably half-hour rests. Although such meters are available, they are very expensive.

I heard again and again in this chamber — almost every Wednesday — why that would of itself block the introduction of contestability — that that of itself was why Labor was opposed to the sell-off, leaving aside another reason it used, that Britain had been a bad example and we were heading down the same track, because it ran that line as well. Mr Theophanous particularly used to come into the chamber and say Victoria could not go down that path because its people could not afford the smart meters to allow them to take advantage of contestability.

There is a solution. The national rules are to be amended to allow for estimates of individual customer usage and for the suppliers to iron out the ups and downs and the pluses and the minuses at the national market level. That is not a really big deal. It is the concept of knock for knock, which has existed in many industries over state jurisdictions for generations. National Party members knew that if a genuine endeavour was made to find a solution, it would be found. In fact, one has been framed at a national level so that the ups and downs between the consumers will be ironed out at a boardroom level.

The problem in Victoria is that because it is ahead of the ruck it might not be able to take advantage of the new rules that have been framed at a national level in respect of those accommodating negotiations. The bill prepares the appropriate ground rules for that estimation procedure in advance of the national market level becoming applicable. That is appropriate and I applaud the government for the extent to which it has found a solution to the immediate problem.

The bottom line is that a customer does not have to have a smart meter to participate in the newly contested market. A solution has been found, which gives the lie to everything the Honourable Theo Theophanous said the whole time he was ranting and raving in this chamber and carrying on ad nauseam about the problems to be confronted. A solution has been found, and I hope the honourable member is consoled.

The next operational amendment under the bill relates to the issue of load shedding. How prophetic is that? The bill provides a formula by which the main switch

can be turned off in the case of an emergency, when just a couple of weeks ago we had a practical example of when that formula might apply. Sadly, that occasion may not be the last time we hear from that source of disputation.

Given that in a central or aggregate sense the people of Victoria no longer have control of the electricity supply, if for any reason the industry cannot meet peak demand — for example, because of a heat wave or a generator going out — there needs to be a mechanism in place by which the necessary load shedding can be managed. The bill refines that process by allowing Vencorp to gather the necessary information and to give appropriate directions. That is a practical outcome which National Party members support. The sad thing is that there needs to be such a practical process in place. We fear that it might be used more under the Labor administration than it ever was under the coalition. In fact, I do not remember the lights going off while I was a member of the previous government. Perhaps they did, but I do not remember it. However, I am happy to put on record that during that time there was nothing like the incidence of blackouts that have been experienced under the Labor administration. The formula for customer load shedding might become more important because of the identity of the current government.

The rule book should improve the management of a crisis in supply, and better still give some notice to those who are directly affected by power restrictions. Of all the incredibly costly things that I saw happening to the community during the first and most damaging break in the supply of power, the worst was the fact that those who suffered the most had to find out about it the hard way. In many cases massive losses were incurred as a direct result of no notice at all being given of the impending power shortage or brownout. The proposed legislation is designed to give people as much notice as possible, so that they too can manage the circumstances of the crisis.

Finally, cross-ownership is also an important issue, because the law places fundamental restrictions on cross-ownership within the privatised industry. The need for that restriction is generally accepted across the political boundaries because it is designed specifically to maintain an acceptable level of competition and thus to continue to drive efficiency across the industry. The Office of the Regulator-General was originally given responsibility to monitor the issue of cross-ownership, but with the establishment of a national grid the role of the Regulator-General has to some degree been consumed by the Australian Competition and Consumer Commission, which holds a similar position at a national level. The bill is very practical: it simply relieves the Regulator-General of that responsibility to avoid unnecessary duplication.

That is a brief outline of what the Electricity Industry Bill does. On that basis, National Party members do not oppose the bills before the chamber. Our purpose remains that of gaining the advantage of contestability and making sure, so far as is humanly possible, that those benefits are equally shared across the community. Our major concern tonight is timing. We hear the claim that Labor has embraced contestability, and in one context we applaud that, yet on the other hand we see glaring evidence that the rate at which that contestability is being introduced is extending and that the time lines are slipping. I note that although the minister said in her press release of last Friday that the next group of consumers will be fully contestable by 1 January, the remaining consumers — that is, those who are using less than 40 kilowatts — will have to wait for their share of the business to be completely open to contestability.

Recently the minister said that the small consumers would be open to contestability later this year, but already I have seen slippage. In her last press release the minister said that it will now be at the end of the year. Little by little we see the time line sneaking out. We in the National Party are very concerned because that means that the benefits that we all acknowledge are available through the reform process and through the introduction of contestability are being delayed. We urge the government to take hold of the agenda and do what it said it would do in the first place — that is, avoid a cost to consumers and gain advantage at the same time. I remind the government that each day that contestability is deferred means a cost to Victorian consumers. We in the conservative ranks will certainly be keeping the pressure on government in that context.

Apart from that, Mr Acting President, I signify that the National Party is prepared to support both bills.

Hon. T. C. THEOPHANOUS (Jika Jika) — I will make some comments in support of the electricity bills, but before I deal with the specifics of the proposed legislation and what it seeks to do, I cannot help but take up some of the issues that have been raised by the Honourable Roger Hallam.

The first thing one has to say about his comments, while trying to be generous about them, is that he makes them from a position of having lost government. That has been a severe shock to the National and

Liberal parties, and one might be able to excuse their attempts to somehow justify everything that was done back when they were in government and to even rewrite some of the debates that occurred in this house.

Hon. R. M. Hallam — We do not have to justify it. We are quite relaxed. It is your change of position.

Hon. T. C. THEOPHANOUS — The people of Victoria made a judgment about the previous government, which was that it could not be trusted to run the state, and that included a whole range of things, one of which was electricity.

Notwithstanding the fact that the Honourable Roger Hallam sees fit not to remain for the debate, I will nevertheless put on the record — perhaps he will read it later — the truth of the position that has been adopted by the Labor Party.

During the time the Labor Party was in opposition it consistently — time and again — argued for competition and not against competition. I do not know how many times one has to do that before it sinks into the minds of honourable members on the other side. At the risk of repeating the arguments that have been put in this chamber on countless occasions, the concern that Labor raised in opposition was whether there would be genuine competition.

The basis of the Labor Party's concern was always the way the system had been privatised. Mr Hallam is correct, Labor opposed privatisation. However, it also opposed the introduction of a system that would not deliver the competitive benefits suggested by the previous government. I will give an example that I have sometimes used in this house in the past.

Hon. Philip Davis — Only sometimes?

Hon. T. C. THEOPHANOUS — You don't like the example, Mr Davis, because it highlights where the problem is in the current system. I will explain the background. Victoria has five distribution companies. Because of the way the privatisation structure and the sale took place, they all effectively have geographic monopolies. They charge monopolistic prices for networking costs. No-one can escape, in any particular distribution zone, the price set by the Regulator-General and not by the market. It makes up about half of the electricity cost. Half of the bill that people pay is a set price. It is not subject to competition. Why should that matter? Perhaps it would not matter if it were the same in every distribution business. The trouble is it varies.

I well remember referring in this house to an important Australian company called Australian Cold Storage which has its facilities on the Powercor side of Millers Road and which is a larger user of energy.

Hon. C. A. Strong interjected.

Hon. T. C. THEOPHANOUS — Mr Strong remembers it because he was here during the debate. You need to be reminded, Mr Strong, because you continue to come in here and argue that Labor was against competition. In fact it consistently argued: 'Bring on the competition!'. But there was no competition in the model.

Simply by shifting its premises — had it been able to — across to the other side of Millers Road, Australian Cold Storage calculated that it could have saved $135 000 a year in electricity costs. The company wrote to me and asked the simple question, 'Would that anomaly be alleviated when full competition came in?'. Of course the answer was 'no'. The additional $135 000 was being paid in network costs.

The Labor Party highlighted that time and again. It was not real competition. But you do not need to use the example I have used in this house on a number of occasions to see the problem. I turn to the recent report of the Economic Development Committee, which is controlled by the Liberal and National parties. It is the first upper house investigatory committee. It brought down a report recently entitled *GST Report No. 1*. In calculating the differences in electricity prices, one of the questions the committee asked of the Regulator-General was whether different amounts of GST would be paid by consumers simply because of the distribution zone in which they existed. According to the report, the answer was that at that time, for small and medium-sized businesses, there was hardly any difference in amounts to be paid because they had a regulated price regime at that time.

However, after the introduction of the GST the Regulator-General did the calculations again and worked out what the different amounts of GST would be for large companies in the different distribution zones as a result of differences in their electricity prices. On page 92 of the report the committee concluded, from his calculations:

> In the case of large electricity customers … the GST payable on electricity will increase in proportion to the higher distribution charges. Consequently, large customers in the Powercor distribution area of western and north-western Victoria will be paying a relatively higher amount of GST on electricity supplies than eastern Victoria and metropolitan

> Melbourne. The difference for a large customer using 450 000 kWh could be as high as $1380 per annum.

That amount is the difference for those consumers who are subject to competition. That is the system introduced and heralded by Mr Hallam. I will tell you what that means. If they are paying $1380 a year more in GST, that is 10 per cent, because GST is set roughly at 10 per cent.

Hon. Philip Davis — Only roughly? Plus or minus how much?

Hon. T. C. THEOPHANOUS — I can give you the exact amount if you want to know. I am sure you would not have read or understood the report.

On the basis of roughly 10 per cent — it is not exactly 10 per cent in the electricity industry — it must mean a variation in an electricity bill of approximately $13 800. That is the difference between one consumer and another, depending on one single factor — whether he or she is in distribution business A rather than distribution business B or whether he or she is on one side of Millers Road rather than the other. That is the system Mr Strong's government set up and that is the system it left the present Labor government. What did Labor do with that system? I must say I was absolutely intrigued to hear Mr Hallam criticising TXU and Powercor.

On the one hand, Mr Hallam attempted to criticise the Labor Party for rejecting the equalisation of networking costs proposal submitted by the power companies TXU and Powercor. On the other hand, the National Party did not support the TXU and Powercor proposal. Why? For the same reason the government did not support it — because the TXU and Powercor proposal would have led to increased prices in metropolitan Melbourne with no guarantee of reduced rural prices. Mr Hallam suggested the government should have accepted the power companies' proposal, but he does not understand where the Labor Party stands on the issue. Despite the verdict of Victorians at the last election, his suggestion shows how misguided and lacking in understanding the National Party continues to be of the position adopted by the Labor Party.

I commend the Minister for Energy and Resources because since the election she has faced and been forced to address all sorts of problems, anomalies and issues in the electricity industry. The minister had to tackle those problems while preserving two fundamental Labor Party principles: caring for the environment and looking after consumers.

I refer to a number of initiatives adopted by the government. It is in the process, and has a discussion paper out in the community at present, of examining the introduction of an essential services commissioner with a broad range of financial functions, including a greater capacity to look after the interests of the environment and of consumers. If it wants to do something positive on the electricity debate I urge the opposition to lodge a submission to the inquiry.

Another government initiative designed to look after consumers was the establishment of the essential services ombudsman. Also, the government has been looking at demand management initiatives and has released a report on the subject. As part of its restructure of the electricity industry the previous government got rid of demand management. Mr Strong would know all about that because at one time he worked at the former State Electricity Commission of Victoria (SECV), although in all my dealings with the commission I did not come across anybody who spoke highly of him.

Hon. C. A. Strong — That is why you are where you are!

Hon. T. C. THEOPHANOUS — I understand there was quite some celebration at the SECV when you were elected to Parliament, Mr Strong, but for all the wrong reasons so far as you were concerned. A significant budget was allocated each year for the SECV's demand management facility, but it was one of the first things scrapped by the former government.

I commend the minister for wanting to put demand management back onto the agenda and for examining how the consumption of electricity can be reduced so that expensive new generation equipment need not be built to allow for a power capacity on the one or two days of the year when it may be required. That has been an important government initiative.

Recently the Labor government introduced legislative change to increase the monitoring powers of the Regulator-General and to give reserve powers to the government to protect consumers within that framework. Earlier the Honourable Roger Hallam carried on about government election promises. The Labor Party's main election promise was to protect consumers. Recent legislation also allows the Regulator-General to examine closely whether the charging practices of the distribution companies are related to their profitability and other factors in the event that they overcharge consumers to an unacceptable degree.

