Thursday, 10 November 1994

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

PETITIONS

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

Sexual discrimination

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

The humble petition of the undersigned citizens of the state of Victoria showeth that:

Whereas the Parliament of the state of New South Wales has seen fit to protect the human rights of its lesbian and gay constituents and citizens on the basis of their sexuality;

Whereas the Parliament of the state of South Australia has seen fit to protect the human rights of its lesbian and gay constituents and citizens on the basis of their sexuality;

Whereas the Parliament of the Australian Capital Territory has seen fit to protect the human rights of its lesbian and gay constituents and citizens on the basis of their sexuality;

Whereas the Parliament of the state of Queensland has seen fit to protect the human rights of its lesbian and gay constituents and citizens on the basis of their sexuality;

Whereas the Parliament of the Northern Territory has seen fit to protect the human rights of its lesbian and gay constituents and citizens on the basis of their sexuality;

And whereas the Parliament of the Commonwealth of Australia, in compliance with Australia's International Human Rights' obligations, has seen fit to protect its lesbian and gay constituents and citizens from discrimination on the basis of their sexuality;

Your petitioners therefore pray that the Legislative Assembly as part of the Parliament of the state of Victoria moves to protect the human rights of its lesbian and gay constituents and citizens — as recommended by the Scrutiny of Acts and Regulations Committee — by amending the Equal Opportunity Act 1984 to prohibit discrimination on the grounds of a person's sexuality.

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

Mr Tanner (30 signatures) and Mr Perton (45 signatures)

Laid on table.

VISTEL LTD

Mr I. W. SMITH (Minister for Finance) presented report of Vistel Ltd for year 1993-94.

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 12

Mr PERTON (Doncasted) presented Alert Digest No. 12 of 1994 on Employee Relations (Amendment) Bill, together with appendix and transcript of evidence.

Laid on table.

Ordered that report and appendix be printed.

PAPERS

Laid on table by Clerk:

Planning and Development Department — Report for the year 1993-94

Statutory Rules under the following Acts:

Alpine Resorts Act 1983 — S.R. No. 166

Health Act 1958 — S.R. No. 169

Melbourne and Metropolitan Board of Works Act 1958 — S.R. No. 164

National Tennis Centre Act 1985 — S.R. No. 168

GAS INDUSTRY BILL

Introduction and first reading

Mr S. J. PLOWMAN (Minister for Energy and Minerals) — I move:

That I have leave to bring in a bill to restructure the gas industry, to amend the Gas and Fuel Corporation Act 1958 and certain other acts and for other purposes.

Mr THOMSON (Pascoe Vale) — I ask the minister to provide a brief description of the contents of the bill.

Mr S. J. PLOWMAN (Minister for Energy and Minerals)(By leave) — The bill provides for the principal separation of the transmission business of the Gas and Fuel Corporation from the retailing distribution business of the company. It deals with and guarantees the rights of preference shareholders and makes minor amendments to other acts.

Motion agreed to.

Read first time.

ELECTRICITY INDUSTRY (FURTHER AMENDMENT) BILL

Introduction and first reading

Mr S. J. PLOWMAN (Minister for Energy and Minerals) — I move:

That I have leave to bring in a bill relating to further restructuring of the electricity industry, to make further amendments to the Electricity Industry Act 1993, to amend the Financial Management Act 1994 and certain other acts and for other purposes.

Mr THOMSON (Pascoe Vale) — I again ask the minister to provide a brief description of the contents of the bill.

Mr S. J. PLOWMAN (Minister for Energy and Minerals)(By leave) — The bill provides an interim generation structure and provides for the corporatisation of five entities in generation: three brown coal entities, one hydro entity and one gas entity. It provides for the allocation and transfer of staff and liabilities and property from Generation Victoria to these new entities. It introduces an energy levy to deal with the contractual arrangements under the Loy Yang B contract and distribute those among the businesses. It therefore makes consequential amendments to the Electric Light and Power Act and the State Electricity Commission Act.

Motion agreed to.

Read first time.

JUDICIAL REMUNERATION TRIBUNAL BILL

Introduction and first reading

Mrs WADE (Attorney-General) — I move:

That I have leave to bring in a bill to establish a tribunal in relation to the salary and allowances of judges of the Supreme Court, judges of the County Court, magistrates and the holders of certain other offices, to amend the Constitution Act 1975, the Supreme Court Act 1986, the County Court Act 1958, the Magistrates' Court Act 1989 and certain other acts and for other purposes.

Mr COLE (Melbourne) — Before leave is granted, I would like a brief explanation of what the bill is about.

Mrs WADE (Attorney-General)(By leave) — I would have thought that the long title of the bill provides a good description of what is contained in the bill. It will establish a tribunal to make recommendations to the government on the salaries and other remuneration of judges of the County Court, the Supreme Court and magistrates.

The proposal was put forward by the government prior to the 1992 election. It will provide an independent body to look at salaries and other remuneration for judges. The recommendations will either be accepted by government or the Attorney-General will be required to table in Parliament the reasons why recommendations are not accepted by the government.

Motion agreed to.

Read first time.

CASINO (MANAGEMENT AGREEMENT) (AMENDMENT) BILL

Introduction and first reading

Mrs WADE (Attorney-General) — I move:
That I have leave to bring in a bill to ratify a deed of variation to the management agreement for the Melbourne casino project, to amend the Casino (Management Agreement) Act 1993 and for other purposes.

Mr COLE (Melbourne) — Could a brief explanation be provided of what the bill actually means?

Mrs WADE (Attorney-General) (By leave) — I do not believe the honourable member for Melbourne has been reading the daily press in the way that one would have expected he would.

Mr Baker interjected.

The SPEAKER — Order! The house will come to order. The question that has been posed to the Attorney-General asks for an explanation of the bill. She is about to do that. I ask the house to hear her in silence.

Mrs WADE — Mr Speaker, I am sure you will be aware that the Casino (Management Agreement) Act was passed last year and ratified an agreement for the construction of the new Melbourne casino.

The Casino Control Act which was passed in 1991 under the previous government provided for variations of an agreement to be made between the parties. These variations in accordance with the act must be ratified by the Parliament. Crown Casino has applied for variations of the agreement, and they relate to the construction of a larger hotel than had been previously anticipated. The variations have been recommended by the Casino and Gaming Control Authority and also by the development and siting committee that was established by the previous government to look at such applications. The government has accepted those recommendations, and the bill is to ratify the necessary changes to the agreement as a result of the variations being accepted.

There are a number of other amendments included in the bill relating to penalty payments being extended to apply not just to the casino itself but also to the whole complex, and to provide for greater control over the actual detail of the proposed amendments.

Motion agreed to.

Read first time.
The bill is in effect proposing to divorce the Urban Land Authority from the Office of Major Projects and at the same time to bring in a proper accountability in ministerial responsibility terms for projects. The Treasurer will be able to nominate which minister and which project can operate under this legislation, in which case the Parliament, the people of Victoria, the Auditor-General and the whole range of accountability systems will be particularised to the minister who has control over the appropriate project and exercising powers under this legislation and will no longer use the Urban Land Authority and its power of attorney delegation as a cover for the exercise of ministerial responsibilities not accountable under any particular legislation.

So it is projects legislation to enable the nomination of particular projects to be handled under an appropriate responsibility scheme.

Motion agreed to.

Read first time.

PLANNING AUTHORITIES REPEAL BILL

Introduction and first reading

Mr MACLELLAN (Minister for Planning) — I move:

That I have leave to bring in a bill to provide for the winding up of the Loddon-Campaspe Regional Planning Authority and the Upper Yarra Valley and Dandenong Ranges Authority, to repeal the Loddon-Campaspe Regional Planning Authority Act 1987 and the Upper Yarra Valley and Dandenong Ranges Authority Act 1976 and to amend the Planning and Environment Act 1987 to provide for the continuation of the approved regional strategy plan made under the Upper Yarra Valley and Dandenong Ranges Authority Act 1976 and for other purposes.

Mr DOLLIS (Richmond) — Again, I ask the minister to provide an explanation.

Mr MACLELLAN (Minister for Planning) (By leave) — The Loddon-Campaspe Regional Planning Authority is made up of a number of constituent municipalities that have the right to withdraw on giving notice. As it happens, a majority of the councils participating in that particular authority have given notice of their desire to withdraw. The councils having chosen to do so on different days and at different times, the budget of the authority was considerably under pressure by the withdrawal or threatened withdrawal and failure to pay of a number of municipalities.

However, the end result was that at its meeting the authority decided to cease functioning and to wind itself up. The legislation simply provides for that to happen. Of course following the reconstitution of municipalities in those areas it will perhaps be up to any new councils that are established in the formal government decisions on local government restructuring in that area to decide what municipalities might participate in any future regional structure.

Four municipalities participate in the Upper Yarra Valley and Dandenong Ranges Authority. At present they are subject to review under the local government review process. The local government interim report suggests that there be, in effect, one municipality in substance handling the area concerned. I will leave the decision on whether it is one municipality, two or three — or indeed, stranger still, if four municipalities remain in that area — to the Local Government Board, but the work of the Upper Yarra Valley and Dandenong Ranges Authority is really in a sense complete. It has produced its strategy plan and has had 10 years to review the position from the time it was constituted.

However, the bill goes further and proposes that this planning system in the Upper Yarra Valley and Dandenong Ranges area should be uniquely entrenched under parliamentary control. The present system throughout Victoria allows for the responsible planning authorities to propose amendments and for those amendments to go through a public process, to a panel and eventually to the minister. On the minister approving an amendment it becomes effective on gazettel, subject only to disallowance by either house of Parliament.

The bill proposes to entrench the regional strategy plan in respect of rural conservation areas in the Upper Yarra Valley and Dandenong Ranges in a unique way, that is, that ministerial approval of an amendment will have no effect unless it is approved by a positive resolution of both houses of Parliament. In other words, the strategy plan for the conservation and rural areas of the Dandenong Ranges and the Upper Yarra Valley will be entrenched in a way that recognises the unique and important conservation qualities of those areas which have had bipartisan support and which have
WATER INDUSTRY BILL

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been supported over many years both in Parliament and beyond it.

Therefore, the bill makes provision for the winding up of the authority, which would not be needed if there is only one council; you do not need another layer above the council to provide regional advice in respect of the single municipal area. If there are two councils one might question whether you need a coordinating body, but there is plenty of opportunity under the general legislation to have a coordinating body without it having its own act of Parliament. If there are three councils the argument might go further along the line that coordination between three councils could be more difficult, but again it can be achieved under the general powers of the legislation; it does not require separate legislation.

However, what is needed, what the government is determined to do and what is beyond doubt and will attract support from the opposition, and I am sure from all sides of the debate about planning, is that because the Upper Yarra Valley and Dandenong Ranges have a unique and special quality the entitlement of those conservation and land protection values should be put under direct parliamentary control and should no longer be in the position where a minister may from time to time agree to amendments or, indeed, make amendments to the scheme which are subject only to a disallowance by Parliament.

The position has been turned into one of the most positive parliamentary control, in which amendments do not have any effect on the planning controls in the area unless they are positively supported by a resolution of both houses of Parliament.

Motion agreed to.

Read first time.

WATER INDUSTRY BILL

Introduction and first reading

Mr STOCKDALE (Treasurer) — I move:

Mr THOMSON (Pascoe Vale) — I ask the Treasurer for a brief explanation of the contents of the bill.

Mr STOCKDALE (Treasurer)(By leave) — The house will be aware that the government has announced a policy in relation to the corporatisation of Melbourne Water on lines which broadly reflect the previous administrative organisation that Melbourne Water itself had established. Melbourne Water was operating on a basis of it having established a headworks business and regionalised its distribution business into three metropolitan regions. It had then set about contracting out to the private sector not only a very large range of core services, most of which were indeed contracted during the period of office of the previous government, but also the substantial proportion of the maintenance of its own pipe distribution on the basis of those regional distribution businesses.

The primary purpose of this bill is to progress the next stage of reform of the water industry and to put into a fully corporatised form those reforms that Melbourne Water had adopted on an administrative basis. The bill creates a headworks corporation, which will take the form of Melbourne Water and which will contain the sewage treatment works as well as a number of other central functions for the operation of the system. It will then corporatise three distribution businesses, which will not be identical to but will be broadly the same as the three administrative units it had previously established. Each will have a corporate structure.

The bill contemplates that the distribution businesses will compete in a competition-by-comparison regime, a common carrier-type approach to water distribution. There are practical difficulties in the way of creating cross-transfers, so it is not practicable at this stage to give individual customers a choice of supplier.

The bill also sets up a licensing regime that will comprehensively deal with the obligations of the water businesses. It addresses issues such as water conservation objectives, not only through the pricing regime but also through the licensing regime. The licensing regime will be overseen by the Office of the Regulator-General, and the bill contains comprehensive provisions dealing with the Regulator-General's role. The bill also amends the Water Act by making changes consistent with the reforms that are already in train in relation to non-metropolitan water bodies.
This is an important reform. No doubt we will hear a series of speeches on privatisation from the Labor Party, which will demonstrate yet again that the Victorian ALP exceeds even the former communist regime in Albania in its willingness to cling to the things of the past that did not and do not work. The bill has nothing to do with privatisation.

Mr Brumby interjected.

Mr STOCKDALE — Melbourne Water had already privatised a very wide range of non-core functions before the present government came to office. The previous government had also supported a reform we subsequently carried through concerning the privatisation of the Yan Yean water treatment works, a very successful example of how the private development of public infrastructure can contribute to what remains a government-owned business through the provision of services and the operation of various functions. Those reforms have been extremely successful. To be fair, I compliment the previous government on embarking on those privatisation reforms — although subsequent events suggest that Melbourne Water succeeded despite the efforts of the Labor government rather than because of them.

The government has not addressed the issue of the privatisation of water and does not see the need to do so in the near future. The government is addressing corporatisation, which will ensure that the reforms which the previous government and Melbourne Water itself had put in place in relation to the division of Melbourne Water's substantial operations can be carried forward in a way that fully realises the potential of those reforms. This is an important set of reforms.

The bill is substantial given the number of pages it contains and the issues it deals with. It addresses the protection of consumer interests in a wide range of ways, including the oversight of the Regulator-General, the licensing system itself, the maintenance of current obligations, and the regulation of credit supervision practices, which will mean that ordinary consumers will see no substantial change in the credit management policies of water businesses.

These are extremely important reforms. I take up the interjection of the Leader of the Opposition in the context of both the electricity reforms, which are clearly heading towards privatisation, and the reform of the Transport Accident Commission, which is establishing a competition-by-comparison regime that is similar to the regime being adopted by Melbourne Water. Contrary to the frequent claims made by the opposition, the government is demonstrating that it is driven by practical considerations and consumer benefits, not by blinkered ideology. If there is evidence of any sort of blinkered ideology in this debate, it comes from the opposition, with its constant carping and negativity. I appreciate the opportunity to outline the purposes of the bill.

Motion agreed to.

Read first time.

LIVESTOCK DISEASE CONTROL BILL

Introduction and first reading

Mr W. D. McGRA TH (Minister for Agriculture) introduced a bill to provide for the monitoring and control of livestock diseases and to provide compensation for losses caused by certain livestock diseases, to repeal the Bees Act 1971, the Cattle Compensation Act 1967, the Stock (Artificial Breeding) Act 1962, the Stock Diseases Act 1968 and the Swine Compensation Act 1967, to amend the Stamps Act 1958 and to make consequential amendments to various acts and for other purposes.

Read first time.

MELBOURNE CITY LINK AUTHORITY BILL

Introduction and first reading

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

That I have leave to bring in a bill to establish a body corporate to be known as the Melbourne City Link Authority, to amend the Borrowing and Investment Powers Act 1987 and for other purposes.

Mr BATCHELOR (Thomastown) — I ask the minister to give a brief explanation of the bill and how it will benefit the casino?

Honourable members interjecting.

Mr BROWN (Minister for Public Transport)(By leave) — Because of the interjections in the house, I ask the honourable member to repeat what he said.
Mr BATECHLOR (Thomastown) (By leave) — Will the minister give a brief explanation of this bill and in particular how it will benefit the casino?

Mr BROWN (Minister for Public Transport) (By leave) — This bill is an extreme embarrassment to the state opposition, which talked for almost the full decade it was in government about the need to improve the road infrastructure in and around the City of Melbourne. Initially it poured cold water on the idea of a tunnel under the Domain. I remember that early in Labor’s time in government the first Minister for Transport, the Honourable Steve Crabb, said that under Labor it would never happen. Of course, his predecessors, particularly the Honourable Jim Kennan and the Honourable Peter Spyker, made it very clear that the idea of constructing the tunnel was moving ahead. They made very supportive statements, outlining to the populace their desire to do what this bill does. Of course, like so many of the promises the Labor Party made while in office, it was never achieved.

This government was delighted when the Premier announced on 1 July this year that the southern and western road links would be constructed, the scheduled completion date being the year 2000. Of course, the bill will facilitate the south-eastern link, which involves the construction of a freeway connecting the West Gate Freeway east of Kings Way to the South Eastern Arterial at Toorak Road, incorporating road tunnels passing under the King’s Domain and the Yarra River.

Of course, at present the South Eastern Arterial is known to all and sundry as the south-eastern car park. The Labor Party, which was so incompetent in everything it touched, constructed a so-called freeway with seven intersections controlled by traffic lights. What an outrageous joke that was! It has taken the election of this Victoria-on-the-move government to do away with those intersections. We have seen the recent opening of the overpass at Warrigal Road, and we will do away with the other intersections over time. Again, Victoria is on the move.

This bill will also facilitate the construction of the western link, which should be of great interest to members of the Labor Party. It is in their so-called heartland, which they deserted. This government is moving to govern for all Victorians, including those who live in the western suburbs, not only by upgrading the Tullamarine Freeway but also by undertaking other associated road works. That will certainly be welcomed by those many former supporters of the Labor Party who now support the coalition government. It will also be welcomed by the honourable member for Tullamarine, the honourable member for Essendon and many others.

The SPEAKER — Order! The honourable minister should stay within the outline of the bill.

Mr BROWN — Certainly. In directly looking after those people this bill will facilitate the western link. That involves the upgrading of part of the actual freeway from near Bulla Road to Flemington Road followed by a link to the West Gate Freeway intercepting with Footscray Road.

To the extreme embarrassment of the state opposition, the people who will mainly benefit from that link will be the people of the western suburbs — the ones it deserted for more than a decade in government. This government genuinely cares about people. It supports Victorians and is working to improve their lifestyle, their environment and the facilities they should have had years ago that the then Labor government talked about facilitating and implementing, but never did a damn thing to help them.

Motion agreed to.

Read first time.

VALUATION OF LAND (AMENDMENT) BILL

Government amendments circulated by Mr I. W. SMITH (Minister for Finance) pursuant to sessional orders.

Second reading

Debate resumed from 11 October; motion of Mr I. W. SMITH (Minister for Finance).

Mr BRUMBY (Leader of the Opposition) — This is a totally unacceptable piece of legislation. It is an outrageous piece of legislation; it is a reflection on a government that has lost its way. This is an incompetent piece of legislation and it is quite unacceptable to the state opposition. It seems more than a little ironic that this bill has been introduced by the Minister for Finance because this is the very same Minister for Finance who said earlier this year on 11 October in this house that:

The Liberal government was criticised from 1979 to 1982 for land deals that were neither imprudent nor
shonky because the former government made a profit out of them.

This is a most extraordinary statement by an extraordinary minister. It is an admission to the house, an admission to this Parliament and to the Victorian public, that the Kennett government has learnt absolutely nothing, not a single thing from the notorious land deals that blighted Victoria in the 1970s. But if we were to say there might be one single thing this minister and this government has learnt from the land deals of the 1970s, it is: don't get caught! That is the only lesson that could have been learnt from the land deals because you have a minister on the record in the Parliament as little as a month ago saying there was absolutely nothing wrong with the land deals of the 1970s!

Let us have a look, not at what the state opposition said at the time but at what the press said at the time.

Mr Weideman interjected.

Mr BRUMBY — We do not believe the papers now! The honourable member does not believe these papers! These are all lies, are they? Is it all lies, propaganda, deceit, that was produced in the 1970s?

The SPEAKER — Order! The Leader of the Opposition will address the Chair. The honourable member for Frankston will remain silent.

Mr BRUMBY — I have a few examples of what the public said about your rotten government, your rotten Liberal government in the 1970s! A newspaper article headed 'Evidence of conflicts of interest and favouritism' quotes the report of the royal commission and says:

Conflict of interest, 'cronyism' and favouritism were all evident in the hierarchy of the Housing Commission, according to the report of the royal commission.

Whereas we would have expected to find impeccable standards of official and commercial behaviour at commissioner level, we have found instances of obvious conflict of interest, or the appearance of conflict of interest, and both at that level and in the property branch, substantial evidence of cronyism and favouritism exist.

I have more! The heading of an article in the Age of 19 November 1991 reads 'The Valuer-General bypassed in land, house deals'. People went to gaol over this. But according to the Minister for Finance and the now Premier, this is just a fairytale fabrication. People went to gaol for goodness sake! Were they wrongly gaol? Did the courts make a mistake? Another headline, from the Age of 23 March 1982, reads 'Riach and Dillon jailed over land corruption'. Do you understand the word? Corruption! Corruption! Corruption! That is why they were gaol! Have a look here!

Mr I. W. Smith — What year?

Mr BRUMBY — The newspaper article reads:

Two men involved in multi-million Housing Commission land deals had abused positions of trust — —

Mr I. W. SMITH (Minister for Finance) — Mr Speaker, on a point of order, the Leader of the Opposition seems to be quoting from a newspaper article. I wonder whether he could quote the name of the newspaper and the date.

The SPEAKER — Order! I ask the Leader of the Opposition to please comply.

Mr BRUMBY (Leader of the Opposition) — This is from the Melbourne Age of 23 March 1982. It is an article by Ms Prue Innes. Under the heading 'Reach and Dillon jailed over land corruption', it reads:

Two men involved in multi-million Housing Commission land deals had abused positions of trust and systematically engaged in bribery and corruption ...

That is what this legislation is about! It takes away all of the checks and balances that were put in place to prevent a repeat of the land deals. The land deals — —

I have more!

Mr I. W. Smith — Rubbish!

Mr BRUMBY — Minister, your own backbench — —

The SPEAKER — Order!

Mr BRUMBY — Your own backbench does not want this legislation. Your own backbench is telling us this is rotten legislation, and you know it!

The SPEAKER — Order! In the past two weeks I was fortunate enough to have a session in the House of Commons to see the way a debate should be conducted correctly. In that august chamber no member would ever dare address another member
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directly. I believe we should take a leaf out of the House of Commons books. We, after all, have adopted their standing orders so I ask the Leader of the Opposition to please address the Chair.

Mr BRUMBY — Thank you for your guidance. I have visited the House of Commons and I have certainly seen some spirited debates. I know that you believe that this is a chamber in which spirited debate is a good thing.

Mr Baker — We don’t get blown up in the car park!

Mr BRUMBY — Another newspaper cutting from that day reads ‘Two jailed for perjury at land inquiry’ — another cutting on the so-called land deals that did not exist! There was nothing wrong, it was a total fabrication, a fairytale — just a couple of people gaoled! Headlines in the Sun of Wednesday, 28 October 1981 read ‘Estate agents were favoured: report’ and ‘2 ministers under fire’, and so it goes on about favours given to a coterie of estate agents.

This legislation is about the Valuer-General and the Estate Agents (Amendment) Bill, which will be passed through this house under guillotine this afternoon. I refer to another headline from the Australian. Perhaps the Liberal Party in those days did not believe the Age, but these accounts are in the Sun, the Australian — all of the newspapers of the day recorded the results of the royal commission’s findings. The Australian reads ‘Report reveals serious deficiencies, improprieties behind haphazard land purchases’ and ‘Commission’s dealings negligent’. The headings in that article are ‘Bribery’, and ‘Deceitful’.

But all we hear from the minister introducing this rotten legislation and from the now Premier — and I will come to the now Premier a little bit later — is that there was nothing wrong with the land deals. They did not exist; it was a fabrication; that the government made a profit out of them

An honourable member interjected.

Mr BRUMBY — What an extraordinary statement! We will make out a case.

Mr I. W. Smith interjected.

Mr BRUMBY — Let it be clearly understood that not one organisation supports this dirty rotten piece of legislation — not one single organisation! I will return to that during the debate.

The only people supporting the bill are the carpetbaggers, the crooks and charlatans who want to make a dollar. The minister may well look embarrassed, because I will go through the list of people who oppose the legislation. Not one single decent argument based on good public policy can be advanced in favour of the legislation. It will again open up Victoria to the dirty days of the land deals — make no mistake about that!

When the bill is coupled with the estate agents bill that the honourable member for Footscray debated yesterday, the situation becomes a free-for-all. It will be open slather: anybody will be able to work in the industry, anyone will be able to value land, anyone employing another will be able to flog land, and anyone related to a family in business will be able to get involved. We will end up with insider trading!

Who will pay for this government’s open-slather approach, by which it looks after its mates and the big end of town? The answer is the poor old Victorian consumers, who are already paying $1900 a year extra in taxes and charges because of this government’s policies!

Look at what happened in other states when estate agents commissions were deregulated: each consumer now pays another $2000 every time he or she buys or sells a house. What happened in New South Wales, New Zealand and Tasmania? This legislation can be coupled with their legislation, which took away all the checks and balances — this is a free-for-all!

No-one supports the bill. Even real estate agents oppose it. Minister, I am not misleading the house. There are plenty of members on your side who believe this is a rotten piece of legislation.

This bill does a number of things. It abolishes the system of registering valuers. It abolishes the education and experience requirements for the positions of Valuer-General and Deputy Valuer-General, as well as the education and experience requirements for valuers. It abolishes the Valuers Qualification Board. It abolishes the education and experience requirements for municipal valuers. It abolishes the Municipal Valuation Fees Committee. It abolishes the Land Valuation Board of Review. It modifies the appeal procedures contained in the Land Acquisition and
Compensation Act and it creates a land valuation division of the Administrative Appeals Tribunal.

Let me make sure the public record shows that the Australian Institute of Valuers and Land Economists, the Real Estate Institute of Victoria, the Valuer-General, the Valuers Qualification Board and, as I said, a number of Liberal parliamentarians have all said they do not want this bill to proceed. That’s not a bad coalition, is it?

A lot of eminent Victorians — in fact, the whole industry, which comprises people who are responsible for standards and for protecting the interests of all Victorians — will not embrace or support the bill. They are all saying to the government: don’t proceed. Why is the government proceeding with it? Why ram through the Estate Agents (Amendment) Bill? Why does the government not want a proper debate? Why close down Parliament tomorrow and next Friday? Is it because this is a dirty, rotten, stinking bill that takes Victoria back to the days of the land deals?

The people who will pay for this, the people the government could not care less about, are ordinary Victorians. They will pay through the nose for this legislation. Let’s make no mistake about that!

Overseas experience shows that the deregulation of valuers has an adverse impact on consumers. It is not as though it will help the battlers or the people buying or selling houses — in other words, ordinary Victorians. I repeat all the evidence shows that the deregulation of this industry has an adverse effect on consumers — not a beneficial effect, an adverse effect.

Those involved in this issue in the United States initially chose — I stress ‘initially’ because they have now seen the error of their ways — to adopt a deregulated market. The results can be seen in the enormous transaction costs to consumers during the 1980s. Earlier this year, Mr B. J. Fountain, the President of the Appraisal Institute of the United States — ‘appraisal’ being the American word for ‘valuation’ — spoke to the World Valuation Congress. He pointed out that in the environment fuelled by deregulation the incidence of faulty and fraudulent valuations had reached crisis proportions by the late 1980s. In his paper to the World Valuation Congress he said:

Devaluation gave unscrupulous lawyers, accountants, financial institutions, loan managers and appraisers (valuers) free rein to engineer some widely creative profiteering schemes. Some appraisers (valuers) were drawn into transactions called ‘land flips’, a process of inflating property valuations again and again to generate large profits in loan fees. Land flips were made possible because of poor lending policies and procedures that allowed appraisals (valuations) to be overlooked.

That is a strong indictment of the proposals put by this minister in this shabby legislation.

I turn to the New Zealand government’s actions — and I will travel around the world if necessary! In 1989 it decided to maintain the licensing of valuers following a review of the transaction costs to consumers of using unlicensed valuers. The following observation in support of its findings that New Zealand valuers should continue to be licensed were made by the working group on occupational regulation:

... transaction costs (including searching for a suitable competent valuer) are higher than in other industries. A state-backed certification regime reduces those transaction costs by allowing the consumer to rely on the minimum criteria that the title ‘registered valuer’ entails and there is a need for regulation of the services that valuers provide. The essential justification rests on the reduction of transaction costs that regulation in the form of state-backed certification produces in comparison to a free market outcome ... The valuing industry has the potential to involve significant financial exposure should inaccurate valuations be made. This places a premium on employing a valuer with certain minimum skills. This in turn leads to consumers incurring greater transaction costs than is the case in other industries.

Nonetheless, and despite all the advice to the contrary, the minister has stated that it is ‘fundamental to the government’s approach that no person should be prevented by law from practising as a valuer if others are prepared to hire them’. That’s not bad: ‘no person should be prevented by law from practising as a valuer if others are prepared to hire them’. That means anybody can be a valuer. The minister nods his head. You could set up a firm called the Shonky Brothers or the Dodgy Brothers! That would be a good firm — the Dodgy Brothers!

The DEPUTY SPEAKER — Order! Before I came to the chair this morning I heard in my room a broadcast of the Speaker addressing the house about the need for members to make their statements
through the Chair. I intend to enforce the same philosophy.

Mr BRUMBY — In effect, the bill provides for two classes of valuers. One class, the currently registered valuer, is a qualified and experienced valuer who is bound by a code of ethics and legislation and who is subject to disciplinary proceedings. Such a valuer must hold professional indemnity insurance for the protection of his or her clients.

It would appear from this legislation that another class of valuer is about to be created with no rules whatever, in other words, the old open-slasher approach is to be adopted. Unqualified people who would today commit an offence if they undertook a valuation of real estate in Victoria will, after the proclamation of this legislation, be free to perform valuations. So that’s not bad, is it? Today if someone undertook a valuation in a certain way he or she would be committing an offence and would be considered to be a criminal, but once this legislation is through that will not be the case and that person will be free to do whatever he or she likes. The only tests of a person’s capacity to carry out any valuation will be that either someone was prepared to hire him, or that he holds qualifications or experience specified from time to time by the minister by notice published in the Government Gazette.

At the minister’s whim a notice in the Government Gazette can change the criteria and this person may not necessarily hold valuation qualifications or experience either now or in the future. There will be no disciplinary procedures, and professional indemnity insurance will not be required for those unqualified valuers as that is considered by the minister to be a barrier to entry into the profession.

The net effect of this bill will be that a new bureaucracy will be required to replace the Valuers’ Qualification Board and the land valuation boards of review. Any person may be able to carry out valuations and call himself or herself a land valuer or real estate valuer. Isn’t that great? You can imagine in some parts of Melbourne that this will be a goldmine for the Dodgy Brothers, the Shonky Boys and all the shady operators who want to set up and rip off consumers. That is the fact of the matter, Minister.

Mr I. W. Smith interjected.

Mr BRUMBY — And you will be accountable for this because we will report on this and we will monitor this in the same way as we will monitor what is occurring with estate agents’ fees. We will monitor how Victorians are ripped off by people calling themselves valuers under this legislation.

It is interesting to note that on 15 July 1994 three members of the four-member Valuers’ Qualification Board wrote to the Minister for Finance setting out their grave concerns — not just expressing a view or a bit of a concern, and grave is perhaps even an understatement — about the changes planned by the minister in this bill.

The fourth member of the Valuers’ Qualification Board is the Valuer-General himself, who also expressed serious concerns about the legislation. I shall table in Parliament today a letter from the Valuer-General and the members of the board to the Minister for Finance dated 15 July 1994.

As I said, these are dramatic changes and must be considered in conjunction with the Estate Agents Act because changes to that act will mean that the ceiling on charges by estate agents will be scrapped and that family members and employees of estate agents will be able to purchase the properties an agent has been commissioned to sell. Estate agents will be given permanent licences rather than two-year reviewable licences. The independent watchdog, the Estate Agents Board, will be abolished and the new Estate Agents Council will lose the independence of the board and be closely linked to the Minister for Fair Trading.

We say quite categorically that the only people who will benefit from the changes under the Valuation of Land (Amendment) Bill and the Estate Agents Bill will be the same sort of fraudulent property developers, the same sorts of crooks and charlatans who thrived in the 1970s making millions of dollars through land deals between mates. That is the unquestionable outcome of this legislation. There are members of the Liberal backbench who do not want to see this legislation go through. We are going to divide on this legislation so they will be counted. We will make sure in every electorate around Victoria that those members who vote in favour of the Dodgy Brothers and the shonky deals and shady deals which this legislation involves will have to defend that in their local electorates. When you conjoin it with the Estate Agents Bill there is no doubt that the losers — the people who cannot get on the gravy train — will be ordinary Victorians because these changes give a green light to the
cronyism, corruption and conflict of interest that was prevalent in the land deals of the 1970s.

The land deals of the 1970s resulted in two royal commissions. The first was the Gowans report, which was tabled in March 1978. That report criticised the then housing minister, Mr. Vance Dickie, and recommended criminal proceedings against two people involved in land transactions, Mr. Robert Dillon, a real estate agent, and Mr. Neil Kirk, purchasing officer for the Housing Commission. The Gowans report also found that the Housing Commission had paid an extra $4 million for land because of inadequate valuations.

After the Gowans royal commission further accusations and allegations were made in relation to land deals which led to the setting up of the Sir Sydney Frost royal commission. That commission handed down its report in October 1981. The Frost royal commission was a damming indictment on the government of the day. It made it absolutely clear that conflict of interest, cronyism and favouritism were all evident in the hierarchy of the Housing Commission.

Page A15 of the general conclusions of the Sir Sydney Frost states:

The overwhelming impressions with which we are left by the evidence and from our careful observation of the principal actors over the relevant period, is that the land purchasing function during the period was handled badly and with a notable lack of initiative and perspicacity on the part of many of those directly involved in it.

At page A16 the following appears:

... and whereas we would have expected to find, otherwise, impeccable standards of official and commercial behaviour at commission level, we have found instances of obvious conflict of interest or the appearance of conflict of interest and both at that level and in the property branch, substantial evidence of cronyism and favouritism.

That is the royal commissioner! He did not say, 'You know, there might have been something in there and maybe we could have had a look at it even though there may be not much there'. He said there was substantial evidence of cronyism and favouritism! Two royal commissions, two conclusions: substantial evidence of cronyism and favouritism.

The commission went on to say at page A22:

The commission allowed a coterie of favoured estate agents ... to gain inappropriate if not ... improper pre-eminence in matters of proposed land purchases, and extensive knowledge of the commission's policies, intentions and procedures, and varying degrees of influence over various of its members and officers. The known consequences ranged from bribery on a considerable scale ... to obtaining copies of internal documents of the commission.

Bribery is a pretty serious offence. We know for example in Sydney when Mr. George Herscu of the Hooker corporation was found guilty of paying secret commissions to Mr. Norm Gallagher he lost the licence to build the Sydney casino. Bribery is an important matter. One would think that if it could be shown that someone in Victoria associated with the Crown Casino had paid bribes to a Mr. Norm Gallagher —

Mr Perrin — Where is your evidence?

Mr Brumby — You fool! It is in the royal commission. I read it out yesterday in question time. Were you asleep?

The Deputy Speaker — Order! The Chair has made it quite clear — as I said earlier — that comments across the chamber are disorderly. I remind the honourable member for Bulleen of that. I also remind the Leader of the Opposition that remarks are to be made through the Chair and that the Chair will not tolerate banter or high-level interjection across the chamber.

Mr Brumby — Usually I would not respond, Mr Deputy Speaker, but it was such a stupid interjection.

Mr Perrin — I will be speaking up again.

Mr Brumby — We can hardly wait! We will be delighted to hear that. Perhaps the honourable member might like to come back tomorrow and then we can have a proper debate. Perhaps the honourable member could explain in his contribution why the government is closing down the Parliament tomorrow and next Friday and why in the last week of sitting neither the Premier nor the Treasurer will have the courage to be here. The reason is that much dirty, rotten legislation is being put through this house. Frankly, government members do not have the guts to support that
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legislation. That is why the Parliament is being closed down.

Let us stay with the issue of bribery. Bribery is a criminal offence. As I said yesterday in the Parliament — and I am just getting hold of the Hansard record of yesterday’s proceedings — bribery is an important criminal offence.

In Sydney Mr George Herscu lost the licence to build the casino because he was found guilty of paying secret commissions to Mr Norm Gallagher. One would have thought that if someone in Victoria had owned up to paying secret commissions to Mr Norm Gallagher, under casino licensing laws and other normal standards of probity that apply in this state such a person would also be disqualified from gaining a casino licence.

In the interests of debate I will refer to what I said yesterday in Parliament concerning the Winnike commission evidence. The evidence shows that Mr Lloyd Williams said this in relation to bribes to Mr Norm Gallagher:

I am the person who authorised it ... I am the person who did it.

I am open to interpretations of that, but I think there is only one interpretation. In other words he is saying, ‘I am the person who authorised the bribe. I am the person who paid the bribe’. It is a criminal matter. In Sydney that resulted in Mr Herscu losing the casino licence.

I mention that because bribery also occurred in the old land deal days. In the same way we now have a Minister for Finance and a Premier who turn a blind eye to these things because they say that there was nothing wrong with the land deals. It is important to put on record in Parliament the statements made by the Minister for Finance. Basically he said that there was nothing wrong with the land deals. The now Premier and former Minister for Housing, Mr Kennett, also said that there was nothing wrong. But these land deals involved cronyism, corruption and bribery on a considerable scale.

Another case that comes to mind occurred in Tasmania. Mr Edward Rouse was convicted of paying a bribe to a member of Parliament. He ended up in gaol. Bribery is an important criminal matter. It happened during the land deals, and we now have a Minister for Finance who brings in this legislation saying that the land deals were a non-event — that cronyism, corruption and bribery mean nothing.

Mr I. W. Smith — I did not say that.

Mr BRUMBY — The minister said this in this house on 11 October 1994, a month ago:

The Liberal government was criticised from 1979 to 1982 for land deals that were neither imprudent nor shonky because the former government made a profit out of them!

The deals involved cronyism, corruption and the payment of bribes. Some might think there was something wrong with that, but not this government, not this minister. They say, ‘Let’s go for it. Let’s get into the cronyism business, the corruption business and the bribery business because we can make a dollar out of that’. That is what the minister said. If he wants to withdraw his statement, he should withdraw it and make a personal explanation. He said that the deals were neither imprudent nor shonky, but they involved cronyism, corruption and bribery, criminal offences for which people have gone to gaol.

Let us again look at what the commission said. On page A19 of the report the commission notes the following of the director and commissioners of the former Housing Commission:

All conducted private business with contractors who had either performed work for the commission or sought to do so, and all managed to have their work performed at prices far below its true worth.

The major reason for the land deals and the royal commissions was that deals were done between real estate agents and valuers. That is why the opposition is so stridently opposed to the legislation. Deals were done between real estate agents, valuers and purchasing officers whereby land was deliberately overvalued and sold to the former Housing Commission through a corrupt agent at that overvalued price, which in turn increased the commission paid to the real estate agent.