The government has inherited a new privatised electricity distribution, retail and generation system. It has focused on two areas — that is, protecting consumers and the environment. The Office of the Regulator-General has released a report that compares the performance of Victoria's electricity distributors during the 1999 calendar year as part of its attempt to gain greater transparency and to promote competition by comparison. The Regulator-General will continue to examine profitability, reliability, quality of supply, affordability and customer service. His comparison of their performance on those measures will lead to a certain amount of pressure being applied to the distribution companies through competition-by-comparison criteria to force them to improve their practices and to better look after consumers in their distribution procedures.

The reason I mention competition by comparison is that there is no competition between distributors. Each distributor has a monopoly within its own distribution zone. Consumers do not have a choice of who provides the electricity network. The Regulator-General has also produced a range of reliability of supply data that shows reliability compared with the average number of minutes of supply. That data shows the rate has improved across all distributors in the past couple of years. The Regulator-General has been given more powers to ensure that supply is guaranteed.

In his contribution Mr Davis spoke only about the incidence of supply cuts which affected the state over recent times. However, the lack of supply down time — they are called blackouts and brownouts — did not occur only on those two occasions, it occurs constantly because of a poor management regime by the various distribution companies. The number of blackouts and brownouts increased following privatisation of the system but has decreased over the past couple of years because the matter is being addressed. In his latest report the Regulator-General found that 4 per cent of customers received more than 500 minutes off supply during 1999 and that they tended to be located in the far eastern and western regions of the state — in other words, they tend to be in rural Victoria.

If one wishes to seriously talk about blackouts and brownouts one should have to talk not only about the two events about which Mr Davis talked in his entire contribution. There have been significant increases in blackouts and brownouts following privatisation but the government is attempting to ensure through the Regulator-General that they are reduced so that Victorian consumers do not suffer extended periods without electricity.

The debate on electricity will continue for a considerable period. The government recognises there is a new system of electricity in this state that includes an aspect of competition for the half of the electricity bills people receive that relates to the electricity supply, and that there is potential competition for that part of the bills. I say 'potential', because for Victorians it is currently not fair and will not be for some time. The government recognises that for the other half of the electricity bill, where there is no competition, the role of the Regulator-General is crucial in ensuring consumers are protected from the massive differences that he has already identified in the electricity bills of large consumers that are currently subject to competition.

The Electricity Industry Bill provides for ongoing regulation of the electricity industry and is a writing in and consolidation of the Electricity Industry Act of 1993. It will facilitate retail competition in electricity and improve the management of future potential shortfalls in electricity supply.

As I understand it, full contestability will be introduced by the end of 2001, which will give small to medium-sized consumers a choice. That choice will be made not on the smart meters that have been floated by the previous government as being one way of introducing competition, because the estimated cost of a smart meter — in the vicinity of $200 — would mean a large time frame before the benefits of that cost would be gained. It is uncertain whether smart meters will be introduced, but some level of competition will be introduced on the basis of what is called profile analysis, where the individual distribution or retail company will analyse the consumption profile of consumers and may then offer different deals based on those consumption profiles.

There will be some contestability at the end of 2001, but I believe contestability will not be on the basis of the introduction of smart meter technology. The differential in distribution costs will continue. It is clear that Powercor will always have a higher cost structure given the vast area of Victoria it has to service, and that as a result its distribution costs may always be higher than other distribution companies in other regions. That is what is currently taking place with large consumers — consumers in one distribution zone using the same amount of electricity as consumers in other zones are paying up to $14 000 more. That is the information the Regulator-General has provided to the Economic Development Committee and which is contained in its report.

The Electricity Industry Legislation (Miscellaneous Amendments) Bill includes a range of amendments which I will not discuss at any length. It is worth mentioning, however, that it makes changes to the Electricity Safety Act to enhance bushfire mitigation enforcement, including the introduction of additional penalties. I hope that will result in bushfire mitigation being carried out by the various distribution companies so that the environment will not be put at risk.

The most significant changes proposed are that by 1 January 2001 all electricity consumers — among them domestic and small business consumers — will cease to be covered by franchise arrangements and therefore will be in a contestable market. As there were no satisfactory transition provisions to support the full retail competition timetables, in the autumn session amendments were made to electricity legislation which focused on establishing and retaining a regime of consumer–customer protection. The government was also given reserve powers to control the price of electricity until other arrangements are put in place.

The legislation also allows for load shedding during potential electricity supply shortages. It was discovered that under the legislation introduced by the previous government, Vencorp did not have information-gathering and associated powers to deal with such a situation. Again, that was certainly not brought to the attention of the house by the Honourable Philip Davis. As a result Vencorp sought additional powers and the government has tried to accommodate that request. The proposal should help to alleviate the sorts of problems that arose and could not be handled under the regime introduced by the previous government.

I conclude my remarks by again congratulating the government. In particular I congratulate the Minister for Energy and Resources on her handling of this very important area. Ultimately, electricity is an essential service — that is, it is something all Victorians are entitled to have as a matter of right. They should be able to expect that the service will be delivered to them consistently and efficiently, without blackouts or brownouts.

The government is happy to manage the system in the current context of the system having been privatised. That allows for some competition and the government is taking advantage of that to introduce competition in 2001. The priorities of the government to protect consumers and to try to protect the environment are again evident in the bills, in legislation that has previously come to the house and in the actions of the government so far. I hope the bills will add to other legislation to enable Victorians, whether they live in rural areas or in the city, to have electricity with a high quality of service provided at an affordable price.

Sitting suspended 6.31 p.m. until 8.02 p.m.

Hon. C. A. STRONG (Higinbotham) — I join the debate on the Electricity Industry Bill and the Electricity Industry Legislation (Miscellaneous Amendments) Bill. When Mr Theophanous was speaking before the suspension of the sitting, I had a sense of deja vu because of the many debates on electricity that have taken place in this house over the years. It was particularly interesting to hear his favourite story of the industry on the wrong side of the street. I can never remember the name of the street, but in every debate on electricity in this house honourable members have heard about the industry on the wrong side of the street.

It was also interesting to see the great intellect of Mr Theophanous at work again in being able to establish that a 10 per cent GST would have added something like 10 per cent to the cost of an electricity bill. I thought that showed his economic credentials in the light they should be shown!

Reflecting on the debates that have taken place on this issue over many years, one of the most interesting aspects was to hear Mr Theophanous going through the Regulator-General's report and highlighting the statistics on the performance of the electricity industry against various indicators. Honourable members who have heard Mr Theophanous on this topic over the years would know that he always found a specific anecdote where something had gone wrong and then quoted it at length. We on the other side of the house then proceeded to quote the Regulator-General's report on statistics back at him. I must say I found it very amusing to see the role reversal.

These bills, particularly the main bill — the Electricity Industry Bill — and the government's position are interesting. As one who has been involved in this process over many years, I am pleased to see the bills introduced. I am certainly pleased with the way the minister has picked up on these issues and is still running strongly with them because I do not think there is any doubt that they are beneficial to the state. As such, it gives me much pleasure to see them still being pursued by the government. Within that context, though, there are some patchy parts in the bills, particularly concerning access to the advantages of full retail contestability, which on every measure are quite

significant to those people who have had the benefit. The delay of full retail contestability deprives the bulk of electricity consumers of those benefits. I think that is unfortunate. I intend to deal with that in more detail later.

The bills continue the restructure process of the electricity industry that has been going on since 1992–93. Much of the legislation that has created the new structure and carried it forward has been amended again and again; often every year to advance the industry restructure through its various phases. That process is now finished and the bills effectively wrap it up into a neat and tidy package that reflects to a large extent the completion of the industry restructure.

There can be no doubt that the restructure and privatisation of the industry have been enormously beneficial to Victoria. The sale of the assets has allowed Victorians to pay off a very significant amount of the state debt that had been built up over many years. Depending on the calculations used, a figure of about $800 million a year is the amount saved by the state not having to pay interest on that debt. So Victorians received a significant benefit in the order of $800 million a year every year. As the interest rate goes up, the amount of saving increases. In addition, Victorian consumers obtained significantly cheaper electricity than they had had over many years. In every way the process has been very much a win–win situation for Victoria.

What do the two bills do? The first and larger bill — the Electricity Industry Bill — brings together into one bill all the economic regulation tasks that are still relevant to the industry. The Electricity Industry Legislation (Miscellaneous Amendments) Bill amends the Electricity Industry Act to provide for residual powers and makes miscellaneous amendments to the electricity industry legislation, including the Office of the Regulator-General Act and provisions relating to the Office of the Chief Electrical Inspector. The bills tidy up the electricity industry legislation to reflect the new structure of the industry that has emerged over the years. There is not much benefit in dwelling further on those structural changes.

However, the Electricity Industry Bill introduces three new issues. The first relates to the full retail contestability, the second relates to Vencorp and the third to cross-ownership. I will deal briefly with those issues.

Honourable members will be aware of the significant limitations on cross-ownership, and in particular that the disaggregated industry cannot be reaggregated. Although in many cases those provisions were supervised by the Office of the Regulator-General, they were also governed by section 50 of the Trade Practices Act regarding mergers and acquisitions so there was a double hurdle to be jumped when dealing with competition issues, and the bill makes it clear that the main hurdle to be jumped is the Australian Competition and Consumer Commission. The provisions tidy up existing legislation and do away with any duplication, and the coalition parties support those changes.

The Vencorp amendments are slightly different. Without doubt they have been precipitated by the recent power problems when Victoria suffered blackouts caused by the strikes at Yallourn Energy. Because electricity is a dynamic system, when a power shortage occurs supply has to equal demand instantaneously. Therefore, when supply is reduced or lost for industrial or breakdown reasons, if no new supply takes the place of that lost power, electricity output is reduced to compensate. That is what happened to cause the recent blackouts. The Vencorp amendments deal with the load-shedding issue. They require distribution companies to have a plan in place to deal with the possibility of load shedding. The plan has to be submitted to and approved by Vencorp and then the switching off arrangements under the plan are implemented if a shortage of electricity occurs.

Hon. P. R. Hall — It is a week and a half too late.

Hon. C. A. STRONG — That is right. Although the changes are being put in place as a result of events during the past few months, they provide for something that already exists. As I explained earlier, the electricity industry has always had in place a system by which it can instantaneously balance supply with demand, which means cutting off electricity, if necessary. That has always occurred but there are physical constraints as to how that occurs. Depending on the amount of electricity to be cut off various switches are brought into place.

Instantaneous failures such as that precipitated by the recent Yallourn dispute are handled centrally through terminal stations. Nothing can be done to change that; that has always been the system. Cut-offs occur automatically, probably by computer, so in a way the load-shedding arrangements being registered with Vencorp are nonsense. Those arrangements have always been in place because of the physical layout of the distribution system; that is the way the system has operated over the years.

I am amazed at clause 81(7), which states:

> Vencorp must notify the Minister before taking any action under sub-section (1).

The subsection provides power to implement the load-shedding arrangements. I do not know how that is possible because when load-shedding is required it must be instantaneous. In many cases it will not be possible to notify the minister before taking any action because the action required is instantaneous. Even if the minister were close at hand and contact could be made within 5 minutes of the emergency arising it would be too late because the situation would require that action be taken instantaneously. I am surprised at that amendment; it is window dressing and is included because of the recent blackout problems.

Perhaps the most disappointing part of the bill is the provision that deals with full retail contestability, when all consumers will be able to obtain the benefit of lower prices in a competitive market. Lower prices have been available to large and middle-sized industries for some years and those benefits have been measured and published as being significant. In some cases the benefits achieved from the contestability of the electricity market have been estimated to be up to 30, 40 or 50 per cent. It is therefore logical to share the benefits of contestability with regular consumers as expeditiously as possible to assist the Victorian economy.

In the previous session of Parliament the government introduced an amendment to the bill that rolled out the date for full retail contestability. The date of 1 January 2001 has been well known to all market players for three or four years. The amendment allowed the date to be rolled out to 31 December 2003. At that stage honourable members were led to believe that that was very much a super fall-back date in the sense that although it had been set, there was no intention that the date would go out that far. The intention was to try to get contestability up as soon as possible after 1 January 2001.