By deregulating the industry through deregulating valuers and by allowing inappropriately qualified people to value houses and land, the government is inviting a re-emergence of the corrupt practices of the 1970s. As a result of the land deals of the 1970s a number of people were gaolled, including an estate agent and a Housing Commission purchasing officer. It is true that the housing deals also contributed, although not significantly, to the downfall of the Hamer government. They further led to the resignation of two ministers for housing,
Vance Dickie and Geoff Hayes, and to the resignation of Sir Phillip Lynch.

That was a sad period in the history of Victoria, but this bill and the Estate Agents (Amendment) Bill are a recipe for the Dodgy Brothers, for the Azfurr Daleys of the world. They will be able to put up a sign on their doors calling themselves land valuers and real estate valuers. The sad fact is that if Azfurr Daley deliberately undervalues a person’s property he will not be subject to disciplinary procedures and the consumer will not be compensated because the valuer does not have to pay professional indemnity insurance. There is no doubt that the minister is enabling the shonks of the 1970s to gain some form of legitimacy.

It is interesting to note also that after the Sir Sydney Frost royal commission report was tabled in Parliament a ministerial statement was given by the then housing minister and present Premier, Mr Kennett. When one looks at his ministerial statement it is easy to see that he also failed to understand what conflict of interest, bribery and corruption were all about in the 1970s. He still fails to understand such concepts today. On page 8 of his ministerial statement the then housing minister states:

This royal commission was set up following repeated suggestions from the opposition that the Housing Commission had been involved in shady land deals. The royal commission has given a lie to that. No pattern of land deals was shown at all.

He continues:

The commission has been vindicated in respect of the real basic accusations made against it. The royal commission has proved — no shady land deals; no widespread graft and corruption.

He continues:

Similarly the responsible ministers have been unqualifiedly exonerated of dishonesty and malfeasance ... their integrity and probity have been confirmed.

At page 14 of his ministerial statement the former housing minister, Mr Kennett, makes this extraordinary observation:

In short, Mr Speaker, after all the innuendos, suggestions and character assassinations by the opposition from 1976 to 1979 in desperately trying for political reasons to promote the commission’s and government’s involvement in ‘shady land deals’, the royal commission has found no evidence to support such claims. In fact the royal commission has given lie to such charges.

That is an extraordinary thing to say. It flies in the face of the reports of both commissions; it flies in the face of findings of cronyism, corruption and bribery and the eventual perjury that occurred.

But the then housing minister and present Premier washes his hands of this sort of business. We hear the same sort of response now. Every time a person raises a matter in the Parliament he raises a matter in the Parliament he is accused of smear and innuendo. If a person quotes from a royal commission report he is accused of smear and innuendo. For goodness’ sake, what is the Parliament for if we cannot quote a royal commission or a statutory body? Every time we do that we get the same response. We have a Premier who in effect maintains that the land deals of the 1970s were a good thing, who by way of his ministerial statement back in 1981 maintains that the land deals never really occurred, who wears a ‘conflict of interest’ badge as some sort of badge of honour!

Worse than that is a report in the Herald of 28 October 1981 in which the then housing minister, Mr Kennett, is alleged to have said that he doubted whether the royal commission was even necessary. The article states:

Mr Kennett said the most satisfactory aspect of the report was that it went out of its way to reject the Labor Party’s innuendos of corruption.

But he said he doubted whether this justified the spending of more than $3 million on a royal commission ... Mr Kennett said, ‘Literally dozens of people at the housing commission had been tied up in the inquiry for two years’.

He said they would have been better engaged helping to implement the many changes which had been made in the ministry.

This commission found evidence of cronyism, corruption, bribery, perjury and grossly inflated land prices. What does the Premier do? What does the Minister for Finance do? They wash their hands of it.

If the bill proceeds in its current form members of Parliament can rest assured that the bad old days of
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ASSEMBLY

the 1970s will return very quickly and that the land deals that will emanate from the bill will make the casino tender process pale into insignificance. This is a trip down the time tunnel to the bad old days. It is linked to the Premier's comments about the so-called new spirit of Victoria, but in this new spirit only a few are favoured and are part of the inner circle, the secret cabal that runs the state, only a few benefit and most Victorians pay heavily for this government. The few who get on the gravy train do very well indeed. That is what the legislation is all about.

We will vigorously oppose the bill. We will monitor its impact on ordinary Victorians in electorates around the state and examine it in conjunction with the Estate Agents (Amendment) Bill. This is a rotten bit of legislation that takes us down the time tunnel to the 1970s, and it is inevitable that the government will pay the price at the ballot box in 1996.

Mr CLARK (Box Hill) — The Leader of the Opposition takes exception to people accusing him of smear and innuendo but the reason for that is simple and his tactic is clear: on every occasion he can dream up he comes into this house to make a whole lot of references to corruption, bribery and all sorts of other improper practices in nebulous and non-specific terms, refers to transactions all over the country and says, 'Because of this the present government is corrupt'. That sort of non sequitur would never stand up in a junior high school debating contest and does not carry much weight at all. That is why the Leader of the Opposition finds it difficult to be taken seriously.

When one looks at the question as a matter of logic rather than foaming at the mouth it is perfectly apparent that the more the Leader of the Opposition carries on about transactions in the late 1970s the more he demonstrates why the current valuation regime has been ineffectual and why none of the adverse consequences he talks about is likely to follow from the legislation.

The act this bill amends is a 1960s act and the last significant amendments to this part of the legislation that I could find were made in the early 1970s. Basically, the same regime applied from then to the present day. If the Leader of the Opposition is saying that all these horrible things happened in the late 1970s, he must see that they happened under this legislation, which has been proved to be ineffectual.

Exactly the same point can be made about the 1980s, about which the Leader of the Opposition had very little to say. Of course, during the 1980s we had the Tricontinental collapse, the Pyramid Building Society collapse, the financial difficulties of State Bank Victoria and the financial difficulties encountered by large parts of the private sector, and they all took place under the regime of regulated valuation. As the record shows, that regime did not prevent those things. The reason is simple, and the same point applies to the evidence the Leader of the Opposition cited. It is not a question of valuations being the cause of the problem; it is the question of what people do with the valuations. That is why the argument of the Leader of the Opposition does not hold up.

One needs to look at the bill in two separate aspects: firstly, its effect on government transactions and, secondly, its effect on private sector transactions. In respect of its own transactions the government is making sure there is in place a regime that will deliver proper valuations and ensure strong oversight by the Office of the Valuer-General over land purchase practices within the government sector. The bill also has no effect on the Land Monitor, who has been doing a very effective job over a number of years.

The bill provides for the minister to prescribe standards to be met for valuers who are engaged in performing local government work and various other public sector areas where legislation is required. As I said earlier, in respect of operations within government itself the Valuer-General's role is being enhanced by the government. The Auditor-General also will continue to vigorously supervise government transactions, and it is worth pointing out that the number of damaging reports the Auditor-General brought down about the previous government's practices contrast with his very solid commendations of the financial practices of the present government. The opposition is hardly in a position to make claims about malfeasance in the public sector.

It is also worth pointing out that the legislation follows from a nationwide process established under the auspices of the Council of Australian Governments (COAG) which is being driven by the federal government and the Prime Minister. When the Leader of the Opposition talks about this being legislation dreamt up by carpetbaggers and spivs, is he talking about his own Prime Minister? He should answer that question. If the honourable member for Melbourne follows me in this debate I invite him to...
say whether the Leader of the Opposition is bagging a Prime Minister of his own party, whether this is a continuation of the state opposition's trend of being out of step with the Labor movement at the nationwide level and whether it is happily going off on a frolic of its own and tipping a bucket on reform measures being implemented by its federal colleagues. I look forward to an answer.

The Leader of the Opposition might also explain why he was a member of a federal government that happily gave a further delegation of powers to the Australian Capital Territory, did nothing to ensure that the ACT had in place a regime for the registration of valuers, took no exception to the continued non-enactment by the ACT legislation for valuers and did not consider that a territory regime established by the federal government was thereby corrupt or dealing with spivs and crooks because it did not enact such legislation. He stood by and took no exception to it so one has to question the bona fides of his raising this argument now.

When one steps aside from the rhetoric and intemperate language that are part of the accusations of the Leader of the Opposition and his party one sees that the bill moves valuers into the same regulatory regime as, for instance, accountants who have managed very successfully over many years.

I want to acknowledge the very constructive discussions I have had with members of the AIVLE and valuers who have vigorously expressed their points of view on the legislation and have been prepared to engage in constructive and helpful discussions on it. Ultimately, the government has to make a decision in the interests of the whole community having regard to all the considerations involved. We have heard the valuers' point of view, and they approach the situation from their perspective. The government has looked at it from the broader perspective and, after comparing valuers with other professionals, particularly accountants, believes there is no need for the regulatory regime to continue.

The position of valuers can be contrasted with that of real estate agents. Real estate agents are charged with holding substantial funds belonging to clients and, as in many other areas where trust funds are involved, there is a need for regulation. Valuers provide valuation services for a fee. People hire them after shopping around and taking into account a combination of price, quality, service, convenience and any other factors that they as customers may choose.

Why should one say that people are less capable of choosing valuers than they are of choosing suppliers of other products, whether they be from supermarkets, complex pieces of equipment, domestic services or a whole range of functions in the private sector that do not need regulation? Why single out a handful of professions and argue that they should be regulated without good cause? The onus of proof lies with those who believe there should be regulation and that onus has not been discharged by supporters of the current regime.

It is particularly worthwhile to make a number of points in support of that notion. A large proportion of valuation business, probably the bulk, is carried out on behalf of large commercial enterprises such as banks and other institutions that use valuations for their own purposes. Does the opposition believe that banks and other financial institutions are not capable of making sensible decisions about who they should hire? Banks have an interest in ensuring that properties do not come in under valuation because they are putting their own money on the line. As well, banks and often financial institutions have audit committees, external auditors and others to ensure they select valuers correctly.

The key question is the extent to which people are able to contract for themselves. The question of what will happen with contracts entered into prior to the legislation coming into operation has been dealt with in clause 37, a transitional provision which provides that where people have referred in documents to registered valuers the contractual intention is to be given effect. Once people know what the new regime is they can negotiate whatever contractual provisions they like when entering into contracts. I am sure that in the vast majority of cases in which people entering into commercial contracts want to have some mechanism for valuation they will specify a valuer that holds particular qualifications. It is up to the parties to negotiate the agreement.

There is an enormous window of opportunity for the AIVLE to promote itself as a private sector accreditation organisation and to urge people to ensure that when drafting contracts they refer to an AIVLE valuer in the same way that accounting bodies have run effective public relations campaigns to promote the virtues of using members of their organisations and to encourage people to hire their members and, when necessary, refer to those
members in contracts. It is ridiculous to say that people are not capable of looking after themselves in this respect.

Clause 36 makes consequential amendments to a number of other acts to provide for what will happen when the deregulation of valuers takes effect. In a large number of provisions there is adoption of the requirement for the qualifications or experience specified by the minister. In instances where that is not the case there are other fall-back mechanisms, such as the appointment of an arbitrator and so forth. In other words provision has been made for particular instances where there is a need for special qualifications to be set, but the general principle is that people ought to be entrusted to look after themselves and to make sensible decisions to regulate their own affairs.

It is easy to say, 'Shock, horror, there is a problem here; we need to fix it. We are from the government and we are here to help you'. However, as a result we end up in the ridiculous position of the Leader of the Opposition one day saying that he is all in favour of competition, incentives, choice and those sorts of things and the next day saying that we have a problem, that we need to regulate, that we need the government to tell the people how to live their lives, to look over their shoulders and do it for them because it cannot trust them to look after themselves.

However, Big Brother government has proved woefully ineffectual in protecting peoples' interests in the sphere of regulatory regimes. People can often prove to be most vulnerable when government creates a false illusion of protection by setting up licensing boards and so forth. If people are on notice that they must make their own inquiries they will do so.

For all those reasons, I believe the arguments against the bill are unsubstantiated. The bulk of the arguments put by the Leader of the Opposition were used as a convenient excuse to continue his political campaign. I am sure the arguments advanced against the bill by the valuers are perfectly sincere, genuine and well-meaning. Nonetheless, they have approached this issue from the particular perspective of their own professional background. The government has approached the legislation in the interests of all Victorians. It is not minded to allow unjustifiable and unnecessary regulatory regimes to get in the way of those carrying on businesses.

I repeat that this initiative arises under the COAG process which is being led across the country by a Prime Minister who is of the same political party as the Victorian opposition, so it appears that once again the Victorian opposition is out of step with its federal colleagues and the rest of the nation.

Debate adjourned on motion of Mr THOMSON (Pascoe Vale).

Debate adjourned until later this day.

COMO PROJECT BILL

Second reading

Debate resumed from 14 October; motion of Mr MACLELLAN (Minister for Planning).

Mr DOLLIS (Richmond) — The aim of the bill is to facilitate the development of the balance of the Como project and to repeal the South Yarra Project Act 1984. It amends the South Yarra (Subdivision and Management) Act 1985 so that it applies only in relation to the completed stage one of the Como project.

The original project was to include four stages. Stage one was completed by Jack Chia under the provisions of the above acts. The new owner, Royalmist Pty Ltd, plans to develop the remainder of the site as two separate projects. Project A comprises the land in the middle of the Como site, bounded by the Prahran main drain, Chapel Street, Malcolm Street and River Street, South Yarra. The plans are currently displayed for viewing by the public as amendment L52 to the Prahran planning scheme and, to date, 10 objections have been received.

Project B refers to the land at the north end of the site, between Alexandra Avenue, Chapel, Malcolm and River streets. On 13 April these plans were approved under amendment L46 to the Prahran Planning Scheme without exhibition to the public.

The issue in relation to this bill is about open space. Stages 2 and 3 do not include the amount of open space that was in the original Jack Chia Como plan. The central green in stage 1 was to be linked to further areas of open space, but the Royalmist proposal does not contain plans for an extension of this public open space area. When I mentioned this to the Minister for Planning he said he would examine it, but some attention needs to be given to
the original proposition, which is not being met under the current plans.

The South Yarra Project Act provided for dispensations for the owner of the land from municipal and former Board of Works rates and land taxes. Those dispensations will continue for the central green area of stage 1 under this legislation.

Such reductions in revenue were based on the original proposal that there would be an amount of useable open space for recreation purposes. However, this area of open space is not useable, and is not even visible to the public from the street. No signs are displayed to direct people through to this area, which naturally is not being used by the public.

The ratepayers of the new City of Stonnington are concerned that they are subsidising the central green for the enjoyment of Como Hotel patrons and Armitage Towers residents.

The Lynch's Bridge development in North Melbourne includes an open space area which is also subject to similar dispensations, but it is of benefit and of recreational use to the community, with conditions made at the time of sale as to the facilities being provided.

The central green does not fulfil the original plan to provide public open space for recreational purposes. It should no longer attract these dispensations from rates as it is not accessible: it is not used by the public now, nor will it be used in the future. The owners of the site are certainly not encouraging public use of the area.

I ask the minister to examine whether the original proposition for having dispensations is applicable in this case. The ratepayers of Stonnington are subsidising this central green for the enjoyment of Como Hotel patrons and the Armitage Towers residents.

Current objections to amendment L52 include concerns as to the lack of public open space; and had the planning process been adhered to for amendment L46, which was not exhibited to the public, more concerns would have been recorded.

As I said at the commencement of my contribution, the opposition will not oppose the bill because it is necessary to correct a situation that through a change in circumstances no longer exists. We wish to facilitate further development of the site. However, I ask the minister to examine those issues while the bill is between here and another place.

The subsidies included in the South Yarra Project Act and the South Yarra Project (Subdivision and Management) Act had a specific purpose so far as open space is concerned. The argument was that if open space was to be provided subsidies were required. The subsidies are continuing in this instance, yet the open space provision is limited.

I ask the minister to also give an undertaking that this issue will be examined while the bill is between here and another place. I am certain the people of Stonnington, in particular the ratepayers of Stonnington, will feel more comfortable knowing that Parliament examined and safeguarded their interests.

The final outcome could be that either open space is provided, which is accessible to the public — in that regard we can justify the subsidies being included in the bill — or if open space is not provided or is not accessible to the public the subsidies should be re-examined to ensure the anomalies in the act are corrected.

Mr I. W. SMITH (Minister for Finance) — I thank the Deputy Leader of the Opposition for his thoughtful comments on the bill. I know he has raised the open space rating issues with the Minister for Planning, who will consider them in due course. I doubt whether the impact is as serious as he contemplates, because purchasers and owners of the assets surrounding the open space will have taken that factor into account when pricing their assets. The fact that the rates may, in the first instance, be less because there is no rating on the open space, would be reflected in a higher value on the property and, therefore, the rates would be picked up second hand, as it were, by valuations on the property.

The minister will look at that issue and advise the honourable member in due course.

Motion agreed to.

Read second time.

Passed remaining stages.
What we have is a minister who is going in completely the opposite direction — who is wanting to go harder! It is instructive that on last night's edition of The Liberals John Howard said, 'The community doesn't want zealots'. It might have been handy if he had worked that out during the period he was leader. Unfortunately his state Liberal counterparts do not understand that message nor do they understand the message of the March 1993 election which is that this is not the kind of industrial relations system the electorate wants. Australians would not support this bill. It is one of the reasons why the federal Labor government was returned to power in March 1993.

In a sense last night's edition of The Liberals was deficient in that it did not make reference to the role of industrial relations in the federal Liberal Party's election loss. It focused entirely on the GST when issues such as industrial relations and health also made a substantial contribution to that election loss.

The bill is about the government's Dickensian view of industrial relations where it says, 'We want to return to the times of the past when workers were exploited, where they had no rights, where often their working conditions were poor, their prospects of wage increases were marginal and indeed they were at risk of wage cuts'. The bill takes us back to the scenario of wage cuts.

I say that on three grounds. First, it creates a hiatus between the time the bill is proclaimed and the time when the Employee Relations Commission will set up the system of minimum award classifications which is provided by the bill. During that hiatus period a new worker coming into the workplace has no right to a minimum wage and no minimum standard of support. Unless one has federal award protection one is at risk of exploitation by employers because one simply has no right to a legal minimum wage.

Second, the bill repeals section 24(3) of the Employee Relations Act which provided for existing award conditions to be rolled over and to become part of the new employment contract. That provided some protection for employees. The opposition has not supported the abolition of awards, which is the direction in which this bill goes, but it has always been the case that employees had some protection through that section of the act. As a result of its being abolished the legal protection for workers is diminished.
Third, the bill proposes a system of classifications for workers which is so broad that it fails to take account of additional skills, training and experience. So workers who have had the additional skills and training and are above the minimums are at risk of having their salaries cut if they change workplaces, or indeed when there are national wage cases and things of that nature they will not be able to have those increases passed on to them; it will be only a minimum wage plus enterprise bargaining over the top. In that circumstance there is no protection for workers who have additional skills, training, experience and so on.

At a briefing we asked the minister's departmental officers about what happens, for example, to a registered nurse grade 2 with four years experience compared with a registered nurse grade 2 with five years experience. Presently there is a $30 margin for the nurse who has the additional year’s experience. It is clear to us from the briefing and from what the minister has said in his second-reading speech and elsewhere that no work classification will cover that additional year’s experience, so there will be no differentiation. There will be no differentiation either between the grade 2 nurse and the grade 1 nurse — no recognition of the additional qualifications and training that that entails.

Finally, the suggestion is that nurses might be lucky to have their own work classification at all and they could simply be put in with physiotherapists, or whatever, in some broader classification that describes them as health workers. On those grounds clearly the nurses who have the additional training and experience will miss out.

Mr Gude interjected.

Mr THOMSON — It could impact on physiotherapists as well. People who have the additional training and experience could find themselves at risk of pay cuts, particularly if they move their jobs to other workplaces; in addition national wage increases and things of that nature would not flow on to those workers. On those grounds this bill is a recipe for wage and salary cuts for workers who do not have federal award protection.

The opposition opposes the bill on a variety of grounds. First, it conclusively abolishes awards as the mechanism for setting minimum wages. It prohibits the Employee Relations Commission from making new awards. Previously the Employee Relations Commission could make new awards, providing there was consent between employer and employee. Surprise, surprise, that consent has not appeared too often. I am not aware of any new awards being established in that way. Nevertheless, this government, which is supposed to be about employers and employees reaching their own arrangements, now says, 'The Employee Relations Commission is prohibited from making new awards; even if employers and employees agree that is not good enough, the commission cannot do it'.

Second, the bill does not provide a proper safety net of minimum wages and conditions, nor does it provide a safety net based on the award system which is what the opposition believes should be the case.

Third, the bill does not provide the commission with proper powers of conciliation and arbitration. In fact, it severely limits the commission's powers.

Fourth, the bill overturns decisions of the commission on enterprise bargaining in the Victorian public service, notwithstanding the minister's undertakings that that would not happen — and I shall turn to that in due course. The opposition believes this sort of retrospective legislation is undesirable.

The bill represents another attack on the rights of Victorians. It attacks the independence of the commission; it continues the pattern of the Kennett Liberal government in attacking the independence of tribunals; it fails to implement recommendations of the president of the commission for amendments to the act which would have given the commission the power to scrutinise and vary employment contracts that are unfair; and it does not provide for a proper system of enterprise bargaining.

If nothing else, this minister and this government are consistent. They made a mess of the principal act and this bill is another bungle. Apparently the minister has got on to the scatter again and has not learnt the message of the past two years: if you drink and legislate you're a bloody idiot!

The government should understand that that is what has happened over the past two years in industrial relations. Since the minister took that first sip of scatter back in October 92, about 450 000 people have moved to federal awards — a bigger exodus than when Moses led the Israelites out of Egypt!

There is so little work left to do for the state Employee Relations Commission that on some days
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No-one knows whether they are coming or going in the state system, and no-one knows how to go about getting disputes settled.

We can see that the Employee Relations Act is regarded as a joke not only by employees but also by employers. The Act has even been criticised by the President of the Employee Relations Commission, Susan Seitz. The government tried to cover it up by not tabling her annual report until the opposition drew attention to that cover-up.

This government has no shame. It has now sacked George Brouwer in what was a pathetic attempt to make him the scapegoat for the failure of its industrial relations policies. Watchers of the Department of Business and Employment will have noted that it has lost its head and its deputy head, Greg John, who has gone off to promote good industrial relations at Crown Casino, which is enjoying terrific industrial relations!

Mr Gude interjected.

The ACTING SPEAKER (Mr Cunningham) — Order! The minister will have his opportunity.

Mr THOMSON — Other opposition members and I have been contacted by a number of employees of Crown Casino who have talked about employee relations and workplace conditions there. I will refer to that a little later.

The no. 1, no. 2 and no. 3 have left the Department of Business and Employment. When you look at it you will see that only one is left—the minister, and in his case it is only a matter of time.

George Brouwer was an outstanding public servant. The blame is entirely the minister’s; he is the one who wrote the bill over a bottle of scotch and he must take responsibility for the dismal failure of industrial relations in Victoria.

The government has spent about $5 million on fruitless legal challenges to keep people moving to federal awards and on High Court challenges to the federal government’s Industrial Relations Reform Act. That has been an outrage to taxpayers’ money; it would have been much better spent on schools, hospitals, community services and psychiatric services instead of lining the pockets of lawyers. Over the past 18 months the government has repeatedly had QCs and other highly paid lawyers representing it in national wage case...
proceedings — once again, both incredibly wasteful and unnecessary.

The practice of the previous government was to be represented by a departmental officer in national wage cases. That is also consistent with the current practice of other state governments, including liberal governments. But with this government consultants think it is Christmas, because it sends QCs and other highly paid lawyers to the national wage case proceedings.

Women have fared very badly under the Employee Relations Act, and that is largely because the state award areas of employment, such as the teaching, nursing, clerical, retail and hospitality areas, have always had a greater concentration of female employees than male employees. The legislation will abolish equal pay for women — an appalling step. Many of the worst examples of employment contracts brought to the attention of the opposition have concerned female employees. Women have been hard hit by the loss of penalty rates, a minimum 38-hour week and the general protection of awards. ABS figures show that during 1993 women’s pay fell by 2.7 per cent as a percentage of male earnings.

The government has shown itself to be totally mean spirited with ordinary wage earners while being happy to arrange enormous salary packages for its mates and senior public servants. One of the things that is becoming clear about the nature of this government with regard to salary packages is that there is one rule for the mates — those who are doing well already and who have contacts with the Premier and the government — and another rule altogether for ordinary wage and salary earners in Victoria.

Back on 26 November 1993 the minister promised that all workers covered by the Employee Relations Act who were eligible for the $8 pay rise would receive it before Christmas 1993. None of them did, and some are still waiting. The prison officers are still waiting; they have not had a pay rise since this government came to office more than two years ago. Ordinary public servants are still waiting.

Mr Gude interjected.

Mr THOMSON — That is fantastic. It was referred to the commission before Christmas — what a wonderful achievement. On the other hand the government has been able to approve an $8 million salary package for Ross Wilson as head of Tabcorp and a $3 million contract for Michael Tilley. Senior public servants have been given extraordinarily generous salary packages: $272 000 a year for Ken Baxter, $190 000 a year for Geoff Spring and $220 000 for Dr Paterson. They are also eligible for bonus payments of up to 20 per cent of their salary each year to be paid on the expiration of their five-year contracts. The opposition has repeatedly asked the government in Parliament to reveal what bonus payments have been awarded so far to Mr Spring and Dr Paterson, but it refuses to say. In fact, the Minister for Health said Dr Paterson’s salary should be doubled!

Never mind what is going on in the ambulance service, never mind what is going on in hospitals, never mind what is going on in psychiatric services and never mind that Dr Paterson is suing other public servants in his own department he ought to be paid double the salary of $220 000 a year!

Once again we see the same hypocrisy and the same double standards concerning the new electricity distribution companies. The chief executives of the five new electricity distribution companies have been put on annual salaries of up to $300 000, in some cases twice as much or more than they were paid in previous jobs with the State Electricity Commission where they had more responsibility.

At the other end of the spectrum the opposition continues to see appalling examples of the employment contracts that workers have been forced to sign under the Employee Relations Act, and I might speak about this in some detail later on. The worst examples include those where people are being required to work 50 or 60 hours a week without overtime loadings.

Another developing and worrying trend, and I think a feature of this government’s industrial relations policy, is the growing incidence of the government’s trying to coerce and intimidate its own employees into signing individual contracts with a combination of carrot and stick, which makes a mockery of the so-called voluntary nature of signing the individual contracts.

Prison officers are being told that only those who have signed individual contracts will get overtime. Public servants in the State Revenue Office, where most positions have been spilled, can get their old jobs back only if they sign contracts. Recently the government was caught red-handed when the public servants in the Department of the Premier and Cabinet, the Premier’s own department, took a
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case to the grievance tribunal because a 5 per cent pay rise had been offered to only those people who were prepared to sign individual employment contracts — a clear bribe. The tribunal ruled that the government’s actions were unreasonable and directed that the 5 per cent increase be offered to employees who had been pursuing a collective employment agreement.

However, the government has not learnt from this episode. There was an advertisement in the *Age* recently for a communications analyst and a database administrator that stated that successful applicants will be required to enter into individual employment agreements. What happened to the minister’s promise that people would have a choice of entering into individual or collective agreements or staying on their rolled-over award conditions? This is a minister who is flexible with the facts.

Awards have been abolished: clause 5 of the bill abolishes awards. The expired state awards will no longer be the basis for determining minimum rates of pay, and the bill prohibits the commission from making the awards.

While the principal act abolished all awards that existed back on 1 March 1993, it retained a capacity for the commission to create new awards if they were consent awards. As I said earlier, to date this has never occurred. However, by abolishing this power, the government has made another attack on the powers of the commission and its independence and has also made an unwarranted intrusion into the affairs of employers and employees.

If both parties wish to be covered by a consent award, why on earth should they be prevented from doing so? That shows up the government’s commitment to freedom of choice. The government has broken its election undertaking that where both employers and employees wish to retain award coverage they shall have the right to do so. This reveals the government’s ideological obsession with destroying the award system. It reveals that the government is driven by a New Right ideology, not at all by freedom of choice.

Next, Part 3 inserted by clause 6 fails to provide minimum wages for new employees. The bill will create a hiatus for people who are employed after the date of the commencement of the amending act but before the new minimum wages for each industry sector have been put in place by the Employee Relations Commission. In other words, for new employees there will be no minimum wage protection during this period. That will apply both to people who change jobs and to new entrants to the work force. Young people and school leavers will be particularly at risk. The government has an appalling track record. Earlier I referred to the $8 pay rise that people are still waiting for. Now the government is compounding this with another piece of legislation that is fundamentally flawed and fails to provide workers with adequate protection.

The opposition believes this is in breach of article 1.1, the minimum wage convention, of the International Labour Organisation conventions. The opposition believes that the minimum conditions in schedule 1 of the current act should remain in force in the interim between this act being proclaimed and the new industry sector rates being set.

While we think that the existing standards in the current act are inadequate, they would at least provide some level of protection for new employees. The opposition believes the government should have provided for those minimum conditions to remain in force during the interim. The way the act is set out and the tortuous process that the Employee Relations Commission has to go through before it gets those minimum classifications up and running means that the potential for this to go on for a protracted period of time and for workers to be caught in the hiatus is very substantial indeed.

If one notes that the $8 pay claims are still being heard a year later, one wonders just how long it will take to get the minimum wage classifications in place, particularly if the minister decides to be uncooperative in approving them.

I referred earlier to the abolition of section 24(3) of the current act. That provision means that people who were employed prior to 1 March last year have their award conditions automatically rolled over into individual employment contracts. The bill abolishes that section and fails to make clear that this category of employees is guaranteed the continuation of existing terms and conditions.

The second-reading speech suggests that the existing terms and conditions of employees will continue, but the legal advice the opposition has been provided with is that this is not sufficient and the legislation itself fails to make this clear. At the very least we believe the act should make this clear so as to discourage employers from attempting to unilaterally change employees’ terms of employment as a result of the abolition of section 24(3).
The opposition believes there is also a drafting error where section 172(6) is not being repealed. That section refers back to section 24(3) as part of the mechanism in the original act to roll over award conditions.

The new minimum wage regime being set out in the new Part 2 is totally inadequate. The commission will have the power to declare industry sectors and work classifications in relation to declared industry sectors in response to ministerial references. That replaces the current arrangements where minimum wages are set by references to base rates in expired state awards. This new system in our view is particularly cumbersome. It does not provide the commission with proper powers of arbitration in relation to minimum wages. The exercising of these powers by the commission is dependent on a series of references to the commission from the minister. For this reason the bill may completely fail to achieve the government's stated objective of preventing the application in Victoria of minimum wage orders under the federal act. I would like to come back to that point and say a little more about it. A most important point is that the opposition believes the bill might be completely ineffectual in achieving the purpose that the government is claiming it will achieve and intending it should achieve.

The bill also places severe limits on the commission's powers to set minimum wage rates. It is not clear that the commission will have the power to set wage rates within classifications. The expired state awards contain a number of grades or levels within classifications, and the term 'work classification' is not defined in the bill so it is not clear whether classifications will include jobs such as clerk or waiter and so on or whether they will contain skill-based trades as in awards. If the former approach is taken, the minimum rates will have little relevance when compared with awards.

According to the departmental officers the government's intention is that in each industry sector there will be a single minimum rate for particular types of workers. As I said earlier, this is a recipe for wage cuts. It will destroy the career structures in awards where pay rates are linked to an employee's skills, qualifications and experience and it demonstrates the government's total determination to deregulate the labour market.

Rather than providing for a system of minimum wages, this bill actually leaves people with less protection and fewer rights. Only workers on minimum rates will be entitled to national pay rises; everyone else is at risk of having them absorbed. So what will be the mechanism for passing on national pay rises to you once awards have been abolished if you have an employment agreement that reflects your rolled-over award conditions? So far as we can tell, based on the advice we received at the briefing, there is no such mechanism. It is simply the minimum rate, then you are on your own in terms of enterprise bargaining.

We believe the minimum standards under schedule 1 are still inadequate. The bill provides for pro rata and cumulative annual leave and for cumulative sick leave, and the amendments introduced today will provide for pro rata sick leave. We note that this covers a deficiency in the original legislation to which the opposition has drawn attention and we are pleased to see those matters being addressed by the government.

**Mr Perrin — Why are you opposing the bill?**

**Mr THOMSON — It would be nice if you listened to the speech. I have outlined many reasons why we oppose the bill. We believe situations over the past two years where workers who left their employment before working for a year were entitled to no annual or sick leave represent a substantial hole. The house will note that I have given notice of a motion I will move seeking to address that situation. The opposition is pleased to see that there has now been some movement in that direction.**

There is still no minimum 38 or 40-hour week despite proposed section 24 making reference to a 38-hour week as the basis for calculating minimum wage rates. Workers fought to gain a 40-hour week or a 38-hour week, but unless workers have federal award coverage that is now a thing of the past. It is the government's intention that workers should be capable of being coerced into working any number of hours — whether it be 40, 45, 50, 55 or 60 hours — at a single-time rate. It is the government's objective to do away with the right to a standard working week and conditions such as overtime, shift work and penalties which discourage employers from abusing the system. Employers are now in a position to abuse the system.

I was contacted by a valet driver at Crown Casino who is being paid $7.67 per hour and is expected to work any number of hours at that rate with no genuine right to refuse that work and no right to overtime and the like.
I mentioned earlier our concern that the bill may be completely ineffectual because it does not meet the required definitions. I direct the attention of the house to the comments of the President of the Employee Relations Commission, Susan Zeitz, in her report to the minister on industry sectors dated 7 October. The minister might yawn, but he ought to take careful note of what the president has said because, if it is true, this piece of legislation and this entire discussion will be rendered ineffectual.

Ms Zeitz states:

This commission may not meet the definition of 'state arbitrator' as required by the federal act for the purposes of an employee being ineligible to make application for the minimum wages under the federal act.

The commission president is signalling that this bill may be completely ineffective in achieving its purposes.

There is still no provision for redundancy pay. That is inconsistent with the expired state awards and with federal awards and means that the minister's second-reading speech is misleading. The speech states that the amendments reflect:

the termination change and redundancy test case standard of the Australian Industrial Relations Commission.

In fact, they meet that test only in relation to termination. So the new minimum standards for notice of termination are inadequate when compared with federal provisions because there is no requirement for employers to consult with employees regarding termination.

I come to the unfair dismissal provisions contained in clause 7, which in our view are still inadequate. The bill removes the requirement that people must have been employed for six months to make an unfair dismissal claim. Although we welcome this amendment, it is appalling that it has taken the government some 18 months to remove that harsh and discriminatory provision from the act.

The $50 filing fee and the requirement that the applicant must establish a prima facie case, neither of which is required under the federal act, are retained. The new provisions are also inferior to those in the federal act because they make no provision for compensation except where a worker is reinstated. The Employee Relations Commission is reluctant to reinstate workers, which is often difficult where the employment relationship has broken down, yet workers cannot get compensation unless they are reinstated.

Workers trying to choose between the Victorian and the commonwealth jurisdictions on the basis of unfair dismissal provisions would be crazy to go to the Victorian jurisdiction. As I mentioned earlier, one of the reasons why the Employee Relations Commission simply has no workload is that employees with unfair dismissal cases take them to the commonwealth commission, which has remedies available and is able to do something on behalf of workers. Fixed-term employees are also treated differently.

For these reasons we think it is unlikely that the Victorian act will meet the test of providing an adequate alternative remedy and, therefore, will almost certainly not prevent access to the federal system. The bill is inconsistent with the federal law and, therefore, is possibly unconstitutional in this area. No-one will use the Victorian unfair dismissal jurisdiction — it is a joke now — and the amendments will not increase its workload one iota.

I refer now to overturning decisions of the commission. The bill overturns two decisions of the Employee Relations Commission which introduced guidelines for enterprise bargaining in the public service. We think that is an appalling step, although it is not atypical of this government. It sets a new precedent whereby the government simply overturns decisions of the tribunal that it does not like and makes a nonsense of tribunal hearings. At hearings before the tribunal, if the government wins you have to accept the umpire's decision and if it loses it legislates to overturn it.

This action continues the pattern of the government attacking tribunals and the judiciary. We have seen what happened to Moira Rayner, the DPP, the Accident Compensation Tribunal judges and Mr Justice Fogarty. It is a blatant interference in the independence of the commission. It also shows that the government is not really committed to enterprise bargaining. All the commission was trying to do was facilitate enterprise bargaining in the public service and the government stepped in and stopped that. This is a government which is just not fair dinkum about enterprise bargaining.

The government's action breaks the promise the minister made on 9 August this year, which was reported in the Australian Financial Review of 19 August, when he announced that the government...
would consent to arbitration in the SPSF enterprise bargaining case. He said:

We will amend the act to prevent the ERC from arbitrating generally, as they have recently attempted to gain for themselves in the State Public Services Federation matter, but we will be indicating to the commission that in that matter we are as a government prepared to have them arbitrate.

Yet the minister now says, 'We are now going to overturn those decisions of the commission'.

This is a government that cannot be trusted. It said it would respect those decisions, yet it now retrospectively overrules them. It says one thing and does another. It said no worker would lose a cent in pay and conditions under a coalition government.

As I said at the outset, that is one of the reasons why the federal Liberal Party is in opposition. Industrial relations played a massive role in the win of the Keating government. Prior to the October 1992 election the state coalition promised that under a coalition government no worker would lose a cent in pay and working conditions would be maintained, but after the election the coalition government proceeded to abolish annual leave loading and cut pay and conditions in all sorts of ways. That meant that people in this community understood the extent of the coalition's deceitfulness and dishonesty, which is why they did not believe the federal Liberals when they talked about industrial relations and other matters. One of the big problems the federal Liberal Party faces is the atmosphere of deceit this state government has created. Another is the state coalition's gravy train. There is one standard for those who are on high wages and another standard for those who are ordinary wage and salary earners.

Mr Gude — He has done a lot of Richos today, and a few Brumbies as well. He has done a few Brumbies today!

Mr Perrin interjected.

Mr THOMSON — Did you watch the episode? You should have heard Wilson Tuckey. He said they had to lie to get Andrew Peacock up. That was Wilson Tuckey's view of the world — the lie is all right.

Mr Gude interjected.

Mr THOMSON — I am saying that to underline what an appalling character Wilson Tuckey is. This bill does not implement the recommendations of the Employee Relations Commission. I refer to the recommendations made by Susan Zeitz, the President of the Employee Relations Commission of Victoria, who said the commission should have the power to scrutinise and vary employment contracts where they fail to meet minimum standards or are otherwise unfair. The government is failing to implement her recommendations, and it has failed to explain why it is ignoring them. As the president pointed out in her 1993 annual report, the independent scrutiny of employment contracts is vital if employees are to be protected from unscrupulous employers. Under the Employee Relations Act the president is not allowed to see employment contracts, collective or individual; she would be breaching the act if she did so. Victorians have a government that does not care whether workers are being exploited.

This really is an appalling piece of legislation which takes workers back to the bad old days and which reflects this government's lack of concern about what happens in the workplace. The government has a Dickensian view of the world. If you look at any of the instances where the government has acted to remove the power of the Employee Relations Commission of Victoria to make awards, you find the actions of a government that is intent on taking us back into the past.