I note that in her statements the minister still refers to 1 January 2001 but says that the date may slip out. Like a great many other electricity consumers I am concerned about that slippage. Certainly if one talks with industry personnel one finds they are very concerned about that possibility. There is a real question mark over how far that date will slip and when the minister will announce the new target date. If a target date is not set it will be easy to let the date slip. If industry has a target date people will focus their efforts on trying to achieve that end. So long as a vague date is in place and it is anticipated that the current target date will not be met, the final fall-back date will be December 2003, but it would be an unmitigated disaster if the date slipped out that far. The fact that no target date is being put in place lets people off the hook.

It would be useful if the minister — I am sure she would like to do so as soon as humanly possible — could indicate what the new date will be. The position of the previous government, to which the minister alluded when answering a question without notice today, was to put the responsibility and accountability for achieving full retail contestability on to the industry. Industry representatives have been aware of the date for many years. They bought their assets and received their licences in the full knowledge of the date for full retail contestability. As that date came closer the industry kept coming to the former government and saying, 'You've got to do something. You've got to say how we are going to do it. You must help in some way'. The position of the previous government was to say, 'It's your industry. You bought the businesses in the full knowledge of the date and in the full knowledge of what was supposed to happen. Don't try to put the monkey on our back — it's your job to do it'.

It is unfortunate but I can understand what has happened since. A new government came along and the industry has managed to put the monkey of working out how this is all to happen onto the government's back. Inevitably the government has put in place a bureaucratic arrangement to deal with that. Any bureaucratic arrangement will take time to implement, and that time pushes out the date for full retail contestability. New positions are being set up and new terms are being struck, such as metrology. Metrology coordinators will work out how the metrology will work. Huge computer systems will try to tie it all together nationally, and that process will be controlled by the metrology coordinator.

Honourable members can see these issues disappearing over the horizon in all their grandeur. Not only that, we can also see millions of dollars being wrapped up in the whole system which will have to be met by industry. If industry is to pay those costs it will not have as great a margin to reduce costs to the consumers. That is disappointing. My plea to the minister is to keep her foot on the issue and keep the pressure up, because large, complicated systems are often hard to implement. They often get out of control. It is necessary to keep one's foot down to get things done.

A further issue is that there is now a transitional period that never previously existed. There was a market

structure where all tariff orders to protect domestic consumers ran out on 1 January 2001 when full retail contestability was due to come in. If full retail contestability does not come in on that date there will be a hole with nothing in its place. Although the bill puts in place something to control the industry through the transitional period, it will be unfair and could potentially expose Victoria to significant sovereign risk problems. The basic industry structure at all stages up until now was to have the Regulator-General as an independent person to establish the price of the various services so that the industry players could be assured that the price of their product and hence their business was not simply at the whim of the government.

A process would be in place to afford them some protection. By saying 'at the whim of the government', I mean any government and not just this government within the transition period from 1 January 2001 to 31 December 2003. The government has taken on the power, by order in council, to set the prices for segments of the domestic consumer market without the necessity of referring any of that to the Office of the Regulator-General. To date three of the five distributors have submitted their prices to the government and the government has said they are okay. However, the government can put significant pressure on those industries and jawbone down the price simply because it does not have to go through the Regulator-General process.

That is another reason I believe, from a sovereign risk viewpoint, it would be beneficial to Victoria if it were to pass through the transitional period as soon as possible so we can get back to prices that are set either by the Regulator-General or by the market rather than by the government. I am sure that private enterprises would not want their prices set by a government, simply because they can never be sure what the government will do and why.

I have no real concern about the general thrust of the bill, where it is going and what it is doing. As I said before, I am pleased that the government is embracing the competitive market as a way to control prices. I am concerned about the transition period. Firstly, its duration is unknown, and secondly, if one examines everything that is supposed to be done according to the new act, one worries about those things being done in a timely manner.

I listened to the Honourable Roger Hallam's contribution to the debate on maximum uniform tariffs. I am glad they never eventuated because at the end of the day they are not good.

There is one other thing I wish to touch on in conclusion. It is enormously important that the government apply its mind in the near future to the structure and the processes of the Office of the Regulator-General. Fundamentally, two types of regulation are seen to be possible in the market. There is incentive-based regulation, where incentives are given to industry to use technology, to increase productivity, to do things differently and innovatively, and to aim for greater productivity and better service. Generally that is done by saying to an industry, 'If you can make those changes that are beneficial and profitable to you, it is only fair that some of the profit remains with you as well as being shared with the consumers. It is only fair, if we give you the incentive to do things better, that you share in the reward'. They are the fundamentals of incentive-based regulation.

The other form of regulation that has been in place for many years, particularly in the United States of America, is what is called rate-of-return regulation. Basically, the regulator allows a particular return on the assets involved. If one looks at the USA experience, the result is clear. Industries do not strive for improvements and for innovative ways of doing things; they do not strive for efficiencies. They say, 'What does it matter? It does not matter what we spend. If we are to get a rate of return on our assets, the size of the assets does not particularly matter. We will get a return anyway'. One does not get the benefits of productivity, new technology, and so on flowing through in the same way as with incentive-based regulation.

Clearly, in Victoria the Office of the Regulator-General is starting to swing more to a rate-of-return regulation approach. The government should seriously think about making amendments to the Office of the Regulator-General (Amendment) Act to try to push the Regulator-General's process back to a more incentive-based regulation, because with incentive-based regulation we all get a win–win result. With rate-of-return regulation the wins become smaller every time as the response of the industry is to say, 'Why should we worry?'. I urge the government to seriously take on board that regulatory approach. With those few comments I conclude my contribution to the debate on the bill.

ELECTRICITY INDUSTRY BILL

Second reading

The PRESIDENT — Order! I am of the opinion that the passage of the bill requires an absolute majority

of the whole number of the members of the house. I therefore ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! There having been a cognate debate, the house is currently voting on the second reading of the Electricity Industry Bill. I request honourable members supporting passage of the bill to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time; by leave, proceeded to third reading.

Third reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a third time.

I acknowledge the support of the opposition parties for the bills. In moving the third reading I will briefly address a number of remarks that were made on the bill during the debate.

Those comments related to the timetable for implementation of full retail contestability. The previous government announced a date — the beginning of next year — for the start of full retail contestability, and accordingly it established commercial arrangements in the Victorian electricity industry that terminate at the end of this year. At that time the current tariff structure and customer service standards will come to an abrupt halt.

It is now clear that the former government gave scant attention to the development of transfer systems and processes, the setting of necessary service standards and the protection of domestic and small business customers. The government is committed to introducing full retail contestability as soon as possible. However, there may be circumstances in which it is necessary to continue to directly safeguard consumer interests. The government anticipates that the independent Office of the Regulator-General will be asked to advise the government on the evolution of retail competition during the next three years.

There is no question of the government needing to be pressured in relation to the introduction of full retail contestability. The government is committed to ensuring an effective transition to retail choice as soon as possible, and certainly by the end of next year.

The security of supply was also referred to in the debate, as those honourable members who were here to listen to it would know. The previous government had no plans to ensure security of supply. Notwithstanding the assertions made by some opposition members in the debate, and by some commentators, the government has established a task force, which has reported publicly, setting out its actions. I am confident that the government will soon be in a position to report further on those matters about which opposition members who participated in the debate requested the government to provide further information. I am sure that those actions to ensure security of supply for all Victorians will be welcomed.

I commend the bill to the house.

The PRESIDENT — Order! I request honourable members supporting passage of the bill to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

ELECTRICITY INDUSTRY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Motion agreed to.

Read second time.

Third reading

Hon. C. C. BROAD (Minister for Energy and Resources) — By leave, I move:

That this bill be now read a third time.

I acknowledge the support of the opposition parties for the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

PUBLIC LOTTERIES BILL

Committee

Resumed from earlier this day; further discussion of clause 31.

Clause agreed to.

Clause 32

Hon. C. A. FURLETTI (Templestowe) — Clause 32 provides for a copy of each licence to be published and tabled in the Parliament. I ask the minister what licence details will be published, and in particular I ask him to confirm that the conditions upon which licences have been issued will also be published.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — There were two questions there, Mr Furletti. I am happy to take them separately.

Hon. C. A. FURLETTI (Templestowe) — The minister can take them separately, so long as I get the answers to both questions.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that every licence issue will be made public.

Hon. C. A. FURLETTI (Templestowe) — I thank the minister. Will he say whether the conditions upon which that licence is issued will also be made public?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the conditions are part of the licence.

Hon. C. A. FURLETTI (Templestowe) — I believe the question I put deserved a yes or no answer, so I will repeat it. I assume that the licence is granted on the basis of the conditions upon which it is issued, but as the minister is aware, a licence can simply state 'This is a licence to … on certain conditions'. The question was quite simple: will the conditions upon which the licence is granted be made public?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised the answer is yes.

Hon. C. A. FURLETTI (Templestowe) — I thank the minister. I am sure he will agree it was not that hard. Given the openness and transparency of the government I ask whether it will also be making public the tender documents, or to use the minister's terminology, the submission documents it has received to date? Will they be made public?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the government could choose to, bearing in mind that those applicants might have commercial-in-confidence issues which they might wish to maintain.

Hon. C. A. FURLETTI (Templestowe) — That is a phrase I have not heard for a while. Is it intended that the contract and agreements that are entered into between the government and the licensee will be made public?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the bill relates only to licences, not contracts.

Hon. C. A. FURLETTI (Templestowe) — I thank the minister for that answer. Let me then clarify the situation, because once the licence has been granted presumably there will be other arrangements that are not necessarily formalised through the licence. Can I put it to the minister that all documents associated with the grant of the licence will be made public?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the licences will be the full record of the licence.

Hon. C. A. FURLETTI (Templestowe) — I hesitate to take the matter further, but I suspect from my experience in the granting of gaming licences to date that the document that is the licence generally contains conditions such as the number of gaming machines an operator has, the hours operated, the conditions, and so on. However, beyond the licence there are other conditions, agreements, requirements and regulations that are entered into between the body and the licensee. Therefore, not wishing to unduly question the minister's answer, I ask him to reaffirm that all the conditions, agreements and documentation relating to the operation of a lottery will be contained in the licence.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that they will be publicly accessible documents.

Hon. C. A. FURLETTI (Templestowe) — We have approached the answer and I thank the minister for his efforts. However, going back to the previous answer, the bill provides that a copy of each licence will be published in certain places, and in fact tabled before this Parliament, and the minister's answer indicated that all the agreements and documentation relating to them were contained in the licence. May I clarify whether the minister is now saying in his answer that the licence

will be published and that all ancillary documents will be available to the public?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Yes, I believe that is correct.

Hon. C. A. FURLETTI (Templestowe) — I assume from that answer that all documents relating to the grant of the licences will be available to the public, but not necessarily published.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that all appropriate documentation will be published, and any corresponding agreements or paperwork in relation to the minuscule detail that the honourable member might be seeking would be publicly accessible.

Hon. C. A. FURLETTI (Templestowe) — I am pleased. The bill provides that those documents which the minister has indicated form part of the licence and which will be published, will be published as soon as practicable in the *Government Gazette* and in the newspapers. Is it the intention of the government to also publish those on the Internet, as the government has indicated it will do with other public tender documents?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is yes.

Clause agreed to; clauses 33 to 38 agreed to.

Clause 39

Hon. C. A. FURLETTI (Templestowe) — The minister may recall that I pre-empted a question on this clause earlier in committee. The clause provides that the Minister for Gaming is obliged to notify parties who may be adversely affected by amendments to existing licenses. Will the minister say what criteria would be utilised to identify persons who may be adversely affected?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it is only any other licensee who may be affected in this instance.

Hon. C. A. FURLETTI (Templestowe) — Pardon the pedantry, but why does the clause not say that?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I believe it says that within the context of the clause. Subclause (2)(c) states that notification:

> must inform the licensee to whom it is given of their right to object to the requested amendment.