I direct to the attention of the house the particularly cumbersome, complex and awkward way in which minimum wages are to be set and adjusted. The system has to commence with ministerial references. You have a ministerial reference under clause 10, which amends section 113 of the principal act, to the Employee Relations Commission seeking a recommendation for the declaration of a particular industry sector. The commission then comes back and recommends to the minister the declaration of the industry sector. Then you have a ministerial reference being made under section 113 asking the commission for a declaration of the industry sector in accordance with subsection (2), and then you have the commission declaring that industry sector. Following that, the minister, by a reference under section 113, asks the commission to declare initial work classifications in relation to a declared industry sector, and then the commission declares those initial work recommendations in relation to that declared industry sector. That is an appallingly cumbersome procedure! The minister can hijack the
process at any stage by simply refusing to approve it or to provide the necessary references.

The opposition believes it is much more cumbersome than it ought to be. We believe young people will be most at risk; they will be the workers most affected by the system. People changing jobs will be adversely affected. There is no need for it, especially in circumstances where an identical test is being applied. The procedure simply duplicates the federal system and is a poor imitation of it. We see no virtue in the bill in that regard either.

I return to the way in which the government broke its undertaking to allow the industrial tribunal to arbitrate on the enterprise bargaining issue. After the minister had given those undertakings, the following article appeared in the Age of 19 August:

The government's advocate, Mr Frank Parry, told a hearing in the Employee Relations Commission ... that government departments would not consent to the tribunal arbitrating the dispute.

When the president of the commission asked him about the minister's public statements Mr Parry said:

The position of the state of Victoria is, as I have put it today, that it would be inappropriate and a fruitless exercise to attempt to interpret or put certain interpretations on what the minister said in a radio interview.

So the advocate for the government said it would be inappropriate and fruitless to try to rely or depend in any way on what the minister might have said or the undertakings he might have given. We have to ask ourselves whether the government stands by the minister's undertakings. In that case, it clearly did not. We also have to ask ourselves whether any Victorians can rely on what the minister says. It was an appalling situation: he gave that undertaking yet his advocate went to the commission and said it could not take any notice of what the minister said. The minister's word cannot be relied on.

As I said earlier, the more you examine the bill the more concerned you become. Anyone who reads the opposition's comments on the measure from the time of the original announcement in August can detect that the more members of the opposition have examined the bill the more concerned they have become. It is like the cartoon caption that says, 'For God's sake stop laughing, this is serious'.

Our August press release was headed 'Gude fails to repair Titanic'. We talked about what a joke the present system was. I guess the press release was suggesting that, however ineffectual, the measure was at least an attempt to repair the system. A couple of months ago the Trades Hall Council described the act in a similar vein. John Halfpenny described the move as a pathetic attempt to breathe life into a rotting corpse. I believe it is even more serious than that.

When members of the opposition talked about the bill in October we referred to the government's attacks on an independent authority and on the ability of the Employee Relations Commission to become involved in disputes about enterprise bargaining and to settle disputes. An examination of the bill shows that it is going to do what we said it would. We believe it will leave thousands of Victorians open to pay cuts on the grounds that I outlined earlier — the hiatus in the system, the breadth of the work classifications and the abolition of section 24(3). So we end up with a bill that far from providing a system of minimum wages actually leaves workers with far less protection and far fewer rights.

The minister's second-reading speech talks about reforming the nation's moribund industrial relations climate, how the government's industrial relations changes have proven decisive in investments to Victoria and how the minister will lead us into sunlit pastures. He says:

Now is the time for the next step in the government's workplace reform program.

Honourable members will remember the Disneyland programs. The minister is trying to make the bill sound like Tomorrowland, but it is really Fantasyland. If you look at what has happened in industrial relations in Victoria over the two years the government has been in office, you will see that workers such as prison officers have had no pay rises. The government has developed an obsession with individual employment contracts, to the extent that you cannot change your job without being required to enter into an employment contract, thereby losing the protection given by the rolled-over awards. We now face the prospect of salary cuts and a government that is obsessed with doing away with overtime and penalty rates, because it is interested only in the flat hourly rate. There will be no right to overtime, penalties, shiftwork and the like, no matter how serious the
impact your work may have on your family life and other things.

The Victorian industrial relations system is in tatters and ought to be abandoned. As I said earlier, some 450,000 Victorian workers have moved to federal awards and no doubt more will be following them. The government has endorsed pay rises for government MPs, departmental heads, and managers while opposing the $8 national pay rise for public servants, police and other workers.

The government has wasted millions of dollars of taxpayers' money on futile legal challenges to workers transferring to federal awards. We have had a loss in productivity; there is uncertainty and fear for employees, employers and investors. We have unfair employment contracts. We saw a fourteenfold increase in industrial action occur during the first year of the Kennett government compared to the last year of the previous Labor government.

We need to start from scratch and completely overhaul this legislation. According to the Australian Bureau of Statistics, working days lost per 1000 employees in the 12 months to October 1992 was 34. Under the Kennett government that jumped to 488 days lost per 1000 employees — a fourteenfold increase. So it has not been a successful act or a successful industrial relations system by any yardstick!

An honourable member interjected.

Mr THOMSON — That's right, you want to find someone else to blame! You're the government!

The SPEAKER — Order! The honourable member will address the Chair.

Mr THOMSON — The Liberal government is responsible for the conduct of industrial relations in this state. Other states have been able to reduce industrial action. The Labor government was able to reduce industrial action, and that is the responsibility of this government.

The legislation has also been a failure in persuading workers to enter into individual employment contracts. I refer to the Victorian government's own service, Wageline, which conducted a survey of 457 callers to its service from 27 September 1993 to 1 October and asked questions concerning the operation of the act. Some 60 per cent of the callers represented employees and approximately 40 per cent represented employers. Of the 195 employees who had been engaged on or before 1 March last year, 87 per cent had rolled over their award entitlements. They had used section 24(3) of the act, which I might add is the section the government is now abolishing. Only 5 per cent had negotiated a new agreement and the rest provided no response. That indicates that employers and employees simply have not embraced the system of employment agreements and that the system does not have widespread application.

Of the 244 employees who had been engaged after 1 March 1993, 84 per cent had not signed an employment agreement, 11 per cent had signed an employment agreement and 5 per cent provided no response. So even 84 per cent of those new employees had not signed an employment agreement. You wonder what sort of rights they have as workers if they do not have federal award coverage and have not entered into an employment agreement at all.

I shall mention federal awards; 1993 really was the year of the federal award. If you looked at the record of federal awards in February 1994, you would have found that there were 24 federal awards in 1993, which was a bumper year; the highest number before that was in 1992 when there were seven federal awards; and you have to go back to 1982 and 1983 to find five federal awards. In 1993 there were some 24 federal awards, as hundreds of thousands of workers abandoned the Victorian system and the Victorian system slid into irrelevance.

The minister had some understanding that the system was sliding into irrelevance and wanted his Premier to agree to changes to the legislation that would have reinstated compulsory arbitration. He said to the Premier, 'I feel a little silly doing this because the system had just slid into chaos and irrelevance'. The Premier, who has some experience with feeling silly, said 'Don't worry the feeling will pass in a while'. So the minister was not allowed to bring in compulsory arbitration and conciliation, which might have perhaps restored the Victorian system to some relevance.

Victorian industrial relations is not regarded as a model in other places. It is not the direction of industrial relations around the globe. Earlier this year the secretary of labour in the Carter administration, Ray Marshall, said, when looking around the world at industrial relations systems, that the US system is not a model that people ought to have faith in. He said if you believe a worker's voice is an important part of a productive process,
which is now accepted around the world, you do not do what they are doing.

He indicated support for the ACTU-government accord and said the countries that are doing best with industrial relations and in productivity and economic performance generally are those that give workers a say in the workplace and do not look for confrontation in the workplace, which is the kind of thing this government wants to do by taking out trade unions, the central umpire, and simply having employers and employees negotiating matters with the inherent inequality in bargaining power that that system provides.

I referred earlier to the issue of some harsh and unfair employment contracts. I shall spend a moment referring to some of the excesses that have occurred under this government’s industrial relations system and seem set to occur continually once this bill is passed.

At Australia Pacific supermarkets, the opposition was shown a contract that abolished overtime rates and a minimum 30-hour week, and cut wages by $52 a week. We have also been shown a contract for the manager of a motel in Attwood, which requires that manager to work a six-day week, without penalty rates for weekends and public holidays, and prohibits the manager from working in another motel in the area within a 6-kilometre radius for a period of 10 years without the written consent of the employer. That is the kind of absurd and unfair system of industrial relations that the Kennett government reforms have encouraged.

Mr Micallef interjected.

Mr THOMSON — That one might not be legally binding. I worry about whether it breaches the Trade Practices Act, but there is no protection in terms of Victorian industrial relations legislation.

I mentioned earlier the valet driver at Crown Casino who has advised me that he is on a salary of $7.57 an hour. He works an average number of hours to earn $50 a day. He is eligible for a federal government subsidy, which is in the order of $230 per week, so Crown Casino is paying next to nothing to employ him because the subsidy is so substantial. As I understand it, Crown Casino charges a $15 flat rate to users, so the effective cost to Crown Casino of his working there might be around $60 a week and they would recover it in the first four cars he parked.

In my view that is an extraordinary state of affairs. The flat rate of $7.57 an hour is a matter of concern because it is so low, but I also am concerned about the absence of provision for overtime, penalty rates and anything of that nature.

The other sort of abuse that I draw to the attention of the house was highlighted in the Moorabbin Standard in October. A woman who had worked behind the bar of Cheltenham’s Tudor Inn for 21 years was simply told that all the jobs at the pub were being done away with. They were eligible to apply for new positions, but were told they may or may not get them. It was clear in the case of the barmaid, who had worked there for 21 years, that she would not get a new position.

In its termination of employment letter the company simply said that for the purposes of employment and other contractual arrangements, all such agreements would be terminated from the handover date, being the close of business on 23 October. That company changed its corporate identity and got rid of the jobs in the bar. People with 21 years service lost their jobs, and they were denied their legitimate rights to termination pay and other entitlements.

I also direct the attention of the house to what has been happening with prison officers given the government’s obsession with individual employment contracts. It is reasonably clear that the actions of the Department of Justice concerning individual employment contracts are illegal in a number of ways. Firstly, the department has advised prison officers at Langi Kal Kal prison that they will be transferred unless they sign employment agreements. The department has committed an actual and anticipatory breach of the prison officers’ existing employment agreements.

Secondly, the department has breached the Public Sector Management Act. The department head has been acting not independently but under the direction of the minister. The transfer that has been directed, which arose from the refusal to sign the employment agreement, is probably unlawful. In directing a transfer such as that a departmental head must have regard only to the person’s suitability for the position pursuant to the criteria set out in the Public Sector Management Act.

Threats have been made by the department, as a result of which prison officers are being placed at a special disadvantage in seeking to protect their own interests. They live in the area, having moved there at the request of the department. Their children go to
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school in the area, and their spouses work in the area. A move elsewhere would involve substantial dislocation and expense. The department is acting unconscionably by threatening to transfer them, thereby diminishing their conditions.

Finally, I direct attention to the relevant provision in the Employee Relations Act:

If the employee so wishes, any representative authorised by the employee to represent him or her ...

In this case the prison officers appointed the State Public Services Federation (SPSF) as their authorised representative; but the department acted in breach of the provision by refusing to deal with SPSF in negotiations or in the seeking of signatures. That is happening to prison officers at Langi Kal Kal, just because the government has a manic determination to force people to sign individual employment contracts. Promotion and transfers should be made on merit; they should have nothing to do with signing individual employment contracts. By using promotion, transfers, penalty rates, overtime and so on the government is seeking to force people to sign individual employment contracts.

I shall give the house another example of how the government operates. Wendy Read, a woman who lives in my electorate, is an instrumental music teacher at Debney Park Secondary College. She was employed for part of term 1 and all of term 2. Late in term 2 she was informed that she would be placed on a contract for the remainder of the year, which should have happened at the start of the year. In seeking approval for her employment, she said she had worked for the Department of School Education. Her record needed to be checked so that she could receive some recognition for prior service in the salary she was paid. Although the approval of employment came through at the end of the fourth week of term 3, she had not been paid since the end of term 2 — an outrageous delay in being paid for work already done! She had terrible problems before finally being paid by the department according to the arrangement entered into.

The government is determined to ensure that individuals enter into individual employment contracts. There is no genuine element of voluntaryism; it is all about duress. The government is prepared to enforce the provisions by placing people on employment contracts.

The government has lost faith in the Employee Relations Commission. One of the government amendments circulated today demonstrates the government's attitude:

Nothing in this section empowers the commission to make any determination, order or decision in relation to the standard hours of work in an industry sector.

The government is actually afraid of its own commission! It is terrified that the commission may decide to introduce a standard working week with a minimum wage. It is regrettable that the Scrutiny of Acts and Regulations Committee has not made more of the provisions in the bill. I have had the opportunity to examine the committee's consideration of it. Given that the bill retrospectively quashes two commission decisions made on 3 June, there is a strong case for concluding that the proposed provisions trespass unduly upon the rights and freedoms of Victorians. The government has said that if the tribunal decides in its favour everybody will cop it; but if the tribunal decides against it, the government will simply legislate against the decision.

It is a pity that the Scrutiny of Acts and Regulations Committee did not give that provision a more detailed consideration.

The ACTING SPEAKER (Mr Cunningham) — Order! The chair will be resumed at 2.00 p.m., when questions without notice will be called. When debate on this bill resumes, the honourable member for Pascoe Vale will have the call to continue his contribution.

Debate interrupted pursuant to sessional orders.

Sitting suspended 12.58 p.m. until 2.05 p.m.

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Eastern Energy: chief executive

Mr BRUMBY (Leader of the Opposition) — Will the Treasurer confirm whether Mr Steve Blanch has been appointed chief executive of the distribution company Eastern Energy on a salary package of $300 000 a year and whether he is the same Mr Steve Blanch who resigned approximately 15 months ago as the manager of the SEC's design and construction department and received a voluntary departure package in excess of $400 000?
Mr STOCKDALE (Treasurer) — No, Mr Speaker, I cannot confirm those details because they are inaccurate in several respects. The salary package of Mr Blanch is not of the order described by the Leader of the Opposition. Mr Blanch has been appointed after the most exhaustive national and international search for a chief executive of outstanding quality. Of great relevance is the very wide and very deep experience of Mr Blanch not only in Australia but also in New Zealand.

The time scale the Leader of the Opposition is addressing is incorrect, but I will check those details as well. I am happy to provide him with that information. The government is extremely happy to have attracted someone of Mr Blanch’s calibre to run this new corporation.

Unemployment

Mrs HENDERSON (Geelong) — Will the Premier advise the house of the labour market figures released today, and in particular whether these figures show a continuation of the positive trend for Victoria recorded so far this year.

Mr KENNETT (Premier) — For the first time since May 1991 the unemployment rate is below 10 per cent. The figures released today indicate that the unemployment rate in Victoria is 9.8 per cent. As I have said on many occasions, however, the most important figure is not the actual unemployment rate itself but the underlying trend rate for unemployment. That trend rate has also continued to decline from 10.3 per cent last month to 10.2 per cent. That reflects the steady employment growth that has occurred in this state over the past 14 months.

Since January this year there has been a net gain of 66,900 new jobs in Victoria.

Mr McNamara — And they hate it!

Opposition members interjecting.

The SPEAKER — Order! The Premier will ignore interjections.

Mr KENNETT — On the basis of those figures Victoria and Queensland are clearly leading new jobs growth in this country. As the community and certainly the government would understand, Victoria comprises approximately 25 per cent of Australia’s population yet it is responsible for 34.5 per cent of the national growth in jobs since January. That is a remarkable achievement.

That is important because it demonstrates an unparalleled degree of confidence in Victoria since May 1991, and that confidence is being reflected in new jobs for men and women of all ages, especially the young. It also indicates a very positive trend for the state. I again remind the house that I do not think the figures for any one month are important on their own; it is the trend that is important.

Honourable members will remember that I refused to allow this government to accept any credit for the improved performance in Victoria until it had achieved six consecutive months where the underlying trend showed an improvement, and it has clearly done that. It reinforces again the difference in attitudes between the government and the opposition.

Over the past two years and one month the government has consistently applied itself to long-term thinking and planning to create opportunities even though along the way some very firm decisions needed to be made. That is in contrast to our opponents who continue to be negative and try to undermine the good things that are happening in this state, particularly as they reflect on opportunities for the young.

Part of our success as a community has resulted from the confidence and hard work of the many men and women who run small, medium and large businesses, the very same people the Leader of the Opposition has continued to try to malign in this place without having the confidence or the courage to do so outside Parliament.

The Labor Party, in opposition, is clearly demonstrating to the community, particularly the young community in search of jobs, that it has no capacity to address their aspirations and absolutely no plans to offer positive leadership. These figures today are just another sign, but an important sign, in a continuing trend of improvement in this state, a trend towards improvement in jobs that comes from the vast majority of this community and that leaves the Labor Party and the Labor Party leadership, particularly the Leader of the Opposition and Mr White in another place, absolutely isolated from mainstream Victoria and the aspirations of mainstream Victoria.
Electricity distribution company directors

Mr BRUMBY (Leader of the Opposition) — I refer the Treasurer to a speech given yesterday in Sydney by Mr Shane Breheny, the Chief Executive Officer of CitiPower, in which he said that almost all of the 30 directors of the new electricity distribution companies in Victoria have no experience whatsoever in the electricity industry. I ask: can the Treasurer inform the house whether he approved the payment of $30 000 a year each for the directors of the new electricity distribution companies?

Mr STOCKDALE (Treasurer) — I can confirm that the directors' fees payable to directors of electricity companies are of the order the Leader of the Opposition has indicated. They are consistent with the general level of market rates and they are the result of independent advice.

Honourable members interjecting.

Mr STOCKDALE — I can confirm that the directors' fees payable to directors of electricity companies are of the order the Leader of the Opposition has indicated. They are consistent with the general level of market rates and they are the result of independent advice.

Honourable members interjecting.

Mr Brumby interjected.

The SPEAKER — Order! Supplementary questions are disorderly.

Mr Brumby interjected.

Mr STOCKDALE — You can have another go with that question next time you get up.

The SPEAKER — Order! Would the Treasurer please resume his seat. I have told the house on numerous occasions that supplementary questions across the table are disorderly. The Treasurer, concluding his answer.

Mr STOCKDALE — The government has in fact attracted people with experience in the electricity industry. For example, Mr Nilsen from Oliver J. Nilsen has extensive experience in the electricity industry. That is one example that readily springs to mind.

Since the generation and distribution of electricity in the electricity industry has been a government monopoly in Victoria for many years, it is scarcely surprising that in attracting directors of high standing and great competence we find that a number of them do not have previous direct experience in the electricity industry.

Honourable members interjecting.

The SPEAKER — Order! I remind members of the opposition that it is their question and it is beholden on them to listen to the answer.

Mr STOCKDALE — What any board needs is a good combination of skills that complement each other, personalities who can work together effectively, and strong business background and experience. We are not talking of the actual operators of the industry; we are talking about people who are to be the directors of major enterprises.

The government is pleased that people with a wide range of business backgrounds have offered themselves to serve the people of Victoria in implementing the government's reforms, preparing these businesses for privatisation and operating them effectively in what will be the new competitive market. The object is to deliver benefits to consumers — the benefits of reform.

Honourable members interjecting.

The SPEAKER — Order! I have had enough. The Treasurer, completing his answer.

Mr STOCKDALE — The benefits of reform are locked in already in a government-regulated transitional period that will see substantial reductions in the real cost of electricity to the Victorian community, a reduction in real terms of more than 9 per cent for households and over 20 per cent for small business over the balance of this decade.

I would be prepared to stack up the business experience of the directors of the new electricity companies in this state against the business experience of members of the opposition any day, because not one of them has ever had any business experience whatsoever. Not one of them has ever been responsible.

Honourable members interjecting.

The SPEAKER — Order! I warn honourable members on my left that I will take action against them. I ask them to come to order.
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Mr STOCKDALE — Not one of them has had any experience of running a business. Not one of them would recognise a well-qualified director if he saw one. That is reflected in two things: the disastrous mismanagement of Victoria when Labor was in government and the tremendous turnaround reflected in the employment figures the Premier spoke of today due to the better management since this government came to office.

Community-based employment program

Mr TURNER (Bendigo West) — Will the Minister for Industry and Employment inform the house of the success of the community-based employment program and the ways in which it has benefited the unemployed in Victoria?

The SPEAKER — Order! The question is very broad. I ask the minister to be brief.

Mr GUDE (Minister for Industry and Employment) — I thank the honourable member for Bendigo West for the question because, unlike many members opposite, he is one of those people who make a major effort to try to generate employment opportunities within his community.

On 1 March this year the government made a commitment to a community-based employment initiative, a program. It committed some $10 million to 51 organisations across the state. We put the challenge to those organisations to try to derive employment or training opportunities for 9000 Victorians by the end of this year.

I am very pleased to be able to advise the house that as of 30 September some 4850 people have been placed into employment. Some 2197 people are in training. That is a total of 7049 unemployed people who have been assisted in the past seven months: putting it in another way, over 1000 people a month are being taken out of unemployment and going into either training or income generation.

With 70 per cent of the program having now elapsed we have already achieved around 80 per cent of the target placements for 1994.

Mr MILDENHALL interjected.

Mr GUDE — I thank the honourable member for Footscray for his interjection. I was almost worried that he would not interject because I have actually brought in a letter from him. He cannot resist interjecting. In his letter he states:

Add to that the already existing concerns about the unrealistic targets, the limited funding, and 10-month employment period of project coordinators and you have a project the effectiveness of which is severely compromised.

Results for the state prove that the honourable member for Footscray is wrong. Where did he get his information from? He got it from the Footscray council. Now let us look at the targets of CBE programs in Footscray.

The western older workers program target — —

Mr MILDENHALL interjected.

Mr GUDE — If the honourable member would give his mouth a rest and his ears a chance he might learn something. I know it will be difficult for him even with his mouth closed, but he should just try. The western older workers program had some 400 placements as a target. It has achieved 343, a success rate of 86 per cent.

The Salvation Army’s target was 178 and it achieved a success rate of 116 or 65 per cent. The target for the Vietnamese was 83 and it achieved a rate of 61 or 73 per cent. The Australian Polish community’s target was 158 — —

Honourable members interjecting.

The SPEAKER — Order! I know the honourable member for Yan Yean has come back full of enthusiasm and joie de vivre but I ask him to remain silent. I ask the minister to conclude his answer.

Mr GUDE — The Australian Polish community’s target was 158 and it achieved a success rate of 130 or 82 per cent. In the honourable member’s own electorate the CBE program is miles in front of all the rest. Those programs show that the partnership between government, community-based organisations and the business community in Victoria is generating permanent employment opportunities.

It is instructive to see what the Leader of the Opposition had to say about the program. On 28 September 1993 he slammed the plan, saying ‘this token measure’ would do nothing at all to fix the problem. The answer to that is that some 850 people are in permanent employment and more than 2500 have gone into training programs with good prospects, while 42 per cent of those placed into employment and training came from the youth.
target group, 30 per cent came from the mature age group and 28 per cent came from the non-English-speaking-background group. On any judgment of the criteria the Victorian government can be satisfied with its innovative program and the people of Victoria can be justly proud of the change that has taken place and the new jobs that have been created. The initiative is being watched by the commonwealth government and other states, all of whom are seeking to implement the same program because of its success in Victoria.

Metropolitan Ambulance Service

Mr THWAITES (Albert Park) — My question is directed to — —

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Albert Park is entitled to ask his question in silence. I ask the government side to come to order.

Mr THWAITES — I refer the Minister for Health to the annual report of the Metropolitan Ambulance Service and ask: in light of the fact that there has been a 21 per cent increase in administration costs, a 20 per cent increase in the cost per patient treated and a decline of more than 10 000 in the number of cases dealt with, does the minister still fully endorse and support the policies and performance of Mr Jack Firman?

Mrs TEHAN (Minister for Health) — I appreciate the opportunity to refer to the report of the Metropolitan Ambulance Service, which was tabled in this house earlier this week. It shows four or five key features, one of which is the matter raised today by the honourable member for Albert Park. His reference to it in the press release he issued yesterday was inappropriate and incorrect. His credibility is now in shreds; he cannot even get his facts right.

The report shows that more ambulances and clinical support officers are on the road and more paramedics are being trained than ever before. It shows also additional revenue of $6 million, which is capital provided for the implementation of computer-aided dispatch. The Labor Party sought to bring in this key piece of sophisticated technical equipment in the latter part of the 1980s. It spent $10 million on consultants, ended up in the Supreme Court, got some of its money back, and, after five years, had no computer-aided dispatch system. The system we will have at the end of this year or early next year will be the most advanced in Australia and will have a significant impact on the improvements that have already been made.

It is capital expenditure to which this government has made some contribution. The implementation of this sophisticated technology required the engaging of consultants, and a large component of the $1.4 million additional administrative costs to which the honourable member referred is associated with the one-off expenditure of introducing the computer-aided dispatch system. The honourable member referred to an operational loss of some $18 million. The report refers to a loss of $3 million. I point out that on coming to office in 1992 we inherited a $15 million loss. That $3 million has been added to that figure over the past 12 months and is for depreciation and long service leave, which were never part of the accounting system in the past. We handed on those accounting requirements to individual agencies, but in the past they were absorbed in the major central agencies.

The reform Jack Firman has brought about has meant massive changes in the culture of the ambulance service and the focus of the service on the work that is its highest priority. We are seeing reforms that have never before been instituted.

Honourable members interjecting.

The SPEAKER — Order! I will not allow question time to proceed if this noise continues. If it does I will suspend question time. The minister, concluding her answer.

Mrs TEHAN — Jack Firman has shown dedication to the task, an ability to introduce reforms that have never before been achieved and a capacity to institute the computer-aided dispatch system, which the Labor Party failed miserably at four or five years ago, and he certainly has my confidence and that of the government.

Remembrance Day

Dr DEAN (Berwick) — I ask the Minister for Public Transport to inform the house of the initiatives taken by the Public Transport Corporation and the Department of Transport to commemorate Remembrance Day.

Mr BROWN (Minister for Public Transport) — As we are all aware, Remembrance Day, 11 November, is the day our minds turn to those
men and women who served Australia during the first and second world wars, the Korean and Vietnam wars and the recent Gulf War. Last year, with this in mind, I gave an undertaking to investigate the possibility of stopping Met services for a 2-minute silence as a mark of respect for those Australians who made the ultimate sacrifice on behalf of this nation. Recent correspondence, including a letter from the State President of the Returned and Services League, Mr Bruce Ruxton, has made it clear that such an initiative would be warmly welcomed in Victoria.

Therefore, I am pleased to be able to announce on behalf of the government that I have instructed the PTC to stop all Met trams and buses at 11.00 a.m. tomorrow, which is Remembrance Day, in observance of the 2-minute silence. Unfortunately, due to operational and safety requirements, it is not feasible to stop Met trains. Nevertheless, the initiative has great merit. I have no doubt that all honourable members would agree that our state should pause for this time to reflect on and pay respect to the Australians and in particular the Victorians who made enormous sacrifices to secure our future as a free and democratic country such as we enjoy today.

This is not the only initiative being taken by the department to commemorate this important day. With the cooperation of the department the railways honour board was recently refurbished and relocated in the foyer on the ground floor of Transport House. The honour board commemorates the memory of Victorian railwaymen who served and died during the First World War and is understandably symbolic for those transport veterans who served in later wars. It is the same honour board that was left behind when the Labor government sold the former railway administration building on Spencer Street to private interests in the mid 1980s.

It is with great pleasure that I inform the house that this year, for the first time for many years, the Remembrance Day service, which will be conducted by the railways and tramways returned services sections, will be held in front of the honour board and the Last Post will be broadcast over the Transport House public address system.

I am pleased to inform the house about the initiatives being taken to properly and rightly commemorate Remembrance Day. The initiatives, particularly the stopping of trams and Met buses in the CBD and on St Kilda Road, send a clear message to all Victorians, especially our war veterans and our youth, that Remembrance Day is still of the utmost importance to all Victorian and Australian people. Lest we forget!

**Health: court action**

Ms GARBUTT (Bundoora) — I refer the Minister for Community Services to the admission made by the Minister for Health yesterday that he was aware at all times of legal action in the Supreme Court against the Office of Merit Protection, and I ask: who informed him of this action and did the minister authorise it?

Mr JOHN (Minister for Community Services) — Yesterday I listened with interest to my colleague the Minister for Health and I have nothing further to add.

**Education: opportunities for women**

Mrs ELLIOTT (Mooroolbark) — Will the Minister for Education inform the house of how government initiatives have provided additional leadership opportunities for women in the state school system?

The SPEAKER — Order! It is a broad question; I ask the minister to be brief.

Mr HAYWARD (Minister for Education) — I thank the honourable member for Mooroolbark for her question. I also take this opportunity to thank her for her outstanding leadership of women in education in Victoria, particularly the way in which she is helping women to gain more leadership opportunities and girls to gain better educational opportunities.

I am happy to advise the house that in a recent round of appointments for assistant principal positions almost half of the positions were filled by women. Specifically, women were selected for 228, or 47 per cent, of the 485 positions. Honourable members will recall that earlier this year I advised the house about a round of appointments for principal positions. This latest wonderful result is consistent with but even better than the result achieved in the appointment of women to 38.7 per cent of the principal positions. These results are consistent with the government's objective of expanding leadership opportunities for women across the Victorian public sector, particularly in education.
The high success rate for women is directly linked to the ministerial advisory committee chaired by the honourable member for Mooroolbark. The committee and the honourable member have helped to initiate the Women in Leadership program. It is a remarkable program which provides practical assistance and advice to women who are seeking leadership positions in education. It is unique in Australia — no other state has this program.

The results reflect the success of the government's local selection arrangements for positions and this is providing — —

Mr McNamara interjected.

Mr HAYWARD — On merit! This is providing enormous impetus to education generally. It is important, particularly in light of the noise coming from the other side, for the house to compare this result with what happened under the former Labor government.

The SPEAKER — Order! The level of noise is far too high. I ask the house to come to order.

Mr HAYWARD — As honourable members will recall, I mentioned that in the latest round almost half the positions were filled by women. It is remarkable to compare the figure for recent appointments, of which almost 50 per cent were women, with the figures from 1982-92, when under the Labor government the number of women promoted to principal positions fell from 28 per cent to a low 18 per cent.

EMPLOYEE RELATIONS (AMENDMENT) BILL

Second reading

Debate resumed.

Mr THOMSON (Pascoe Vale) — Before the suspension of the sitting I referred the house to the position that the Employee Relations Commission was adopting regarding the bill. The minister referred the bill to the commission on 9 September and it reported and made recommendations on 7 October.

The report expressed a number of serious concerns about the bill. The commission sought from the minister clarification of a number of matters before it could proceed to address the issues contained in the ministerial reference, such as the number of types of classifications to be incorporated into industry sectors and the minimal hourly rates of pay. The commission commented:

The interaction of the terms 'state arbitrator' and 'state industrial authority' in the federal act and whether the provision of compulsory conciliation and arbitration powers for the purpose of setting and adjusting minimum wages from time to time by the commission operates to ensure that employees are ineligible for the purpose of the making an order by the Australian Industrial Relations Commission under ... the federal act: this commission may not meet the definition of 'state arbitrator' as required by the federal act for the purposes of an employee being ineligible to make application for minimum wages under the federal act.

According to the Employee Relations Commission the legislation will be entirely ineffectual; it will not do the job the government has asked of it.

Honourable members interjecting.

The SPEAKER — Order! I ask the honourable member to take his seat. The level of conversation is far too high. If members wish to have a conversation they should lower their voices or go outside.

Mr THOMSON — Secondly, the commission comments:

The jurisdiction of the commission to set minimum wages on introduction of the proposed amendments in accordance with its recommendations to the minister and in particular whether the commission's recommendations are to be subject to review or amendment by the minister or any other third party.

That goes to the heart of the issue. The commission asks whether its recommendations can be amended or reviewed by the minister.

The third area of concern is:

Whether the commission is to set a minimum wage or whether it is intended by the ministerial reference that a base rate of pay be set. We note that the ministerial reference asks us to identify a minimum wage representing a 'base rate of pay exclusive of loadings and allowances except loadings paid to compensate workers for the casual or piece rate nature of their employment'. This issue is of significance in light of the terminology used in part VIA of the federal act.
EMPLOYEE RELATIONS (AMENDMENT) BILL

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The fourth issue is:

Whether the hourly rate is intended to be the rate applicable for ordinary time. We note in this context that schedule 1 of the Victorian act does not currently identify ordinary hours nor what constitutes overtime.

The government has made it clear it is not interested in overtime or identifying ordinary time. It is moving an amendment which will prevent the Employee Relations Commission setting standard hours, ordinary hours or a standard working week.

Finally, the commission asks:

Whether the basis upon which the stated preference of between one and six classifications operates to exclude an employee or group of employees from making application under part VIA of the federal act because they are deemed to be ineligible.

The commission has raised with the minister a series of concerns demonstrating that not only are workers and employers unhappy with the bill, but that the Employee Relations Commission is unhappy with it.

On coming to office, the Labor government will repeal the Employee Relations Act, the Public Sector Management Act and the Vital State Industries (Works and Services) Act. We believe there needs to be a system of conciliation and arbitration, with the safety net of awards underpinning enterprise bargaining.

We are dealing with some of the most draconian and anti-worker legislation in Victoria's history. Under the principal act any breach of an employment contract, such as turning up late for work, can be found to be a criminal offence, and workers can be fined and sued for damages. As a result, the vast majority of workers are transferring to federal awards; industrial disputes are running at some 300 per cent higher than during the last year of the Kiner Labor government; and there is a massive waste of money — approximately $4 million to $5 million — on challenges in the High Court and on blatant political advertising. In November 1992 the government spent $760 000 promoting the Employee Relations Act, and it has spent $400 000 attacking the federal government's industrial relations reforms.

This government has got rid of equal pay for women; it has got rid of the standard working week; it has created a climate of fear in the workplace at a time when the federal Liberal Party is softening its stance on industrial relations and sending out signals that it should not engage in the zealotry of the past.

This government is out of step with the views in the modern workplace. It is not interested in those views or in increasing productivity and having workers and employers working together in the best interests of the enterprise. The government is interested in confrontation and in driving down standards and conditions to the lowest possible denominator, not just in Australia but throughout the world.

As I said at the outset, the bill is like a movie where you think you are dealing with an innocent character, but increasingly the dark side is exposed. It is a bill that provides potentially for pay cuts for thousands of workers — those who do not have the protection of federal award coverage. There will be a hiatus when the act is proclaimed and minimum classifications are put into effect. The bill is repealing section 24(3) of the act which provides protection for workers through rollover awards and a breadth of classifications. We believe there needs to be fairness in industrial relations and in enterprise bargaining, not the sort of confrontationist attitude the government has adopted. Therefore, we absolutely, totally, unequivocally oppose the bill.

Mr PERRIN (Bulleen) — I have never heard so much drivel and scaremongering from any member of Parliament before. The honourable member for Pascoe Vale was so riveting prior to the suspension of the sitting that no other member of the Labor Party was present in the chamber. In fact, a government member had to get his colleagues was in the chamber. That is how bad he was. It is a wonder they are here now. The scaremongering by the honourable member and others like him on the opposition side is drivell. I intend to repudiate the unfair allegations he has made because many are simply not true and will not stand up to scrutiny.

The Victorian Labor Party is talking about going back to the old award system, yet its federal counterparts are moving away from awards to enterprise bargaining. The state Labor Party is out of step with its federal colleagues, but it does not want that to be widely known.

The Minister for Industry and Employment in his second-reading speech said there would be a period of consolidation and review of the act and that some amendments would be introduced in due course.
EMPLOYEE RELATIONS (AMENDMENT) BILL

This bill is the result of that review; it is a tidying-up process, nothing more.

Today's release of unemployment figures was tremendous news for the government. The rate of unemployment in Victoria has now dropped below 10 per cent, yet the way the Labor Party is scaremongering you would think the legislation was not working. It is working and people are getting jobs, but the scaremongering will not work.

The contract system and the abolition of awards is supported in the community. Yellow Pages Australia conducted a survey of 809 small businesses. Its media release of 22 September headed 'Small business opts for non-award workplaces — survey finds' states:

More than two-thirds of Australian small business employers do not want industry awards in the workplace, according to a special Yellow Pages small business index survey.

As I said, the Labor Party wants to go back to an award system; it is totally out of touch with two-thirds of small business in Victoria. The media release continues:

The nationwide survey of 809 small businesses, conducted as part of the recently-released quarterly index, found that only 31 per cent of employers prefer to have industry awards for wages and conditions for their employees.

Some 69 per cent would much prefer to have contracts, which is what the legislation provides. The media release continues:

A total of 48 per cent prefer to have registered contracts with individual employees and only 10 per cent prefer enterprise bargaining —

which is the federal system that was mentioned earlier.

While most small business employers do not want industry awards, it was not because they want to pay below-award wages —

unlike what was said by the honourable member for Pascoe Vale who claimed below-award wages are being paid in this state, which is an absolute nonsense.

According to Dr John Marsden, economic adviser to the index, the fact is that about 70 per cent of small business employers pay above-award rates.

In other words, small businesses are paying more than the award system but the Labor Party wants to go back to the award system. That shows the nonsense the honourable member for Pascoe Vale has perpetrated in this house. The media release talks about the federal industrial relations changes and states:

In Victoria, despite the abolition of state awards, 53 per cent of employers said their businesses are covered by industry awards —

which is what is being introduced by this bill with the industry categories.

Responding to questions about the new federal industrial relations legislation, many proprietors said they believed its impact will be harmful to their business.

'While most believe that the effect of the measures to promote enterprise bargaining will be good or neutral, this is not the case with the provisions in the legislature against unfair dismissal,' Dr Marsden said.

'In fact, as many as 57 per cent believe that the legislative requirements relating to termination of employment will be harmful'.

The Labor Party is out of touch with reality and with small business, which clearly supports the bill. It has made generalised statements about what will happen. I have just given examples from a specific survey that make it clear what the government is doing is supported by the business community.

One of the major provisions of this bill — it is surprising that the honourable member for Pascoe Vale did not mention it — is the result of a decision made by the Employee Relations Commission earlier this year. It is interesting to note what the honourable member for Pascoe Vale said, but he did not quote from the Scrutiny of Acts and Regulations Committee, Alert Digest No. 12, tabled in the house today. One would think that the Labor Party would have quoted from a report that refers to this bill. The committee examined the legislation and the report gives a totally different picture from what the honourable member for Pascoe Vale gave.

I shall quote specific sections of the report which surprisingly the honourable member for Pascoe Vale
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The government has chosen to legislate to nullify the effect of these decisions as an alternative to pursuing an appeal to the Supreme Court of Victoria on a point of law for a number of reasons. Primarily, the government chose this course of action because of its confidence in the correctness of the view that the decisions were ultra vires.

In other words, the commission had no power to make the decisions in the first place. It further states:

Second, the existence of a clear legal view about the vires of the decisions of the ERCV militated strongly against incurring the significant cost involved in an appeal.