Hon. C. A. FURLETTI (Templestowe) — With respect, I fail to see the correlation between my question and the minister's answer. I agree, however, that other licensees may be persons adversely affected, but the term 'adversely affected' includes far more than just other licensees. It could include, for the sake of argument, authorised agents of existing licensees who may be adversely affected by another licence being given to somebody else or by another agency being set up.

'Adversely affected' goes beyond the class that the minister indicated in his answer. The minister must be aware that what he is saying in answer to questions will be relied upon by persons in the industry who could be affected, and I would not want them to be misled. Would the minister like to reconsider his answer?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Again I am advised that it is intended to apply to licensees who may be adversely affected.

Hon. C. A. FURLETTI (Templestowe) — I ask that the record show the intention of the government is that the only persons the government considers may be adversely affected are other licensees.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that they are the only ones who have to be notified.

Hon. C. A. FURLETTI (Templestowe) — I have read the bill. I have spent time and paid attention to its provisions. I am fully aware that subclause (2)(c), which the committee has yet to consider, provides that the minister must inform other licensees of the right to object. I accept that; there is no argument. But that provision appears contradictory to what the minister is saying — that is, if the only persons adversely affected were other licensees there would be no need for subclause (1) or, more importantly, to have the provision that I will address shortly, that the minister must form an opinion as to who may be adversely affected persons.

Does the minister understand what I am getting at? If licensees are on a public register as provided in the clause, why is ministerial opinion needed? Who are the persons who could be adversely affected?

The CHAIRMAN — Order! Minister, the committee awaits your response.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that you need the minister's opinion that another licensee may be

adversely affected; then the licensee who requests the amendment must notify that other licensee.

Hon. C. A. FURLETTI (Templestowe) — Do I take it then that the clause should be read to mean that within the category of licensees who are entitled to receive notice, the minister has absolute and unfettered discretion as to which licensees will receive the notice?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the clause does call for the minister's opinion.

Hon. C. A. FURLETTI (Templestowe) — Thank you. I am aware of that; I, too, can read. My question was: does that opinion extend only to existing licensees who may be adversely affected?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is yes, those existing at the time.

Hon. C. A. FURLETTI (Templestowe) — It would have saved the committee a lot of time had it received a direct answer earlier. What, then, are the criteria to be used to determine which licensees could be adversely affected?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the minister can take into account any relevant factor.

Hon. C. A. FURLETTI (Templestowe) — Why does that answer not surprise me? What remedies exist for a licensee who is not notified but who is adversely affected?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that all such persons would be notified.

Hon. C. A. FURLETTI (Templestowe) — The minister may have faith in the Minister for Gaming, but I draw the hypothetical and repeat the question: what remedies do those licensees who are adversely affected but who do not receive notice have against the discretion exercised by the minister?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I come back to the issues raised previously about the right to natural justice or procedural fairness. I shall use a form of words to clarify the matter in this instance and potentially in other instances that may be raised by the honourable member about somebody who may feel he or she has not been considered accordingly in the process. I shall spell it out to clarify it in this instance but may also clarify it in other instances where the right to natural justice or procedural fairness applies.

The right to natural justice or procedural fairness applies to all administrative decisions. For the record that means that a person who is the subject of such a decision, in this instance or other instances that the honourable member may wish to raise in relation to other clauses or in relation to what I have previously mentioned, may have a right to put a submission in respect of any proposed decision before such a decision is made.

The right to procedural fairness may be enforced by either, firstly, seeking an administrative law remedy in the Supreme Court, or secondly, using the Administrative Law Act 1978 to receive reasons for decisions and relying on the administrative law remedies under that act.

While that may not be directly relevant to this instance, it may have relevance in further issues the honourable member may wish to raise. The government is committed to continuing the process used by the previous government of involving a probity auditor during bidding processes as an independent adviser to ensure the integrity of those processes.

I am not sure whether that answers the honourable member's questions. However, I hope it goes some way towards clarifying the theme of many of his questions about the right of appeal.

Hon. C. A. FURLETTI (Templestowe) — It goes some way towards a number of those areas of ministerial discretion that I addressed earlier and it will encompass some of the areas I intend to address shortly. However, I regret that it does not address the question currently before the minister, because in this particular instance the minister is to form an opinion about which licensees may be adversely affected. As the minister was giving me the answer I considered how that could fit into a breach of natural justice or procedural fairness, given the material before the committee. Unfortunately I cannot see how it does. An opinion will not fit into either of those categories. I ask the minister to reconsider that.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — There was a degree of preamble to the question. I ask Mr Furletti to rephrase it succinctly.

Hon. C. A. FURLETTI (Templestowe) — Unfortunately the answer does not address the particular issue I put, which concerned the minister's formulation of an opinion about who should receive certain significant notice of being adversely affected by

a decision that the minister will make. That opinion could lead to somebody who should receive notice not receiving notice. That does not necessarily fall under the heading of a breach of natural justice or procedural fairness unless certain procedures are set in place. If those procedures are set in place, what are they? If not, the answer the minister has given me does not answer the question.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it would be expected that in forming that opinion the minister would consider all information made available to him at the time.

Hon. C. A. FURLETTI (Templestowe) — I am not trying to be difficult, but it is an issue of significance. In this place honourable members talk about people falling through the cracks, and this is a perfect instance. I would accept it if the minister said, 'If somebody felt aggrieved I would certainly take into account any submissions made and that procedure will be used' or 'This application for amendment will be published so that those in the marketplace who could be adversely affected have an option to make submissions'. The difficulty is one I have with much of the bill — that is, that the minister will have total and unfettered discretion. If the minister makes a mistake the person who has to face the consequences is not the minister. Will the minister indicate what is proposed to prevent people falling through the cracks?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the minister would be open to submissions from those who believe they may not have been considered in that instance.

Hon. C. A. FURLETTI (Templestowe) — I am happy to have that put on the record.

Hon. R. M. HALLAM (Western) — On behalf of the conservative parties I place on record that the form of words the minister just read into the record is the product of negotiations between the parties between the time the committee last sat and when it resumed. It is helpful to have the form of words the minister has put on the record. I thank him for that and suspect that that is the resolution sought. It will dramatically ease the consideration of the clauses to be heard from this point.

The CHAIRMAN — Order! I thank the minister and the committee for their cooperation in reaching that resolution.

Clause agreed to.

Clause 40

Hon. C. A. FURLETTI (Templestowe) — Clause 40(1) states:

> A licensee who receives notice under section 39 may lodge a written objection with the Minister.

That is why I was pedantic about obtaining an answer from the minister to my questions on clause 39 — precisely because of the manner in which clause 40(1) is worded. It provides that only a licensee who receives notice under section 39 can lodge a written objection. It is obviously significant if a licensee does not receive notice. He or she has not only fallen through the cracks but has probably drowned. It is significant that the minister's comments are on the record. What will be accepted by the minister as reasonable grounds of objection?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that all objections would be considered.

Hon. C. A. FURLETTI (Templestowe) — I do not doubt that. From my experience what is contained in those objections is very significant as to the weight that is given to them. I am asking the minister what are the grounds the government envisages as being reasonable for objection. Are they based on economic, commercial or probity grounds — that is, which objections will be given weight?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that no doubt there could be a whole range of reasons for objections, but in this instance I would expect that the prime consideration for somebody to make a written objection would relate to the viability of the operation. That would be considered accordingly. As I mentioned before, all items would be considered but it would be expected that the appropriate persons would make those submissions on the basis of what they considered the viability of their operations.

Hon. C. A. FURLETTI (Templestowe) — Just to clarify the minister's answer and then we will move on, am I to take it that objections on the ground of economic impact would be a good ground for objection?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is yes.

Clause agreed to.

Clause 41

Hon. C. A. FURLETTI (Templestowe) — I take the minister to clause 41(3) and ask what I hope is a relatively simple question. That subclause provides that the minister will have the absolute and unfettered discretion to increase the premium paid by the licensee if an amendment increases the value of the licence. The first question that comes to mind is who will determine whether there is an increased value.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the minister would need to seek expert advice on any increased value of the licence.

Hon. C. A. FURLETTI (Templestowe) — Will the minister expand on what he means by 'expert advice'?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it would include but not be limited to the Department of Treasury and Finance.

Hon. C. A. FURLETTI (Templestowe) — At the end of the day the buck stops with the Minister for Gaming. I will let go the line of questioning that flows from the minister's answer, but I will ask the following: if the amendment were to decrease the value, does the government envisage refunding any of the premium paid?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it would not be expected that a licensee would seek to amend his or her licence so as to devalue the licence.

Hon. C. A. FURLETTI (Templestowe) — Unfortunately, I thought the question was fairly specific; I did not expect the minister to turn it around. While the government might not expect it, I can think of any number of possibilities. Before asking the question, I suggest that it is difficult to imagine anybody who gets such a licence surrendering it, but the next clause provides for that. Given that the future economic climate cannot be foreseen, I suggest that it is a possibility that a licensee may seek to change conditions to downsize, particularly if the government issues a number of other licences.

I ask the minister again: given that the government does not necessarily envisage that my question has merit, what if that were to occur?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it is not expected that a refund would be needed and therefore it has not been provided for.

Hon. C. A. FURLETTI (Templestowe) — I assure the minister that the question I put to him was not whether it was needed. I would have expected that if the offer were made it would be accepted. I will take the minister's answer as being that the bill does not provide for refund of a premium paid.

Hon. J. M. Madden — Was that a question or a statement?

Hon. C. A. FURLETTI — That was a question.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — If that was a question, I am advised that the answer is yes.

Clause agreed to.

Clause 42

Hon. C. A. FURLETTI (Templestowe) — Clause 42, as I said a moment ago, provides for the surrender of a licence by a licensee. I note with some interest that the surrender can take effect only if the minister consents. Will the minister indicate to the committee what criteria would be taken into account by the minister in determining to consent to such a surrender?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that one of the primary considerations would be whether it is in the public interest for that licence to be surrendered.

Hon. C. A. FURLETTI (Templestowe) — I accept that that may be one of the considerations, but I can envisage a situation where, for example, the licensee is not operating the licence — in other words, the licensee holds a licence but is not using it. Another example would be where the licensee is not operating in a viable manner. I do not see how that necessarily affects the public interest. Will the minister expand on what would fall within the ambit of public interest in those circumstances?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that commercial viability would be one of the criteria under which it was considered.

Hon. C. A. FURLETTI (Templestowe) — I refer the minister to subclause (3), which provides that the minister may consent 'subject to any conditions he or she thinks fit'. The minister is aware of the concern of the opposition about the total and unfettered discretion of the minister. This is another example. Will the

minister indicate the criteria and the parameters within which those conditions would be set?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that they would be the same as the criteria referred to in the previous question, which are the public interest and the commercial viability of the operator.

Hon. C. A. FURLETTI (Templestowe) — For the record, would there be any grounds for review or any appeal from those conditions as set?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that comments I made about the clauses that were agreed to during discussion after progress was reported — that is, the right to natural justice or procedural fairness — apply to all administrative decisions. That means that a person who will be the subject of such a decision may have a right to put a submission about any proposed decision before such a decision is made. The right to procedural fairness may be enforced either by seeking an administrative law remedy in the Supreme Court or using the Administrative Law Act to receive reasons for decision and then relying on the administrative law remedies under that act.

Clause agreed to; clause 43 agreed to.

Clause 44

Hon. C. A. FURLETTI (Templestowe) — I draw the minister's attention to subclause (1) which provides for the authority or the secretary to give a licensee written notice of intended disciplinary action and allows the licensee 28 days to show cause why that action should not take place. Is there any provision for an extension of that time?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised no.

Hon. C. A. FURLETTI (Templestowe) — It is sudden death if you do not do it within 28 days?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that is the case.

Clause agreed to.

Clause 45

Hon. C. A. FURLETTI (Templestowe) — Clause 45 provides that the minister may take disciplinary action and identifies the type of disciplinary action that can be taken. Is the disciplinary action as set out in subclause (1) totally at the unfettered discretion of the minister?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that is guided by the provisions of clause 43.

Hon. C. A. FURLETTI (Templestowe) — The grounds for disciplinary action are set out in clause 43. Does the minister mean clause 44, which provides for the recommendation of the authority or the secretary?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the minister would consider reports from the authority or the secretary.

Hon. C. A. FURLETTI (Templestowe) — That comes under clause 44. Having clarified that issue, is there any procedure by which the licensee can refute or contest the basis of the recommendations of the authority or the secretary made under clause 44 so as to have a defence for the disciplinary action taken under clause 45?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that clause 44 allows for the licensee to be heard.

Hon. C. A. FURLETTI (Templestowe) — I thank the minister for drawing my attention to that but he obviously did not remember the question I asked earlier. The licensee is not entitled to be heard under clause 44 but is entitled to make submissions in the form of a show-cause notice, and that is why I asked whether it is sudden death if he does not make those submissions within 28 days. Clause 45(2) provides that the minister is not required to give the licensee a further opportunity to be heard or to make submissions, so if the licensee has not made submissions within 28 days he has lost all his rights. That is draconian in terms of a person's rights. The provisions are interlinked and failure at one end means the licensee has lost all his or her rights at the other.

What rights does the licensee have to contest? The minister has indicated that the licensee has the right to show cause within 28 days, which I accept. However, under clause 44 the licensee does not have the right to contest or refute the recommendations made after the show-cause notice has been satisfied in terms of assisting the minister to make a decision as to whether he should take disciplinary action.

My question is: under clause 44 what rights does the licensee have to contest or refute the basis of the recommendations of the authority or the secretary?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised if the licensee does not exercise his rights within 28 days he is not losing his rights but rather is electing not to access those rights within the 28-day period.

Hon. C. A. FURLETTI (Templestowe) — I am aware of what a show-cause notice is, but perhaps I will go through the procedure for the committee so that our understanding is the same.

My understanding is that if there is an intention to take disciplinary action the authority or the secretary is to give a written notice to the licensee affording the licensee an opportunity to show cause why the disciplinary action should not be taken. That is different from the question I asked. Whether or not the licensee satisfies the show-cause notice the authority or the secretary will make a recommendation to the minister. I am asking what rights the licensee has to refute the facts alleged in a recommendation that disciplinary action be taken. I suggest we are talking about two different things.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the licensees have a set period of time to access that right if they are not happy with the outcome of that process. I refer Mr Furletti to some of the issues I mentioned previously with regard to natural justice or procedural fairness — namely, the right to natural justice or procedural fairness applies to all administrative decisions. That means that a person who will be the subject of such a decision may have a right to put a submission in respect of any proposed decision before such a decision is made.

Hon. C. A. FURLETTI (Templestowe) — Thank you. I understand the minister to have answered my question in the negative — that is, there is no right to refute, and therefore one is to assume that the Minister for Gaming will be judge, jury and executioner in instances of disciplinary action. Is that right?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the minister has the power to exercise those measures in clause 45.

Hon. C. A. FURLETTI (Templestowe) — I refer the minister to subclauses (2) and (5), both of which appear to represent a somewhat serious denial of a right to be heard. In particular I refer to the third last line of subclause (5), which states:

> … cancel, suspend or amend the licence without affording the licensee a further opportunity …

That is a serious denial of rights. What does the minister say about that?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that there is nothing to stop the minister providing an additional right to be heard.

Clause agreed to; clauses 46 to 51 agreed to.

Clause 52

Hon. C. A. FURLETTI (Templestowe) — I refer the minister to paragraphs (a) and (b) of clause 52(1). What was the basis for arriving at the figures referred to — namely, 50 per cent in paragraph (a) and 60 per cent in paragraph (b)?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that they are the current rates that exist for soccer pools and Tattersall consultations.

Hon. C. A. FURLETTI (Templestowe) — Can the minister indicate what the recurrent return is for Tabcorp pick 7 and pick 8?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that that is not within the scope of this debate.

Hon. C. A. FURLETTI (Templestowe) — With respect, it is very much within the scope of this debate. The heading of the clause includes the words ‘returns to players’. What is the return to players in comparable lotteries, to use the generic term? While I hear what the minister says, I suggest that the rate of return in similar competitions is significant in determining my subsequent question on clause 54. I again ask the minister: what is the rate of return on any similar competition that currently exists in Victoria?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised with regard to the issue Mr Furletti raised earlier that the return is 80 per cent. I qualify that statement by saying that I am advised that that is an entirely different ball game.

Hon. R. M. Hallam — Eighty per cent today.

Hon. C. A. FURLETTI (Templestowe) — Who knows what it will be next week? I thank the minister for his candour. Can the minister indicate to the committee what the rate of return is on the trade promotion football tipping competition conducted by Carlton and United Breweries?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Although I do not have the figures in

front of me, Mr Furletti would appreciate that those sorts of tipping competitions are very much marketing related. Therefore, it is expected that they may not necessarily make money but may lose money while assisting those corporations to market their products.

Hon. C. A. FURLETTI (Templestowe) — Will the minister indicate to the committee what it is about the proposed football tipping competition that would attract somebody to play when the return is 20 per cent below the lowest return currently available to a player?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that it is a matter for the licensee to sell the product.

Hon. C. A. FURLETTI (Templestowe) — Will the minister be playing the 60 per cent or the 80 per cent?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I never bet on sport.

Clause agreed to.

Clause 53

Hon. R. M. HALLAM (Western) — Clause 53 provides for the supervision charge, a new concept in public lotteries, which is to be imposed on the operator. The opposition has been told it is to cover the reasonable costs and expenses incurred by the Victorian Casino and Gaming Authority, as determined by the Treasurer in consultation with the minister.

I am concerned about this proposal because it seems to be very cosy indeed. I want to know whether the licensee has any opportunity to become involved in what constitutes the reasonable costs and expenses, remembering that there is no appeal. It is a gotcher provision. It is simply a cost to be determined by the Treasurer and the minister in isolation and then imposed on the licensee without the right of appeal.

Is the government prepared to consider at least the views of the licensee on the construction of what constitutes reasonable costs and expenses, and will the licensee be given fair treatment in respect of the new supervision charge?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is yes.

Hon. R. M. Hallam — I ask the minister to repeat his answer.

Hon. J. M. MADDEN — I am advised that the answer is yes.

Hon. R. M. HALLAM (Western) — What is the answer 'yes' to? Does that mean the licensee will be consulted in what constitutes fair and reasonable?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I believe that is correct.

Hon. R. M. HALLAM (Western) — That is a breakthrough. I am delighted to hear the minister say that. I remind the committee that this is a new condition imposed on an existing licensee and during the currency of an existing licence. I for one am relieved to learn that the licensee will be invited at least to be involved in what constitutes a reasonable cost and expense of that charge.

Hon. C. A. FURLETTI (Templestowe) — I ask the minister to confirm advice received by the committee that the supervision charge will be restricted to being purely cost recovery of the Victorian Casino and Gaming Authority.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that imposing a supervision charge is consistent with the notion that the gaming industry should fund the cost of its own regulation. A supervision charge regime for lotteries is expected to operate in the same way as is currently in place for the gaming machine sector, and the reasonable costs and expenses incurred in the monitoring and regulation of lotteries will be calculated and monitored. The Treasurer, after consultation with the minister, will determine the charge. The Treasurer will provide written notice to the operators of the charge.

Clause agreed to.

Clause 54

Hon. R. M. HALLAM (Western) — Clause 54 is the absolute nub of the bill because it prescribes the minimum rate to be returned to players, the tax rates to be enjoyed by the government and the licensee's margin which remains. It goes to the heart of the bill and the centre of the opposition's concerns, and I wish to raise some fundamental issues about it.

There are two fundamental components of my interest. The first is differentiation in respect of the GST. I hope we have got that right given the number of times that issue has been before the Victorian Parliament. I am prepared to let that go, apart from a minor issue I want to come back to on the footy tipping competition.

The second issue relates to the prescription of the tax rates. To bring the committee up to speed, this outlines the share of the action that goes to the state government

and how that will be expressed. Honourable members are told that it is now expressed as a percentage of player loss as distinct from turnover. A number of questions arise as a direct result of that shift in the benchmark. They fall into two classes: those that relate to public lotteries, particularly the Tattersall consultations, and those that relate to the new footy tipping competition.

I refer to the first one about the Tattersall consultations because my question arises from the discovery — rather than from the advice of government — that the move from expression of the yield relating to turnover, as opposed to player loss, is the basis for the yield. However, it also represents a shift in revenue from the operator to the government. There has been a bit of camouflage there which is the reason I prepared the table that has been incorporated in *Hansard*. The net effect, although it is not determinable from the second-reading speech or from anything the government has told the opposition, is that the government's share expressed against the previous benchmark of turnover has gone from 36 per cent to 36.1 per cent, and the yield to Tattersalls has gone from 4 per cent back to 3.9 per cent.

The government knows I am annoyed about that shift; and it is not because of the shift itself but the way in which it has been undertaken and the extent to which the government has gone to camouflage that shift. I make the point that opposition members were not told about the shift. We had to discover it ourselves and that is why I prepared the table, which has now been incorporated in *Hansard*. That table was important because of the extent to which the shift had been camouflaged. I suggest that although the government may claim to be honest, open and accountable, this is a clear case of deceit. In fact, the shift in that compensation is designed specifically to compensate for the removal of the 10-cent ticket levy.

I refer to a letter the government circulated to the accredited representatives because it is important. It is dated 29 September and is under the signature of the Minister for Gaming. It states in part:

> The new act will retain many of the main features of the current environment, with minimal impact on agents. However, the government has taken the opportunity in this legislation to abolish the 10-cent ticket levy, a revenue-raising measure introduced by the previous government.

It goes on to state, and this is a bit of a quaint aside:

> The effect of this will be to ease the cost of the most popular lottery for the general community.

The next sentence illustrates the sensitivity of the government. It states:

> The government expects agents to benefit from higher community demand for lottery tickets in response to the removal of the ticket levy.

I put that on the record again because it is very important in the context of the clause we are debating and the tax rates. It has now been revealed that the tax rate ascribed to the Tattersall consultations has been shifted to take account of the government's claim about the removal of the 10-cent ticket levy. We now learn in a table provided to us by the government in the past day that that was revenue neutral.

I will come to that in a moment. However, I shall go to a point I wish to make about that levy. There was an assumption — we now have the assurance of the government — that Tattersalls blithely agreed to the removal of the 10-cent ticket levy. That is central to the question I wish to put to the minister about clause 54.

I should say at the outset that the Tattersalls organisation does not need me to protect it. In fact, I cannot think of any organisation in Victoria that is less in need of protection than Tattersalls. I am happy to put on the record that it is as concerned about public works as it is about the bottom line. However, it is a commercial organisation, after all, and it is that commerciality that has caused me to raise the issue and to do the background work that led to the table.

The minister said he was offended by my assertion that somehow there was a nefarious deal done between the government and Tattersalls in respect of the process. I too am offended when I think about what the minister is asking the committee to believe, because he is now confirming that the government has reduced the margin to apply to Tattersalls in respect of the Tattersall consultations. I want the committee to remember that the 10-cent ticket levy that has gone is the equivalent of 10 cents in $4 and not 10 cents in $100 — that is, 2.5 per cent. When one takes into account Tattersalls margin and the need for it to fund the cost of its operation, that 2.5 per cent might be half Tattersalls absolute margin. We are talking about a substantial whack of commission.

That reduction comes on top of all the additional costs that flow as a direct result of the bill. We have heard it confirmed by the minister again tonight that those costs shall be imposed on the existing licensee. I can speak of at least two costs: the supervision charge under clause 53, which is open-ended, and the cost of audit, which we have not yet got to but which is also a new impost on the licensee under clause 62. In addition there is the

new condition that the minister can cancel the licence at any time without reference to anyone and without the nicety of the review, and we have been through that process. Add to that the fact that all those conditions have to apply to a licence that is already in situ and has been negotiated by government and by Tattersalls. Then we are told by the minister that Tattersalls is relaxed about the process.

I say to the minister, with all the grace I can muster, pull the other one! We now know that the commission that was snipped on the way through is something in excess of $10 million. The table the government provided tells us that something like $10.29 million per year was just whistled off the commission enjoyed by Tattersalls without notice to anyone. Then we are told that Tattersalls is relaxed!