The government, instead of spending money on lawyers to appeal this decision, has referred the matter to the Parliament, the people’s democracy. What could be fairer than that? What was the conclusion of the all-party parliamentary committee about this provision of the bill which surprisingly was not mentioned by the honourable member for Pascoe Vale? It said:

The committee notes that there are differences as between the government and the union as to whether the right to go to the commission and have matters determined is a substantive or a procedural right. The committee is unable to reach unanimous agreement as to whether the provision contravenes section 4D(a)(i). In the circumstances, the committee refers the question of whether the removal of the right to make an application to the commission is due or undue to the Parliament for debate.

In other words, neutral. The all-party committee has examined the legislation and said that the decision should be left to the Parliament. I do not find any problem with that. If there were something wrong with the legislation the committee would have criticised the government. It has not. Why did the honourable member for Pascoe Vale not mention this particular report in his contribution? Because it does not suit the Labor Party’s political purposes.

Another major provision of the bill is the abolition of some 300 or more awards to be replaced with a number of industry sectors and indicative work classifications. The minister in his second-reading speech outlined what he believes the Employee Relations Commission would come up with for those likely industry sectors. If one examines them they are logical and sensible; all employees in Victoria will be covered by one of the sectors. I believe they are comprehensive. If they are not, I have confidence in the Employee Relations Commission of Victoria to provide a set of sectors which in its view will cover every employee in Victoria.

It is nonsense to say, as did the honourable member for Pascoe Vale, that the abolition of the award system in Victoria will leave all these people out on a limb. The abolition of awards has effectively been taking place with the passing of the original legislation in 1992. The bill will ensure that awards will be abolished and replaced with written or deemed agreements, which are effectively the same provisions in the original awards.

The honourable member for Pascoe Vale made a number of untrue statements which should be refuted.

The first thing the honourable member for Pascoe Vale said was that wages will be cut because of this bill, which is absolute and utter nonsense. It is simply not true. The facts are that the transitional provisions of the bill clearly protect the existing wages and conditions of employees in the system at the present time. Anyone who does not believe that should look at clause 11(1)(c) at page 12 of the bill.

An interesting point is that the Labor Party did not mention another area of the bill; perhaps it flipped over that page and missed it. The bill creates a new offence for which there will be a $10 000 fine for any employer who does not outline to an employee the minimum conditions as set out in schedule 1 of the original act in a written or unwritten agreement. It is significant that the Labor Party did not mention that; maybe it had selective memory on the issue.

The government believes it is important that the minimum conditions outlined in the legislation should have some teeth attached to them. But no, the Labor Party missed that one. It does not know — or if it does it did not want to mention it — that we are putting teeth into the bill so that the minimum conditions as set out in schedule 1 of the original act are given effect to, and employers who want to pay their employees less than those minimum conditions will subject themselves to a $10 000 fine. As I said, the opposition did not want to know about that.

The honourable member for Pascoe Vale also alleged that the repeal of section 24(3) of the act leaves
people on rolled over individual employment agreements without protection for existing terms and conditions. What a lot of nonsense! Again the Parliament has been misled by that honourable member. The fact is — we have had advice from parliamentary counsel — that that is simply not true.

I happen to have here a copy of a memorandum dated 4 November 1994 from the Department of Business and Employment to the minister about the views of the parliamentary counsel, Mr Moran.

Mr Gude interjected.

Mr PERRIN — That is exactly correct. The honourable member for Pascoe Vale was told about the parliamentary counsel’s advice on this, but he selectively chose not to raise the matter. That memorandum states:

Mr Moran has very strongly confirmed his view that the amendment does not in any way affect anyone’s rights in the manner suggested. This was the view previously advised —

to the opposition. On 2 November the opposition was given a briefing in which it received the advice of the parliamentary counsel, but it has chosen to selectively ignore it. If honourable members want to raise matters in this house, it would be wise for them to have their facts right and to not mislead the Parliament by making statements on subjects they have already been briefed about and which are contradictory to the matters raised.

No doubt members will be aware that the minimum terms and conditions are set out in schedule 1 of the original act introduced in 1992. The government proposes to amend those in a number of ways to make them more supportive of conditions for employees.

Did we hear that from the Labor Party? Did it acknowledge that schedule 1 of the act will be strengthened to give more benefits to Victorian workers? No, we did not. When speaking about the minimum terms and conditions the opposition did not tell us that the bill provides for a $10 000 fine or that it will allow pro rata payments for annual leave. Pro rata payments for annual leave is an increased condition that will be legislated — not simply something that employers may put into particular agreements — in the law of this state, as will cumulative sick leave benefits. Again, did the Labor Party tell us about that? Did it know about it? Did it read the bill? Maybe it did not. The legislation will provide for all employees in Victoria to have accumulated sick leave as part of their minimum terms and conditions.

On top of that, schedule 1 of the bill includes a new set of provisions relating to termination notices. It is significant that the Labor Party did not mention that either because the termination conditions included in schedule 1 happen to be identical to those proclaimed by the federal Labor government — the Keating government. They are exactly the same provisions. Everybody employed under federal awards will get those conditions; everybody employed under state agreements will get exactly the same. Again, did we hear anybody from the Labor Party talking about those additional provisions which will greatly improve the working conditions of Victorian employees? No, we did not. That was another little convenient matter it overlooked.

One of the substantial allegations of the honourable member for Pascoe Vale, which was made to scare people and to ensure that they were worried about the bill — I must say I heard him make it a number of times during the course of his speech — was about the hiatus period. He said there would be a period between the bill coming into effect and the minimum wages being set up by the commission in which workers would be left without minimum wage protection. That is a lot of nonsense and it simply will not happen. The opposition was briefed on that and was told very clearly that the minister intends to time the proclamation of the bill so that that cannot occur.

Mr Gude interjected.

The ACTING SPEAKER (Mr E. R. Smith) — Order! I ask the minister to curb his enthusiasm. He will have the opportunity of summing up the debate.

Mr PERRIN — I think it may be a Richo, actually. I really think that was probably what it was.

Mr Gude interjected.

Mr PERRIN — I am not quite sure whether a Brumby is worse than a Richo. At the moment I think they are probably about the same!

The ACTING SPEAKER — Order! I ask the honourable member to address his remarks through the Chair and ignore interjections, which are disorderly.
Mr PERRIN — The bill will be proclaimed so that workers will be protected, and not for the reason about which the honourable member for Pascoe Vale has misled the house. Workers will be protected so that they will not miss out on the minimum wage conditions that we have in Victoria.

The honourable member for Pascoe Vale also made another allegation. I think this is a very interesting one, because I remember debating a bill in this Parliament just before last Christmas which amended the Employee Relations Act to allow for an $8 minimum wage increase. The interesting thing is that the honourable member for Pascoe Vale alleged that the minister promised that everybody would have the $8 by Christmas last year.

Mr Gude interjected.

Mr PERRIN — Yes, perhaps it is another Brumby. The honourable member argued that that had not happened, but he clearly does not understand the procedures involved. The fact is that the minister promised he would refer the matter to the commission; that happened when section 113A was inserted in the act last year. We are aware of and interested about the fact that many unions have not applied to have the minimum $8 increase put in place for their own workers.

What is happening? The allegations made by the honourable member for Pascoe Vale are simply not true. If he wants to point the stick at somebody, he should talk to John Halfpenny and his mates to find out why they are so tardy in making their application for the flow-on to their own workers in particular industries.

There is another area that we need to clarify, again regarding the unfair allegations made by the honourable member for Pascoe Vale. In his contribution he said there was no mechanism in place to pass on national wage case pay decisions to employees whose wage rates are above the minimum set by the commission. I believe the opposition has forgotten that section 113A was inserted in the act in December 1993. We debated the legislation to get it in so that the commission would be provided with the ability to do that.

There is a capacity for a ministerial reference to allow the commission to consider national wage cases, and that still exists. There is no reason why national wage cases cannot be heard by the Employee Relations Commission of Victoria. What has been said is a nonsense. We know there has been a federal decision about — —

An honourable member interjected.

Mr PERRIN — That was a Richo, you think? Okay, that was a Richo. The facts are that you will no doubt remember that a few months ago the federal commission made a decision about a $24 pay rise in certain instances. That is currently before the commission. Therefore, if these minimum pay rises cannot be considered by the commission, why is the commission now considering the one made by the federal commission a few months ago?

Section 22(2)(d) inserted by clause 6 of the bill allows the minister to give a reference to the commission to do exactly what the Labor Party claimed the government could not do — set a minimum wage.

One of the interesting things about the bill is the changes it will make to unfair dismissal cases. I listened with some incredulity to the comments of the honourable member for Pascoe Vale about unfair dismissal cases in Victoria. The facts are that the bill will remove the six-month period that is now in the legislation. This will allow any individual who wants to do so to take a claim for unfair dismissal to the Victorian commission. Workers can choose whether to take their claims to the federal or the state commission, but why are they more interested in taking them to the state commission? It is because if you take an unfair dismissal case to the federal commission, at present there is a two-year delay in getting the case heard.

Mr Micallef interjected.

Mr PERRIN — The honourable member for Springvale would acknowledge that there are huge delays. When people believe they have been unfairly dismissed and want the claim heard, they have a two-year wait under the federal commission. Where is the justice in that? Where is the justice in workers having to wait two years just to get their cases heard? What a terrible imposition the federal government has placed on workers who believe they have been unfairly dismissed.

Do we hear anything about this from the honourable member for Pascoe Vale? Will the honourable member for Springvale actually acknowledge that these delays are occurring in the federal commission?

The ACTING SPEAKER — Order! The honourable member will not provoke the
honourable member for Springvale. The honourable member for Bulleen, without assistance.

Mr PERRIN — It is the situation that unfair dismissals are being made easier for people in Victoria. The government is trying to help people who feel they have been unfairly treated to get to our commission speedily, unlike the situation in the federal system, so these cases can be heard.

In conclusion, I will make a couple of final points. Clearly the bill will improve the benefits for workers in Victoria. It is putting in place a set of contract conditions — and let me make it clear, I support contracts. In my view, the workers and employers can get together and come up with their own conditions provided they do not fall below the minimum standards as set out by an act of this Parliament. No employer can employ anybody in Victoria under conditions which are below those contained in schedule 1 of the original act. Therefore there is a safety net; there is protection for workers, and I believe that is a clear indication that the government is caring and wants to make sure that workers in Victoria are protected.

It is obvious that the government is prepared to be tough with employers who will not provide the minimum safety net conditions as set out in schedule 1 to the point of introducing in the bill a new $10 000 fine for any employer who does not abide by the minimum conditions. The government wants to protect workers and make sure it is easier.

I am absolutely convinced that no employee will be worse off by the passing of the bill and that many will be better off. The evidence I have already given to the house shows clearly that many businesses that support the contract system over the award system will be supporting the bill. As has been seen, the business community is more than happy to pay higher wages and provide better conditions than those imposed on it by the government, as we have seen from that previous Yellow Pages study.

The bill requires strong support. It is a tragedy that these improved conditions will be opposed by the Labor Party. Fortunately it will not win the vote and the employees of Victoria will enjoy improved conditions as a result of this legislation being passed. I support the bill.

Mr MICALLEF (Springvale) — I must admit that I was not really provoked by the contribution of the honourable member for Bulleen. I commend him for his sincerity, and that is as far as it goes, but not his understanding of the issues and the drivel he came out with. I suppose drivel is in the eye of the beholder, so whether it is drivel or not depends on how you look at it.

If there was any truth in what the honourable member said, that this is a significant advance for workers in this state, we would see unions and workers demanding to go back into the state system, so we will wait and see whether that happens. The proof of the pudding will be in the eating and within the next few weeks we will see whether there will be a stream of unions making applications to get back into the state system. I suggest that we will not see that. What has happened again is supplementing the original intent of the Employee Relations Act, which is to drive down wages and conditions of workers in Victoria.

The fact that workers and their organisation have sought refuge within the federal system speaks for itself. Even a fool would understand that that is what has happened: workers are seeking refuge under the federal system.

The scaremongering the honourable member talked about is a lot of nonsense. The fact is that the federal government supports the award system and enterprise bargaining, and I see no conflict between those two positions. The difference is what underpins the enterprise bargaining arrangements. The federal government sees that the system of awards and conditions that have been built up over a period of time are necessary to underpin enterprise bargaining. A variety of agreements have been productive for this country and tremendously helpful in advancing the ability of unions to relate to the changing nature of industry within this nation to make it more competitive.

It is much better to introduce a system of contracts and agreements after consultation and negotiation rather than in a confrontational way. In the main the contracts are private and underhand and introduced through pressure on workers, and that is not the best way to go about it.

The honourable member also talked about a survey that showed that 69 per cent of small businesses supported contracts. It is not unreasonable for that to be the case. I suppose if you asked people in small business how much they would like to pay and they said 69 per cent or more it would suggest that they would like to pay below the award wages and use that as the basis of what is called a competitive economy. In that case they would not like to have
awards underpinning the standard of wages and conditions applying in this state.

I refer to the nonsense about the report of the Scrutiny of Acts and Regulations Committee. Anyone who knows the way the parliamentary systems work knows that the final decision was referred to Parliament because it was too hard to resolve. I think that is the reality. So it is a nonsense to say it has been left up to Parliament to make a final decision, because that is certainly not the case — it is in the too-hard basket.

In regard to the $10 000 to which the honourable member for Bulleen referred, those of us who have been around the movement for a long time would suggest that in many cases threats of fines on employers for breaches of awards are hollow threats. I suggest that the minister contact Wageline, the thousands of people in the community who have experience in these matters and the many people who come into my electorate office seeking advice about awards and conditions. If he does that he will learn that follow-up takes for ever and that in many cases employers are not prosecuted. Workers and unions would not have faith in a system in which a $10 000 fine applied because it would not have the desired result.

A couple of weeks ago Jobwatch conducted a phone-in on conditions in the workplace. It invited both political parties to attend and I called in on a Saturday afternoon to listen to some of the calls coming through. There were heaps of calls from people who were working on the basis of a trial or an agreement they had signed or thought they had signed. They had virtually signed away their rights and in many cases were working on wages and under conditions well below the proper rates. It is not unusual for elements in the business community to take advantage of those who are vulnerable. Of course, things would be different under a system such as the national system, with its decent set of minimum standards, especially on minimum wages; equal pay for equal value, which protects women and the disadvantaged in the community; rights to redundancy pay; and proper protection against unfair dismissal.

The fact that in the federal area there is a two-year waiting list for unfair dismissal claims to be heard means that workers are not fools when it comes to deciding which is the better option to take. Workers will not go down the road to get a less satisfactory deal, even if they have to queue up to get a better one, because the end result is often much better where the queues are. That is why the federal system is getting all the attention.

The basic conditions underpinning an award system or minimum set of standards should include a right to 12 months unpaid parental leave and the provisions of ILO conventions 156 and 165, which I recommend. Under the Kennett government we have seen workers' standards of living depleted and arbitration abolished, except in cases where both parties agree to it. That is effectively what has happened. So conciliation is not an option for the commission.

Mr Gude interjected.

Mr MICALLEF — That was said in the briefing that was provided to us.

Mr Gude interjected.

Mr MICALLEF — I am talking about disputes; arbitration has been taken out of the dispute process. The attempt to abolish awards and force workers to a system of contracts has been, I suppose, marginally successful. I think between 300 000 and 400 000 workers are now left in the state system as opposed to the 900 000 to 1 million that were in it when the government took office.

The contracts were introduced in the environment of a very competitive labour market during a period of economic recession, which in itself helped to drive down the conditions provided in those contracts to a very low level. Unemployment was at around 28 per cent among young people in my electorate and was similarly high among people over 45 years of age. Those people were certainly at a disadvantage in attempting to negotiate a contract for themselves in a labour market with an overall unemployment rate of about 12 to 15 per cent. I think that resulted in the election of the federal Labor government, with its massive support for the award system; a system which has been modified to take into account enterprise bargaining and the benefits that go with it.

The overall impact of the Employee Relations Act has been disastrous, but it has had most impact among women and ethnic workers. The minister should be aware that I raised that point in my recent discussions with the Victorian Ethnic Affairs Commission. Many of the people who come into my office who have worked in industry or commerce have been either underpaid or sacked and have been unaware of their rights; in many cases they are from non-English-speaking backgrounds. The minister
may think this is a good system, but it certainly has
had a major impact on the most vulnerable in the
community, that is, those who are not aware of their
entitlements or that there was the potential to roll
over award conditions, meaning they were entitled
to the conditions of the previous award. In many
cases they were exploited in a vicious way. That is
still happening.

Recently a woman who had worked for a book
binding company in the Glen Waverley area came to
my electorate office. I spoke to her again only
yesterday and she is very fearful of being harassed.
While she was working for the company she
suffered a breakdown. Her Workcover claim on the
ground of stress was rejected and she has taken it to
the Equal Opportunity Board. The irony of this case
is that in her current employment she is still being
harassed by her former employer. She is articulate
and was able to present her own case to me in a
plausible way, so one can imagine the situation of
people from non-English-speaking backgrounds.
They do not have the ability to fight and to seek help
when they are in a similar position.

I turn to national standards. Although we are
moving towards becoming a unified country
through mutual recognition of national standards,
what is happening in Victoria is putting it out of
step with the rest of Australia.

Mr Gude interjected.

Mr MICALLEF — You may think it is leading,
but I think it is out of step with the rest of Australia.
If the minister is serious about minimum standards
why does this bill not talk about hours of work? It
does not talk about a 38 or 40-hour week. Australia
has a long tradition of having established the
40-hour working week; it is historically very
significant in this country. Yet here we have a series
of minimum conditions that do not talk about hours
of work.

The Jobwatch survey also shows that many workers
under contracts would be working 50 or 60 hours a
week for 40 hours pay, and I do not think that is
unusual in the current climate.

It really is nonsense to say you can have minimum
standards without referring to weekly hours. That is
something that should be looked at. The best way to
go about it is to look at what the federal government
has done — negotiate with the ACTU and produce
the accords. It has been so successful that other
nations are looking at adopting a similar model.

The opposition opposes the bill on the basis that it
abolishes awards as well as the mechanism for
setting minimum wages. Prohibiting the Employee
Relations Commission from making new awards is
certainly not the best way to go. That is one of the
concerns we have. As I have previously outlined, the
bill does not provide a proper safety net by setting
minimum wages and conditions similar to those that
underpin the federal system. They are key issues.

Not only does the bill not give the commission full
powers of conciliation and arbitration, it severely
limits the commission's approach to the solving of
disputes, which can only bring about an increase in
industrial disputation in this state. To find proof of
that one only has to look at the figures for the
current conservative government. The minister must
not be very proud of the fact that industrial
disputation has increased fourteenfold since he has
taken over, which is due to the overall industrial
relations climate he is overseeing.

The bill represents another attack on the rights of all
Victorians by attacking the independence of the
commission. The minister should be very proud of
the fact that the commission has attempted to
resolve the problem of implementing some sort of
orderly system of setting award rates. Instead he has
made it very difficult for the commission to go about
its job effectively and positively. The bill fails to
implement the commission president’s
recommendations on amendments to the act, which
seem fairly sensible. For example, she recommends
that the commission be given the power to scrutinise
employment contracts that are unfair — —

Mr Gude interjected.

Mr MICALLEF — And how often would that
happen?

Mr Gude interjected.

Mr MICALLEF — And how many hundreds of
thousands of contracts do you have?

Mr Gude interjected.

Mr MICALLEF — I am quoting you. It does not
provide a proper system for enterprise bargaining. If
nothing else, this government is consistent. It made a
mess of the principal act; and as the shadow minister
has pointed out, these amendments certainly do not
improve things. I acknowledge that the minister has
replaced some of the conditions that had previously
been taken out relating to pro rata annual leave and
cumulative sick leave. That means we have reached a milestone in Victoria. We are going back to what traditionally applied to awards and agreements in this state. Cumulative sick leave and pro rata annual leave will now apply to this state’s minimal awards. That is a big deal.

The bill should be judged against the background of the government’s total failure in industrial relations. The government is all about taking on the unions. The heavy talking from the Minister for Public Transport during the recent transport dispute did very little to resolve the situation. As I pointed out, 450 000 state workers have moved across to federal awards, which is a massive exodus. The state commission will eventually have so little work to do that it may be given a number of the unfair dismissal cases!

The opposition has also received the results of new research on the attitude of employers to the Employee Relations Act. The survey found that 60 per cent of small businesses believed the Employee Relations Act had not been conducive to good industrial relations. So the Telecom survey the honourable member for Bulleen talked about is certainly at odds with the survey of small businesses, which we believe gives a more accurate assessment of what is going on. I understand today’s newspapers contain the results of a survey by the Australian Manufacturing Council, which examined conditions in both New Zealand and Australia. Even with the deregulation of the New Zealand system, the companies that are performing best are those that are strongly unionised — that is, those that are paying proper rates of pay under award conditions negotiated in the New Zealand environment. That is an important lesson for this state to learn.

I condemn the government for having wasted some $400 000 and thousands of hours of bureaucrats’ time, which probably takes the figure beyond the million dollar mark, to fight the federal government’s industrial relations laws, a fight that I believe is a lost cause. We will oppose the bill for those reasons and for the reasons the shadow minister outlined in his excellent speech.

Mr WELLS (Wantirna) — It is a great pleasure to join this debate on the Employee Relations (Amendment) Bill. I will start by refuting some of the points made by opposition members. Firstly, some of the claims made by the honourable member for Pascoe Vale were incorrect. He mentioned that the interim report of the Victorian Employee Relations Commission on industry sectors says the bill will not achieve the government’s aim of avoiding federal minimum wage coverage because the commission will not be a state arbitrator within the meaning of the federal act. This simply is not true. The report does not say that; and in any case, the Solicitor-General has advised that the bill will achieve the government’s aim.

It is worth referring to the Solicitor-General’s advice, and part of that advice is:

In my opinion, when the steps described above have been taken and the (state) ERC is able to deal with an application for the setting or adjusting of a minimum wage in respect of employees within a work classification pursuant to s. 22(2), the ERC becomes a ‘state arbitrator’ as defined in s. 170AE and the IRC (that is federal) ceases to be able to set minimum wages in respect of such employees.

That is the first thing he got wrong. His second point was that he thought there was a drafting error in the bill concerning section 172(4) of the act. Parliamentary counsel has advised that it is correct and that there is certainly no error.

Some of the points raised by the honourable member for Springvale need to be clarified. He is very concerned about women and ethnic people being treated harshly by employers under this act. There is simply no truth to the claim. If he reads the act, he will find that if, for example, an employer is paying his workers less than the minimum rates specified in the legislation, the employer can be fined up to $10 000, which is a severe penalty. Apart from that the employer will also experience the embarrassment of having to fight it in the courts.

I hope that allays some of the fears for the honourable member for Springvale that the employer can be fined up to $10 000. The point that he raised was valid; employers would be pretty stupid and irresponsible to participate in that.

The other point worth noting that the honourable member for Springvale made concerned the number of hours set in any particular week. I should point out that in the second-reading speech the Minister for Employment and Industry refers to it in part when he says:

The ERCV will be required, in making a minimum wage order, to take into consideration the terms of article 3 of the minimum wages convention, as it will be enacted in a new section 23 of the Employee Relations Act. The minimum wage is to be expressed as an
Employee Relations Act of 29 October 1992 starts with:

This bill represents the most significant and fundamental reform of the Victorian industrial relations framework. The bill is an essential ingredient of the government's pre-election commitment to provide the environment to revitalise the Victorian economy by streamlining the industrial relations system and improving the relationship between employee and employer.

The aims of the legislation are to promote efficient and productive industry in Victoria, to develop a workplace culture in which a new sense of cooperation and common effort exists between employee and employer, to strengthen the rights of freedom of choice and freedom of association and to promote equality in the employee-employer relations system.

The new system is based on the freedom of employees and employers to choose how they regulate their own affairs while at the same time protecting the fundamental civil liberties of individuals by providing for freedom of association.

The central theme of the legislation that was brought in 1992 was that employers and employees could negotiate among themselves for collective or individual employment contracts. In the case of collective agreements, workers were given the right to negotiate with their employer directly, or if they felt that was not the case, they could authorise their union representative or someone else of proper standing to negotiate for them.

In cases where the employer and the employee mutually agree, their relationship can continue to be covered by awards made by the Employee Relations Act of Victoria. As with employment agreements, awards must contain a specified period of occupation, and if this is not specified, a maximum of five years comes into play. When the award ceases to apply, unless a new award is made, the terms of the existing awards continue to apply to the employees previously covered but in the form of individual employer agreements.

In protecting its workers the government has put a safety net in place. Minimum standards for such things as annual leave, sick leave, parental leave, and minimum rates of pay are based on present award provisions.

All awards made before the Employee Relations Commission must contain settlement-of-dispute

hourly rate of pay, using as a reference point for calculation a 38-hour week, or some other number of hours as the commission deems appropriate in the case of the relevant industry sector.

The agricultural industry is one of the sectors that works more than the 38 hours; it uses 40 hours as the reference point. I shall repeat for the sake of those who are concerned about the number of hours in each particular week that the minimum wage order uses as a reference point the 38-hour week and in some other cases, such as agricultural industry, it is as high at 40 hours per week. The Employee Relations Commission may deem it appropriate to use some other hourly figure.

In the run-up to the 1992 election, the Liberal-National coalition policy made clear what direction this government would take in industrial action policy. I refer to the Liberal-National coalition policy on industrial relations entitled 'Improving Employment Opportunities, which states at page 4:

Our approach to industrial relations will be guided by a number of important principles:

1. the primary focus of industrial relations will be between the employer and the worker in each enterprise;
2. union membership should be voluntary, not compulsory;
3. union members and non-union members alike should have a say in all matters affecting their jobs, their wages or their welfare;
4. the state government, with its agencies and instrumentalities, is the largest employer in Victoria and it must set an example by the kind of industrial relations it adopts.

Providing better living standards for all workers is important to this government. We believe living standards will improve through increased productivity and performance. This will come about by enabling employers and employees the right to negotiate enterprise agreements or individual contracts rather than being confined to industry awards fixed by the Industrial Relations Commission, and the right to protect workers irrespective of whether they belong to a trade union.

When the Minister for Industry and Employment introduced the original Employee Relations Bill on 29 October 1992, it was certainly the start of a new relationship between employers and employees in this state. The second-reading speech of the
procedures and stand-down provisions. Clause 25(2) of the Employee Relations Bill meant that awards were no longer able to include provisions limiting the working of ordinary hours to particular days of the week. This provided an enormous amount of flexibility for employers in Victoria. For example, what sense is it if you own a restaurant or a hotel or some other tourism operation and during the summer period you would want to have a Monday-to-Friday award if your busiest days are Thursday, Friday, Saturday and Sunday? You would want that as part of your normal working conditions, otherwise you have to pay enormous penalty and overtime rates, which may make your business completely unviable.

Human rights are very important to all of us, but the Labor Party has always become very selective when it comes to the United Nations charter for human rights. One section of it calls for the freedom of association. The Labor Party can never accept this because as a party it calls for and supports the role of compulsory unionism. There is no other clearer example of hypocrisy than that of the Labor Party touting human rights but not supporting voluntary unionism. It is without doubt the greatest example of looking after their mates in the union movement — more than any other example in history.

The Employee Relations Bill also seeks to protect the freedom of association. The second-reading speech of 1992 states:

The government believes in the fundamental right of persons to work. Accordingly, the freedom of association provisions in the bill make it illegal for a person to apply any undue influence, directly or indirectly, to any other person to make that person join an employee or employer association as a precondition to employment.

Any form of compulsory unionism, closed shop arrangement, preferential clauses or other arrangements that infringe the fundamental freedom to choose whether to belong to industry associations will be prohibited. Victorians will henceforth have a choice whether to join a union, employee organisation or industry association and they will be protected against the victimisation in exercising that free choice.

The federal Labor government has done everything within its powers to thwart the state government's Employee Relations Bill — —

Mr Finn — Shame on them!

Mr WELLS — It is to protect their friends in the union movement. However, there is evidence that the Keating government would do exactly what the Victorian government has done if it could break free of the squirrel grip that the union movement has. I shall not explain what a squirrel grip is because I only have 18 minutes left.

Mr Finn — It can make your eyes water!

Mr WELLS — The Keating government realises that if we are going to progress as a nation we must free up the labour force. Even the Keating government realises the importance of deregulation — it has done it itself. One has only to look at the banking industry and the telecommunications industry. The Keating government realises that we must progress by deregulation, but when it comes to the work force and its labour union mates it stalls.

The Keating government knows what has to be done but cannot because of its commitment and the squirrel grip of the union movement. When looking for evidence, one has only to look at the Weekend Australian report on the Labor Party when in Hobart. I shall quote from page 25 of the Weekend Australian of Saturday, 1 October, which says:

In Hobart this week, Prime Minister Paul Keating urged unions to become more relevant to workers and not shelter behind the award system waiting for the Industrial Relations Commission to do their work for them.

As one union leader later remarked, Keating clearly does not understand his own legislation and its implications.

The Industrial Relations Reform Act, and the reconstituted Industrial Relations Commission it created are encouraging unions to do exactly the opposite.

This month's decision by a full bench of the commission on so-called safety-net wage adjustments and industrial awards review discourages enterprise bargaining and blocks any meaningful award system reform, the key to labour market deregulation.

The Prime Minister has said one thing; but he does not understand his own legislation, which discourages enterprise bargaining and blocks the award system.
The reason why is demonstrated clearly in the CRA Ltd case. CRA has been doing what the Prime Minister has encouraged — that is, entering into contracts with its workers which give the workers more pay but which, in return, give the company greater flexibility and higher productivity. In the process, many employees have opted to leave their unions. More than 50 per cent of CRA employees are on contracts, and in some of its operations the figure is as high as 90 per cent. CRA is doing exactly what the Keating government said it should do, remembering what the Prime Minister said in Hobart about unions becoming more relevant to workers and not sheltering behind the award system.

The reality is that the ACTU and the unions have taken the matter to the Industrial Relations Commission and are effectively seeking to undermine CRA’s ability to implement its staff contract system. The statement that the unions are now disputing CRA’s right to do so is extraordinary. I again refer to page 25 of the Weekend Australian of 25 October 1994:

If the commission finds in their favour, and there are signs that it will, then the clear message will be that unions do not have to worry about ‘becoming more relevant to workers’, to quote Keating, and can rely on the commission to back them up.

The second case is in the metal trades, where the Metal Trades Federation of Unions has served a log of claims affecting about 4000 non-union employers and has gone to the IRC to ask it to force them — not ask them — to negotiate with it under the ‘bargaining in good faith provisions’ of the Industrial Relations Act.

Once again, if the commission finds for the unions the message will be that they can rely on the commission to do their job for them.

But even more importantly, it will remove one of the most important areas of flexibility in the system — the ability of small employers to avoid unionisation and the stranglehold on working conditions that goes with it.

There are clearer examples of the Prime Minister crying out for the Victorian legislation to be implemented Australia wide, but he does not have the political will to go on with it.

I refer to another example. In the Herald Sun of 5 October 1994, Neil Wilson wrote about the Chase Manhattan Bank:

The Chase Manhattan Bank’s attempt to register legally a non-union agreement for its 137 Australian bank workers met 97 per cent approval, yet Chase is still bogged down in formal hearings involving the Finance Sector Union.

The sole union member — identity undisclosed at the union’s request — at Chase was sufficient legal reason for the union to intervene.

When 130 people want to be bound by a particular agreement and perhaps only one says he or she is not happy with it, a union has the right to negotiate on behalf of the 130 people who are already happy with the agreement. The article continues:

Never mind that ‘Mr X’ or ‘Ms X’ voted for the non-union deal.

Thirteen other foreign banks and many other employer hopefuls have tackled the industrial obstacle course known as the federal government’s Industrial Relations Reform Act.

Almost six months to the day after the law ostensibly began opening enterprise bargaining to non-unionised workplaces, just 13 —

Mr Gude — How many?

Mr WELLS —

... just 13 such agreements have been registered compared with about 750 union-brokered deals.

It is all right to be part of the union, because the federal government will look after its mates. But that becomes irrelevant if you happen to be a small businessman who has an agreement with his workers. The Labor government cares only about workers who belong to a union. When it comes to hypocrisy you cannot beat the Labor Party!

Yesterday I was telephoned by a small businessman in my electorate who had reached an agreement with his tradesmen on an enterprise-based agreement. He and the workers were happy; they would receive more money and he would have more flexibility. He was upset because the union said it was not happy with it. The owner said, ‘Hang on, all my workers agree with it’. The union still said it was not happy with it. He could not do a thing.
because his workers were covered by a federal award. Had it been a state award, those workers and the employer would be off and running under a win-win situation. But because of the federal award coverage he said he would be stuck with it until the federal Labor government is kicked out.

Only 27 per cent of the private sector work force is unionised. The unions fear that if enterprise bargaining continues and workers receive higher pay for higher productivity, the same workers will question why they need to be unionised. That is a damned good question!

Is Mr Keating's enterprise bargaining for real? Is it a cheap stunt to keep the industry sector quiet and the union mates happy? Or, as I suggested earlier, does he not have the political will or backbone to resist union pressure and go the Victorian way?

Are the unions interested in workers rights? Does the worker have the right to negotiate a higher rate of pay for higher productivity, the right to negotiate directly with the employer? Does he have those rights under a federal award? The answer is no, he does not!

Mr Gude — Of course he doesn't!

Mr WELLS — He does — but only when he is forced to join the union to top up the ALP coffers. If the ALP could not top up its coffers in that way, it would have diabolical problems.

The federal government's Industry Commission has attacked the restrictive provisions of the government's own enterprise bargaining legislation, which allows trade unions to intervene in negotiations between employers and non-union workers. It is worth noting what the Industry Commission said in issuing its 1993-94 annual report on 19 October 1994, as reported in the Australian Financial Review of 20 October 1994:

... the powers given to unions by the industrial relations minister, Mr Brereton, to 'scrutinise and oppose such (enterprise bargaining) agreements could constrain new initiatives'.

Greater freedom for workers to choose their bargaining agent — whether union, staff association or other workplace representation — would facilitate the development of individual workplace practices that better suit employees and employers alike.

In other words, a win-win situation:

The report also criticised the government for maintaining the award system —

it might be worth repeating that —

The report also criticised the government for maintaining the award system alongside enterprise bargaining.

'Because enterprise bargaining arrangements are still effectively linked to the centralised award system, the scope for agreed outcomes to reflect the requirements of individual workplaces remains constrained,' the commission said.

The commission's criticism is an embarrassment —

only one —

... to Mr Brereton, whose enterprise bargaining system for non-unionised workers was set up earlier this year after tough negotiations with the union movement.

What a load of tripe! Tough negotiations indeed!

The height of Keating hypocrisy is in his One Nation statement — I had to dig quite deep in the library to find it. Remember the blaze of glory when Keating brought that in? It was just a cheap publicity stunt. Fortunately the sensible people in the electorate did not believe it. It might be worth quoting some of what Paul Keating said in his One Nation statement of 26 February 1992. It is headed 'Labour Market Flexibility and Workplace Bargaining':

The government has fostered a more cooperative approach to industrial relations under the accord framework. This has assisted the evolution of a more flexible industrial relations system.

Since 1987 labour market developments aimed at achieving a more skilled and flexible work force have been an essential ingredient in the broader process of structural reform. In that regard, the new Industrial Relations Act introduced in 1988 provides an effective framework to decentralise the wages system and for award restructuring workplace reform.

The government's workplace reform and best practice demonstration programs are facilitating cooperative and fruitful negotiation at the workplace by providing funding for innovative projects that lead to demonstrable workplace reform, and specialist assistance on human resources management, industrial
relations, production planning and design and work organisation.

I am sure Mr Keating did not actually write that because he fails to understand the implications when it comes down to the negotiations. There are many instances where the government has expressed concern. For example, if an employer runs a non-unionised workplace, under his system the union can step in and object to what the workers have already agreed to.

Let us go over that once more. The employer sits down with the employees, they come to an agreement, they are all happy — a win-win situation — the employees receive more pay, the employer receives greater flexibility and greater productivity, but the union can step in and say, 'We are not happy about this. We are going to object to that in front of the Industrial Relations Commission'. It simply makes no sense and renders the One Nation statement as an untruth. I was going to use another word, but I won’t!

The Employee Relations (Amendment) Bill is the next step in the state government’s workplace reform package. As discussed earlier, both the government and the Prime Minister believe the award system is a hindrance to increased productivity and international competitiveness. The Prime Minister of this country and the Victorian government agree on one thing, but there is a big difference: the Victorian government is implementing what it is saying, the Prime Minister cannot.

The amendments also address minimum wages. The federal Labor government, which is seen to be more interested in creating havoc to the operation of the Victorian Employee Relations Act than reducing its deficit or creating long-term sustainable employment, has introduced the federal Industrial Relations Reform Act 1993. That act incorporates the International Labour Organisation’s minimum wages conventions which allows for the Australian Industrial Relations Commission to make orders under the provisions of the act which reflect the conventions of setting minimum wages for employees otherwise covered by a state industrial relations system where that state system does not provide for minimum wages to be set by a compulsory arbitration.

That is one of the points the honourable member for Pascoe Vale did not quite understand. Clearly the Victorian Employee Relations Commission has the right to set minimum wages. The amendments in the Employee Relations Act will have the effect of excluding the Australian Industrial Relations Commission from exercising its jurisdiction under part VIA of the federal Industrial Relations Act to set those minimum wages. The Employee Relations Commission of Victoria will now be empowered to make an order setting or adjusting minimum wages by compulsory arbitration.

As I said earlier when refuting some of the things said by the honourable member for Springvale, as a reference point for a minimum wage the commission will be looking at a 38-hour week, a 40-hour week, or some other number of hours the commission deems appropriate.

An opposition member interjected.

Mr WELLS — It is in there. Just read it! Minimum wage orders of the commission will centre on a group of industry sectors ranging from mining, retail, trade, agriculture and education. That will mean streamlining the existing state award system somewhat. Of course the minimum conditions for the state award will be the minimum wages as set out: four weeks paid annual leave; one week paid sick leave each year, which is cumulative; parental leave; and an entitlement to be given notice of termination or compensation in lieu of notice. Long service leave remains the same.

It is worth mentioning that the honourable member for Bulleen stated that workers in the transitional period who have certain conditions now will be protected. The scaremongering by the opposition about workers being worse off is rubbish. What workers have now they will keep. I congratulate the Minister for Industry and Employment for presenting this bill to the Parliament.

Mr BRACKS (Williamstown) — Interestingly, most speakers on the government side, and the honourable member I am following, have been at pains to stress that this legislation does not affect the award conditions or the minimum conditions under the awards which currently apply and that it offers protection for workers similar to or equivalent to existing awards. Why then does the minister need to bring in a bill to amend the act after two years if he is satisfied with the award conditions and if equivalent conditions apply in this bill as in the award?

The reality is that this bill is not about protecting employees on existing or equivalent award
arrangements; it is about eroding the existing conditions over time, not just for people already on awards but for new members of the work force — we heard about employment figures today — who are not covered by an award at present. We should reflect that that was an issue during the 1992 election campaign in which the current Minister for Industry and Employment was embroiled and one from which he ran 100 miles. He said he was not going to specify a minimum wage. There were all sorts of leaks from the people who were preparing the policy for the opposition at the time the minimum wage was discussed.