I want to know — this is the thrust of my questions — what prospect there is for Tattersalls to recover the costs imposed on it by the bill. I recall that there is a cost of at least $10.29 million in commission and an additional cost in respect of supervision and the audit charge. I also recall that we have a bill coming to the house which will in the next breath whistle another $4.5 million per year off Tattersalls in respect of gaming machines, yet the government still wants us to believe that Tattersalls has blithely rolled over and said, 'Three bags full. This is fantastic!'. I cannot believe what the minister is asking the committee to accept.

I come to the specific questions. Let us get this one on the record: what is the expected annual cost to tax revenue of abolishing the 10-cent ticket levy?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that based on Department of Treasury and Finance modelling it would be $530 000.

Hon. R. M. HALLAM (Western) — I am bemused by that answer, because the table provided to me by the minister's staff shows something quite different. I take the minister to the table provided to me by the government. Under the heading 'Tax rate on lotteries — following: (1) abolition of 10-cent ticket levy and (2) ATO ruling concerning GST', I see in the first column that the 10-cent ticket levy is the equivalent of $10.29 million in 1999–2000. Do I have the wrong table or have I read it incorrectly?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that I may well have directed Mr Hallam to the wrong line of that table. On the table that has been provided it should read that the decline to government is $0.54 million.

Hon. R. M. HALLAM (Western) — I am now absolutely confused. I have a table prepared by the Department of Treasury and Finance and provided to me by the government. I am told that it is designed to track the impact of the abolition of the 10-cent ticket levy. I have the figures in front of me and some of my colleagues do as well, and I cannot for the life of me see where the minister is deriving his figure for the impact of the 10-cent ticket levy.

I am happy for the table to be incorporated in *Hansard* and for us to go through it painfully line by line. However, on my reading of it, the figures for the existing regime in respect of 1999–2000 show the 10-cent ticket levy as being 10.29 — I take that to be millions of dollars. Perhaps we should start with the most basic of questions: do the figures in the table represent millions?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the table is in millions and that the 10-cent ticket levy to which the honourable member refers is the overall impact of $10.29 million. However, what I referred to — I can appreciate that we may have misunderstood each other — is the overall impact on government. That is at the bottom of the table in relation to a number of notes. It relates to the overall decline to government of $0.54 million.

Hon. R. M. HALLAM (Western) — This is going to be more difficult than I had hoped. The last time the committee met I asked the minister whether he would be prepared to provide the government's modelling in respect of the abolition of the 10-cent ticket levy and advise whether the revenue stream would be reinstated by the shift in percentages — the commission to be enjoyed by Tattersalls.

I find this very difficult because the table I have in front of me was provided by government. I am happy to rely on it. It shows me, according to my reading, that the 10-cent ticket levy in the year 1999–2000 was expected to yield $10.29 million. When I look under the heading 'Proposed regime' I see a blank. I therefore draw the conclusion that the abolition of the 10-cent ticket levy is a cost to the revenue of the state of $10.29 million per year. Am I right in that assumption?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that, as indicated on the table, the 10-cent ticket levy is no longer collected and therefore is non-existent in the proposed regime; but it is picked up, in a sense, in the modelling further down in the proposed regime.

Hon. R. M. HALLAM (Western) — With respect, the minister says that the 10-cent ticket levy is no longer collected. That presumes the passage of the bill, and I suggest to the minister that that is a fairly large presumption at the moment. However, I am happy to have on record that the minister is now conceding that the cost of abolishing the 10-cent ticket levy will have an impact on the yearly revenue earned by the state of $10.29 million. I will stop at that point, because that seems to be absolutely incredible. A similar figure was offered to the minister last week and the committee was told that he was not in a position to speculate on it.

But now it is clear. Let the record show that based on the modelling provided by the Department of Treasury and Finance the impact of the decision to abolish the 10-cent levy is $10.29 million in 1999–2000 dollars.

I refer to the same table and the total state revenue. As a result of the proposed regime — the big shift is the increase in commission to be deducted from Tattersalls — the committee learns that there has been virtually no shift at all in total state revenue. The table I have in front of me says that in 1999–2000 the bottom line for total state revenue — that is, including the 10-cent ticket levy — was expected to be $335 million. Guess what? Under the proposed regime, after deleting the 10-cent ticket levy, the total state revenue is $334.83 million.

Does the minister agree with those figures and is he prepared to concede that the shift in commission, now being deducted from Tattersalls, effectively replaces the 10-cent ticket levy in terms of the impact on state revenue?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is yes.

Hon. R. M. HALLAM (Western) — Thank you. It was not such a painful extraction after all. So the letter which went out to the accredited representatives under the signature of the Minister for Gaming, John Pandazopoulos, was too clever by half. It said the government was going to abolish the 10-cent ticket levy, and highlighted it as a revenue-raising measure introduced by the previous government.

The letter did not say that at the same time the government intended to whistle a bit more of Tattersalls share and replace the revenue. The committee now has a table that shows — the government is prepared to acknowledge it — that that was exactly what was intended.

Now maybe the minister and his advisers will understand why I am so cross. If the lower house had gone into committee and National Party members in that place had been able to pursue the issue, this chamber would not be going through this painful process. However, I put the government on inquiry as I did in the first place. If it wants to try to pull a swiftie — that is what this does — it should expect to be held to account in this chamber.

The table provided by the government does more, and I will shortly move that it be incorporated in *Hansard.* More than anything I could say in the debate, the table demonstrates the deceit of the government. The figures in the table produced by the government itself prove beyond doubt that the government removed the 10-cent ticket levy and told everyone from a great height that it was doing so. However, at the same time it brought in a charade and changed the basis upon which the commission should be expressed — that is what the bill does. The government surreptitiously tweaked the figures so that the equivalent amount came back from Tattersalls in the form of a reduced commission. That is exactly what has happened. The committee now has on the record from the minister himself that that is how it was achieved.

Hon. I. J. Cover — Give with one hand and take with the other!

Hon. R. M. HALLAM — It is worse than that. I would have loved to have had the debate, and I told the minister that at the time. I am not here to protect Tattersalls. I am happy for the arrangement with Tattersalls to be commercial. I would love to be the minister's agent and do the negotiations for him. But he tried to pull a swiftie. He tried to pull the wool over people's eyes by forgetting to tell them that the shift in the percentages was actually the revenue reconstruction they were looking for. There are a number of issues on that point.

The CHAIRMAN — Order! Does Mr Hallam seek leave to incorporate the table into *Hansard*?

Hon. R. M. HALLAM — Yes.

The CHAIRMAN — Order! I have examined the document and it is relevant to the clause. Hansard has also been shown a copy.

Leave granted; table as follows:

Tax Rate on Lotteries — following: (1) abolition of Ten Cent Ticket Levy & (2) ATO ruling concerning GST

	Existing Regime in 1999–2000		Proposed Regime			
Total Expenditure on Lotteries	989.59	(a)	1003.43	(A)	←	See note below*
Commission Paid to Agents*	76.30	(b) = (a) x 7.71 %	77.36	(B) = (A) x 7.71 %		
Ten Cent Ticket Levy	10.29	(c)	—	(C)	←	Abolish Ten Cent Ticket Levy
Total Pool	903.00	(d) = (a) - (b) - (c)	926.06	(D) = (A) - (B) - (C)		
Return Players	541.80	(e) = (d) x 60%	555.64	(E) = (D) x 60%		
"Player Loss" (as defined)	361.20	(f) = (d) - (e)	370.43	(F) = (D) - (E)		
Effective Rate of Return to players	54.75%	(e) / (a)	55.37%	(E) / (A)		
Gross Loss by Players	**447.79**	**(g) = (a) - (e)**	**447.79**	**(G) = (A) - (E)**	←	Behavioural assumption that players will play so that their gross loss remains unchanged
GST (post-ATO ruling)			40.71	(X) = {(A) - (E)} / 11	←	ATO Ruling that GST is levied on commission to agents
Division of "Players Loss"						
State Taxes	325.08	(h) = (f) x 90%	294.12	(H) = (F) x **79.4**%	←	Impose a tax rate of 79.4%*
GST			40.71	(X)		
Tattersalls	36.12	(j) = (f) - (h)	35.60	(J) = (F) - (H) - (X)	←	See note below*
	361.20	(f)	370.43	(F)		
Total State Revenue	**335.37**	**(k) = (h) + (c)**	**334.83**	**(K) = (H) + (C) +(X)**		

Notes:

- Total expenditure on lotteries increases by $13.84 million this corresponds to the assumption that gross loss by players remains unchanged ((G) ≡ (g)).
- Information from Tattersalls indicates that the commission paid to agents is 7.71% of total expenditure on lotteries.
- The rate 79.4% ensures that Net State Tax Revenue is broadly revenue neutral (ie., (K) ≈ (k)) although it does decline by $0.54 million (or 0.16%).
- Tattersall's revenue declines by $0.53 million. This corresponds to a decline in proportion of player loss from 10% to 9.61% (ie., (j)/(f) > (J)/(F)).
- Agents receiving a commission are the beneficiaries of Tattersall's and the State's losses (ie., commissions increase by $1.06 million).

Hon. R. M. HALLAM — I will frame my next question to the minister as carefully as I can. Does the minister maintain that Tattersalls will have no opportunity to offset or ameliorate the financial impact of the bill in the period it applies to the existing licence — that is, the date of proclamation, which has to be 1 July at the latest, to 30 June 2000? Will Tattersalls have no chance in that period to claw back the impact of the additional costing imposed by the bill?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that I should draw attention to the second-last line of the table, which relates to Tattersalls revenue decline in the expected modelling, and to the $ 530 000. That is the cost to it of the modelling of the proposed regime. I am also advised that no doubt the onus would be on Tattersalls commercial endeavours to try to recoup that amount and to increase its sales at the point of sale.

Hon. R. M. HALLAM (Western) — That all presumes everybody accepts the modelling done by the Department of Treasury and Finance and that Tattersalls is relaxed about the assumption that its commission will be squeezed only by about $500 000 rather than the $10 million figure that appears on the top line. But that does not answer my question.

I asked the minister whether there would be any opportunity for Tattersalls to claw back the increase in costs imposed by the government in respect of the existing licence. The minister says it has a chance to be commercial and to go out and increase revenue. That is fantastic, but what about the increased costs imposed on it, without reference to it, I might add? I have not determined the figures but they are at least $10 million in only the shift in commission.

My question is carefully framed: is there a chance for Tattersalls to claw back the increased cost imposed by government during the currency of its existing licence?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I appreciate the question. Will Mr Hallam clarify what he means by 'claw back'? No doubt the term means something specific to him, but I am not entirely sure that the colloquialism is what I understand it to be.

Hon. R. M. HALLAM (Western) — It may be a colloquialism or a commercial term but 'claw back' is rather common. I shall paint the picture for the minister. The government has issued a licence for Tattersalls to conduct the Tattersall consultations. I am not sure what it paid for that licence in the first instance or whether the cost of that licence is expressed by way of an annual payment; I am unable to get to that information because I am not allowed to talk to Tattersalls. I am assuming that there must be some sort of ongoing payment.

The bill says the conditions under which that licence was granted have been changed. On the minister's own admission one of the changes means that $10.29 million of commission will be creamed off the top. Will there be any opportunity for the licensee in the currency of the licence to recover any part of the additional cost imposed by the government?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that from now until 2004 there is no scope.

Hon. R. M. HALLAM (Western) — I am pleased to have that on the record because it makes the position of Tattersalls untenable. Does that mean that if the minister so chose he could have simply cancelled the licence without any expectation of retribution from Tattersalls?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the claim that the changes initiated by the government reduce the value to the public of the licence is not true. The government will receive more from the extended licence than it currently does. The government recoups the value of the licence for the most part through a high rate of taxation on lotteries. Until June 1999 part of the value of the licence was captured by a tax on Tattersalls lottery activity of 25 per cent of net profit. That profit tax was converted into a 0.45 per cent increase in the turnover tax rate. Thus the licence fee is notionally 0.45 per cent of turnover. In converting the turnover tax to player loss tax as part of the Public Lotteries Bill the 0.45 per cent component has been retained. Therefore, the licence fee charged by the government for the ongoing Tattersalls licence is not diminished by the change in the new legislation.