Let us reflect on what was happening in 1992 because it was a big issue. The Liberal-National coalition was at pains to communicate with every elector in Victoria. We all received one of the pamphlets entitled ‘Ladies and Gentlemen of the Jury’. Mine was addressed to S. P. and T. A. Bracks, 70 Pasco Street, Williamstown. One of the chief planks of the policy is improving job opportunities.

The Liberals’ election commitment was distributed via not just general mailing but direct mail to every household, to every individual in Victoria. The brochure states:

Our industrial relations plan offers real choice in the workplace, more secure jobs and increased employment opportunities. No employee will suffer any loss of award wages or conditions.

I well remember the minister being at pains at the time in interviews, discussions and radio talkback programs to emphasise that the coalition was not really attacking the award system but offering real choice. He said that people could stay within their award if they wanted to.

But the Victorian government policy is at loggerheads with the federal Liberal-National parties’ policy. Luckily its federal counterparts recognise the sense in adjusting their industrial relations policy, recognising that the electorate is rejecting the option the Victorian government is pursuing, running a hundred miles away from the policies being pursued in Victoria.

We need only look at what is reported in today’s Australian and Australian Financial Review and Age to see that one of the policy architects of the Liberal Party in Australia, John Howard, the federal opposition spokesman on employment and industrial relations, is himself running away from the policies the Victorian government has implemented, policies which this government is making worse two years in, breaking commitments made during the election campaign and revealing its true agenda.

The coalition’s federal counterparts have a distinct direction: the proper consideration of what should happen with enterprise bargaining and whether people should be able to opt in or out of awards. The Victorian government does not give those sorts of options. I quote from today’s Australian:

Mr Howard said yesterday the opposition was considering whether to retain the ‘opting in’ provision ...

Honourable members should remember that the current policy of the federal counterparts of this government is that people can opt into awards. If the federal coalition were elected to government — if the Australian public were ever so unfortunate — employees and employers could opt in on awards and the award system would be abolished. What is happening today reflects in part the internal machinations of the Liberal Party and probably leadership tensions and instability.

The industrial policy architect of the Liberal Party is saying that the coalition is reconsidering the opting-in provision. The opting-in provision is moderately close to the Victorian position; it is more moderate and more sensible, but at least it is reasonably consistent. But the federal coalition is moving out. It suggests that it is considering ‘whether to retain the opting-in provision, which involves placing employers and workers outside the award system and pushing them into contract bargaining’. Mr Howard, the minister’s federal counterpart, is reported as stating:

But an opting-out procedure would provide a more transparent safety net ...

He suggests that employers and workers could stay within the award system unless they wanted to change that to an arrangement entered into voluntarily between the employer and the employee. That is a distinctly different policy and one that recognises what is happening in the contemporary industrial relations debate in this country. This government is not only out of step with that contemporary debate but is moving further out of step with this legislation. Mr Howard is further quoted as saying:
But an opting-out procedure would provide a more transparent safety net and therefore prevent the policy being misrepresented by the government and by sections of the union movement.

It would be nice if this government considered transparency and not just minimum standards and award conditions. It should enshrine those standards and conditions in visible, transparent legislation. Awards have stood the test of time and have been the most permanent example of transparency in agreements.

We have heard discussion about the need for small enterprises, small business, to have different arrangements from those that awards provide. An opting-out provision could provide the ideal basis for that to happen. Luckily the federal counterparts of this government are recognising that reality.

The federal Minister for Industrial Relations, Mr Brereton, is quoted as saying, quite rightly:

... the comments from Mr Howard showed the coalition was admitting defeat on its radical industrial relations platform.

'Mr Howard's latter-day conversion to a safety net — which this government does not have. There were no converts in debate today.

An honourable member interjected.

Mr BRACKS — The hypocrisy with which the federal industrial relations minister has charged Mr Howard, the federal opposition spokesman on employment and industrial relations, is the sort of hypocrisy this government has also shown.

In summary, the bill is out of step with what is happening in contemporary industrial relations in this country; what the government offered in its 1992 election campaign misrepresented what took place; and, worst of all, the manager of the portfolio of the Minister for Industry and Employment, Greg John, who was brought in from the Victorian Employers Chamber of Commerce and Industry and who was to set up the great reform agenda, walked away from the reforms as 450 000 workers in the state award system have walked away from them. They have walked away because the reforms have failed.

This legislation is designed to penalise those few workers who remain to make them work without protection, to expose new entrants into the labour market — vulnerable workers: young workers, women and migrants — to unfair treatment and the wage cuts this regime will set up in the future. For sensible reasons, ones which the coalition's counterparts in Canberra have recognised, this bill should be opposed. I am sure that if the government's federal counterparts were here they would be telling the minister he was heading in the wrong direction and that the bill should be rejected.

Dr DEAN (Berwick) — It may surprise a number of members in this house to hear that I intend to talk about the reform of the labour market in this debate because we have now heard from the opposition for some hours all the machinations of who did what to whom and why, all the machinations concerning what Mr Howard said and what some brochure stated at some date.

Mr Bracks — Your brochure.

Dr DEAN — Just listen to what I have to say because it may have escaped your understanding that this debate is about one of the most important issues facing the progress of this nation that we have ever debated: that is, whether we can reform our labour market to enable us to compete with overseas competitors in a way that will allow us to share in the wealth being created in the technical revolution we are engaged in. It may be a little beyond the honourable member's understanding to get to that level of debate, but that is what this is all about. If he cannot cope with these sorts of arguments, meet

He continues:

It is obvious that he is struggling within his own party to maintain the unforgiving inner core of Jobsback which is to deny workers the basic safety net protection of the award system.

Mr Cooper interjected.

The SPEAKER — Order! Will the honourable member for Mornington please remain silent.
them head on, understand them and debate them, this country and this state have no hope.

The essential element of this debate is that all members of the house, I hope, have the goal that this nation and this state become successful and obtain the wealth we are entitled to. Obtaining that wealth gives us control of our own destiny and enables us, through moderate taxation, to protect the needy — —

Mr Micallef interjected.

Dr DEAN — And to distribute income to the needy, to engage in public works that give all citizens a superb living environment — to do all those things we want to do. Without the creation of that wealth none of these things will be achieved.

At the centre of all this is the simple proposition that today the achievement of that wealth is directly proportionate to our comparative advantage in the production of certain products which is, simply, our ability to compete. This is not a new concept. Throughout history various revolutions have taken place and those countries that were not adept at understanding what was happening, grabbing the change with both hands and changing were left behind. Consider the agricultural and industrial revolutions, and today's technological revolution. It is always the case that the nations which are unable to grasp the change fall. You either rise or fall on your ability to recognise the need to make changes.

Why is the reform of the labour market in Australia important to our capturing the advantage in the technological revolution? The central wage fixing system is now — I think it is agreed by most people — totally unable to produce a competitive environment. Like many others in this country I feel we are in a race with our economic competitors. Around our neck is a rope, attached to the end of the rope is an anchor and on that anchor is written 'the award system and central determination of wages'. It is very frustrating to listen to people who apparently have no concept of how to cut the rope or the fact that unless we cut it we will not be able to compete with our neighbours who have seen the light and are now determining their wages in the appropriate way.

We can all agree on certain things. Because of the technology being introduced into production, financial margins are the order of the day. Increased productivity on a day-to-day basis is the only way to compete with our neighbours and obtain that comparative advantage. The reduction in production costs is the order of the day, and wages are a central portion of those costs. If we cannot cope with it and see a way to achieve that end we will not be able to enjoy the products of this technological revolution.

We all agree that we must compete at the top of the market. At the bottom end we have agricultural products, then we have our manufacturing products, and at the top we have our high-technology products. It is at the top end that the successful nations must aim; it is at the top end that productivity is important when technology is changing on a day-to-day basis. This is all happening at an increasing rate, and we must ensure that we can move in and out of technology as quickly as our competitors. If we cannot capture the top end of the market and obtain the profits we require to be successful we cannot acquire wealth. That is why we must have a system that enables individual firms to bargain in respect of individual circumstances to ensure that wages and terms and conditions of employment move with changing technology.

When a firm suddenly realises that it must change its direction in technology it realises also that it has to alter its terms of employment to meet that technological change. If it can meet that technology change but cannot meet the changed wages and terms and conditions it loses the productivity race, its competitive edge and its overseas sales. With the decrease in the suitability of workplace reform, down goes productivity, competitiveness and production and out go jobs. The equation is as simple as that, and until our colleagues on the other side of the house understand that as technology changes so must work conditions, that scenario of lost production and lost jobs follows.

Mr Gude interjected.

Dr DEAN — I certainly do not want to overburden my colleagues on the other side of the house with the basic, general principles of economics but I implore them to spend a bit of time on trying to understand the essential connection between competition and jobs: workplace productivity and reform.

We must look to see why the reform in which Victoria is leading Australia really works. It has always seemed to me extraordinary that in a situation where individual firms have to adjust their production because of competition overseas,
anybody could argue that across-the-board wages, terms and conditions could create the necessary productivity. One thing you can be sure of is that if the same terms and conditions apply across all firms, all of which have different requirements, not one firm will have its terms and conditions matching its requirements. For some it will be excessive and for others it will be too low. None will match. That is the difficulty we face with the across-the-board equation.

How is it possible to change from an across-the-board award to an individual agreement? It can be done only if the employer and employees who know the terms and conditions required to achieve the productivity get together to decide the terms. If they cannot do it and if they must have imposed upon them terms and conditions from a third party — be it a commission or a union that has decided with overall employment bodies what those terms and conditions are — the competitive edge is lost. It is not possible to absorb terms and wages decided by some third party - be it a commission or a union that has lost. It is not possible to absorb terms and wages imposed upon them. How can the difficulty we face with the across-the-board award to an individual agreement? It can be done only if the employer and employees who know the terms and conditions required to achieve the productivity get together to decide the terms. If they cannot do it and if they must have imposed upon them terms and conditions from a third party — be it a commission or a union that has decided with overall employment bodies what those terms and conditions are — the competitive edge is lost. It is not possible to absorb terms and wages decided by some third party - be it a commission or a union that has lost. It is not possible to absorb terms and wages imposed upon them.

The other essential point in enabling employers and employees to come together is not just that it enables high productivity within that firm, which is essential to today's market; it also enables them to start talking about the very things employers and employees should be talking about how they can best develop a highly competitive firm and share in the fruits of competition. How can we expect employers and employees to get together and cooperate if we never allow them to come together and have these discussions? If by the very system we create we ensure that other people make the terms and conditions so that the employee adopts whatever terms and conditions have been put on him by somebody else and has no interest in or ownership of those terms and conditions, how can we expect the discussion between employer and employees to get off the ground? If we do not stimulate discussion between employers and employees how will we ever move into this new philosophy?

What system can we produce that enables discussion between employer and employee and agreement with sufficient protection? It is quite simple. It was a matter recognised by the federal government.

The SPEAKER — Order! The time being 4.30 p.m. I must interrupt proceedings. The completion time set by the house pursuant to sessional order 6(6) has arrived and I put the question:

That this bill be now read a second time.

House divided on motion:

Ayes, 58

Ashley, Mr
Bildsten, Mr
Brown, Mr
Clark, Mr
Coleman, Mr
Cooper, Mr
Davis, Mr
Dean, Dr
Doyle, Mr
Elder, Mr
Elliott, Mrs
Finn, Mr
Gude, Mr
Hayward, Mr
Heffernan, Mr
Henderson, Mrs
Honeywood, Mr
Hyams, Mr
Jasper, Mr
Jenkins, Mr
John, Mr
Kennett, Mr
Kilgour, Mr
Leigh, Mr
McArthur, Mr
McGill, Mrs
McGrath, Mr J.F.
McGrath, Mr W.D.
McLellan, Mr

Maclellan, Mr
McNamara, Mr
Maughan, Mr
Napthine, Dr
Paterson, Mr
Perrin, Mr
Perton, Mr
Pescott, Mr
Peulich, Mrs
Phillips, Mr
Plowman, Mr A.F.
Plowman, Mr S.J.
Reynolds, Mr
Richardson, Mr
Rowe, Mr (Teller)
Smith, Mr E.R.
Smith, Mr I.W.
Spry, Mr
Steggall, Mr
Stockdale, Mr
Tanner, Mr
Tehan, Mrs
Thompson, Mr
Traynor, Mr (Teller)
Treasure, Mr
Turner, Mr
Wade, Mrs
Weideman, Mr
Wells, Mr

Noes, 25

Andrianopoulos, Mr
Baker, Mr
Batchelor, Mr
Breck, Mr (Teller)
Brumby, Mr
Carli, Mr (Teller)
Cole, Mr
Cunningham, Mr
Dollis, Mr
Garbutt, Ms
Haemeyer, Mr
Hamilton, Mr
Leighton, Mr

Loney, Mr
Marpie, Ms
Macalief, Mr
Mildenhall, Mr
Pandazopoulos, Mr
Sandon, Mr
Seitz, Mr
Sercombe, Mr
Thomson, Mr
Thwaites, Mr
Vaughan, Dr
Wilson, Mrs

Motion agreed to.

Read second time.
Committed.

Committee

The CHAIRMAN — Order! The question is:

That clauses 1 to 14, schedules 1 and 2 and circulated government amendments be agreed to.

Clauses, schedules and circulated government amendments agreed to.

Circulated government amendments referred to in question:

1. Clause 6, page 4, after line 19 insert —
   
   "(4) The Commission in Full Session may declare whether or not a particular employee or group of employees is included within a particular work classification declared by it under sub-section (1).
   
   (5) An application for a declaration under sub-section (4) may be made —
   
   (a) by an employee or group of employees; or
   
   (b) by an employer; or
   
   (c) by an association of employers or employees that is recognised under Part 12 with respect to an employer of an employee or employees to whom the application relates; or
   
   (d) by the Minister if he or she believes that it is in the public interest to do so."


3. Clause 6, page 6, line 22, before "A" insert "(1)"

4. Clause 6, page 6, after line 28 insert —
   
   "(2) Nothing in this section empowers the Commission to make any determination, order or decision in relation to the standard hours of work in an industry sector."

5. Clause 7, lines 29 to 31, omit all words and expressions on these lines and insert —
   
   "(iv) he or she was a casual employee; or
   
   (v) subject to sub-section (4), he or she was engaged under an employment agreement or any other contract of employment for a fixed term of not more than 6 months; or"

6. Clause 7, page 10, after line 20 insert -
   
   "(4) Sub-section (1)(a)(v) does not apply to an employee engaged under an agreement or contract of a kind referred to in that sub-section if a main purpose of the employee's engagement under an agreement or contract of that kind is to avoid the employer's obligations under this Division or clause 54 of Schedule 1."

7. Clause 11, line 13, after "leave" insert "accrues on a pro-rata basis and"

8. Clause 11, page 14, after line 27 insert —
   
   "(7) The following employees are excluded from the operation of this clause:
   
   (a) an employee of a kind referred to in section 39(1)(a)(ii), (iii), (iv) or (v);
   
   (b) an employee of a kind specified in an Order made by the Governor in Council for the purposes of this paragraph and published in the Government Gazette.

55. Employer to be given notice of termination

(1) An employee must not terminate his or her employment unless the employer has been given the period of notice required by this clause.

(2) The required period of notice is —

(a) the period of notice required by the relevant employment agreement or other contract of employment; or

(b) if no period of notice is applicable under paragraph (a), a period of notice equal to the employee's usual pay period."

9. Schedule 1, page 19, item 44, omit "paragraphs (a) and (b) are repealed" and insert for paragraphs (a), (b) and (c) substitute "a decision made by a single member of the Commission"

10. Schedule 1, page 19, omit item 57 and insert —

'57. In section 163 —

(a) after "every" insert "determination, order or decision of the Commission that it has put into writing, and with every";

(b) for "award or employment agreement" substitute "employment agreement,"

11. Schedule 2, page 21, item 4, before "In" insert "4.1".

12. Schedule 2, page 21, item 4, at the end of the item insert —

"4.2 Section 135 is repealed."
13. Schedule 2, page 21, item 5, omit all words and expressions in this item after "1984" and insert —
"For the definition of "award" in section 3(1) substitute —
""award" means -
(a) an employment agreement within the meaning of the Employee Relations Act 1992; or
(b) an award made under the Industrial Relations Act 1988 of the Commonwealth;".

14. Schedule 2, page 21, item 7.2, omit "clause 54" and insert "Part 6".

15. Schedule 2, page 21, item 7.3, omit "clause 54" and insert "Part 6".

16. Schedule 2, page 21, item 7.4, omit "clause 54" and insert "Part 6".

17. Schedule 2, page 23, item 10.7, omit "clause 54" and insert "Part 6".

Reported to house with amendments.

Passed remaining stages.

VALUATION OF LAND (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Mr I. W. SMITH (Minister for Finance).

The SPEAKER — Order! The question is:

That this bill be now read a second time, that circulated government amendments 1 to 4 be agreed to, that the bill be now read a third time and that the bill be transmitted to the Legislative Council and their concurrence desired therein.

House divided on question:

Ayes, 58

Ashley, Mr
Bildsten, Mr
Brown, Mr
Clark, Mr
Coleman, Mr
Cooper, Mr
Davis, Mr (Teller)
Dean, Dr
Doyle, Mr
Elder, Mr
Elliot, Mrs
Finn, Mr
Gude, Mr
Hayward, Mr
Hefferman, Mr
Henderson, Mrs
Honeywood, Mr
Hyams, Mr
Jasper, Mr
Jenkins, Mr
John, Mr
Kennett, Mr
Kilgour, Mr
Leigh, Mr
McArthur, Mr
McGill, Mrs
McGrath, Mr J.F.
McGrath, Mr W.D.
McLellan, Mr
McPeek

Peulich, Mrs
Phillips, Mr
Plowman, Mr A.F.
Plowman, Mr S.J.
Reynolds, Mr
Richardson, Mr
Rowe, Mr
Smith, Mr E.R.
Smith, Mr I.W.
Spry, Mr
Steggall, Mr
Stockdale, Mr
Tanner, Mr
Tehan, Mrs
Thompson, Mr
Traynor, Mr
Treasure, Mr
Turner, Mr
Wade, Mrs
Weideman, Mr
Wells, Mr

Noes, 25

Andrianopoulos, Mr
Baker, Mr
Batchelor, Mr
Bracks, Mr (Teller)
Brumby, Mr
Carli, Mr (Teller)
Cole, Mr
Cunningham, Mr
Dollis, Mr
Garbutt, Ms
Haermeyer, Mr
Hamilton, Mr
Leighton, Mr

Loney, Mr
Marple, Ms
Micallef, Mr
Mildenhall, Mr
Pandazopoulos, Mr
Sandon, Mr
Seitz, Mr
Sercombe, Mr
Thomson, Mr
Vaughan, Dr
Wilson, Mrs
(b) the Valuer-General fails to give it, within 30 days after the notification, either —
(i) a certificate of satisfactory valuation or valuation progress; or
(ii) a written notice setting out the matters that need to be rectified before he or she will issue such a certificate.”.

Read second time.

Passed remaining stages.

ESTATE AGENTS (AMENDMENT) BILL

Second reading

Debate resumed from 8 November; motion of Mrs WADE (Attorney-General).

The SPEAKER — Order! The minister has moved that this bill be now read a second time, to which the honourable member for Footscray has moved a reasoned amendment, that is, that all the words after ‘That’ be omitted with the intention of inserting some fresh words, those words being in the hands of honourable members.

The question is:

That the words proposed to be omitted stand part of the bill.

House divided on omission (members in favour vote no):

Ayes, 57
Ashley, Mr  Maclean, Mr
Bildsten, Mr  McNamara, Mr
Brown, Mr  Maughan, Mr
Clark, Mr  Naphthue, Dr
Coleman, Mr  Paterson, Mr
Cooper, Mr  Perrin, Mr
Davis, Mr  Perton, Mr
Dean, Dr  Pescott, Mr
Doyie, Mr  Peulich, Mrs (Teller)
Elder, Mr  Phillips, Mr
Elliott, Mrs  Plowein, Mr A.F.
Finn, Mr  Plowein, Mr S.J.
Gude, Mr  Reynolds, Mr
Hayward, Mr  Richardson, Mr
Hefferman, Mr  Rowe, Mr
Henderson, Mrs  Smith, Mr E.R.
Honeywood, Mr  Smith, Mr I.W.
Hyams, Mr  Spry, Mr
Jasper, Mr  Steggall, Mr

John, Mr  Tanner, Mr
Kennett, Mr  Tehan, Mrs
Kilgour, Mr  Thompson, Mr
Leigh, Mr  Traynor, Mr
McArthur, Mr  Treasure, Mr
McGill, Mrs (Teller)  Turner, Mr
McGrath, Mr J.F.  Wade, Mrs
McGrath, Mr W.D.  Weideman, Mr
McLellan, Mr  Wells, Mr

Noes, 25
Andrianopoulos, Mr  Loney, Mr
Baker, Mr  Marple, Ms
Batchelor, Mr  Micallef, Mr
Bracks, Mr (Teller)  Mildenhall, Mr
Brumby, Mr  Pandazopoulos, Mr
Carli, Mr (Teller)  Sandon, Mr
Cole, Mr  Seitz, Mr
Cunningham, Mr  Sercombe, Mr
Dollis, Mr  Thomson, Mr
Garbutt, Ms  Thwailles, Mr
Haermeyer, Mr  Vaughan, Dr
Hamilton, Mr  Wilson, Mrs
Leighton, Mr

Amendment negatived.

The SPEAKER — Order! The question is:

That this bill be now read a second time, that circulated government amendments 1 to 14 be agreed to, that the bill be now read a third time and that the bill be transmitted to the Legislative Council and their concurrence desired therein.

House divided on question:

Ayes, 56
Ashley, Mr  Maclean, Mr
Bildsten, Mr  McNamara, Mr
Brown, Mr  Maughan, Mr
Clark, Mr  Naphthue, Dr
Cooper, Mr  Paterson, Mr
Davis, Mr  Perrin, Mr
Dean, Dr  Perton, Mr
Doyie, Mr  Pescott, Mr
Elder, Mr  Peulich, Mrs
Elliott, Mrs (Teller)  Phillips, Mr
Finn, Mr  Plowein, Mr A.F.
Gude, Mr  Plowein, Mr S.J.
Hayward, Mr  Reynolds, Mr
Hefferman, Mr  Richardson, Mr
Henderson, Mrs (Teller)  Rowe, Mr
Honeywood, Mr  Smith, Mr E.R.
Hyams, Mr

Noes, 25
Andrianopoulos, Mr  Loney, Mr
Baker, Mr  Marple, Ms
Batchelor, Mr  Micallef, Mr
Bracks, Mr (Teller)  Mildenhall, Mr
Brumby, Mr  Pandazopoulos, Mr
Carli, Mr (Teller)  Sandon, Mr
Cole, Mr  Seitz, Mr
Cunningham, Mr  Sercombe, Mr
Dollis, Mr  Thomson, Mr
Garbutt, Ms  Thwailles, Mr
Haermeyer, Mr  Vaughan, Dr
Hamilton, Mr  Wilson, Mrs
Leighton, Mr

Amendment negatived.

The SPEAKER — Order! The question is:

That this bill be now read a second time, that circulated government amendments 1 to 14 be agreed to, that the bill be now read a third time and that the bill be transmitted to the Legislative Council and their concurrence desired therein.

House divided on question:

Ayes, 56
Ashley, Mr  Maclean, Mr
Bildsten, Mr  McNamara, Mr
Brown, Mr  Maughan, Mr
Clark, Mr  Naphthue, Dr
Cooper, Mr  Paterson, Mr
Davis, Mr  Perrin, Mr
Dean, Dr  Perton, Mr
Doyie, Mr  Pescott, Mr
Elder, Mr  Peulich, Mrs
Elliott, Mrs (Teller)  Phillips, Mr
Finn, Mr  Plowein, Mr A.F.
Gude, Mr  Plowein, Mr S.J.
Hayward, Mr  Reynolds, Mr
Hefferman, Mr  Richardson, Mr
Henderson, Mrs (Teller)  Rowe, Mr
Honeywood, Mr  Smith, Mr E.R.
Hyams, Mr

Noes, 25
Andrianopoulos, Mr  Loney, Mr
Baker, Mr  Marple, Ms
Batchelor, Mr  Micallef, Mr
Bracks, Mr (Teller)  Mildenhall, Mr
Brumby, Mr  Pandazopoulos, Mr
Carli, Mr (Teller)  Sandon, Mr
Cole, Mr  Seitz, Mr
Cunningham, Mr  Sercombe, Mr
Dollis, Mr  Thomson, Mr
Garbutt, Ms  Thwailles, Mr
Haermeyer, Mr  Vaughan, Dr
Hamilton, Mr  Wilson, Mrs
Leighton, Mr

Amendment negatived.
Question agreed to.

Circulated government amendments referred to in question:

1. Clause 3, page 3, line 22, after "Society of" insert "Certified Practising".
2. Clause 5, page 35, line 31, omit "other".
3. Clause 7, page 37, lines 5 - 8, omit sub-clause (5).
4. Clause 10, after line 29 insert —
   "(b) sub-section (2)(b) is repealed;".
5. Clause 11, page 42, line 28, omit "estate agent or".
6. Clause 29, lines 23 to 30, omit all words and expressions on these lines and insert —
   "or child of an employee if —
   (a) the employee is not a licensed estate agent or an agent's representative; and
   (b) the principal is informed in writing of the prospective purchaser's relationship to the employee and agrees to the purchase in the form approved by the Authority before the purchaser signs any document that legally binds, or that is intended to legally bind, the purchaser in respect of the sale.".
7. Clause 39, omit this clause.
8. Clause 45, page 78, after line 8 insert —
   "(d) in section 27, omit "or of an employer's copy";".
9. Clause 47, lines 11 and 12, omit "and (5)" and insert ", (5) and (6)".
10. Clause 47, page 82, after line 13 insert —
    "(ii) in subsection (1)(b), for "Board" substitute "Authority";".
11. Clause 47, page 82, line 14, omit "paragraph (c)" and insert "sub-section (1)(c)".
12. Clause 47, page 85, lines 12 - 14, omit sub-paragraphs (i) and (ii) and insert —
    "(i) for "Board or Chief Executive Officer" substitute "Authority";
    (ii) for "the Chief Executive Officer" substitute "the Authority";".

NEW CLAUSES

13. Insert the following new clause after clause 38 —
    "AA. Clarification of who may claim from the Guarantee Fund
    In section 79 of the Estate Agents Act 1980 —
    (a) before "Subject to" insert "(1)";
    (b) at the end of the section insert —
    "(2) For the purpose of removing doubt, a person who is an estate agent can only suffer pecuniary loss by reason of a defalcation as a result of that person's dealings as a client of another estate agent.".

14. Insert the following new clause after clause 50 —
    "BB. Provisions concerning branch managers to have effect despite delayed commencement
    From the date sections 18 and 19 come into operation, sections 30(5) and (6) and 30AB(4) of the Estate Agents Act 1980 are to have effect as if section 14 had also come into operation on that date.".

Read second time.

Passed remaining stages.
HEALTH SERVICES (AMENDMENT) BILL

Second reading

Debate resumed from 9 November; motion of Mrs TEHAN (Minister for Health).

The SPEAKER — Order! The question is:

That this bill be now read a second time, that the bill be read a third time and that the bill be transmitted to the Legislative Council and their concurrence desired therein.

House divided on question:

Ayes, 57

Ashley, Mr    Bildestien, Mr    Brown, Mr    Clark, Mr    Coleman, Mr    Cooper, Mr    Davis, Mr    Dean, Dr    Doyle, Mr    Elder, Mr    Elliott, Mrs    Finn, Mr (Teller)    Gude, Mr    Hayward, Mr    Heffeman, Mr    Henderson, Mrs    Honeywood, Mr    Hyams, Mr    Jasper, Mr    Jenkins, Mr    John, Mr   Kennett, Mr    Kilgour, Mr    Leigh, Mr    McArthur, Mr (Teller)    McGill, Mrs    McGrath, Mr J.F.    McGrath, Mr W.D.    McLellan, Mr

Maclellan, Mr    McNamara, Mr    Maughan, Mr    Naphine, Dr    Paterson, Mr    Perrin, Mr    Perton, Mr    Pescott, Mr    Peulich, Mrs    Phillips, Mr    Plowman, Mr A.F.    Plowman, Mr S.J.    Reynolds, Mr    Richardson, Mr    Rowe, Mr    Smith, Mr E.R.    Smith, Mr I.W.    Spy, Mr    Steggall, Mr    Tanner, Mr    Tehan, Mrs    Thompson, Mr    Traynor, Mr    Treasure, Mr    Turner, Mr    Wade, Mrs    Weideman, Mr    Wells, Mr

Noes, 25

Andrianopoulos, Mr    Baker, Mr    Batchelor, Mr    Bracks, Mr (Teller)    Brumby, Mr    Carli, Mr    Cole, Mr    Cunningham, Mr (Teller)    Dollis, Mr    Garbutt, Ms    Haermeyer, Mr    Hamilton, Mr    Leighton, Mr    Sercombe, Mr    Thomson, Mr    Thwaites, Mr    Vaughan, Dr    Wilson, Mrs

Question agreed to.

Read second time.

Read third time.

Passed remaining stages.

IMPOUNDING OF LIVESTOCK BILL

Second reading

Mr MACLELLAN (Minister for Planning) — I move:

That this bill be now read a second time.

INTRODUCTION

Legislation dealing with the impounding of wandering livestock requires a major overhaul. The current law is confusing. The main piece of legislation, the Pounds Act 1958, is archaic and it is unclear how it operates in relation to other legislation which also deals with impounding.

Legislation dealing with one person’s right to deal with another’s property must set out rights and obligations clearly, and this is currently not the case.

The Impounding of Livestock Bill will provide in one act for the impounding of livestock found wandering on any land or roads across the state and for the first time clearly set out who is authorised to impound and their rights and obligations.

The bill will also give landowners more flexibility in how they deal with wandering stock and at the same time impose new duties of care on them and on councils.

DEVELOPMENT AND CONSULTATION

There has been wide consultation on this bill.

Eighteen months ago a working party was set up with representatives from the Victorian Farmers Federation, the Municipal Association of Victoria and relevant government departments. The working party developed two discussion papers which were circulated to all councils and members of the
CONSTITUTION (AMENDMENT) BILL

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Victorian Farmers Federation. There has also been extensive consultation with other interested groups.

This consultation is important because the bill represents a balancing of the interests of different groups, in particular the interests of councils, landowners and livestock owners.

KEY FEATURES

I shall now briefly turn to the key features of the bill. Clause 5 establishes who is authorised to impound wandering livestock and in what circumstances. Only persons specifically authorised under this bill will be permitted to impound, and these persons are authorised officers of councils, owners and occupiers of land (including Crown land), officers of the Roads Corporation and authorised officers in relation to Crown land.

Importantly, there is no obligation upon a person to impound. This is the present situation under the Pounds Act 1958, but there was considerable debate about whether a new obligation should be placed on councils to take responsibility for wandering stock. Naturally councils were reluctant to assume a new obligation that could lead to increased costs. More importantly, however, the current arrangements in this regard seem to work well in practice while the greater clarity in landowners' obligations should further assist neighbours to resolve matters between themselves.

Clauses 6 to 16 set out the rights and obligations required of those who impound wandering stock. Councils will have additional obligations to others. They will be required to take reasonable steps to find out who owns the livestock and give written notice of the impoundment to the owner. The notice will also inform the owner of his or her rights.

Part 3 of the bill spells out the rights of councils to dispose of impounded livestock and how the proceeds of any sale are to be applied.

In most cases councils will be required to hold impounded livestock for at least seven days before they can be sold or destroyed. However, where stock are in very poor condition and the cost of keeping them would exceed their value, council officers will generally be able to destroy them after 48 hours on the written order of an inspector of stock.

After much deliberation it was recommended by the working party that only persons currently authorised under other legislation should have the power to destroy injured, distressed or diseased animals.

REPEALS AND AMENDMENTS TO OTHER ACTS

Finally, part 7 of the bill deals with the rationalisation of the existing legislation. It repeals the Pounds Act 1958 and amends those acts dealing with impounding of livestock on Crown land.

I commend the bill to the house.

Debate adjourned on motion of Mr LEIGHTON (Preston).

Debate adjourned until Thursday, 24 November.

CONSTITUTION (AMENDMENT) BILL

Second reading

Mr KENNETT (Premier) — I move:

That this bill be now read a second time.

The principal purpose of this bill is to amend the Victorian Constitution Act 1975 so as to complete the process that resulted in the enactment of the Australia Acts by the commonwealth and United Kingdom parliaments in 1986.

The principal effect of those acts was to sever all of the remaining constitutional links between the states and the United Kingdom government other than their connection with the Crown itself. The changes brought about by those acts will now be complemented, so far as Victoria is concerned, by legislation enacted by this Parliament whereby the office of Governor and the Executive Council, the state's highest executive organisation, will be placed upon an appropriate statutory foundation.

Currently, the office of Governor and the Executive Council owe their existence not to statute but to letters patent issued without express statutory foundation. The current letters patent were issued by Her Majesty on 14 February 1986 and were expressed to become operative at the same time as the Australia Acts. They were designed to:

revoke the letters patent of 29 October 1900;

revoke the instructions to the Governor of 29 October 1900;
CONSTITUTION (AMENDMENT) BILL

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establish the office of Governor and the Executive Council;

define the roles and responsibilities of the Governor, Lieutenant-Governor, Administrator and Governors Deputy;

define the roles of the Premier and the Executive Council in relation to advising the Governor; and

continue certain commissions.

As honourable members will be aware, the constitutional system of this state was initially established by an act of the United Kingdom Parliament enacted in 1855. After the passage of 120 years and numerous amending acts that constitutional system was re-established on the basis of an act of this Parliament, namely the Constitution Act 1975. The bill now before the house will, as the Canadians would put it, complete the patriation of the Victorian constitutional system by replacing the letters patent with statutory provisions enacted by this Parliament.

The enactment of this legislation will complete the process of reform embodied in the Australia Acts so that the entire constitutional system of the state of Victoria will be based upon legislation enacted by the Parliament. The parliaments of New South Wales and Queensland both enacted similar legislation in 1987.

A secondary reason for the amendments arises from concerns which have been expressed regarding the letters patent. The concerns have related to:

the scope of the powers vested in the Governor in Council to amend the letters patent;

ambiguities in the letters patent;

the lack of any provisions relating to the practices and procedures of the Executive Council.

By replacing the letters patent with provisions in the Constitution Act 1975 those concerns will be resolved. These provisions will not, however, affect any existing constitutional practices and conventions, as the bill ensures the continuation of such practices and conventions.

The bill also deals with a number of other issues which arise from the changes made by the Australia Acts which I will shortly outline.

RESERVATIONS OF BILLS

Section 9 of the Australia Acts renders provisions requiring or permitting the reservation of bills for the royal assent to be ineffectual. The bill removes such provisions from the Constitution Act 1975 and the Interpretation of Legislation Act 1985.

VALIDITY OF LAWS

The Australia Acts extended and confirmed the powers of the state parliaments and conferred on those parliaments all of the legislative powers of the Parliament of the United Kingdom, including the power to make laws inconsistent with the laws of the United Kingdom.

However, as those provisions only operate in relation to laws made after the date when the Australia Acts came into operation, it is conceivable that laws may have been enacted before that date which are invalid but would have been valid if those acts had been in force when such laws were enacted. It is clearly appropriate to take the opportunity afforded by the introduction of this bill, which is framed in response to the Australia Acts, to invoke the powers which they confer so as to ensure the validity of all legislative provisions passed and subordinate instruments made before such acts came into operation.

For that purpose clause 11 of the bill invokes the powers conferred by the Australia Acts in relation to legislation passed before the Australia Acts were operative. That clause operates retrospectively, being deemed to operate from 3 March 1986, the date upon which the Australia Acts came into operation. This is desirable to invoke to the maximum extent the powers conferred by those acts to validate any legislation which may be invalid by applying those powers from the earliest possible date. It must be emphasised that this amendment is simply a precautionary measure, as no legislation has been identified which requires validation.

ROYAL STYLE AND TITLE

The references to Her Majesty in the Constitution Act 1975 and the Constitution Act Amendment Act 1958 are to Her Majesty in her capacity as lawful Sovereign of the United Kingdom. As the Royal Styles and Titles Act 1973 of the commonwealth has altered the style and title of Her Majesty to Elizabeth the Second, by the Grace of God, Queen of Australia and Her Other Realms and Territories, Head of the Commonwealth, and as the Australia Acts have
I give the house and the Leader of the Opposition — who needs as much time as he can get to consider anything — two weeks. It should be placed on record that it is not the normal practice of the house to have an adjournment of a debate for two weeks. An arrangement on the adjournment period is negotiated between relevant ministers and opposition members. On many occasions, when it suits, it is one week. There have been times when we have passed a bill almost immediately because, given the urgency of the bill, it was deemed necessary by both sides to do so. It is normally done by arrangement.

I made the offer to the Leader of the Opposition to facilitate an earlier debate. My week in Japan is quite obviously on government business, which helps us continue to build opportunities in this state. This particular piece of legislation deals with a part of the constitution which the previous Labor government failed to pick up and which puts certain things at risk. All we are seeking to do is to correct it. If the Leader of the Opposition cannot act maturely, we are happy for the debate be adjourned for two weeks.

Motion agreed to and debate adjourned until Thursday, 24 November.

LAND TITLES VALIDATION BILL

Second reading

Mr KENNEDT (Premier) — I move:

That this bill be now read a second time.

The purpose of the Land Titles Validation Act passed by the Victorian Parliament in the special sittings in August 1993 was to bring clarity and certainty to the management of Victorian land and resources in the wake of the Mabo decision. The purpose of the bill I introduce today is to ensure the continuation of that clarity and certainty following the passage of the commonwealth Native Title Act.

As all members of this house will recall, the Victorian government was the first government in Australia to prepare legislation in response to the Mabo decision. The resulting legislation, the Land Titles Validation Act 1993, was passed by the Parliament during a special sitting in August 1993. When the Victorian government passed its legislation I invited the Prime Minister to work with all the states and territories to ensure a workable national response to the Mabo decision. However, the federal government did not cooperate with other
Australian governments. Instead it chose to act unilaterally in imposing the Native Title Act on the rest of the nation.

The result is that under section 109 of the commonwealth constitution no state legislation can have effect if it is inconsistent with the federal legislation. As the Victorian Land Titles Validation Act 1993 was not fully consistent with the Native Title Act, its validation provisions were rendered ineffective with the passage of the Native Title Act. The commonwealth Native Title Act purports to establish a national system for future dealings in land or waters affected by native title and to provide for the validation of past acts invalidated because of the existence of native title. The Native Title Act does not itself validate titles granted by the states and territories. Rather, it provides a framework within which other governments may validate interests provided that they act in accordance with the standards and procedures set out in the commonwealth act.

State governments may set up systems for granting future interests and establish their own 'recognised bodies' to hear and determine native title claims only if they act in accordance with the Native Title Act. It is apparent that the commonwealth government seeks to override state and territory governments through this legislation and to bind them to its own native title policy. Unfortunately, many of the provisions of the act will only add further delay and uncertainty to the current position.

Mr Sercombe — That’s what we’ve been saying.

Mr KENNETT — That is the federal government’s act, if you’d been listening. No wonder you’re on the back bench!

Despite these problems, for the sake of certainty and economic security, which is so crucial to land-holders and investors, the government has chosen to introduce its own legislation in terms consistent with the Native Title Act to validate past acts, confirm Crown ownership of natural resources and confirm access to beaches and waterways.

The government is acting to validate and confirm access because these steps are crucial to economic security and confidence in this state. Companies and individuals that have acted in good faith in relation to titles and interests bona fide granted by the government, operating and incurring obligations in relation to these interests, must not be placed in a position of uncertainty.

However, the government will not take any further steps under the Native Title Act, such as the establishment of its own recognised bodies and procedures for future dealings in land, until the Western Australian challenge to the act is resolved. Depending upon the effect of the High Court’s decision, the government may consider implementing some of the further options available under the act in the future.

I now turn to the bill itself. Except for part 1, the bill provides for commencement 'on a day or days to be proclaimed'. This approach has been adopted in order to maintain flexibility in commencement, which is necessary because negotiations are continuing with the commonwealth regarding compensation. It is essential that the commonwealth agree to an equitable cost-sharing arrangement in order that the financial burden arising from native title may be borne nationally.

Many of the provisions in the bill, particularly in parts 2 and 3, have been drafted in such a way as to reflect the terminology and concepts included in the commonwealths Native Title Act. This is necessary to ensure that interests are effectively validated, although it has the unfortunate consequence of importing the poor drafting of the commonwealth act into Victorian legislation. I will therefore now offer a brief explanation of some of these terms.

'Past act' refers to any legislative act which took place prior to 1 July 1993 or any other act done before 1 January 1994 which was invalid because it affected native title but which would have been valid if the native title did not exist. As I have already noted, the bill will validate all such past acts.

The bill reflects the four categories of past acts adopted and defined in the commonwealth Native Title Act, which determines the effect of validation. A category A past act consists of the granting of a freehold estate or the granting of a commercial, agricultural, pastoral or residential lease made before 1 January 1994. These past acts will extinguish native title.

A category B past act is an act consisting of the granting of any lease that does not fall within category A, except mining leases. This category extinguishes native title to the extent that the act is wholly or partially inconsistent with native title. A category C past act is an act consisting of the grant of
LAND TITLES VALIDATION BILL

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a mining lease, and a category D past act is any act that does not fall within category A, B or C. Category C and D acts are subject to the non-extinguishment principle.

As set out in the commonwealth act, the non-extinguishment principle provides that if the act is wholly inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests, the native title continues to exist but the rights and interests have no effect in relation to the act. If the act is partly inconsistent, the native title rights and interests have no effect in relation to the act to the extent of the inconsistency.

If an act subject to the non-extinguishment principle ceases, the native title rights and interests which had been suspended to the extent of any inconsistency revive and again have full effect. The bill also provides that where Aboriginal people have rights arising from reservations or conditions in their favour or usufructuary rights over pastoral lands, these will not be affected by validation under part 2.

The proposed legislation represents a responsible middle course, protecting the interests of land-holders and investors in the immediate future while preserving the state’s position in relation to the future regime to govern native title.

The commonwealth’s Native Title Act is an unnecessarily complex and poorly drafted piece of legislation. The Victorian government has sought and will continue to seek amendments to the act and will attempt to secure these amendments through submissions to appropriate bodies, such as the Parliamentary Joint Committee on Native Title, the National Native Title Tribunal Liaison Committee and the Office of Indigenous Affairs.

Generally, the government and its agencies will adopt a business-as-usual approach to government business such as land and resources management in respect of the Native Title Act. The government’s approach to the granting of statutory interests under land and resources legislation is to assess each grant on a case-by-case basis, taking into account the likelihood of success of any native title claim.

The government will follow the right to negotiate process where it makes an assessment that there is a prima facie argument that native title exists in relation to land on which there is a proposal to proceed with an act mentioned in section 26(2) of the commonwealth Native Title Act.

Should any interest granted by the Victorian government subsequently be invalidated if native title is later established, the government will act to protect the grantee so far as is possible under the Native Title Act. The government will ensure that any part of the grantee’s interest not subject to native title is reinstated and that no other applicant unfairly gains competing rights over the intended grantee in relation to any part of the grantee’s interest not subject to native title.

The government accepts the decision of the High Court in the Mabo case and recognises the need for laws to recognise and protect native title. The government also recognises the right of any person or group, such as the Yorta Yorta, to apply for a determination of native title interests. In validating existing interests, the bill before the Parliament merely does what the commonwealth Native Title Act envisaged the states would do.

I commend the bill to the house.

Debate adjourned on motion of Mr BRUMBY (Leader of the Opposition).

Mr KENNETT (Premier) (By leave) — Based on the reasons I gave before, I make the same offer — a week, with extra time if the opposition needs it. That could easily take it into the second week if the opposition wishes. If after he has been briefed and by the end of one week the Leader of the Opposition feels he has not had enough time, I will be happy to delay the resumption for a second week.

Mr BRUMBY (Leader of the Opposition) (By leave) — I appreciate the good faith in which the Premier has made the offer. But again I point out that this is a technical and complex piece of legislation. Last year Parliament was recalled specifically to put through legislation that will be superseded by the passing of this bill. There are some specific legal matters that involve other acts of Parliament. The opposition will certainly want detailed briefings, including briefings from outside organisations. Again, it is not unreasonable that we have two weeks before the measure is again brought before the house.

Mr KENNETT (Premier) — I move:

That the debate be adjourned until Thursday, 24 November.

Motion agreed to and debate adjourned until Thursday, 24 November.
PUBLIC SECTOR MANAGEMENT (AMENDMENT) BILL

Thursday, 10 November 1994
ASSEMBLY

Debate adjourned until Thursday, 24 November.

PUBLIC SECTOR MANAGEMENT (AMENDMENT) BILL

Second reading

Mr KENNED (Premier) — I move:

That this bill be now read a second time.

The bill amends the Public Sector Management Act 1992 in a number of ways, its central purpose being to make improvements in the provisions concerning declared authorities and the employment status of department heads. Declared authorities are authorities declared by order in council to be subject to specified provisions of the Public Sector Management Act. Is the Leader of the Opposition not taking charge of this bill?

Mr Thomson interjected.

Mr KENNED — I know you can, but has he left the house? Is he coming back? I just feel lonely when he is not here listening to me.

Mr Thomson — I am sure the reverse is also true.

Mr KENNED — I know.

This procedure allows the application of the requirements of that act to public sector, non-public service entities. A common application of the procedure is to apply the provisions of part 4 of the act, which relates the requirements relating to the senior executive service to authorities.

For the record I now indicate that the Leader of the Opposition has returned. I do not want to be misquoted. I thank him for returning so punctually.

It is, however, inappropriate for the holders of independent offices and positions, such as judges, magistrates, the Solicitor-General, the Ombudsman, the Auditor-General and the Regulator-General to be subject to the requirements of the act. The independence of these offices is preserved and protected by the bill as it is provided that such positions cannot be made subject to declared authority orders. Declared authorities are listed in schedule 2 to the act and the bill will make a number of additions to that schedule.

The bill will amend the schedule to provide declared authority status to assistant commissioners of police and apply the provisions of the act dealing with senior executive positions to those officers. This addition is designed to increase the accountability of senior police for their predominant function — management. It is not intended to and will not infringe the independence which police officers require in the detailed administration of the law. The power to arrest, to search and to prosecute will remain the independent functions of individual police officers and will not be affected by the bill in any way.

The act protects the independence of the force in three ways. Firstly, assistant commissioners are to be made accountable, not to the Minister for Police and Emergency Services but to the Chief Commissioner of Police. The chief commissioner will have the power to appoint and terminate and to assess the performance of assistant commissioners. Ministers are to have no power additional to that which currently exists in relation to the officers concerned.

Secondly, the bill specifically provides that performance criteria in contracts of employment of assistant commissioners must relate solely to management issues. Finally, declared authority status cannot be provided in relation to the officers who have the ultimate control of the force, the chief and deputy commissioners. The power to appoint and terminate these officers remains with the Governor in Council.

Schedule 2 is also amended by the addition of a number of declared authorities. These amendments are required as orders in council made to amend the schedule were ineffective due to a failure to advertise those orders. As the affected officers acted on those orders, the bill will also validate those actions, and the changes to the schedule made by the bill will operate from the dates of the various orders. A similar defect has necessitated the amendment to schedule 1 to include the Victorian Government Solicitor with effect from 7 July 1993.

The bill also improves the interrelationship between the Public Sector Management Act and legislation creating the authorities which become declared authorities by ensuring that entering into an executive contract of employment under the Public Sector Management Act in relation to a position in a declared authority will also constitute an appointment for the purposes of any other act and by providing that terminating the employment of an executive officer who is or is in a declared authority,
under the provisions of the Public Sector Management Act or any other act terminates the employment for all purposes.

In relation to department heads, the bill will remove the ambivalence regarding their employment status. Currently, they are appointed by the Governor in Council, but their employer for the purposes of their contracts of employment is me, as the minister responsible for the Public Sector Management Act. This confusion is removed by the bill as the Governor in Council will no longer be a part of the normal process of appointing or terminating most department heads. The power to appoint department heads, aside from the Official Secretary, Office of the Governor, will now be a ministerial function while the power to terminate derives from the termination powers in the contract of employment and in the act.

The Governor in Council retains the power to terminate, but the use of that power is likely to be restricted to instances where no contract has been entered into as well as in unusual circumstances. The bill also prevents claims for compensation being made as a result of exercises of this power. The house will note that this provision will not affect any current claim for compensation. The involvement of the Governor in Council is to be maintained in relation to the appointment and termination of the employment of the official secretary due to the peculiar nature of that position and his special responsibilities to the Governor.

I wish to make a statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section by the bill. Clause 11 of the bill provides that it is the intention of that clause to alter or vary section 85 of the Constitution Act 1975. This provision precludes the Supreme Court from entertaining actions for compensation where the Public Sector Management Act as amended by the bill provides that no compensation is payable.

The reason for limiting the jurisdiction of the Supreme Court is as follows. The main purpose of the bill is to improve the administration of the Public Sector Management Act 1992. The bill provides in part for the termination of employment in the public sector in certain circumstances. It would reduce the effectiveness of the act if compensation were payable or action could be entertained in relation to these matters.

I commend the bill to the house.
hope that the bill can be passed and in operation by 1 January 1995.

The details of the recommendations of the Scrutiny of Acts and Regulations Committee and the government’s response to those recommendations are set out in the government’s formal response to the committee’s report, which was tabled in May of this year.

I do not intend to repeat the detail of the government response save to confirm that the bill accords generally with the matters raised in that response, save for matters of drafting which have arisen in the course of preparation of the bill.

As foreshadowed in the government’s response the emphasis of the bill is on the responsibility of ministers to the Parliament in exercising the legislative powers delegated to them by the Parliament. The Scrutiny of Acts and Regulations Committee of the Parliament will have a scrutiny and advisory role designed to assist both ministers in the proper exercise of their delegated responsibilities and the Parliament in its consideration of the actions of its delegates.

Under the bill, regulations made by or with the consent of the Governor in Council or which the Governor in Council has power to disallow are subject to the consultation, assessment and scrutiny regime set out in the bill. All such regulations are referred to as statutory rules for the purposes of the bill.

In addition, the minister administering the act will have the power to declare that an instrument is subject to the act or that an instrument falling within the general definition of a statutory rule is not in fact of a legislative character and should be excluded from the ambit of the act. Such declarations can be made only after consultation with the Scrutiny of Acts and Regulations Committee.

The preparation of a regulatory impact statement will be compulsory unless a proposed statutory rule falls within one of the three limited exceptions set out in clause 8 of the bill or if the responsible minister proposing a particular statutory rule certifies in writing that the rule falls within one of the specifically defined exemptions set out in clause 9 of the bill.

Unlike the current act, the responsible minister must specify in the certificate the reasons why the statutory rule falls within one of the exemptions. The certificate must be provided to the Governor in Council at the time the statutory rule is proposed to be made. A copy must also be laid before each house at the same time the statutory rule is tabled and must be provided to the Scrutiny of Acts and Regulations Committee. The power which currently exists to exempt a proposed statutory rule from the regulatory impact statement process on the grounds of public interest is retained by the Premier, but only for use in cases of emergency or overriding public interest. Moreover, such an exemption can be given only if the proposed rule is to sunset within 12 months.

This accords with the current practice in relation to the issuing of Premier’s certificates where, so far as is possible, a certificate is granted only for a rule which will have a limited operation while the regulatory impact statement process is completed or the circumstances warranting an emergency regulation have passed.

Under clause 10 of the bill a regulatory impact statement must include:

(a) a statement of the objectives of the proposed statutory rule;

(b) a statement explaining the effect of the proposed statutory rule, including the effect of the rule on any existing rule that it seeks to amend;

(c) a statement of other practicable means of achieving the objectives of the proposed rule, including other regulatory as well as non-regulatory options;

(d) an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives;

(e) the reasons why the other means are not appropriate;

(f) any matters required to be included under guidelines made under the act; and

(g) a draft copy of the proposed statutory rule.

The preparation of a regulatory impact statement will be compulsory unless a proposed statutory rule falls within one of the three limited exceptions set out in clause 8 of the bill or if the responsible minister proposing a particular statutory rule certifies in writing that the rule falls within one of the specifically defined exemptions set out in clause 9 of the bill.

Unlike the current act, the responsible minister must specify in the certificate the reasons why the statutory rule falls within one of the exemptions. The certificate must be provided to the Governor in Council at the time the statutory rule is proposed to be made. A copy must also be laid before each house at the same time the statutory rule is tabled and must be provided to the Scrutiny of Acts and Regulations Committee. The power which currently exists to exempt a proposed statutory rule from the regulatory impact statement process on the grounds of public interest is retained by the Premier, but only for use in cases of emergency or overriding public interest. Moreover, such an exemption can be given only if the proposed rule is to sunset within 12 months.

This accords with the current practice in relation to the issuing of Premier’s certificates where, so far as is possible, a certificate is granted only for a rule which will have a limited operation while the regulatory impact statement process is completed or the circumstances warranting an emergency regulation have passed.

Under clause 10 of the bill a regulatory impact statement must include:

(a) a statement of the objectives of the proposed statutory rule;

(b) a statement explaining the effect of the proposed statutory rule, including the effect of the rule on any existing rule that it seeks to amend;

(c) a statement of other practicable means of achieving the objectives of the proposed rule, including other regulatory as well as non-regulatory options;

(d) an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives;

(e) the reasons why the other means are not appropriate;

(f) any matters required to be included under guidelines made under the act; and

(g) a draft copy of the proposed statutory rule.

The assessment of the costs and benefits of a proposed rule must include an assessment of the economic, environmental and social impact and the likely administration and compliance costs including resource allocation costs.

These requirements mirror those of the current Subordinate Legislation Act but include two additional items, being:
a draft copy of the proposed statutory rule; and

an explanation of the effect of the proposed rule.

These two items have been included as it is the government's view that when business, industry or the community generally seek information about or seek to comment on a proposed statutory rule they want to see a clear statement of the practical effect of the rule and to obtain a copy of the draft rule.

There is a continuing requirement to provide a copy of the regulatory impact statement to the Scrutiny of Acts and Regulations Committee. However, the bill differs from the existing Subordinate Legislation Act in that it is the relevant responsible minister who is required to certify to the Governor in Council that the regulatory impact statement adequately assesses the likely impact of the proposed statutory rule.

Under the current administrative arrangements relating to the existing provisions of section 13(4) of the Subordinate Legislation Act 1962, a copy of a regulatory impact statement must be provided to the director of small business in the Department of Business and Employment for advice as to whether the regulatory impact statement adequately complies with the relevant requirements of the act. This arrangement has not been retained in the bill.

Under the current arrangements, the director of small business, with advice from the Office of Regulation Reform in the Department of Business and Employment, issues the relevant certification. In line with the theme of ensuring that it is the relevant minister who is responsible to the Parliament, it is that minister who must certify to the Governor in Council that the regulatory impact statement adequately assesses the likely impact of the proposed statutory rule. It should be understood that the government fully intends that every regulatory impact statement be properly scrutinised. The desirability of seeking independent advice as to the adequacy of a regulatory impact statement is recognised by the government.

Schedule 1 to the bill sets out matters that must be included in guidelines. The procedures to be implemented to ensure that appropriate advice is obtained as to the nature and content of a proposed statutory rule are one of the matters specifically required to be included in those guidelines. The guidelines are to be developed by the Department of the Premier and Cabinet in consultation with relevant government agencies. These guidelines will actually allow the government greater flexibility to

revise the scrutiny procedures to accord with the needs of business or other sectors of the community as required. By these means, the government will be able to ensure that the relevant minister takes all appropriate advice, both from within and without government, necessary to adequately assess the potential impact of a proposed rule.

The device used in the current act of specifying in legislation a given officer or officers within a particular public service department as the sole required source of advice as to the adequacy of a regulatory impact statement has not proved completely effective and has not prevented regulatory impact statements from being criticised by the former Legal and Constitutional Committee or the current Scrutiny of Acts and Regulations Committee.

Moreover, a reader of the Subordinate Legislation Act as it stands on the statute book would be of the mistaken belief that it was the Director-General of the former Department of Management and Budget who was to provide the required advice. That the reference to that officer has been changed by a succession of administrative orders under the Administrative Arrangements Act as the responsibility has been shifted around the bureaucracy indicates that a better arrangement is required if the government is to ensure that all relevant considerations are taken into account in assessing the adequacy of a given regulatory impact statement.

The change in the certification mechanisms will allow the Office of Regulation Reform to refocus its activities on important issues of policy within the context of the wider regulation reform agenda, allow the office to focus its role on reviewing existing regulatory burdens and put it in a position to identify problem areas better than it currently can. This should enable a better outcome for business, especially small business, to be achieved.

The government recognises that proper consultation is important in deciding whether a statutory rule should be made — and if so, in formulating that rule. That consultation may be within government, as between different agencies, and with the sectors of the business and the wider community potentially affected by the rule or in whose interests the proposed rule is directed. The nature and degree of consultation that is appropriate for any particular rule may vary with the nature of that rule, and the government believes that the best way to ensure that appropriate consultation is effected is not by laying
down strict parameters in legislation but by drawing up guidelines that can be reviewed and amended as necessary to ensure that the best outcomes are achieved.

The current Subordinate Legislation Act provides for a consultation period of 21 days to be allowed for every regulatory impact statement. The bill extends that consultation period to 28 days. The bill also adopts the recommendation of the Scrutiny of Acts and Regulations Committee that there be public notification of a minister’s decision to proceed or not proceed with a proposed statutory rule following the consultation process. Before any proposed statutory rule can be made the relevant responsible minister must certify to the Governor in Council either that the regulatory impact statement and the consultation process has been properly undertaken or that the statutory rule is either expected or exempted from the regulatory impact statement process.

The administrative mechanisms the government should wisely adopt to assist ministers in the proper exercise of their responsibilities will be set out in guidelines issued by the minister administering the act. These guidelines, previously referred to, will set out the mechanisms to be adopted to ensure that all affected and interested groups are consulted, that views provided as part of that consultation process are properly considered and that all relevant advice is sought by ministers before certifying to the adequacy of a regulatory impact statement.

Through the guidelines and a subordinate legislation manual, also to be developed by the Department of the Premier and Cabinet, the government will ensure that each minister proposing to make a statutory rule seeks all relevant advice from sources within and without government.

The 10-year sunsetting regime contained in the Subordinate Legislation Act is retained in the bill. However, in order to address the situation where regulations sunset before there has been time to complete a regulatory impact statement, the bill includes a provision in clause 5(3) and (4) to allow the relevant minister to extend the life of a sunsetting regulation for a further period of up to 12 months, during which time the regulatory impact statement will be completed. This will avoid the need to make interim regulations as occurs currently.

Westminster-style Parliaments have retained control over subordinate legislation by creating specialist parliamentary committees to scrutinise it. The need for and the importance of the parliamentary scrutiny of subordinate legislation has long been recognised in Victoria. The first Victorian scrutiny committee was established in 1956 by the Subordinate Legislation Committee Act 1956. In 1985, major changes were made to regulation review in Victoria. The most significant changes were introduced by the Subordinate Legislation (Review and Revocation) Act 1984. That act gave effect to the majority of the recommendations made by the Legal and Constitutional Committee in its report on the Subordinate Legislation (Deregulation) Bill 1984, a private member’s bill introduced by the Honourable Alan Hunt, MLC.

The role of scrutinising subordinate legislation now rests with the Scrutiny of Acts and Regulations Committee. It is the committee’s task to ensure that those responsible for making statutory rules comply with prescribed procedural requirements and do not in any way exceed the authority conferred upon them by the Parliament. Under the bill the committee is given power to suspend the operation of a statutory rule where the circumstances so require and to recommend to the Parliament the whole or partial disallowance of a given statutory rule. It is important to note that the bill adopts the committee’s recommendation that a statutory rule may be disallowed if either house passes a resolution to that effect.

The Subordinate Legislation Act 1962 was designed to set up processes for the preparation, making and scrutiny of subordinate Legislation. As I have stated, the act as it now stands is not a model of legislative drafting and is in need of revision and clarification. The bill I introduce today is not only clearer and more easily understood but sets out a clear line of responsibility in the minister recommending the making of the rule. In conjunction with the development of guidelines the bill will ensure proper scrutiny of all regulatory impact statements and provide a sufficiently flexible administrative arrangement to ensure that all relevant matters are considered and the changing needs of business accommodated as necessary.

The process will be actually more transparent than the current process, under which it is not the responsible minister but a unit within the bureaucracy that certifies as to the adequacy of any given regulatory impact statement.

I commend the bill to the house.
Debate adjourned on motion of Mr BRUMBY (Leader of the Opposition).

Mr KENNETT (Premier) — I move:

That the debate be adjourned until Thursday next.

In my magnanimous way, I offer the Leader of the Opposition a week — and even more time, based on his access to consultation procedures. Happiness and joy! If a week is insufficient, I am happy for the adjournment to be two weeks. I will leave it entirely in his hands, depending on the pressures he faces during this period of his time in office.

Mr BRUMBY (Leader of the Opposition) — I understand this legislation reflects in large part the recommendations of the all-party Scrutiny of Acts and Regulations Committee. I have also consulted extensively with the honourable member for Doncaster. The Premier will need to acknowledge the tremendous support he has received in this matter from the honourable member, and I look forward to taking the Premier into the committee stage of the bill in one week’s time. I think one week should be adequate.

Motion agreed to and debate adjourned until Thursday, 17 November.

LAND TAX (AMENDMENT) BILL

Second reading

Mr STOCKDALE (Treasurer) — I move:

That this bill be now read a second time.

This bill amends the Land Tax Act to implement the measures announced in the budget, resolve ambiguities in the provisions relating to the unimproved value of land and avoid any unintended consequences which arise from those provisions. The bill also clarifies the operation of the charity exemption provision and extends the pensioner concession consistent with changes in commonwealth legislation.

Firstly, the bill implements the measures which I announced in the budget, by which the increase or decrease in a taxpayer’s land tax liability for the 1995 year from his or her liability for the 1993 year on unchanged holdings is restricted to no more than 40 per cent. The purpose of the valuation provisions in the Land Tax Act is to define the value of land upon which land tax is calculated. The current provisions have a number of unintended consequences.

The first anomaly is that the provisions refer to valuations made for the purposes of the Local Government Act 1989 although changes to that act have transferred those provisions to the Valuation of Land Act 1960 as from 1 October 1992. This reference is therefore obsolete and only serves to add confusion to provisions which are already difficult to interpret and comprehend. The bill removes this anomaly.

Another ambiguity exists in identifying when a general valuation for a municipality may be used to determine the unimproved value of land upon which land tax is calculated. In practice, properties are valued for municipal purposes every four years in the metropolitan area and every six years in rural areas at a fixed date. This date is referred to as the base date. General valuations are usually returned in September, two years after the base date. The date of that return is referred to as the return date.

The State Revenue Office has consistently interpreted those provisions as preventing the use of a general valuation sooner than one year after the return date. An ambiguity in the present wording raises doubts as to whether the provisions in fact specify that as the time at which a valuation may be used to determine the unimproved value of land. Accordingly, the bill confirms the current practice of the State Revenue Office in not using a valuation until one year has elapsed after the return date.

A further anomaly arises in the case of a municipality making a supplementary valuation following a general valuation. The current provisions appear to compel the State Revenue Office to use that supplementary valuation although it has not begun to use the general valuation on which it is based. The obsolete reference to the Local Government Act may also prevent the Commissioner of State Revenue from using valuations of the Valuer-General in some instances. Each of these anomalies is corrected by the revised valuation provisions in the bill.

The bill also clarifies the operation of the exemption from land tax for properties used for charitable purposes. The practice of the State Revenue Office has been to interpret the exemption as extending to tenants using the land for charitable purposes. However, some doubt has arisen as to whether this interpretation is correct. The bill adopts a simplified but effective form of exemption which resolves those
doubts and confirms the existing practice of the State Revenue Office.

The bill also amends the provision which grants an exemption from land tax on the principal place of residence to pensioners. Under that provision ‘eligible pensioners’ were determined by reference to entitlement to a pensioner health benefits card and a transport concession card under commonwealth social security legislation. Recent changes in commonwealth legislation and practices have resulted in the creation of one pensioner concession card which is available to a wider range of persons. In keeping with agreements made with the Commonwealth in relation to pensioner benefits this amendment will extend the concession to all holders of the current commonwealth pensioner concession card.

A further anomaly addressed by the bill is the provision of the act which deems a mortgagee who enters in possession of property upon a default of the mortgagor as the owner. That has unintended consequences. Firstly, the land in which the mortgagee enters possession is aggregated with the other lands owned by that mortgagee. In many cases this may result in the mortgagee being obliged to pay land tax at the top marginal rate upon the secured property which otherwise, would not have a liability to land tax at all. Secondly, many mortgages would entitle the mortgagee in possession to pass on the expense of that land tax to the mortgagor. This government considers that it would be unjust if the aggregation provisions were to operate to disadvantage these mortgagors, many of whom would be households or small businesses already in financial difficulty.

The bill seeks to resolve this unintended result by providing that lands held by a mortgagee in possession will be taxed as if they were still held by the mortgagor for three years after the mortgagee takes possession. This amendment is also consistent with equivalent provisions in New South Wales.

I commend the bill to the house.

Debate adjourned on motion of Mr BRUMBY (Leader of the Opposition).

Debate adjourned until Thursday, 24 November.
to light regarding the imposition of financial institutions duty on interest credited to accounts held with financial institutions. Documentation published at the time of the introduction of financial institutions duty by the previous government in 1982 indicates that interest credited to accounts was to be liable to financial institutions duty, as is the situation in all other states which impose financial institutions duty. To date the legislation has almost universally been regarded as imposing such liability. However, the Solicitor-General has recently indicated that in his opinion this Victorian legislation does not operate in this manner.

The amendments therefore make clear that financial institutions duty is payable on credits of interest to accounts and that financial institutions duty which has in the past been paid by financial institutions in respect of interest credits is to be treated as having been paid in accordance with the legislation.

The bill also makes a technical amendment to define amounts improperly paid to exempt accounts as receipts. This will ensure that such payments attract duty.

The bill amends the Pay-roll Tax Act to remove the requirement for employers to lodge returns of wages each month. In the majority of cases employers will need to provide only an annual return. This is yet another practical example of the way the government is cutting the burden of red tape on business in Victoria.

To make it easier for employers to hire apprentices and trainees the bill will remove the cumbersome procedure whereby employers were obliged to apply to the State Training Board for a rebate of the payroll tax on wages paid to apprentices and trainees.

The bill also limits the liability to payroll tax for wages paid to an employee outside Australia to a six-month period.

The bill includes a number of amendments to ensure the consistent application of provisions in the Stamps Act 1958. The period for refunds of duty upon leases and the power to remit penalties upon the late lodgment of documents will be consistent with refund and penalty provisions elsewhere in the act. The provisions which provide the relevant nexus to the state of Victoria to impose duty upon the transfer of marketable securities transferred other than by means of the Australian stock exchange’s clearing house system, CHESS, will be made consistent with the nexus requirements which apply to transfers made under CHESS.

The bill also seeks to encourage the merger of superannuation funds in the same manner as New South Wales by exempting duty on transfers of real property and marketable securities between superannuation funds.

The duty upon a transfer of shares which is part of a share buyback will be exempted under the bill. As a result, the inconsistent application of the Stamps Act as between a share buyback and the redemption of units in a unit trust is removed. This amendment will also ensure that companies in Victoria are not at a disadvantage in comparison with those in New South Wales, which has already enacted a similar exemption.

The bill also introduces amendments to remove an administrative burden on companies by allowing them to register transfers of shares which are exempt from duty without the necessity to have those transfers stamped as non-dutiable.

The provisions which relate to subpurchases of real property and the use of nominee clauses upon the purchase of real estate will be clarified. The amendment will prevent the use of nominee clauses as a device to avoid stamp duty. However, the genuine use of a nominee clause to enable the purchase of real property on behalf of a family member, a family company or a company related to the purchaser will not be affected.

The bill addresses a potential loophole in the rental business duty provisions and enhances the practical operation of the act by removing the requirement of the minister to deal with a number of operational matters and instead vesting these duties in the Commissioner of State Revenue.

The Stamps Act will also be amended to implement measures which were announced in the budget. The turnover tax upon wagers with bookmakers will be reduced from 2.25 per cent to 2 per cent for metropolitan race meetings and 1.75 per cent to 1.5 per cent for country meetings. This reduction will take effect for all bets made as from 3 October 1994, in time for the spring racing carnival.

The other budget measure clarifies the application of the Stamps Act to off-the-plan sales involving existing buildings. Some doubt has existed as to the practice of the State Revenue Office in allowing the concession in the case of the refurbishment and
 conversion to strata title units of existing buildings. The amendment will clarify the application of the concession to transfers of real property in those cases. The terms of the amendment have been structured to prevent the concession being exploited as a device for the avoidance of duty where substantial works have not been undertaken.

The bill also amends the Stamps (Further Amendment) Act 1993 to ensure that duty will not be charged upon that part of a security by which property is secured which is outside Australia. This amendment is consistent with legislation expected to be introduced in New South Wales shortly.

The bill amends the Taxation (Interest on Overpayments) Act to remove an anomaly which has operated in an unjust manner for a number of years. The act gives taxpayers who have demonstrated that they have paid excessive tax a right to interest upon the tax which is refunded. However, this right has not applied to the case of an objection to the valuation of land which has given rise to an excessive land tax assessment. The bill removes this anomalous distinction.

A housekeeping amendment is made to the Taxation (Reciprocal Powers) Act 1987 to repeal obsolete provisions.

I wish to make a statement under section 85(5) of the Constitution Act 1975 of the reason for altering or varying that section by this bill. The proposed new section 60 of the Debits Tax Act, to be inserted by clause 5 of the bill, will provide that it is the intention of that provision to alter or vary section 85 of the Constitution Act. This provision precludes the Supreme Court from entertaining proceedings of a kind to which the proposed new section 29(1) of the Debits Tax Act applies. The reason for limiting the jurisdiction of the Supreme Court is that refunds of overpaid debits tax (other than refunds claimed on the grounds of invalidity of provisions in the act) are only to be made where the person seeking the refund has lodged an application for the refund with the Commissioner of State Revenue within three years of the date of the overpayment. The purpose of the proposed new section 29 of the act would not be achieved if the Supreme Court could entertain an action seeking such a refund notwithstanding that no application for a refund had been lodged with the commissioner within three years from the overpayment. This limitation of the Supreme Court's jurisdiction is consistent with the limitation which already applies under the refunds regime proposed by the previous government and enacted in the State Taxation (Further Amendment) Act 1993.

I commend the bill to the house.

Debate adjourned on motion of Mr BRUMBY (Broadmeadows).

Debate adjourned until Thursday, 24 November.

PORTS ACTS (AMENDMENT) BILL

Second reading

Mr STOCKDALE (Treasurer) — I move:

That this bill be now read a second time.

The Ports Acts (Amendment) Bill deals with four aspects of the reform of Victoria's ports. Its first purpose is to facilitate the transfer of responsibility for Victoria's smaller, non-commercial ports from the three major port authorities of Melbourne, Geelong and Portland to new managers who have a local interest in those facilities.

The second purpose is to enable the responsible minister, the Minister for Roads and Ports, to promote effective competition in the delivery of port-related services in Victoria's commercial ports. The third purpose is to apply to the port authorities the corporate planning and reporting requirements appropriate to their present status as state-owned business enterprises. Finally, the bill makes several comparatively minor amendments to facilitate the authorities' moves to focus on core activities.

The bill contains proposed amendments to the Crown Land (Reserves) Act and the Marine Act. It also proposes changes to each of the three port authority acts. These changes are essentially similar in the three acts. These proposals do not pre-empt or limit the options for structural reform of the commercial port authorities, which should be the subject of a further announcement in the near future. The changes proposed here are consistent with a wide range of reforms.

By making these legislative changes now, however, the government intends to put in place measures by which the ports can continue to improve their performance in the short run, while consideration is given to the most appropriate form for the long-term future of Victorian ports.
There are 15 so-called associated ports along Victoria's coastline, from Port Fairy to Mallacoota. With the exception of Hastings, they are primarily recreational facilities for the local community and visitors. In some cases they are also a base for local commercial fishermen. While they are an important part of their communities and, in some cases, of tourism, they do not operate on a commercial basis.

At present the Melbourne, Geelong and Portland port authorities share responsibility for the associated ports, and cover their operating and capital cost requirements.

While the costs of funding these associated ports falls on the three major ports, they represent a burden on Victoria's exporters and importers, thus undermining Australia's international competitiveness. The valuable contribution of these facilities to their local communities and other users should be funded by government rather than as an impost on trade.

In the government's view it is desirable that local organisations and communities should be involved in the management of the ports, or parts of them, to give the facilities the best scope for meeting local needs. The bill establishes a mechanism for responsibility for the associated ports to be transferred from the port authorities to committees of management established under the Crown Land (Reserves) Act. This is the most appropriate and convenient arrangement for maintaining future consistency with coastal policy.

Negotiations with potential new managers are in train, and it is expected that we will be ready to make the transfers in 1995.

The government has made a commitment to fund the associated ports from consolidated revenue, a practice that used to be followed in years past.

Funding for the associated ports will be provided in accordance with the government's policy on community service obligations. In 1994-95 funds will be made available through the ports division of the Department of Transport, and thereafter the Department of Conservation and Natural Resources will assume the funding role. This allows decisions on associated ports to be made within a public policy perspective rather than as an impost on commercial activities.

Responsibility for the port of Hastings will not be transferred to a committee of management. This is a commercial port, and the state has undertaken certain obligations in relation to it, notably under the Westport Development Act and the Western Port (Steel Works) Act. For the present it will remain as an associated port of the port of Melbourne. It will be subject to further consideration in the context of the government's broader port reforms.

I now turn to the second of the bill's purposes. Each of the three port authority acts is to be amended to facilitate greater competition in port activities. Many services are required in Victoria's major commercial ports. They include, for example, pilotage; towage; mooring and stevedoring; transport operations; provisioning, garbage collection and providing telephone services for ships; asset maintenance; security; and dredging.

The amendments enable the minister to direct any of the port authorities to open up services to competition where the minister considers that the port authority is denying service providers the opportunity to fairly and fully compete.

I would emphasise that the authorities have indicated a willingness to open up to more competition in their ports. However, there may be occasions when the government needs to promote change or accelerate the pace of reform.

A further amendment is proposed which clarifies the power of the port authorities to provide their services, such as dredging, in each other's ports. The amendment is designed to encourage competitive service provision by the port authorities themselves.

In relation to accountability to the government as shareholder, the bill adopts certain provisions of the State Owned Enterprises Act and applies them to the port authorities. These provisions deal with the formulation of a corporate plan and statement of corporate intent; the provision of requested information to the Treasurer; notification of significant matters to the minister and the Treasurer; and the provision of half-yearly reports.

The purpose of these amendments is to bring the planning and business reporting requirements of the port authorities more closely into line with those applying to state business corporations, and therefore to increase accountability for their performance.

I turn now to the fourth group of amendments. The port authorities each have some land that is considered surplus to their present or future needs.
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or which, by its very nature, has no relationship to the activities of a commercial port. These amendments are designed to clarify certain powers of the port authorities in relation to land which they hold.

One proposed amendment empowers the Governor in Council to remove land from the boundaries of a port. The existing provisions of each port authority act draw a distinction between land which is vested in the authority upon trust by the provisions of the act and other land which is acquired by or belongs to a port authority.

A second proposed amendment makes clear that a port authority's existing powers to sell, lease, license and develop land extend not only to vested land but also to any other land which belongs to the authority.

A third proposed amendment provides that any vested land which is sold, transferred or surrendered by a port authority ceases to be subject to the statutory trust. A provision to this effect is already contained in section 50(5) of the Port of Melbourne Authority Act, but it refers only to land that is sold. It does not, for example, cover a transfer of land under section 9 of the State Owned Enterprises Act.

I commend the bill to the house.

Debate adjourned on motion of Mr COLE (Melbourne).

Debate adjourned until Thursday, 24 November.

OFFICE OF THE REGULATOR-GENERAL (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The main purpose of this bill is to amend the Office of the Regulator-General Act 1994 to increase the powers and streamline the administration of the Office of the Regulator-General ("the office"). In particular the bill:

(a) widens the power of the office to obtain information from non-licensed entities without the necessity of holding a formal inquiry;

(b) gives the office a discretion in regard to release of documents and information which are claimed to be confidential;

(c) empowers the office to divide its reports into confidential and non-confidential parts; and

(d) streamlines the requirement for the office to advertise the making of a determination.

The establishment of the Office of the Regulator-General is a key element in the government's program of reform of state-owned enterprises. The office is to be the independent watchdog over the electricity, water, gas and other industries as they move through disaggregation and corporatisation to eventual privatisation. It will help to ensure that the benefits of the new competitive structures will be passed on to consumers in the form of improved services and lower prices.

The government is especially fortunate to have secured the services of Mr Robin Davey, the former head of AUSTEL, as the first Regulator-General. Mr Davey took office on 1 July this year. Details of the proposed amendments are outlined below.

POWER TO OBTAIN INFORMATION

At present, the office's power to obtain documents or information is limited to circumstances in which it is holding an inquiry or has included a provision in a licence requiring the licensee to produce documents or information on demand.

There will be circumstances when the office is not holding an inquiry and when it will require documents or information from a person who is not a licensee: for example, from a company supplying goods and services to a licensee. Documents or information from such persons may be used by the office to verify information provided by a licensee or to check whether a licensee is complying with the terms of its licence. Such persons may be unwilling to volunteer the information but quite willing to supply it pursuant to a formal requirement obliging them to do so. The power to obtain information from a non-licensed entity will significantly enhance the office's effectiveness.

In extending the powers of the office in this way, the bill recognises the need for appropriate safeguards. The proposed power would require the office to have reason to believe the person was capable of providing documents or furnishing information relevant to the exercise of the functions of the office. The exercise of the proposed power will be subject to judicial review and to the existing appeal panel.
process in the act with the office bearing the burden of proof that the information should be provided. This will —

ensure that the power is exercised in accordance with the law; and

constrain capricious use of the power.