Moreover, the government is charging Tattersalls a premium payment in consideration for the extension to 2007. This is in addition to the continued notional licence fee built into the tax rate. In 1999 the previous government extended Tattersalls licence by two years without charging for the extension. Similarly, the Bracks government could have chosen to extend the licence by three years at no cost, but did not consider that that was an appropriate course of action.

Hon. R. M. HALLAM (Western) — I thank the minister for the detail but I suggest it does not go to the issue I raised. I am not privy to the actual machinations

of the licence fee. My question was simple. The licence in operation was negotiated in advance. The government is now asking Parliament to agree to a change in the terms and conditions of that licence. I know that at least one change will mean, on the surface, a reduction of commission enjoyed by Tattersalls of $10.29 million. I do not understand the detail of the advice the minister has just offered the committee. I am unsure whether an answer is hidden in that information.

I am asking whether the current licensee will have the opportunity in the currency of the existing licence to recover some part of the additional costs now being imposed by the government.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the answer is no.

Hon. R. M. HALLAM (Western) — Mr Chairman, I have reached the end of my questions on clause 54, but I need to question the minister about the tax rates applying to the Australian Football League footy tipping competition. This may be an appropriate time for the committee to report progress and to seek leave to sit again on the next day of meeting.

Progress reported.

ADJOURNMENT

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That the house do now adjourn.

Rail: Pakenham service

Hon. N. B. LUCAS (Eumemmerring) — I raise a matter with the Minister for Energy and Resources, who represents the Minister for Transport in another place. For many years V/Line train services picked up and let down passengers at the Pakenham railway station and provided an approximately 1-hour service to the city for Pakenham residents and people from the wider region who come to the Pakenham station.

It is with concern that my community has received an announcement from National Express indicating that the services will be severely curtailed. National Express says that:

> As currently, V/Line will pick up passengers at Pakenham who wish to board the 7.23 a.m. service to the city. It will also carry Pakenham passengers on the 6.31 p.m. — (previously the 6.28 p.m. service) — service from Flinders Street. However, for all other services, V/Line will no longer pick up passengers at Pakenham travelling towards the city and will also no longer set down passengers at Pakenham when travelling towards Traralgon. V/Line will continue to provide a service for people travelling from the country to Pakenham, and from Pakenham to the country.

The announcement has been met with consternation in the Pakenham area because people will have to travel by the metropolitan train service from the city on most occasions during the day, a travel time of between 1 hour 10 minutes and 1 hour 20 minutes, which is longer than the 1-hour service that V/Line provides.

I have received a number of letters and proceeded to lodge a petition in Parliament this morning which contained more than 200 signatures, but which was pared back by the papers office because the addresses were not set out in full. There have been articles in the *Pakenham Gazette* expressing concern that the decision will have the effect of making it less feasible for the residents of Pakenham and the region to work in the central business district because of the additional travel time. It will make metropolitan services less attractive to older people who value their security and the availability of toilets on the V/Line services, and many young people are also concerned about security.

It will have the effect of forcing people back into motor vehicles instead of using public transport. Given the community concern expressed through the media, the petition and also letters I have received, will the Minister for Transport take up with National Express the need to maintain current V/Line services to and from the Pakenham railway station?

U3A: accommodation

Hon. E. J. POWELL (North Eastern) — I refer a matter to the attention of the Minister for Small Business, who represents the Minister for Aged Care in another place. Some weeks ago I was guest speaker at a conference in Shepparton for the University of the Third Age organisation in Victoria. I have raised the matter of accommodation for U3As because it has become a big issue.

I received a letter from the Wangaratta U3A, whose president, Norene Branigan, says:

> U3A is based at The Centre in Wangaratta and has worked well with that organisation for many years. However, due to funding priority changes U3A now face greatly increased fees and charges.

The Wangaratta U3A is a voluntary organisation, its membership fees are already high and it does not want to have to increase them. It is asking for information on additional funding sources. I also received a letter from the U3A in Benalla, which has a membership of 114.

The PRESIDENT — Order! The honourable member should raise only one matter.

Hon. E. J. POWELL — It is about U3As. The two letters are about the same issue. Costs for the Benalla U3A have escalated at least eightfold, from $200 per year to an estimated $1700 per year. Representatives of both organisations spoke to me in Shepparton. The Benalla U3A says that about one-third of its members have not paid the increase and probably will not renew their membership. It is concerned that its membership will decrease.

Will the minister review the circumstances of the U3A in Victoria to ensure that it has appropriate accommodation at an affordable cost to ensure not only that older people in rural Victoria have the opportunity to continue their education but, more particularly, that the U3A receive funding assistance? Will the minister provide information of funding assistance for both the Wangaratta and Benalla U3As?

Prisoners: transfer

Hon. C. A. STRONG (Higinbotham) — The matter I raise with the Minister for Sport and Recreation, who represents the Minister for Police and Emergency Services in the other place, refers to a constituent of mine whose brother had the misfortune to be incarcerated in a Queensland jail. The gentleman is Mr Frank Basic, who is incarcerated in the Wolston Correctional Centre in Ridge Land, Queensland. He has some years to serve and has five immediate family members, a mother and an aged grandmother who live in my electorate. In January he applied to be moved to a jail in Victoria and has the approval of the Queensland authorities for such a move. I am assured that the Victorian authorities have had his papers since April of this year. The family is concerned to know whether he is likely to be moved to Victoria to have access to his family or whether the family will have to move to Queensland to have access to him.

Will the minister investigate this matter to see what has happened with the transfer papers and determine whether anything will happen to clear this through the system?

Panel beaters: insurance system

Hon. B. W. BISHOP (North Western) — I raise a matter for the attention of the Minister for Small Business. Some time ago the Honourable Peter Hall raised a matter with the minister about people in the motor vehicle body repair industry, such as panel beaters, smash repairers and spray painters. Today we saw and met with a large group gathered on the steps of Parliament House. They came from throughout Victoria.

They are good people and some of them are well known by honourable members. I met with nine people from Mildura; there were people from Bendigo in my electorate; the Honourable Peter Hall met some from his area; and the Honourable Jeanette Powell met people from Shepparton. They told us they did not particularly want to march — they would rather be at home working — but that due to the lack of action by the government and others they had no choice but to gather today on the steps of Parliament House to make their point.

I will mention a couple of the concerns they raised. The first is their losing the 4 per cent parts margin paid by insurance companies — that is, for the parts for the jobs they do for those companies. I note that David Purchase, the executive director of the Victorian Automobile Chamber of Commerce (VACC), has said that two insurance companies still support the payment of the 4 per cent.

The major issue the group raised was that the industry is now working under low 10-year-old rates set by insurance companies. They informed us today that the rates are the lowest in Australia. Given the rise in costs, that is an impossible situation for people in the industry. We heard also of a 60 per cent rise in workers compensation for some. Paint and fuel costs have gone up and, as all honourable members know, business costs continue to rise.

The minister was present today. I commend her for getting up on the back of a truck and speaking. She received a good reception and hearing. I understand the minister has met with the VACC and the insurers. However, I suggest that the time for talking is over. It is time for the minister to act and give support to the people who attended today, having left their homes and workplaces to make their point.

What direct action will the minister take to solve the problem of an important essential industry that is being driven to its knees by rising costs and an outdated 10-year-old payment system from insurance companies?

Emmanuel Anglican Kindergarten

Hon. M. T. LUCKINS (Waverley) — The matter I raise for the attention of the Minister for Small Business in her capacity as the representative of the Minister for Community Services in the other place relates to the Emmanuel Anglican Kindergarten in

Abbeygate Street, Oakleigh, which is in its 52nd year of operation. In 2001 it has 54 four-year-olds and 40 three-year-olds enrolled. To comply with the regulations that will come into force by 2003 the preschool is required to have a building of a certain standard.

Members of the congregation have committed $210 000 of their funds to rebuild the preschool to ensure that it can continue in the future. The kindergarten is $70 000 to $80 000 short of the amount quoted by engineers and architects for the rebuilding of the children's centre to comply with the regulations. It is seeking support from the government for capital works to maintain the preschool for future generations of children in Oakleigh. The preschool services a large area in Oakleigh, and it would be an absolute tragedy if it closed.

I refer to the evidence given on 29 August to the Public Accounts and Estimates Committee by the Minister for Community Services, which has been approved for public distribution. She said:

> Our capital works budget for preschools is zero.

She went on to say that the Bracks government has allocated $3.75 million over three years for capital works for the whole of Victoria. What assistance will the minister provide to the kindergarten and other Victorian kindergartens, many of which are in the same position of having to rebuild or substantially renovate premises by 2003 to comply with Community Services regulations? What assistance will the government provide to ensure those vital services are continued in the future?

Fishing: quotas

Hon. P. R. HALL (Gippsland) — The matter I raise for the attention of the Minister for Energy and Resources concerns the introduction of quotas for the rock lobster and giant crab fisheries. Today the minister announced that she would introduce quotas as a management tool for the rock lobster and giant crab fisheries. That has caused a great deal of anxiety among the rock lobster fishermen.

On 25 October I alerted the minister to the fact that the Victorian fisheries assessment report demonstrated that more stringent input controls would be more effective than quotas in achieving sustainability in the industry. Further, the Environment and Natural Resources Committee of this Parliament currently has a reference to investigate the sustainability of the Victorian rock lobster and abalone fisheries. I ask the minister to justify her decision to introduce quotas when that is in direct conflict with the fisheries assessment report and prejudges any decision the ENRC may make.

Scooters: safety

Hon. ANDREA COOTE (Monash) — I refer the Minister for Consumer Affairs to the Kidsafe, Scoot Safe campaign the minister launched yesterday. I am pleased the government has finally taken notice of an issue I brought up in May. In the media and in the house the minister has spoken about encouraging young people to wear helmets and knee pads and the need for parents to ensure their children will be safe on scooters. The Kidsafe fact sheet the minister released states:

> The braking system is intended to work by downward pressure applying friction to the back wheel. This often does not work at all, especially in cheaper models, and becomes less effective with age. Friction applied to a small wheel using a curved surface is unlikely to be very efficient. Many young people tell Kidsafe that their brakes are 'almost useless'.

What regulations will the minister impose on scooters with faulty brakes before the Christmas rush? It would be horrifying for honourable members to see even one accident over the festive season that could be avoided if proper regulations were in place.

Electricity: Yallourn dispute

Hon. R. M. HALLAM (Western) — I raise with the Minister for Industrial Relations an issue that goes to the question I raised with her during question time earlier today. I asked her then what contact she had had personally with Mr Van der Meulen, who was responsible for the wildcat strike in the Latrobe Valley last Thursday week. I am being very careful in paraphrasing what the minister said, but I believe she said she had met with a committee that included Mr Van der Meulen on Monday this week.

Hon. M. M. Gould — Yesterday.

Hon. R. M. HALLAM — Monday this week.

Hon. M. M. Gould — Sorry, I thought Mr Hallam said Monday last week.

Hon. R. M. HALLAM — No, Monday this week. My question to the minister is: given that that is 10 days after the strike, what has she been doing in the meantime?

Police: Endeavour Hills station

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise with the Minister for Sport and Recreation, representing the Minister for Police and Emergency Services in the other place, the matter of the

government's 1999 election promise to construct a 24-hour police station at Endeavour Hills in my electorate. This is mentioned at page 87 of a document of Labor's financial statements where the government shows a commitment of $2.5 million in the 2001–02 financial year for that 24-hour police station.

Since the election the issue of the Endeavour Hills police station, from the government's point of view, has gone quiet. It has not been raised by any government members in the area. So it was with some interest that I received the annual report of the Victoria Police for 1999–2000 that was tabled in the house earlier today. On page 16 of the report there is a section on the Victoria Police capital works program that says:

> During 2000–2001, new 24-hour police stations will open at Caulfield and Lorne.