CONFIDENTIALITY

At present, the act enables a person to —

claim that any document or information (whether intrinsically confidential or not) is supplied to the office on the basis that it is of a confidential or commercially sensitive nature; and

restrict the use that the office may make of the document or information.

For example, a licensee might claim as confidential information relating to its failure to meet a reasonable standard of service, thus preventing the office publicly comparing that licensee's service with that of other licensees.

The bill will enable the office to decide whether a document or information of this type should nonetheless be made public, either because it is already publicly available, or because the public benefit in its disclosure would outweigh any detriment occasioned to the person supplying it or to a third party.

This amendment will significantly enhance the ability of the office to perform its functions. This power will also be subject to appropriate safeguards. The test to be applied by the office is consistent with a well-established body of law on confidentiality and with Freedom of Information Act principles. The office must give reasonable notice to an information provider of its intention to publish the information, together with its reasons, and these will be subject to challenge before an appeal panel where the office will be required to show that it is acting reasonably.

REPORTS ON AN INQUIRY

The act presently requires the office to submit a copy of its report on an inquiry to the minister, who must table the report in Parliament. A report may, however, contain confidential information the disclosure of which might prejudice commercial operations or subsequent action recommended in the report, for example, a criminal prosecution.

To address this concern, the office will be empowered, where appropriate, to prepare and submit its reports to the minister in confidential and non-confidential parts and the requirement that the minister table the reports in the Parliament will be limited to the non-confidential parts. This will enable the office to give the minister full particulars while at the same time protecting confidential information. The alternative of writing reports in a way that excludes confidential information would deny the minister the ability to properly evaluate a report. The integrity of the reports will be preserved by clear statements where confidential information is excluded and reasons for its exclusion.

PUBLICATION OF LICENCES AND DETERMINATIONS

The act requires that a determination made by the office must include a statement of the purpose and reasons for making the determination, and be published in —

the Government Gazette; and

a daily newspaper generally circulating in Victoria.

Determinations and statements of reason may run to many, many pages and it is an unnecessary expense to have to publish them in full. Instead, the bill provides that —

relevant regulated entities must receive a free copy of a determination as a matter of course; and

persons who make a submission are entitled to request a free copy.

In addition, notice of the making of a determination must be published in the Government Gazette and in a daily newspaper generally circulating in Victoria. The notice must include a brief description of the nature and effect of the determination, details of when it takes effect and how a copy may be obtained from the office.

The amendments outlined above will streamline the administration of the Office of the Regulator-General and lead to cost savings over time. They also clearly demonstrate this government's commitment to ensuring the
The structural alterations to the Supreme Court created by this bill will undoubtedly provide Victoria with a state-of-the-art forum exercising the superior jurisdiction of the state. Not only does the bill incorporate the finer features of the relevant legislation in both New South Wales and Queensland, but, following consultation with the judiciary, the bill has been refined to contain features particularly suited to the efficient exercise of superior appellate jurisdiction in Victoria. The cooperation of the judiciary will, furthermore, ensure that there will be a smooth transition from the operation of the existing structure of the Supreme Court to the implementation of the new structures introduced by this bill.

COURT OF APPEAL DIVISION

Presently, there is in Victoria no separate appellate court constituted by judges who sit exclusively in that court. Appeals are dealt with by a full court of the Supreme Court. The full court is an appellate jurisdiction of varying membership. It is constituted by judges appointed from the members of the Supreme Court and its membership changes on a regular basis.

The exercise of appellate jurisdiction has, in recent years, not been as effective and efficient as it should be. It is clear that the problems with the operation of the full court are related, not to the members of the Supreme Court but rather, to its structure; in particular, to its attribute of changing membership. In fact, the members of the Supreme Court, particularly the Chief Justice, should be congratulated for making considerable progress in the efficient and expeditious dispensation of appellate jurisdiction with the existing inadequate legislative structures.

It is proving to be increasingly difficult for the full court to manage the increasing appellate workload efficiently under a system which requires its members to balance such workload with first instance matters. The bill seeks to remedy problems arising from the current structure of the full court. It creates an appellate jurisdiction of permanent structure by establishing a Court of Appeal division of the Supreme Court. The Court of Appeal division will exercise similar jurisdiction to that currently exercised by the full court, including jurisdiction over both civil and criminal appeals. In this respect,
the bill differs from the Court of Appeal division in New South Wales. There, the Court of Appeal division exercises civil jurisdiction only, with criminal jurisdiction being exercised by a separate Court of Criminal Appeal. In Queensland, however, both civil and criminal jurisdictions are exercised by the Court of Appeal division of the Supreme Court of Queensland. Consultation with the judiciary confirmed that it was more appropriate for our Court of Appeal division to exercise both civil and criminal jurisdiction.

The permanent structure of the Court of Appeal division is derived from the fact that it will be comprised of a central nucleus of permanent members. That nucleus will consist of the Chief Justice of the Supreme Court, the President of the Court of Appeal and other judges of appeal. It is proposed that the initial Court of Appeal division will comprise eight members. Opportunity for the other judges of the court to sit on the Court of Appeal division will be retained. For example, other judges of the court may be appointed by the president, with the concurrence of the Chief Justice, to hear particular cases, or to ensure that the Court of Appeal is comprised of a sufficient number of members to efficiently and expeditiously manage significant increases in its workload. In this way, the bill retains the opportunity for the other judges of the court to gain experience in the exercise of appellate jurisdiction. Furthermore, and equally as important, it also ensures that the structure of the Court of Appeal is sufficiently flexible to enable it to quickly adapt to fluctuations in its workload.

The establishment of a central nucleus of permanent members of the Court of Appeal will serve to avoid many of the practical problems which arise when members of an appellate court of rotating membership disperse and return to heavy workloads of trial work. Moreover, the experience and knowledge of the permanent appellate judges acquired through constant dealing with appellate work will, in many cases, contribute to reducing the length of an appeal. Permanent appellate membership will also place the Court of Appeal in a sound position to achieve significantly superior case flow management to that of an appellate court of varying composition by, for example, enabling the implementation of more efficient procedures for allocating appeals among its members.

Ordinarily, any three or more judges of appeal may constitute the Court of Appeal. However, the President of the Court of Appeal is empowered to determine that, in a particular case, only two judges of appeal constitute the Court of Appeal. Moreover, in certain kinds of proceedings specified in the rules of the Supreme Court, a single judge of appeal may exercise the jurisdiction and powers of the Court of Appeal. In such proceedings, however, the Court of Appeal is vested with the power to discharge or vary a judgment or an order made or direction given by a judge of appeal.

CHIEF JUSTICE

The Chief Justice will remain the most senior member of the Supreme Court. Consistent with that status, the Chief Justice will be a member of both the Court of Appeal and the Trial Division.

PRESIDENT OF THE COURT OF APPEAL

The bill creates the position of a President of the Court of Appeal. As is currently the case with the appointment of members of the Supreme Court, including the Chief Justice, the president will be a practitioner of the Supreme Court of not less than eight years standing and will be appointed by the Governor with the advice of the Executive Council.

Although the Chief Justice will remain the most senior member of the Supreme Court, the president will be directly responsible for the overall constitution and operation of the Court of Appeal. The president will therefore be specifically responsible for ensuring the orderly and expeditious exercise of the Court of Appeal’s jurisdiction. As the second most senior member of the Supreme Court, the president will be remunerated at a rate higher than that of the judges of appeal and other judges of the court, but below that of the Chief Justice.

JUDGES OF APPEAL

The bill provides for the appointment of judges of appeal. In so doing, it enables the appointment of candidates possessing skills and knowledge especially suited to appellate work. Judges of appeal will have seniority over all other judges of the Supreme Court, apart from the Chief Justice and the president. As members of the Supreme Court, judges of appeal will be entitled to the terms and conditions guaranteed to judges of the Supreme Court by the Constitution Act 1975. To reflect their status, judges of appeal will be remunerated at a rate modestly higher than that of the other judges of the court, but below that of the Chief Justice and the president.
Concern has been voiced that an appellate court with frequently changing membership allows for the introduction of inconsistency into the law. Through the appointment of permanent appellate judges to the Court of Appeal, the bill seeks to address this concern. Thus, while the combination of judges of the Court of Appeal may vary at times, the underlying composition of a permanent appellate structure whose judges are constantly involved in the determination of appeals will enable the Court of Appeal division to achieve a significantly higher level of consistency and uniformity in its decisions.

Coupled with, and as a consequence of, its capacity to achieve a higher level of consistency among its decisions, the Court of Appeal division will also provide a means for the coherent development of legal principle.

REGISTRAR OF COURT OF APPEAL

The bill also provides for the appointment of a Registrar of the Court of Appeal, who will be subject to the general direction and control of the president. The responsibilities of the registrar will include: the preliminary examination of all civil applications made to the Court of Appeal, thereby ensuring the efficient and expeditious dispatch of those applications to the Court of Appeal; and performing such other duties as are required by the president or the rules of the court. The provision of administrative support to the Court of Appeal in this way will facilitate the expeditious and efficient handling of appellate work.

TRIAL DIVISION

In addition to the Court of Appeal division, the bill creates a Trial Division of the Supreme Court. The judges in this division are empowered to hear and determine all matters, civil and criminal, which do not fall within the jurisdiction of the Court of Appeal. The structure of the Trial Division mirrors the Court of Appeal division in the sense that it enables its members to be focused on the operation of that division. In this way, the members will be able to continually and consistently monitor the handling of trial work and thereby ensure that the workload is, so far as is possible, dealt with efficiently and expeditiously.

The Trial Division will primarily consist of the Chief Justice and the other judges of the court. However, the bill retains the possibility for judges of appeal to exercise the jurisdiction of the Trial Division.

The Chief Justice will have overall responsibility for the operation and constitution of the Trial Division. Accordingly, any temporary appointment of a judge of the court to the Court of Appeal, other than an appointment to fill a temporary absence of a judge of appeal, must be made with the concurrence of the Chief Justice. This requirement will ensure that there is no adverse interference in the running of existing trials, or trials for which specified dates have been guaranteed by the Trial Division, by such temporary appointment.

The reforms before the house will have the effect of significantly improving our judicial system and thereby placing Victoria at the forefront of the Australian states in providing a first-class legal system.

I commend the bill to the house.

Debate adjourned on motion of Mr COLE (Melbourne).

Debate adjourned until Thursday, 24 November.

CLASSIFICATION OF FILMS AND PUBLICATIONS (AMENDMENT) BILL

Second reading

Mrs WADE (Attorney-General) — I move:

That this bill be now read a second time.

This is a bill to correct an existing loophole in the regulation of censorship in Victoria and to ensure that the censorship regulation is fully effective so as to protect the public against offensive material.

In 1990 the previous government updated and consolidated Victoria's censorship law by enacting the Classification of Films and Publications Act 1990.

Under the 1990 act the Governor of Victoria may arrange with the Governor-General of the commonwealth for the commonwealth censor to classify films on Victoria's behalf. The definition of 'film' in the 1990 act includes video tapes. At the time the 1990 act was proclaimed, transitional provisions preserved an existing arrangement between the commonwealth and Victoria which allowed the commonwealth to classify films on Victoria's behalf. However, although it was understood that this arrangement allowed the commonwealth censor to classify video tapes and video discs, the recent decision of the Supreme
Court of Victoria in Director of Public Prosecutions v. Makris has raised doubts about the ability of the commonwealth censor to do that. A new agreement was executed on 25 October 1994 between the Governor of Victoria and the Governor-General of the commonwealth to remedy this situation.

In order to create certainty for the period in which the censor's power to classify video tapes and video discs has been in doubt, the bill provides that the classification of a video tape or video disc as G, PG, M, MA or R under the Australian Capital Territory Classification of Publications Ordinance 1983, which has similar classification requirements to Victoria, before the commencement of the new agreement between the Governor of Victoria and the Governor-General of the commonwealth results in the video tape or video disc being deemed to have that classification under the Victorian act. Likewise, the bill provides that if a video tape or video disc has been refused classification or has been classified X under the Australian Capital Territory ordinance, the video tape or video disc will be deemed to be refused classification under the Victorian act.

The bill's purpose is to create certainty in the past classification of video tapes and discs. The provisions will not apply retrospectively so that a deemed classification or deemed refusal of classification cannot be used in any prosecution under the 1990 act arising out of the seizure of video tapes or video discs prior to the commencement of the new agreement.

This bill is a necessary amendment to the principal act to remove any doubts about the current classification of video tapes and video discs in this state.

I commend the bill to the house.

Debate adjourned on motion of Mr COLE (Melbourne).

Debate adjourned until Thursday, 24 November.

The bill proposes a range of enabling and technical amendments in the areas of gaming and racing with specific amendments to the Gaming and Betting Act 1994, Gaming Machine Control Act 1991, Club Keno Act 1993, Casino Control Act 1991 and the Racing Act 1958. The amendments will strengthen the role of the Victorian Casino and Gaming Authority in ensuring that the gaming industry is governed by the highest standards of probity and security.

The bill deals in part 2 with amendments to the Gaming and Betting Act 1994. Provision is made for a wholly owned subsidiary of Tabcorp Holdings Ltd to possess gaming machines and restricted components thereby enabling that organisation the maximum flexibility to possess or dispose of gaming machines within its group structure.

The bill also inserts a specific power for the authority to delegate its functions under sections 70 or 95 of the act which deal respectively with approval of totalizator equipment and quarterly provision to the minister and Treasurer of a statement of the authority's costs and expenses. In both cases this will enable the authority to operate more flexibly and effectively.

A number of commercial matters awaiting settlement were retained by the Totalizator Agency Board and not transferred to Tabcorp. The TAB has also retained cash and short-term deposits to support the settlement of these matters as required. As a further measure to ensure that the TAB will be able to meet any obligations arising from these outstanding matters, the bill makes provision for the Treasurer to guarantee, indemnify or otherwise support the performance, satisfaction or discharge of obligations or liabilities of the TAB.

The bill also corrects an omission from the principal act by substituting the Victoria Racing Oub for Vicracing, thereby properly assigning the liabilities and assets of the former racing division of the Racecourses Development Fund and Metropolitan Racing Clubs Fund to the Victoria Racing Club.

Part 3 of the bill relates to the Gaming Machine Control Act 1991. The bill proposes amendments to require the authority to be satisfied that the approval of a venue operator's licence will not breach the maximum limit of 105 gaming machines set by ministerial direction and by the Casino (Management Agreement) Act. To this end, the bill contains provisions to extend the matters the authority must consider in determining an application for a venue operator's licence to include...
whether the management and operation of venues located close to each other are genuinely independent of each other. This clause provides the authority with grounds to refuse an application in cases where an applicant tries to circumvent the 105 maximum machine limit.

The government's concern lies not in a hotel chain or club operating more than one venue, but with more than 105 machines being operated at the one location. In cases where an applicant's premises are within 100 metres of an approved venue and there is an association between the applicant and the operator of an already approved venue, the bill empowers the authority to consider the relationship between two venues to ensure they are genuinely independent of each other.

Next, the bill contains a provision which specifies the identity of the venue operator and clarifies the accountability which attaches to that person and to any nominee of that person. The bill does this by providing for a natural person to be nominated by a venue operator and approved by the authority, and for the person to then be liable for ensuring compliance with the act, regulations, rules and licence conditions. The nomination and approval of a person will, nonetheless, not limit the liability of the venue operator under the act. The bill also provides for appeals to the Supreme Court against a decision of the authority to approve or refuse to approve a person as a nominee.

This proposal has been communicated to the key sectors of the gaming industry and has general support. It has the advantage of simplifying the administration of the act for both the authority and venues, while improving the security and accountability of gaming in venues. The proposed amendment is also consistent with the Liquor Control Act which provides for a nominee at licensed premises.

The third major matter addressed by this bill concerns the ongoing scrutiny of the persons who can influence the conduct of gaming. The bill provides for the approval of new persons who become, or are likely to become, associated with, or able to influence, the conduct of gaming. Provision is made to enable clearance to be given to a person prior to that person accepting a beneficial, ownership or management role and for that person not to exercise any influence in the business except with the prior approval of the authority. The bill also sets out the procedure to be applied in cases where a person is found not to be suitable to be associated with a gaming business.

Provision is also made in this part of the bill to address the changes which have been made in the sentencing policy of the courts. The amendment provides an additional ground for disciplinary action, which is that the licensee has been found guilty of an offence against the act under which that person is licensed or of a certain category of offence involving fraud or dishonesty, regardless of whether a conviction has been recorded against that person. The bill proposes amendment of section 51 of the Gaming Machine Control Act and section 52 of the Casino Control Act to achieve this.


To ensure and maintain the integrity of club keno, this bill creates specific offences. The offences include interference with the club keno system, use of defective equipment, and extension of credit and sale of tickets to minors. They are based on similar offences in the Gaming Machine Control Act.

The bill also gives persons who are gaming inspectors under the Gaming Machine Control Act enforcement powers based on the powers in the Gaming Machine Control Act.

These powers will enable inspectors to detect and investigate suspected offences under the Club Keno Act. Inspectors will also be able to gather evidence for prosecutions under the act. The bill includes a provision which reflects the common-law privilege against self-incrimination for persons who refuse to provide information to inspectors. This privilege has recently been limited by the High Court case of Environment Protection Authority v. Caltex in which it was decided that the privilege is not available to corporations in some instances.

In addition, the Director of Gaming and Betting is given power to investigate complaints about the conduct of club keno games. The powers will ensure that the interests of the public and the gaming industry in the conduct of games of club keno are protected.

The bill also gives gaming inspectors the power to test or inspect club keno equipment installed at a venue, to ensure that it is properly connected and
operating in a satisfactory way. The director is given power to order Tabcorp and Tattersalls to repair or withdraw defective machinery, equipment or computer systems.

Part 5 of the bill is an amendment to the Casino Control Act 1991 and has already been dealt with.

Part 6 deals with amendments to the Racing Act 1958. The situation in respect of the transfer of race meetings is clarified to enable industry controlling bodies full flexibility in this area in accordance with the original intent of the act.

The bill also corrects the position in respect of bets with bookmakers made at greyhound race meetings to ensure that the industry portion from stamp duty is paid to the Greyhound Racing Control Board rather than the Victorian Country Racing Council. Finally, the bill also contains a number of machinery amendments in the nature of statute law revision.

The operation of the gaming industry in Victoria has been an outstanding success and credit is due to the administration of the Victorian Casino and Gaming Authority and the gaming operators, Tabcorp and Tattersalls and to the foresight and commitment of the owners and managers of Victoria’s hotels and clubs which have embraced this new form of entertainment to the benefit of their members, patrons and communities.

The government is proud of the role it has played in promoting the high standard of security and integrity of this industry and in ensuring an orderly extension of the facilities to maximise the benefits for Victorians. This bill reinforces the government’s commitment to the honest conduct of gaming. It will continue the government’s work to ensure that the conduct of gaming in Victoria is free from criminal influence or exploitation.

I commend the bill to the house.

Debate adjourned on motion of Mr MILDENHALL (Footscray).

Debate adjourned until Thursday, 24 November.
expectation that insurance companies would phase down collections from policy holders over their final year while still making full contributions to the fire services, prior to a new system taking over.

The second issue relates to the expected involvement of municipal councils in the collection of contributions. Honourable members will be aware that local government reform is resulting in significant changes, not the least of which is to municipal boundaries. It is important for those changes to be implemented before a new funding system is devised because of the necessity to develop the required information bases and systems to support the establishment of a new and equitable funding system. In those circumstances, it is evident that a new system of funding for the fire services cannot be developed and implemented before July 1995. Accordingly, the bill repeals the sunset provision. That will allow the government to undertake proper consultation and introduce reform when these key issues are resolved, and to avoid increasing its contribution to the CFA by some $8.4 million annually, commencing in 1995-96.

FIRE PREVENTION POWERS FOR THE METROPOLITAN FIRE BRIGADES BOARD

The severe bushfires in and around Sydney last summer raised serious concerns about urban fire hazards and the powers needed to deal with them. The MFBB is aware of areas within the metropolitan fire district which could, in similar conditions, provide a high fire risk, but about which it has no powers to act. Although the MFBB has a duty under its act to extinguish fires, it has neither a power nor a duty to undertake fire prevention activities.

The bill confers a duty of fire prevention on the MFBB and on municipal councils and public authorities within the metropolitan fire district. The duties and powers will be the same as those available to the Country Fire Authority, to which I now turn.

PROCEDURES FOR DEALING WITH FIRE PREVENTION

The Country Fire Authority has always had fire prevention as a key function, with municipal fire prevention officers being empowered under the CFA act to issue direction notices and enforce compliance. However, the procedures are inflexible and unwieldy. For example, once a notice is issued there is no power to vary it except on conservation grounds. The bill provides new, flexible and simplified fire prevention procedures for all municipal councils in the state, and for all fire services.

The bill empowers municipal fire prevention officers to issue fire prevention notices on owners or occupiers of land in respect of material, other than a building or in a building, which is likely to constitute a danger to life or property from fire.

Although the main concern continues to be vegetative hazards, the powers will also cover other materials constituting a fire danger to life or property. For example, the combustible materials which are defined as litter in the Litter Act 1987, such as rubbish, abandoned vehicles, old tyres, packaging material and the like, will be subject to the direction notice procedure. A fire prevention notice will require that the owner or occupier adhere to the direction to remove or minimise the threat of fire within the specified time.

In the interest of fire safety, the bill also provides that the CFA's chief officer or the MFBB's chief fire officer may also serve a fire prevention notice if they believe one should be served and a municipal fire prevention officer has failed or refuses to do so.

The bill provides for a compulsory consultation process should the person served object to the notice, and the fire prevention officer, or chief officer or chief fire officer, may confirm, vary or withdraw the notice as part of that consultation process.

Should the person still not be satisfied, there will be a right of appeal to the chief officer or chief fire officer, or to the Country Fire Authority or the Metropolitan Fire Brigades Board, who must consider all relevant matters and may confirm, vary or cancel the notice.

The maximum penalty for failure to comply with a notice is unchanged at 50 units or 12 months imprisonment, prosecuted through the Magistrates Court. That is retained as it is vital that the community remain aware of the importance of carrying out fire prevention to reduce the devastation and loss, both economic and social, caused by fire. However, the bill introduces a simpler alternative enforcement procedure for lesser offences against the fire direction notice procedure by providing power to issue an infringement notice carrying a penalty of two units, to be enforced in the PERIN court.
The fire services will also be given a power to remove fire-hazardous material on the failure of an owner/occupier to carry out the work required by a prevention notice, which will be similar to the powers available to municipal fire prevention officers under the Local Government Act 1989. In addition, fire brigades will be empowered to carry out fire prevention work at the request of an owner/occupier.

There is provision for the actual cost of the work and the service of notices to be recovered. In addition, fines collected will be paid to either the municipal council, if the notice was served by its fire prevention officer, or the fire service which instigated the action.

The proposed measures will result in improved standards of fire prevention for the Victorian community, and will ensure a uniform approach throughout the state for both municipal councils and the fire services. The bill's provisions also protect the rights of owners and occupiers by providing avenues of negotiation and appeal to facilitate implementation of mutually agreed solutions to fire prevention problems. The municipal associations have supported both the extension of the fire prevention powers to the MFB act and the new procedures for dealing with fire prevention.

The bill also provides more flexibility for sawmillers by providing less stringent requirements relating to the disposal of by-products as it is no longer always necessary or economic to require the burning of all such by-products. When the by-products are burned, however, they must be burned in accordance with the regulations.

The bill also specifies the general powers of both the Country Fire Authority and the Metropolitan Fire Brigades Board to clarify and marginally extend their contract-making powers and to enable them to enter contracts for the implementation of the emergency services telecommunications computer aided call taking and dispatch system project. Other issues covered in the bill relate to consequential amendments resulting from amendments to other legislation.

I commend the bill to the house.

Debate adjourned on motion of Mr MILDENHALL (Footscray).

Debate adjourned until Thursday, 24 November.
services be expanded to include other marketing and inventory management activities. These objectives may be achieved through the formation of joint ventures which the trust is actively pursuing at this time. To remove any doubt as to the capacity of the trust to participate in joint venture arrangements and to participate in a joint venture for a national ticketing and related marketing services business the Victorian Arts Centre Act will require amendment.

In its first decade the Victorian Arts Centre has become the most cost-effective performing arts centre of its kind in Australia. Its businesses such as ticketing, catering, car parking, tourism and retail have helped to ensure this. The Victorian Arts Centre has positioned itself to expand further in the areas of tourism as well as ticketing. The centre is also setting up an international relations function so that it can have more meaningful exchange with overseas performing arts centres, particularly those in Asia. The centre wishes to become stronger financially, and being able to develop and expand into other businesses will ensure this.

The bill proposes that section 5 of the act be amended to identify as a specific function of the trust the promotion, development, control and management of a business of ticketing, inventory management of admissions, marketing and related services inside or outside Victoria.

It is also proposed to amend section 6 of the act so that the trust has the additional specific power, with the written consent of the minister given after consultation with the Treasurer, to enter into joint ventures and to carry out all other necessary and incidental matters, including the purchasing of shares, for the purpose of entering into these joint ventures.

In addition, the bill makes minor statute law revision amendments to the act by repealing two spent provisions.

BASS Victoria and the Victorian Arts Centre Trust are to be commended for developing BASS into one of the best and most comprehensive ticketing services in the world. For this reason it is timely that the operations of BASS are to be expanded so that it, together with the Victorian Arts Centre and private sector partners, can expand its expertise nationally and internationally. At the same time the Victorian Arts Centre will through good business practices increase its revenue and expand its programming so that it serves both the people of Victoria and draws national and international visitors to the city of Melbourne.

I commend the bill to the house.

Debate adjourned on motion of Ms MARPLE (Altona).

Debate adjourned until Thursday, 24 November.

VOCATIONAL EDUCATION AND TRAINING (STATE TRAINING WAGE) BILL

Second reading

Mr HAYWARD (Minister for Education) — I move:

That this bill be now read a second time.

The purpose of the bill before the house is to amend the Vocational Education and Training Act 1990 so as to implement within the Victorian employee relations system provisions of the national training wage interim award 1994.

The national training wage interim award was made by the Australian Industrial Relations Commission on 12 September this year. Among its provisions is the opportunity for employers covered by federal awards to discount award wage rates in return for the provision of accredited training, particularly for the young and the long-term unemployed.

The federal government has also made available subsidies for employers employing trainees under the federal award. These subsidies are intended to offset some of the structural and cost-related barriers to employing the long-term unemployed for purposes of providing on or off-the-job training.

Victoria welcomed the limited acceptance by the federal government in its working nation statement of May this year of the fact that the prescriptive nature of federal awards is a serious obstacle to the improvement of the Australian job market. This is especially so for those who have had the misfortune to be unemployed for very lengthy periods of time and are no longer considered job ready, or else by virtue of their youthfulness and nothing more have encountered difficulty in gaining entry to the workforce.

Over the course of the long proceedings in the Australian Industrial Relations Commission the
state of Victoria supported the concept of a training wage. Admittedly, as the state of Victoria and employer groups made clear during the proceedings before the commission, the federal award may be far from a perfect instrument. It is more complex than it need have been. Furthermore, it may not on its own override the many continuing impediments to the creation of the stable, competitively driven economic growth rates which underpin a healthy job market.

But importantly the training wage concept does offer prospects for increased training and, above all else, it offers hope where there has been none before.

The bill before the house therefore reinforces the Victorian government's commitment to enhance the job prospects of the young and the long-term unemployed who seek to develop the skills necessary for them to participate constructively in the labour market.

The government has moved speedily and effectively to implement provisions of the National Training Wage Award into the Victorian employee relations system.

Essentially, the bill before the house embodies the bulk of the provisions of the National Training Wage Interim Award in a legislative form, through the establishment of a new schedule 3 to the Vocational Education and Training Act 1990. This will ensure that the discounted wage system and other provisions in the federal award, such as the industry/skill levels to which trainees' wages are tied, are stable and applied uniformly across the Victorian state and federal jurisdictions.

The bill therefore ensures that all employers and employees will have swift access to the provisions of the Victorian state training wage system and will not be confronted with a training scheme which differs in any substantial way between state and federal levels.

WAGE RATES

The bill, at clause 6 of schedule 3, provides that the wage rates applicable for trainees in Victoria employed under the schedule will be those as provided by the National Training Wage Interim Award 1994. This will ensure that employers do not face competing and different wage rates between the federal and state training wage systems.

As a consequence of the introduction of the discounted training wage system, some amendments have been required in respect of trainees' minimum terms and conditions of employment. Clause 7 of schedule 3 ensures that trainees have continued access under the Employee Relations Act 1992 to the provisions of part 2, division 2 of part 3 and schedule 1, except clause 1(c), which relates to minimum wages.

INDUSTRY/SKILL LEVELS

A complicated feature of the federal award is the interaction of prescribed wage rates with various industry sector and skill level classifications. Consistent with the bill's treatment of wage rates, the Victorian government does not wish to complicate further the scheme of the training wage any further for employers. Consequently, at clause 6 of schedule 3 of the bill, for purposes of applying the weekly wages payable to trainees, the appropriate industry/skill level in relation to a trainee will be as specified federally, through the National Training Wage Interim Award.

Such industry/skill levels will themselves be specified in the Victorian employee relations system through a relevant determination made by the State Training Board under section 51 of the Vocational Education and Training Act 1990. Such determinations will simply mirror the industry/skill levels which apply in the federal award.

TRAINING AND EMPLOYMENT CONDITIONS

The bill provides that the conditions of training and conditions of employment under a training agreement have virtually the same effect for trainees and employers as under the National Training Wage Interim Award. A very similar approach has been taken in respect of the consultative arrangements which underpin the accreditation of approved training schemes under the terms of schedule 3.

NETTFORCE

The bill makes provision for the State Training Board to enter into an agreement with Nettforce, as provided by the National Training Wage Interim Award, and to perform the function and exercise the powers given to it pursuant to any such agreement. I am pleased to inform the house that negotiations between Nettforce and the Office of Training and Further Education are proceeding positively in this regard.

There are further consequential amendments to the principal act as detailed in the bill itself and as
CONCLUSION

In conclusion, I reaffirm the Victorian government’s genuine concern for the circumstances which face the young and long-term unemployed in developing relevant workplace skills and having the opportunities to become ‘job ready’. The introduction of the state training wage system by way of the bill now before the house is an important initiative in this regard.

Ultimately, however, the solutions to unemployment reside elsewhere, particularly so in respect of the implementation at both the national and state levels of comprehensive policies to promote a dynamic and innovative economy. In the long run, such policies are the only real source of security for the labour market, present and future.

Notwithstanding this, there are important steps, of which the bill is one, that can be taken to ameliorate the current circumstances facing the young and the unemployed and to ensure that there are as few skill shortages as possible in the labour market over the coming years.

I commend the bill to the house.

Debate adjourned on motion of Ms MARPLE (Altona).

Debate adjourned until Thursday, 24 November.

LOTTERIES GAMING AND BETTING (GENERAL AMENDMENT) BILL

Second reading

Mr REYNOLDS (Minister for Sport, Recreation and Racing) — I move:

That this bill be now read a second time.

This bill proposes a number of reforms in line with the government’s general policy in the area of gaming for deregulation where possible, whilst enhancing the level of probity and protection of participants in the industry.

Many of the specific proposals are the result of an extensive review of the minor gaming industry earlier this year and subsequent consultation with relevant persons and organisations. It is intended that further reforms be made next year as part of a total rewrite of the legislation relating to minor gaming.

This bill inserts a new definition of community or charitable organisations, reforms the conduct of bingo by removing a number of current restrictions, brings the bingo centre industry under a similar regulatory framework to that applying to electronic gaming machines, and makes changes to the regulations of raffles, lucky envelopes and trade promotion lotteries.

The government continues to recognise the important role the minor gaming industry plays in funding community and charitable organisations. To protect this important source of revenue, the bill provides for the Victorian Casino and Gaming Authority to declare which bodies are community or charitable organisations for the purposes of the act. This will mean that only bodies which satisfy the authority that they are genuine community or charitable organisations will be able to benefit from the conduct of bingo, raffles and lucky envelopes.

The reforms proposed to the conduct of bingo remove a number of outdated restrictions:

- the number of sessions which may be conducted over 7 days is increased from 2 to 4;
- the prohibition on Sunday bingo is removed;
- restrictions on time of day at which bingo may be played are removed;
- the maximum price per ticket is increased from 20 cents to 40 cents;
- the number of tickets which may be sold for each game is increased from 500 to 600.

A person who conducts a session of bingo on behalf of an organisation will be accountable for the conduct of the session and the keeping of financial records.

This bill recognises the contribution of bingo centre operators to the bingo industry while endeavouring to ensure that their commercial aims do not conflict with the community-based aims of bingo permit holders.

To this end, bingo centre operators and those of their employees carrying out significant duties will have to be licensed. They will be subject to a system of
probity checks and investigations. This is based on
the system which governs the licensing of venue
operators and their employees under the Gaming
Machine Control Act 1991. It will be possible to
cancel or suspend these licences.

It will now be possible for a person holding a bingo
permit on behalf of a community or charitable body
to enter into a contract with a bingo centre operator.
The contract will transfer all responsibility for
compliance with the permit to the operator. In
return for assuming this responsibility, the operator
will receive a fee from the permit holder. This fee
will be up to 2 per cent of the gross receipts for each
session of bingo conducted under the contract.

The bill provides that the expenses of conducting a
session of bingo must be no more than 10 per cent of
gross receipts for that session, excluding catering
costs. Therefore, where a contract exists between a
permit holder and a bingo centre operator the
amount of expenses must be no more than 12 per
cent of the gross receipts.

The bill ensures that there is a clear separation
between the conduct of bingo for the benefit of
community and charitable organisations and the
operation of electronic gaming machines by larger
clubs for their members and by hotels for profit. To
this end, bingo centre operators will not be
permitted to hold licences issued under the Gaming
Machine Control Act 1991. This reflects the intent of
a former regulation that sought to prevent the
location of gaming machines within bingo centres.

Special provision has been made for those bingo
centre operators who already hold venue operators
licences under the Gaming Machine Control Act
1991. These persons are given until the year 2000 to
phase out their dual interests.

In respect of lucky envelopes, a number of further
controls are proposed to better safeguard the
interests of the charities and community bodies that
rely on income from the sale of lucky envelopes. The
director of gaming and betting is given the power to
approve the types of lucky envelope machines.
Suppliers are required to obtain the approval of the
Victorian Casino and Gaming Authority.

In relation to raffles, the bill provides for regulations
to be made to ensure they are conducted fairly and
honestly. A new charge, based on a percentage of
the total prize value for each raffle, is required for a
permit to conduct a raffle and replaces the former
fixed fee. This is consistent with the present method

of charging for permits for trade promotion lotteries.
It will also reflect more accurately the overall costs
of administration of a wide range of raffles,
including those offering substantial prizes. A permit
to conduct a raffle will no longer be required where
the value of the prize pool is $5000 or less. This will
reduce the cost burden to charities and community
bodies in conducting smaller raffles.

The operation of trade promotion lotteries has also
been considered, and to better ensure probity the bill
provides that a permit will be issued to an
individual on behalf of an organisation, not to the
organisation alone. It is considered desirable that in
each case there be one person who can be held
accountable for compliance with permit conditions
and with whom contact may be made in relation to
the lottery.

Each person or organisation responsible for the
conduct of minor gaming will be required to keep
the proceeds in a separate bank account. (This
replaces the current requirements that proceeds
from each form of minor gaming be kept in separate
funds.) This will protect the interests of the charity
or community body which benefits from those
proceeds.

These reforms in the area of minor gaming continue
the government's work in relation to the gaming
industry in Victoria. The bill introduces tighter
controls and stricter probity measures while
deregulating where possible. This is consistent with
the government's desire to promote the highest
standards of security and integrity in all facets of the
gaming industry.

I commend the bill to the house.

Debate adjourned on motion of Ms MARPLE
(Altona).

Debate adjourned until Thursday, 24 November.

UNIVERSITY ACTS (AMENDMENT) BILL

Second reading

Mr HAYWARD (Minister for Education) — I
move:

That this bill be now read a second time.

The purpose of this bill is to make amendments to
the acts constituting the University of Melbourne,
Royal Melbourne Institute of Technology and Victoria University of Technology. The amendments are intended to streamline their administration and remove unnecessary constraints on their operations. They are being made as a result of requests from and discussions with the universities concerned.

Victoria is fortunate in having a number of large and very successful universities which not only offer outstanding teaching facilities but have very strong research and service functions. To an increasing extent these involve close relationships with industry and with other community agencies.

The universities' roles in teaching and research on the international scene are also expanding rapidly. Several have established campuses in other countries in cooperation with overseas governments and institutions, in addition to providing for large numbers of overseas students at their Victorian campuses. The organisational arrangements needed to support the commercial development of outcomes of university research, cooperative teaching and research projects with industry, and overseas activities vary widely, but in many cases they involve the establishment of companies, partnerships and joint ventures.

It is the wish of the government to make such arrangements as simple and flexible as possible, consistent with a need for accountability and the monitoring of activities that are part of the state's education system. To this end unnecessary approval requirements should be removed and replaced by provisions for the government to be kept informed of activities. It is important that universities are in a position to take new initiatives and respond to educational opportunities within Victoria and elsewhere with confidence and without delay.

The government has a program of consultation with the universities to identify areas where legislative provisions can be simplified and made more effective. This bill deals with the outcome for three universities — the University of Melbourne, RMIT and the Victoria University of Technology.

In each case requirements for approval for the establishment of or participation in companies and joint ventures have been modified, and the universities' powers to obtain benefits through normal commercial financial accommodations have been improved. In two cases, RMIT and VUT, the size of the council has been reduced at the request of the universities and the constraints on the number of terms of appointment of council members have been removed. A number of other changes have been made to simplify procedures at the universities concerned.

**MAJOR PROVISIONS OF THE BILL**

Part 1 of the bill specifies its purposes and provides for commencement at times to meet the particular requirements at each university.

Part 2 of the bill provides for changes in the Melbourne University Act 1992 to amend definitions, remove references to a specific position which is no longer used, modify procedures for making statutes and regulations, and provide for revocation of academic awards. It also removes a requirement for prior approval of participation in companies, and extends borrowing powers to provide for benefits through financial accommodations.

Part 3 of the bill provides for changes to the Royal Melbourne Institute of Technology Act 1992. It reduces the size of the council, provides for appointment of more than one deputy chancellor and removes a requirement of prior consultation with the State Training Board which does not apply to other multi-sector universities. It also removes the requirement of prior approval for participation in companies and joint ventures and provides for obtaining benefits through financial accommodations.

Part 4 of the bill provides for changes to the Victoria University of Technology Act. It amends the objects of the university to strengthen its research role and make clear its power to operate overseas. It reduces the size of the council to 24 members, provides for the chancellor to resign from the council, simplifies mechanisms for appointment of the heads of administrative units and removes references to RMIT as an amalgamating institute.

As for the University of Melbourne and RMIT, the bill removes the requirement of prior approval for participation in companies and joint ventures, and provides for obtaining benefits through financial accommodations.

I commend this bill to the house.

Debate adjourned on motion of Ms MARPLE (Altona).