It goes on:

> Preliminary works including feasibility studies for stations have been prepared and include Wonthaggi, Eltham, Mordialloc, Bacchus Marsh, Belgrave —

where my colleague Mr Lucas has been doing considerable work —

> Kinglake, Moe, Preston, Northcote, Seymour, Heidelberg …

It appears the government has not taken up its original promise of building a 24-hour police station for Endeavour Hills. I ask, firstly, that the minister ensure that the project is included in the Victoria Police capital works program and, secondly, that he provide some advice to the house as to what progress is being made on the government's promise.

Gold discovery anniversary

Hon. BILL FORWOOD (Templestowe) — I raise with the Minister for Energy and Resources a matter that goes to the issue of Gold 150 — the 150th anniversary of the discovery of gold in Victoria. I understand the committee chaired by the honourable member for Bendigo East in another place and including two other members of the Labor Party met recently to discuss the allocation of the $1 million being provided by the Community Support Fund. I note in passing that I have already raised one issue on this matter, and I am waiting for the minister to respond to that. Can the minister inform the house of progress made to date on the allocation of the $1 million, given that Gold 150 starts in six weeks time?

Electricity: Yallourn dispute

Hon. PHILIP DAVIS (Gippsland) — I have a question for the Minister for Energy and Resources. Following the power blackouts of February the Premier vowed there would be no sequel to that crisis. Following the power blackouts of 2 November the Premier denied that more could have been done to prevent them. He said the government had plans in place to prevent similar disruptions in the future. Are we now to believe the government, which in 10 months failed to deliver a single concrete measure to guarantee power supplies?

Today in response to a question from the opposition the minister declined to advise how long orders under part 3A of the Electricity Industry Act would be maintained. I therefore ask on what criteria the government will judge that the proclamation of the emergency provisions should be revoked.

Regional Infrastructure Development Fund

Hon. D. McL. DAVIS (East Yarra) — My question is to the Minister for Energy and Resources representing the Minister for State and Regional Development in the other place. People on both sides of this house understand the need for strong programs in regional Victoria and support the concept of the Regional Infrastructure Development Fund. I make that very clear. They also believe money should be spent on sites and projects of greatest need, where the need is genuine, and in rural and regional Victoria. However, there are concerns about aspects of the fund and the need for it to be administered by the government in the strictest possible way with the highest possible accounting standards.

Given that Labor governments have form in terms of funds like this — and I make the point that in this context it is crucial that the administration of the funds be undertaken in accordance with the best international standards of transparent grant allocation processes — will the government consider adopting a general principle that every year it will publish a list of the names of unsuccessful applicants to the Regional Infrastructure Development Fund? Will it do that in the light of the necessity to ensure the highest possible standards of probity and accounting practice?

National parks: Beechworth

Hon. W. R. BAXTER (North Eastern) — I address a matter to the attention of the Minister for Energy and Resources for referral to the Minister for Environment and Conservation. It is well known that the Environment Conservation Council is currently conducting an investigation into box ironbark forests and woodlands in Victoria and that a draft report is currently in the public arena for discussion. It is also

well known that a national park is already established at Chiltern and there is a resident national parks officer there. It is also known that the draft report of the ECC provides for a national park to be established at Beechworth.

Without canvassing the merits of that draft recommendation, my concern is that there is a deal of concern with advice circulating in the north-east that Parks Victoria is already assuming a national park will be established at Beechworth and that the current residential officer at Chiltern will be relocated to Beechworth.

The draft report is not yet the council's final report. The government has not yet had the opportunity to make a decision and Parliament has not had a chance to pass judgment on any recommendations emerging from the Environment Conservation Council. I seek an assurance from the minister that Parks Victoria is not making assumptions on behalf of the government of the outcome when clearly Parliament deserves the opportunity of considering the matter.

Smoking: bans

Hon. A. P. OLEXANDER (Silvan) — I raise for the attention of the Minister for Industrial Relations, who is the representative in this place of the Minister for Health, an issue concerning Air Ionics. Mr Bob Hall runs a company called Air Ionics, which specialises in the installation and maintenance of air-scrubbing equipment. One of the prime purposes of the equipment is to assist in the management of passive smoking in places such as pubs and gaming venues. I understand the equipment is top of the range and state of the art.

Mr Hall advises me that given the recent legislative changes outlawing smoking in restaurants and cafes there is now some uncertainty among the gaming venue operators and publicans about whether to purchase his equipment. The issue on which I seek clarification is whether the minister intends to extend the ban on smoking to public bars and gaming venues in the foreseeable future.

Industrial relations: reforms

Hon. M. A. BIRRELL (East Yarra) — I raise for the attention of the Minister for Industrial Relations the so-called Fair Employment Bill, which the government has introduced in the other place. If the bill is passed a state law would be created for the right of union organisers, for instance, to visit businesses across Victoria and interview staff.

That has caused considerable concern among small businesses. The case brought to my attention involves small businesses where both the employer and the employees would not want to have such a visit — that is, there is no union member on site and no employees who want to have a conversation with the union organisers. Of particular concern is the case of thousands of home-based businesses such as in the information technology sector where an office is in the home and the business is run using the hardware and software based in that office.

I seek an explanation of whether under the government's policy union organisers could visit a business based in a home and therefore have access to that home-based business as a matter of law. Does the minister agree that authorised but unwanted visits by union organisers to businesses set up within homes is not just improper but a gross misuse of state law?

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Roger Hallam referred to an answer I gave during question time today when I indicated I had met with a delegation of workers from the Latrobe Valley with respect to the electricity industry. Mr Hallam asked what I have been doing in the meantime. I have been speaking with the company and the secretaries of the unions involved, not just the delegation I saw yesterday, but the secretaries and members of branches and delegates. I have encouraged and assisted them to go to the Australian Industrial Relations Commission to have the matter conciliated. That is currently taking place.

The Honourable Andrew Olexander raised for the attention of the Minister for Health in the other place a matter concerning a constituent, Bob Hall. I will raise the matter with the minister and ask him to respond in the usual way.

The Honourable Mark Birrell raised for my attention the right of unions to enter workplaces. I direct his attention to the fact that the provision in the Fair Employment Bill has been directly extracted from the Peter Reith legislation that allows unions to give appropriate notice — namely, 24 hours — when visiting workplaces, which would be registered companies, to speak with employees at a time suitable to the employers. It is intended that the provision will not disrupt the businesses, and it will take place at a time convenient to the employers so that it does not interrupt the flow of business. The provision is in line with the Workplace Relations Act.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Neil Lucas requested the Minister for Transport in the other place to take up with National Express the maintenance of V/Line services to and from Pakenham. I will pass on that matter to the minister.

The Honourable Peter Hall requested that I outline to the house the reasons for the decision I announced today relating to the rock lobster and giant crab fisheries, and I welcome the opportunity to do so. At the outset I remind the honourable member of a press statement dated 25 May 1999 entitled 'Rock lobster and giant crab fisheries move to quotas' issued from the office of the then Deputy Premier and Minister for Agriculture and Resources, who I believe was also a member of the National Party.

On becoming the minister responsible for the portfolio, in addition to the matters that preceded me, I was presented with a report commissioned by the previous government undertaken by Mr Justice Fogarty outlining his reasons for those fisheries moving to quota arrangements. I determined to release that report for consultation and consideration by stakeholders in the industry. I undertook a number of visits and received a considerable number of deputations prior to making my decision. The reasons for my decision are straightforward.

The honourable member referred to the assessment report, and I take issue with him on his interpretation of that report. I do not agree with his assessment that the report establishes that further input controls can arrest the serious decline in the biomass remaining in the two fisheries. In fact, that assessment is based on modelling of the fisheries by the Marine and Freshwater Resources Institute, which predicts there is a high probability that the current level of fishing will continue to reduce stocks.

The government was elected with clear policies regarding the sustainability of fisheries. It is cognisant of the action taken by the commonwealth government under legislation and its decision regarding the ending of exemptions to the giant crab fisheries from early next year under the Wildlife Act.

The government does not want to be in a position where product from rock lobster and giant crab fisheries is not able to be exported because the commonwealth government judges that those fisheries are not being managed on a sustainable basis.

Hon. R. M. Hallam interjected.

Hon. C. C. BROAD — In weighing up all the matters my decision was based on policies clearly articulated by the Labor Party prior to its being elected to government. Those policies were based on considerable consultation with the industry and on the view that in the interests of having sustainable rock lobster and giant crab fisheries into the future it is necessary that the decision be taken now. The Honourable Roger Hallam referred to the parliamentary reference — —

The PRESIDENT — Order! That was an interjection and I suggest the minister ignore it.

Hon. C. C. BROAD — I will be happy to take the matter up with the honourable member at a later time.

The Honourable Bill Forwood raised the issue of Gold 150 and the progress of allocating grants, a matter about which I have not made an announcement today. However, I am happy to undertake to seek the information requested by the honourable member and to provide it directly to him.

The Honourable Philip Davis raised the issue of the criteria the government will use to judge the need for continuing orders under the Electricity Industry Act. As has been outlined, the government has put those orders in place following the events of last Thursday week and has indicated that those orders will remain in place until such time as it judges the threats that were made and implemented with regard to electricity supply are no longer a threat. The honourable member will be aware that those orders remaining in place means I, as the responsible minister, and the government are able to issue directions if that is required. At this stage that is not a situation the government envisages, but it has given an undertaking that those orders will remain in place until the matters that led to the situation last Thursday week have been resolved.

The Honourable David Davis raised for the Minister for State and Regional Development the Regional Infrastructure Development Fund. I will refer the matter to the minister.

The Honourable Bill Baxter requested an assurance from the Minister for Environment and Conservation that Parks Victoria is not making assumptions about the outcomes of the Environment Conservation Council investigation into the box-ironbark forest, and I will refer the matter to the responsible minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Jeanette Powell raised for the Minister for Aged Care the University of the Third Age in Wangaratta and Benalla and the cost of

accommodation. I will refer the matter to the minister for her response.

The Honourable Barry Bishop referred to the motor vehicle body repair industry and asked what direct action I am taking. Mr Bishop said there has not been a change in the hourly rate for 10 years. To my knowledge no minister has taken up the case in 10 years. I am not aware that pressure is being put on governments to do so; nor do I believe it is the responsibility of governments to take up the issue. However, because there is considerable concern, particularly in country Victoria — I have heard it first-hand as I have travelled around — I took it upon myself to try to bring the parties together because they need to agree on a code to facilitate dealings with each other in the future.

That is important for the industry and the people working in it, but also for consumers to ensure they are being treated appropriately by both insurance companies and the body repair industry. They are issues of such concern that for the first time the government got the parties around a table to try to work through them. For the first time a government is prepared to try to do something about the situation, but arrangements must be made between the insurance companies and the body repairers.

The government will continue to facilitate the discussions and act as a broker between the two bodies so long as discussions are constructive and fruitful. I am pleased that the insurance companies are prepared to sit around a table and try to work through some of the issues.

The Honourable Maree Luckins raised for the Minister for Community Services the Emmanuel Anglican Kindergarten and the issues of meeting building standards and shortfalls in money. I will raise the issue with the minister.

The Honourable Andrea Coote raised the issue of brakes on scooters. I thank her for raising the matter because I intended to mention it today and was remiss in not doing so. The government is concerned to ensure that scooters are suitable for children and that they are able to operate the brakes. The brakes need to be tested for each child. There is no point in buying a scooter in the belief it may work. Each scooter needs to be tested because there might be a particular weight required for safe operation, and it is important to know the brakes will work.

The government is working with Standards Australia to try to establish proper standards. However, if a scooter is inherently faulty the government will remove it from sale. It does not need to regulate to do that; it can take action under the Fair Trading Act. The government stresses that parents must make sure they check the scooter is suitable for the child and that the brakes are tested. If the brakes are faulty the scooter should be returned to the place of purchase.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Chris Strong raised the issue of a gentleman incarcerated in Queensland and his application to be transferred to Victoria. I will refer the matter to the Minister for Police and Emergency Services in the other place.

The Honourable Gordon Rich-Phillips raised the issue of the construction of a 24-hour police station in Endeavour Hills. I will refer the matter to the Minister for Police and Emergency Services in the other place.

Motion agreed to.

House adjourned 11.19 p.m.