Debate adjourned until Thursday, 24 November 1994.
COURTS (GENERAL AMENDMENT) BILL

Second reading

Mrs WADE (Attorney-General) — I move:

That this bill be now read a second time.

This bill contains a number of amendments which will help improve the operation of the courts.

CROSS-VESTING

A scheme for cross-vesting of jurisdiction between federal and state courts has been in operation since 1987. The scheme was implemented through the enacting of complementary legislation by the commonwealth and the states. The relevant Victorian legislation is the Jurisdiction of Courts (Cross-Vesting) Act 1987.

The primary objective of the scheme is to vest the federal courts with the jurisdiction of the state supreme courts and to vest the state supreme courts with the federal courts' jurisdiction so that no action will fail through lack of jurisdiction. The scheme also permits the transfer of cases to the most appropriate forum for their resolution.

The scheme makes specific provision for 'special federal matters' that arise under certain provisions of federal legislation. If commenced in a supreme court, these matters should normally be transferred to the appropriate federal court. The amendments to the Jurisdiction of Courts (Cross-Vesting) Act 1987 will do three things:

- require the Supreme Court to transfer 'special federal matters' unless satisfied that there are special reasons which justify the Supreme Court determining the proceedings — this is a stricter test than that which currently applies;
- extend the definition of 'special federal matter' to include step-parent adoptions; and
- include the Australian Capital Territory in the scheme.

These amendments are the result of an agreement of the Standing Committee of Attorneys-General and all other state jurisdictions have made similar amendments.

Clause 6 of the bill inserts a new provision in the Jurisdiction of Courts (Cross-Vesting) Act with the intention of altering or varying section 85 of the Constitution Act 1975. It is necessary to amend the Supreme Court's jurisdiction to give effect to the new provisions in respect of special federal matters agreed to by the Standing Committee of Attorneys-General.

OTHER AMENDMENTS

Other amendments contained in the bill will:

- permit the appointment of judges over the age of 70 years but less than 75 years of age to be reserve judges of the Supreme and County courts;
- provide registrars of the Magistrates and County courts and the Prothonotary of the Supreme Court with the power to waive the necessity for a party to pay fees in whole or in part where the requirement to pay fees will cause financial hardship;
- raise the retirement age of magistrates from 65 years of age to 70 years, which will bring the retirement age of magistrates' into line with judges;
- provide for a second form of oath for members of a jury which reflects the current procedure for swearing in jurors after empanelment as opposed to before empanelment;
- provide trial judges with the discretion to empanel additional jurors if he or she considers that the case is of such a nature that additional jurors are warranted; and
- alter the fee-making power to permit the Registrar of Probates to charge fees for the delivery of a will.

I commend the bill to the house.

Debate adjourned on motion of Mr COLE (Melbourne).

Debate adjourned until Thursday, 24 November.

QUEEN VICTORIA WOMEN'S CENTRE BILL

Second reading

Mrs WADE (Attorney-General) — I move:
That this bill be now read a second time.

This bill honours the government's commitment to establish a women's centre on the site of the old Queen Victoria Women's Hospital and it recognises women's historic claims to association with that site. If refurbishment of the existing building goes according to plan, we hope to be able to open the centre on the centenary of the first steps taken by women in 1896 to establish the first Victorian Medical Service specifically for women. If we can manage that, it will be a fitting celebration of the centenary, and a substantive demonstration of the government's commitment to the interests of women.

The centre will have strong historic links with the progress of women in Victoria over the past 100 years, and I expect these links to add to the centre's attractiveness as a facility for all women in the state. The first Queen Victoria Women's Hospital was established in Lonsdale Street in 1898 by Dr Constance Stone, with the help of the results of the appeal known as the Shilling Fund. That appeal raised 63,250 shillings from the women of Victoria and it was an overwhelming demonstration of their enthusiasm for the establishment of the hospital. The hospital moved to the site at Lonsdale and Swanston streets in 1949 and operated there until the service was moved to the Monash Medical Centre in 1989.

It was only as a result of pressure from the coalition parties that the previous government provided for the lease-back of the eastern tower on the hospital site for use by women when it sold the surrounding land to developers. Since the coalition came into government, we have provided for the better preserved central tower to be used instead of the eastern tower, and we have completely excised the land on which that tower stands from the sale to developers. As the government's contribution to the vision for the women's centre which has been developed by women's organisations, we will refurbish the tower building and provide start-up costs for the centre.

This bill vests the land in the Queen Victoria Women's Centre Trust, which is a statutory corporation created by the bill. The bill defines the purpose, functions and powers of the trust, and they are principally to be responsible for the management of the centre as a facility, which will be attractive to all Victorian women, and to provide services for women within the centre.

Another important function of the trust is to act as a fundraising body, and that is listed as one of its functions in the bill. The government's commitments to retain the land and to refurbish the tower for use by women have always been made on the basis that the centre will operate independently of government funding, so fundraising will therefore be a vital part of the trust's work. The necessity to operate without government funding will be one of the centre's greatest strengths, and it is one aspect of the idea for a centre that has been very important to women's organisations. Our aim is to establish a trust which is independent of political pressures and which works solely for the benefit of Victorian women.

The bill provides that the trust consist of 12 members appointed by the Governor in Council on the recommendation of the Minister responsible for Women's Affairs. Up to four members of the trust will be selected from a panel of names submitted by the Queen Victoria Women's Centre Inc., which is an organisation that has spent a great deal of time and effort in developing a vision and support for the centre. Members will be appointed for terms of not more than four years, and the bill provides for the appointment of a chairperson and for vacancies, resignations and removal from office. It also provides for the procedure at meetings of the trust and for the declaration of any pecuniary interests by members.

One of the most important provisions in the bill is one that I have already mentioned in passing, which is that the bill vests in the trust the land on which the old hospital tower stands. This not only demonstrates the government's commitment to the centre but ensures the trust is independent of government. Of course, there are the necessary provisions restricting the use of the land to the purposes of the trust and preventing the sale or mortgage of the land.

As the government will be investing a very substantial amount of public money in the refurbishment of the building and will be vesting the ownership of land currently owned by the government in the trust, the bill makes provision for the efficient and responsible financial management of the centre by the trust. It would not be possible for us to invest public money in the centre, no matter how worthwhile the project, unless we created a structure within which the trust will be able to operate in a financially responsible manner. The bill gives the trust borrowing and investment powers, subject to the approval of the Treasurer, and the responsibility to prepare and act in accordance with
a business plan. If the minister determines that the trust is unable to pay its debts, the trust may be wound up and the land would revert to the Crown.

The provisions for financial responsibility are absolutely necessary. However, we have kept them to a minimum because we want the trust to operate independently, and it will be able to do so. Its decisions as to the uses and management of the centre and as to fundraising and spending are absolutely its own. All the government will do is keep an eye on its financial position and step in to wind it up in the unlikely event that financial difficulties overcome it. One of the necessary corollaries of its independence from government is that we have purposely made no commitment to prop up the trust in the event of financial problems. That sort of commitment would require a far greater degree of political control than we would wish to see imposed on the centre.

The bill establishes a trust to run a centre, which will be unique in Australia. It will be a centre dedicated to the benefit of women and to the improvement of their status in our society. It will be a place in which women can congregate and look for assistance, and we hope it will become a reference point for women across the state. Its support by the government is entirely consistent with our objectives to enhance women's access to services and support and to encourage women to meet and work to improve their opportunities and their participation in public life and decision-making.

I commend the bill to the house.

Debate adjourned on motion of Ms GARBUIT (Bundoora).

Debate adjourned until Thursday, 24 November.

MELBOURNE SPORTS AND AQUATIC CENTRE BILL

Second reading

Mr REYNOLDS (Minister for Sport, Recreation and Racing) — I move:

That this bill be now read a second time.

The purpose of this bill is to permit the construction of the Melbourne Sports and Aquatic Centre at Albert Park and to establish the Melbourne Sports and Aquatic Centre Trust to operate the centre.

The existing indoor sports facilities at Albert Park — except for the squash centre, which was built in 1961 — are former World War II storage sheds that were converted into indoor sports venues in the 1950s. Those facilities are in a dilapidated condition; they leak when it rains, they contain asbestos and they now require major upgrading or replacement to avoid closure.

The State Swimming Centre at Batman Avenue has major structural problems and requires costly ongoing maintenance. The government currently spends $250 000 annually to maintain the swimming centre in a safe condition for public use. The development of the Melbourne Sports and Aquatic Centre will replace both those dilapidated indoor sports facilities and the structurally unsound Batman Avenue State Swimming Centre with new world-standard facilities, to be located in the north-west section of Albert Park. The few sporting clubs affected by the site development will be relocated to other parts of Albert Park. Once the centre is operational the existing court facilities at Albert Park will be demolished and the area returned to open space.

The need for this bill is twofold. Firstly, the bill will enable the trust to obtain control of the site and enable the land to be used for the intended purposes. The bill will require the Albert Park Committee of Management to lease a defined portion of the reserve required for the centre to the trust for 52 years.

Secondly, there is a need to provide for an expert body to have responsibility for the construction and management of the centre and to ensure its sound financial performance. The bill will provide for a trust similar to that established for the Melbourne Exhibition Centre.

Given that the centre will cater for a variety of sports, an expert trust comprising five to seven members who have the skills and background required to operate the centre in an efficient and commercially sound manner will be appointed by the Governor in Council.

The trust is to have the power to take the relevant land on lease and, subject to the approval of the Minister for Sport, Recreation and Racing, to have the power to grant subleases over part or parts of the centre operations. The trust will also have the power to enter into contractual arrangements in relation to the construction, operation and maintenance of the
centre, to regulate conduct at the centre and to charge entry fees.

The trust will be subject to the general direction and control and specific directions of the Minister for Sport, Recreation and Racing. As a public body, under part 7 of the Financial Management Act it will also be subject to the normal financial and reporting obligations, including annual reporting and audit by the Auditor-General.

I wish to make a statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section by this bill. Clause 31 provides that it is the intention of the proposed act to vary the Constitution Act 1975 to the extent necessary to prevent the Supreme Court awarding compensation in respect of anything done or arising out of section 24(1) or because of the granting of a lease to the trust or the assignment of any of the trust’s interest under a lease.

The reason for limiting the jurisdiction of the Supreme Court is that the bill allows the committee of management at Albert Park to grant a lease of the Melbourne Sports and Aquatic Centre land for purposes other than the purposes for which the land is reserved. The bill also allows the trust to assign its interests under the lease for those purposes. Any claims for compensation based on the former use of the land could delay or prevent a change in the use or status of Crown land that is for the benefit of the community as a whole. It is in the public interest for the rights on the site to be clarified to allow this major development to be built. This facility will significantly enhance the amenity of the area to park users, local residents and Melburnians generally.

The replacement of the current State Swimming Centre and the redevelopment of the Albert Park indoor sports precinct are key priorities of the government. The Melbourne Sports and Aquatic Centre will replace the facilities currently in use and provide a major facility for competition, the training of future champions and community use.

The facility’s design will mean that other sports or recreational activities can be relocated to the centre in future years in the event of changed leisure participation trends. The centre may overcome the need for many Victorian athletes, in particular in swimming and diving, to leave this state to join training and competition programs elsewhere.

The centre will be a venue for state and national championships and will also help position Victoria to meet the needs of Australian athletes training for the 2000 Olympic Games. The centre will possibly attract overseas Olympic Games teams for training and acclimatisation programs and potentially be a venue for Olympic Games preliminary events.

The inclusion of the new State Swimming Centre at Albert Park will also provide the local residents with a much-needed sport and recreational facility. With the grand prix works, it demonstrates the government’s intention to upgrade Albert Park from its sadly neglected condition.

In conclusion, the construction and effective management of the Melbourne Sports and Aquatic Centre at Albert Park will make an important long-term contribution to this state’s sporting, economic, and social development.

I commend the bill to the house.

Debate adjourned on motion of Mr MILDENHALL (Footscray).

Debate adjourned until Thursday, 24 November.

Remaining business postponed on motion of Mr GUDE (Minister for Industry and Employment).

ADJOURNMENT

Mr GUDE (Minister for Industry and Employment) — I move:

That the house do now adjourn.

Atlantis Recordings

Mr LONEY (Geelong North) — I raise a matter for the consideration of the Minister for Small Business concerning the thuggish behaviour of Crown Casino, apparently supported by the Premier, in a dispute with a small business, Atlantis Recordings studios, situated in Kingsway near the permanent casino site.

Crown appears to be pursuing a deliberate strategy of driving Atlantis out of business rather than negotiating issues of relocation and compensation in good faith. The business has been so devastated that within a month the strategy will have achieved success. Atlantis will have closed its doors and the family behind it will be left with debts of more than $150 000 for which they are personally responsible.
The victim of Crown’s thuggery is a successful small business. In March the principals invested $500 000 in building the recording studio to international standard. The business has traded successfully, improving its turnover and profitability each year since. However, since construction began on the casino site the business has been devastated by noise from pile driving and construction cuts, regular electricity and water cuts, telephone and fax disconnection, plus a high-pressure gas pipe rupture on 11 July. That has all meant that the recording studio can no longer guarantee work of the quality required to retain its clientele. As a result clients have gone elsewhere and turnover has declined by approximately $80 000 since construction work began.

Atlantis has contacted Crown, Hudson Conway and the state government representative for the project, Mr Tony Jolly, but has got nowhere. In fact Mr Jolly has not replied to a written submission put to him on 7 June. Atlantis also contacted the Premier, who simply washed his hands of the matter. In spite of expressing its concerns to all of those people and organisations, Atlantis is still not consulted about road closures, interruptions to power supply and so on. Crown has made a few loose, verbal offers but refuses to put anything in writing or hold formal negotiations in good faith.

Is this a serious test of the minister’s commitment to small business to use the offices of his department to bring the parties together to find a resolution which will save this previously successful, wealth-creating small business, or will the minister roll over and continue the preferential treatment given to Crown Casino by this government and so again sell out a small business which is perfectly capable of surviving if looked after in the correct manner by this government?

Local government: Cranbourne and Berwick

Mr Rowe (Cranbourne) — I ask the Minister for Industry and Employment to direct to the attention of the Minister for Local Government in another place the representation I make on behalf of the City of Cranbourne and its people in relation to the interim report handed down recently by the Local Government Board, about which submissions were recently closed.

The cities of Cranbourne and Berwick have been the fastest growing part of the metropolitan area of Melbourne for many years. During that time the City of Cranbourne has been able to satisfy the needs of a growth municipality while at the same time embark on a debt-reduction strategy that will see that municipality totally debt free before 2000.

The board recommendation is that the cities of Berwick and Cranbourne be amalgamated into one municipality. That municipality will grow to a population close to 300 000 within the next 10 to 15 years. I suggest that that municipality would be far too large and the true meaning of local government would be lost: that is, the delivery of government services at a truly local level and with some personal contact being maintained between council members and their constituents.

The municipality of Cranbourne has put forward a proposal that rather than amalgamating the two councils they should be left separate or certainly reduced in size from that proposed by the board. Both municipalities recognise the need for local government reform and both, particularly the City of Cranbourne, have undertaken drastic cost-cutting measures over a number of years.

I ask the Minister for Local Government to support the proposal of the City of Cranbourne by bringing this matter to the attention of the Local Government Board, ensuring that we have two growth municipalities. This will serve the needs of the growing community of the current City of Cranbourne and the residents of Carrum Downs and Langwarrin, who have expressed to me on a number of occasions since the release of the report the wish to remain associated with the City of Cranbourne.

Tenant services

Mr Leighton (Preston) — I ask the Minister for Planning or in his absence the Minister for Industry and Employment to bring to the attention of the Minister for Housing in another place funding cuts to tenant services and particularly to tenant groups. I call on the Minister for Housing to review these cuts and, in particular, to reinstate funds to tenants and tenant groups.

There have been massive cuts to tenant groups. My assessment is that a net 12 worker positions have been cut. In fact more positions have been cut, but this is a conservative figure that allows for several new positions. The effect is that a net 12 tenant workers have been taken out of the system.

The Heidelberg public tenants group in the Ivanhoe electorate has had one of its two positions cut, a
50 per cent cut. The Ascot Vale public tenants group, in the electorate of the honourable member for Essendon, has also had one of its two positions cut. There are a number of such tenant groups across Melbourne.

These groups have also had their base operating funds for administrative purposes cut. On average they are down from roughly $13,500 to $9000 in a full year. It is also clear that there will be further cuts as a number of the groups have been told that they will have to amalgamate to continue getting funds. I should also point out that there is another form of cuts. A number of these groups are being required to cover larger areas with the same or less funds.

The effect will be very much to disempower tenants in public housing. Given that in so many areas waiting lists for public housing have blown out from four to five years to indefinitely, that there are lengthy waiting lists for maintenance, that there is much old stock and that the government is not delivering — in fact, it is doing nothing about the growing crisis in public housing — it is not surprising that it now wants to get rid of the tenant workers who are able to advocate for public housing.

I also point out that a number of statewide organisations such as public tenants unions have had their funding completely eliminated. They will be unable to do research and other work on major policy issues, which is also significant given that the government is about to announce its sales policy for selling public housing. The government does not want groups like this around that will argue against the new allocation system.

The DEPUTY SPEAKER — Order! The honourable member’s time has expired.

Distance Education Centre of Victoria

Mr E. R. SMITH (Glen Waverley) — The matter I raise for the attention of the Minister for Education concerns a letter which was written by Mary Bluett, the President of the Victorian Secondary Teachers Association, in mid-October and which has been circulating in all secondary schools. It is causing mischief within the education system and is an example of political opportunism.

The letter concerns the Distance Education Centre of Victoria, South Melbourne, which is a component of the Victorian School of Languages and which is based at the same campus. It states that there has been a review of those two facilities by the department, which is correct. However, the letter suggests that some services within both the DECV and the VSL will be reduced while others will be abolished. The teachers and parents on my local school councils have expressed to me their concern that the matter will disadvantage people in the distance education area.

As honourable members would be aware, the interactive satellite television facility operates from the same campus. It is one of the ways in which the problem of distance education is being overcome. Honourable members would be aware also that that facility is in every primary and secondary school and is being used to great advantage. Indeed the comments I have heard from schools have been of a complimentary nature.

The main complaint in the letter is about the lack of a school council in the DECV. This is a ludicrous suggestion when you consider that there can be no parents to form a school council when they are flung far and wide throughout Victoria, interstate and, in many cases, overseas. Many of the students are not children; they are adults studying for higher educational qualifications.

The whole thing is a mischief. It is the usual type of scheming activity undertaken by the VSTA and the minister should address this as a matter of urgency so that it can be put to rest.

Laurimari Park development

Mr HAERMeyer (Yan Yean) — The matter I raise for the attention of the Minister for Planning concerns the Laurimari Park development, otherwise known as amendment L99 to the Whittlesea planning scheme. It entails the construction of about 26 residential lots in a somewhat isolated rural area at Doreen on the west bank of Plenty River. The development would see some 10,000 residents move into the area. We already know of the difficulties involved in creating isolated satellite developments. The suburb of Craigieburn in my electorate is still recovering from an atrocious planning decision along similar lines some time ago. On a smaller scale is the Eden Park development at Whittlesea, which had similar infrastructure and social problems further down the track. It is certainly not an efficient way of allocating infrastructure.

The area to which I refer the minister this evening was originally earmarked for a residential
development as part of the Plenty Road growth corridor announced by the previous government. However, the minister has announced that he has effectively abandoned the planned growth corridor. He said in this house on 10 November 1992, in response to an interjection from, I believe, the honourable member for Mill Park:

I assure the honourable member that the Plenty Valley will remain a beautiful and attractive valley and will not become a growth corridor.

The proposal is to take part of the corridor as if it were a piece of a patchwork quilt, leaving only part of it intact instead of the complete concept as was originally intended. I suggest that instead of being a satellite development, any development out there needs to be sequential and to move outwards from the existing developed areas.

I note in the Whittlesea Post this week that the developer is reported as having said that this week the minister is set to give a green light to that particular development. I ask the minister to clarify whether that is the case and whether he will suspend any approval of the proposal subject to meeting with local members of Parliament, local government representatives and a deputation of local residents. It is a controversial issue. It compromises the integrity of the whole of the Plenty Valley, which indeed is a beautiful area. It should not be subjected to any sort of ad hoc residential development. Any development — —

The DEPUTY SPEAKER — Order! The honourable member’s time has expired.

Agriculture Victoria: vacant positions

Mr TREASURE (Gippsland East) — I direct to the attention of the Minister for Agriculture the staffing levels in the East Gippsland office of the Agriculture Victoria. I refer specifically to two positions that have been held for many years in the area: a beef officer and a sheep and wool officer. Will the minister inform the house about his intentions regarding the appointments to these two positions, which have become vacant.

The position of sheep and wool officer entails, among other things, travelling around to the district sheep sales to inspect the animals at circuit sales and public saleyards for foot rot. East Gippsland is a declared foot-rot free area, but if an officer is not appointed it will be difficult to continue efficiently the foot-rot control program because it needs the constant surveillance of this officer, with the back-up services of veterinarians, to ensure the program is adequately carried out.

The position of beef officer is also important. Honourable members are no doubt aware that East Gippsland produces quality beef and that as part of that process it is necessary that there be an adequate service provided by a beef officer on and off farms so that the industry can continue.

Will the minister consider replacing these two officers to enable these services to continue and so that the industry can continue to grow and prosper?

Community visitor program: review

Ms GARBUIT (Bundoora) — I direct to the attention of the Attorney-General the community visitor’s report, which was tabled in the house yesterday, and which revealed the appalling impact of the cuts and changes to the intellectual disability budget on people with intellectual disabilities. It included a shameful list of neglect, including assault and violence, murder and the death of a person as a result of fire. There are more cases of budget cuts in institutions having a dramatic effect on people with intellectual disabilities.

The report underlined the need for the community visitors program run by the Office of the Public Advocate. Community visitors are independent volunteers who are not part of the government and so cannot be intimidated. They act without fear as advocates for vulnerable people.

Currently the Office of the Public Advocate is under a cloud because of two major concerns. I ask the Attorney-General to deal with those concerns and clarify the future of the office. Firstly, a review was undertaken approximately four weeks ago and the report, which is sitting on the desk of the Attorney-General, has not been released. I ask the Attorney-General when she will release the review so that we know what her intentions are for the Office of the Public Advocate.

The second worry concerns the appointment of a permanent Public Advocate. The last Public Advocate, Ben Bodna, was an excellent, fearless advocate on behalf of many vulnerable people, but he retired 14 months ago and was replaced with only an acting Public Advocate. There is a crucial difference between a permanent and a temporary Public Advocate. The temporary Public Advocate is
only a public servant and can be dismissed on four weeks' notice. He is not an independent statutory officer as would be a permanent Public Advocate. He needs protection in the climate of fear the government has created. I call on the Attorney-General to announce the appointment of a permanent Public Advocate who can speak out fearlessly on behalf of the range of vulnerable people in society, as can be seen from the community visitors report.

The two questions I ask the Attorney-General are: when will she appoint a permanent Public Advocate, and secondly, when will she release the report of the Office of the Public Advocate?

**Law Watch**

**Mr TANNER (Caulfield)** — I direct to the attention of the Attorney-General the wish of Mrs Danby that the Attorney-General be aware of the organisation Law Watch (Australia) Inc., its concerns and objectives, and that she give consideration to making a financial grant to Law Watch.

Mrs Danby has advised me that Law Watch is concerned at the cost of the legal system. The organisation believes there should be a body to regulate the conduct of the legal profession and that such a body should be independent of the Law Institute of Victoria and the legal profession.

The organisation believes parties to an action should have the right to nominate a representative of their choice who may not necessarily be a lawyer. She believes the legal profession should be accountable to the public.

Law Watch believes that the Attorney-General's working party into the legal profession should have the names of members of that body made known publicly so that the public knows whether the members of the working party are members of the legal profession, whether they have any experience with the legal system, and whether they have any position on the issues to be considered.

Additionally, Law Watch wants to know whether the working party intends to ascertain the views of consumers of the legal profession, and what contact the working party has had with consumers.

Mrs Danby has brought to my attention her particular concern. She is legally qualified and she is concerned particularly that many solicitors may not have submitted their audit certificates for their trust accounts by the required date of 31 July. She wants to know how many solicitors have not completed that return and what the regularity of their omission has been during the past few years.

She also believes the auditors who are appointed by the solicitors should be drawn from a pool nominated by the government.

**Health: court action**

**Mr THWAITES (Albert Park)** — The matter I direct to the attention of the Minister for Health relates to an investigation that I ask her to hold into the action of the secretary of the Department of Health and Community Services, Dr Paterson, who has issued a Supreme Court writ on three public servants who made an adverse finding against her department. I emphasise that one of the public servants is an officer of the Department of Health and Community Services and as such is responsible to the minister.

There appear to be serious discrepancies between the statements made by the Minister for Health, the Minister for Community Services and the secretary of the department. Yesterday in the house the Minister for Health said that:

> The secretary has all the powers under the Health Services Act to take that action and he took the appropriate action.

Clearly she indicated that Dr Paterson took the Supreme Court action. Yesterday in the *Age* Dr Paterson is quoted as saying that he denied knowledge of the writ:

> I haven't been involved in all this ... People at junior levels of the department just mechanically proceeded down a well-worn path.

There is clearly a major discrepancy between the Minister for Health and the secretary of her department. Worse than that, yesterday the Minister for Health said:

> The issue involved a community services matter and the Minister for Community Services was aware of the litigation.

Clearly this is the old handpass, but the Minister for Community Services was not prepared to accept the blame. Today when he was asked whether he authorised the action, he replied that yesterday he
listened with interest to his colleague, the Minister for Health, and has nothing further to add. Clearly there is a cabinet rift between the Minister for Health and the Minister for Community Services over this matter because of the concern over indemnification of public servants. There should be a full investigation.

The Minister for Health claims that this was merely a technical action, but if that is so why was the indemnity not granted to the public servants; why were costs sought against them personally; why were the three public servants not given access to legal advice paid for by the government; why was the action discontinued and who made the decision to discontinue the action?

On every ground there is a complete conflict between the Minister for Community Services, the Minister for Health and the secretary of the department.

Waverley: name of new municipality

Mrs McGill (Oakleigh) — I raise for the attention of the Minister for Planning, who is the representative in this house of the Minister for Local Government, the use of the eminently suitable choice by the Local Government Board of the name Monash for the new municipality in the area containing the City of Waverley and the majority of the existing City of Oakleigh. Specifically, the proposal as put forward by the Local Government Board creates a university city, an ideal environment for Monash University to play a crucial leadership role along with business and government in crafting a city renowned as a strong employment centre for people in the south-eastern region.

I have a letter that was sent to the chairperson of the Local Government Board by the Mayor of the City of Oakleigh. I shall, in part, refer to the letter that covers the name of the municipality, which will make clear the points I have made:

The City of Monash name grows naturally out of the vision.

It is perhaps to be expected that some people in the proposed new municipality do not immediately see the relevance of the name — they have yet to understand or embrace the vision for the municipality, its raison d'être.

It is important that the name not be rooted in the past, but be an indicator of the future.

The suggestion by the City of Waverley that Bellairs, the name of Hoddle’s assistant who originally surveyed the Waverley-Oakleigh area, should possibly be adopted as the name of the new municipality misses the point.

Bellairs has no meaning except to a few individuals steeped in early white settler history —

frankly it is very glitzy and Hollywood —

Monash, however, is well known in the community — and is likely to be mainly associated with Monash University, quite appropriate for the new city given the university’s national, indeed international, reputation for advanced learning and research, and perhaps to a lesser extent more locally with social and cultural development —

which includes the Alexander Theatre —

It would be a pity if the combination, ‘Monash University, City of Monash’ was lost, since it offers a unique national and international marketing opportunity unlikely to be seen again.

Monash may also be associated by some people with Sir John Monash, and although this is an historic link, this is not the immediate association Monash has in most people’s minds — but given that Sir John was a pioneer of certain engineering technology, and had an arts, engineering and legal background mix, even this link is a positive one with the emphasis on advancing technology and an association with the arts.

The DEPUTY SPEAKER — Order! The honourable member’s time has expired.

Responses

Mr Hayward (Minister for Education) — The honourable member for Glen Waverley raised matters in relation to the Distance Education Centre of Victoria and some aspects of the Victorian School of Languages, particularly in the context of a letter which was sent by a teacher union to schools. The honourable member referred to a review. As he indicated, a review is certainly under way. I am advised that the report of that review is currently with the Director of School Education, but it has not yet been formally provided to me with a recommendation from the director.

Essentially the purpose of the review was to help the DECV find ways the education centre could improve its service to students and to schools,
especially by taking advantage of the new opportunities with new technologies.

Of course with your interest in these matters, Mr Deputy Speaker, you would know that those technologies include interactive learning technologies and, more specifically, the interactive satellite learning network which now exists in Victoria and which is serving every school. There is also the application of a whole range of other learning technologies, including what are known as multi-media technologies, which incorporate broadbanding videophones and many other activities.

The question of a school council for the DECV has also been raised. As the honourable member indicated, the clients the education centre serves — the students — are drawn from locations across Victoria and Australia and even from different parts of the world. Many of the enrolments are short term and many of them are for mature age students.

As the honourable member indicated, it is certainly quite inappropriate, in fact even ridiculous, to suggest that there should be a school council, and I am advised that the review does not recommend the establishment of one.

The letter to which the honourable member referred alleges that the service delivery from the DECV could be drastically altered and working conditions of staff significantly eroded. I state clearly to the house that the purpose of the review is to improve service delivery, and it is intended that it be dramatically improved. At this stage there are no plans to change the normal working conditions. In other words, the idea is that the DECV and the Victorian School of Languages will continue to operate in their current form, but with significantly improved services for clients incorporating the new and advanced technologies in particular.

I thank the honourable member for raising the matter and I am happy to have had the opportunity of giving those assurances.

Mr W. D. McGrath (Minister for Agriculture) — The honourable member for Gippsland East referred to staffing in Agriculture Victoria for specific projects in the Gippsland region. The first matter related to a project that was funded through the Gippsland Grazing Industry Training Centre and had been supported by the Australian Wool Research and Promotion Organisation. The officer funded for that project, employed by Agriculture Victoria, has decided that she needs to move to a new position to advance her career and a new project officer will have to be employed.

I can assure the honourable member for Gippsland East that there is no decision by Agriculture Victoria to discontinue the position; indeed we will recruit a high-quality officer to the position as soon as we can get through the necessary administrative processes. In the meantime I understand the project leadership will continue through Leo Hamilton from Agriculture Victoria. That will be under Chris Halpin, the Manager for Field Services in East Gippsland.

The other matter the honourable member for Gippsland East brought to my attention was in relation to a beef officer to be appointed in the Bairnsdale district. Agriculture Victoria —

An honourable member interjected.

Mr W. D. McGrath — No, both are about the appointment of staff to the Agriculture Victoria for two programs. It is the same issue but two programs.

It is good to see the honourable member for Preston —

The DEPUTY SPEAKER — Order! Perhaps the Minister for Agriculture could ignore the honourable member for Preston and that way we might be finished a little earlier.

Mr W. D. McGrath — In relation to the beef officer at Bairnsdale, the situation is that in appointing a total of seven young extension officers around Victoria for beef industry positions, while the staffing was being put in place at Bairnsdale — in the case of East Gippsland the senior officer for the beef industry at Bairnsdale resigned his position — we have since reviewed the appointment of a younger field officer to that position with the intention of upgrading the role and responsibilities of the Bairnsdale position and are looking for a more highly qualified person to take over the responsibility as a beef officer at Bairnsdale.

I am sure the honourable member for Gippsland East would be pleased that we are taking the industry down there very seriously to make sure that the best qualified people are employed by Agriculture Victoria and that they give the industry support that is needed so that the agricultural sector of the Victorian economy can play an important role in providing the food and fibre that the honourable
member for the Labor seat seems to be complaining about. We are going out of our way to provide some additional support to agriculture in Victoria.

Mrs TEHAN (Minister for Health) — The honourable member for Albert Park raised a matter that was the subject of questioning on Tuesday and Wednesday. He has raised it again on the adjournment debate tonight.

He concluded his remarks by indicating that there may be have been a cabinet rift. Let me say that there is no cabinet rift. The Minister for Community Services, the Minister for Aged Care and I continue to work together in that portfolio. There has been no intimidation of public servants as he indicated, and I refer to some of the facts as opposed to the assumptions in the matter raised by the honourable member for Albert Park.

He referred to Supreme Court proceedings against the hearings committee of the Office of Merit Protection in the matter of Penelope Scott. As I indicated to the house yesterday, this is a technical matter, a process whereby a hearing of the Office of Merit Protection has been appealed against. It arose out of the case of Scott, who was formerly employed by the Mission to Streets and Lanes, and the issue for a decision was the loss of income resulting from non-appointment to a higher classification.

The case was heard by a committee of the Merit Protection Board comprising Ms Bodna, Mr Bunter, who is a departmental representative and Mr Thompson. The decisions — and there are two of them, although the honourable member has referred only to Scott — were referred to the Supreme Court because the department had serious concerns about the conduct of the cases, the denial of natural justice, the principles of merit and equity, and the decisions made as a consequence. The issues relating to jurisdiction, natural justice and process were considered serious enough to warrant determination by the Supreme Court.

As I indicated to the honourable member when he raised the issue in this place previously, the Office of Merit Protection is not an incorporated company or a natural person and the only means by which matters in which it is involved can be litigated is by taking action against individual persons who comprise the hearing committee.

As was indicated in a newspaper on 25 October 1994, a decision was made to wholly discontinue the above actions. It was decided that the issues of concern would be more effectively resolved through discussions with the Acting Public Service Commissioner, Mr Peter Salway, which have now taken place.

I indicated to the house that the matter was raised in the name of the secretary of the department for the simple reason the only persons who can take action for and on behalf of the department are the secretary, the Minister for Health or either of the other ministers. The secretary of the department, Dr John Paterson, was named as the plaintiff because all actions are initiated in his name or in the name of the state of Victoria. It was not his personal action. The individuals named as defendants were so named in their capacity as members of the hearing committee and the action was not against them personally.

The honourable member for Albert Park asked whether there had been any arrangement as to indemnity or costs. Certainly the individuals named as defendants were informed they would not be required to pay costs, and undertakings were given that the department would not be seeking costs.

Mr HAERMeyer (Yan Yean) — On a point of order, Mr Deputy Speaker, in addition to some handwritten notes, the minister appears to be referring to a document. I wonder whether she would be prepared to make that document available to the house.

Mrs TEHAN (Minister for Health) — The papers I am referring to are my handwritten notes taken on the hearing and some notes on the details and dates in relation to the matter.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The honourable member for Mordialloc ought to know that the day is getting long and the Deputy Speaker has a long way to go home. If he is going to test my patience I will deal with him. The minister has responded to the point raised by the honourable member for Yan Yean. I rule there is no point of order.

Mrs TEHAN — The matter was discontinued. A letter with a notice of discontinuance was sent to and is now in the process of being filed by the Victorian Government Solicitor, who at all times had authority and control over the action.
The suggestion by the honourable member for Albert Park that this was in any shape or form a type of intimidation against any members is pure fiction. It was the normal process for a wide range of personnel matters dealt with in a department that directly employs more than 12,000 people. These actions involving personnel are regularly before the various parties in the system. As I said, the three parties referred to happen to constitute the hearing committee, and it is the only basis on which action can be taken to appeal from or against decisions of the Office of Merit Protection.

There is no intimidation. There is no rift between any of the ministers involved. The action was a normal action arising regularly in the department because of the large number of personnel that are employed. The discontinuation notice indicates that the matter is being resolved by other means.

Mr GUDE (Minister for Industry and Employment) — The honourable member for Geelong North raised a matter for the attention of the Minister for Small Business. I can only suggest that the honourable gentleman was perhaps geed-up to do it. He used very colourful language, and if he is prepared to make the information available — the details and the facts — I am sure the Minister for Small Business will be willing to look at it.

The honourable member for Cranbourne raised a matter for the attention of the Minister for Local Government, which I will refer to him. The honourable member for Preston raised a matter for the Minister for Housing, and I will refer that matter to him.

The honourable member for Yan Yean raised a matter for the attention of the Minister for Planning concerning amendment L99 to the Whittlesea Planning Scheme. I am pleased to be able to advise the honourable member, who perhaps is unaware of the fact, that the minister has already approved the particular development to which he referred. I refer to a media statement the minister released today, 10 November 1994, which simply says that the Minister for Planning has approved amendment L99 to the Whittlesea Planning Scheme, allowing the first stage of the development of land recognised in the Plenty Valley strategic plan as part of the urban growth area in the Mernda-Doreen area.

The minister said the development proposal in the Plenty River corridor was groundbreaking because it placed responsibility on the developer to provide a full infrastructure service development before any property development could occur.

The news release says the area has never been serviced by sewerage and gas and that the Plenty River has suffered from the run-offs from leaching septic systems, paddocks and household waste water. The proposal depends on the developer providing a major upgrading of local infrastructure, including the connection of the area to the metropolitan sewerage network, $4 million in road works and improved local public transport.

The amendment was proposed by developer Michael Drapac and Associates and introduces a local structure plan for the first stage of development of two areas totalling over 440 hectares, including the existing Mernda township and an area east of the Plenty River known by the developer as Laurimar Park, which comprises 400 hectares.

The minister said the proposed amendment would result in a reduction of the amount of effluent being discharged into the Plenty River from households in the Mernda township, significantly improving local water quality and bringing the river back to life. The entire Mernda township is on septic systems, and effluent disposal could become a major environmental issue unless it is dealt with in a long-term, sensible and sustainable way. I am sure the honourable member will agree with that. Every new house will add to the disaster unless major infrastructure works are undertaken. The proposed development is an excellent opportunity for such an upgrade.

The proposed development will result in the construction of up to 3000 residential lots over the next 10 years, a very good development. The minister said the developer would have to provide the necessary social and physical infrastructure for the new residential development in accordance with the infrastructure listing in the local structure plan.

The extent of the works and facilities include: community housing and an activity centre; a community plan; the extension of local bus services; an open space and recreation area; the duplication of Plenty Road; improvements to Yan Yean Road; other road works; a connection to the Eltham branch sewer; and the upgrading of the existing Doreen Primary School.

Mr Phillips interjected.
Mr GUDE — It is an absolutely outstanding development, as the honourable member for Eltham points out. He is one of the members who is very active in his area. As a result he is well aware of the developments taking place, unlike the honourable member for Yan Yean, who is a bit behind the times. The news release also says that the developer is required to provide financial guarantees for the development levies prior to development commencing. I think all honourable members would believe that, despite the honourable member for Yan Yean being a little behind the times, a very good development is taking place.

The honourable members for Bundoora and Caulfield raised matters for the attention of the Attorney-General, and I will direct those to her. In her normal caring and thoughtful way the honourable member for Oakleigh raised a matter for the attention of the Minister for Local Government in the other place, which I will certainly direct to his attention.

Mr Leighton interjected.

Mr GUDE — I pick up the interjection of the honourable member for Preston and thank him for his acknowledgment of the outstanding work done by the honourable member for Oakleigh, with which I concur.

Motion agreed to.

House adjourned 8.49 p.m. until Tuesday, 15 November.
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<td>Water: broken pipe in Fitzroy</td>
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