The Governor
His Excellency the Honourable RICHARD E. McGRARVIE

The Lieutenant-Governor
His Excellency the Honourable SIR JOHN McINTOSH YOUNG, AC, KCMG

The Ministry
[AS FROM 9 NOVEMBER 1992]

Premier, and Minister for Ethnic Affairs...... The Hon. J.G. Kennett, MP
Deputy Premier, Minister for Police and...... The Hon. P.J. McNamara, MP
Emergency Services, Minister for
Corrections, Minister for Tourism

Minister for Industry and Employment........ The Hon. P.A. Gude, MP
Minister for Roads and Ports.................... The Hon. W.R. Baxter, MLC
Minister for Conservation and Environment, and Minister for Major Projects
Minister for Public Transport.................... The Hon. A.J. Brown, MP
Minister for Natural Resources................... The Hon. C.G. Coleman, MP
Minister for Regional Development.............. The Hon. R.M. Hallam, MLC
Minister for Local Government
Minister for Education............................. The Hon. D.K. Hayward, MP
Minister for Small Business, and Minister..... responsible for Youth Affairs
Minister for Community Services, and ......... The Hon. V.P. Heffernan, OAM, MP
Minister responsible for Aboriginal Affairs
Minister for Housing, and Minister for ....... The Hon. R.I. Knowles, MP
Aged Care
Minister for Agriculture........................... The Hon. W.D. McGrath, MP
Minister for Planning.............................. The Hon. R.R.C. Maclellan, MP
Minister for Industry Services.................... The Hon. Roger Pescon, MP
Minister for Energy and Minerals, and........ The Hon. S.J. Plowman, MP
Minister Assisting the Treasurer on State Owned Enterprises
Minister for Sport, Recreation and Racing..... The Hon. T.C. Reynolds, MP
Minister for Finance.............................. The Hon. I.W. Smith, MP
Treasurer............................................ The Hon. A.R. Stockdale, MP
Minister for Tertiary Education and............ The Hon. Haddon Storey, QC, MLC
Training, Minister for the Arts, and
Minister for Gaming
Minister for Health............................... The Hon. M.T. Tehan, MP
Attorney-General, Minister for Fair............. The Hon. J.L.M. Wade, MP
Trading, and Minister responsible for
Women's Affairs
Parliamentary Secretary of the Cabinet........ The Hon. Rosemary Varty, MLC
Members of the Legislative Council

FIFITY-SECOND PARLIAMENT-SECOND SESSION

President: The Hon. B.A. CHAMBERLAIN
Chairman of Committees: The Hon. D. M. EVANS

Leader of the Government:
The Hon. M. A BIRRELL
Deputy Leader of the Government:
The Hon.HADDON STOREY, QC
Leader of the National Party:
The Hon. W. R. BAXTER
Deputy Leader of the National Party:
The Hon. R. M. HALLAM
Leader of the Opposition:
The Hon. T.C. Theophanous
Deputy Leader of the Opposition:
The Hon. C.J. HOGG

Heads of Parliamentary Departments

Council - Clerk of the Parliaments and Clerk of the Legislative Council: Mr A.V. Bray
Assembly - Clerk of the Legislative Assembly: Mr J.G. Little, JP
Hansard - Chief Reporter: Mr Eric Woodward
Library - Librarian: Mr B.J. Davidson
House - Secretary: Mr W.F. McKelvie
## Members of the Legislative Council

<table>
<thead>
<tr>
<th>Member</th>
<th>Province</th>
<th>Party</th>
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<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asher. Hon. Louise</td>
<td>Monash</td>
<td>LP</td>
<td>Henshaw, Hon. David</td>
<td>Geelong</td>
<td>ALP</td>
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<td>Ashman. Hon. Gerald Barry</td>
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<td>LP</td>
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<td>Atkinson, Hon. Bruce Norman</td>
<td>Koongi</td>
<td>LP</td>
<td>Hogg, Hon. Caroline Jennifer</td>
<td>Melbourne North</td>
<td>ALP</td>
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<td>Best, Hon. Ronald Alexander</td>
<td>North Western</td>
<td>LP</td>
<td>Knobles, Hon. Robert Ian</td>
<td>Ballarat</td>
<td>LP</td>
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<td>Birrell, Hon. Mark Alexander</td>
<td>East Yarra</td>
<td>LP</td>
<td>Kokocinski, Hon. Lucia</td>
<td>Melbourne West</td>
<td>ALP</td>
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<tr>
<td>Bishop, Hon. Barry Wilfred</td>
<td>North Western</td>
<td>NP</td>
<td>McLean, Hon. Brian William</td>
<td>Waverley</td>
<td>ALP</td>
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<tr>
<td>Bowden, Hon. Ronald Henry</td>
<td>South Eastern</td>
<td>LP</td>
<td>Mitre, Hon. Brian Williams</td>
<td>Waverley</td>
<td>ALP</td>
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<td>Brindley, Hon. Andrew</td>
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<td>Nardella, Hon. Donato Antonio</td>
<td>Melbourne North</td>
<td>ALP</td>
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<td>Chamberlain, Hon. Bruce Anthony</td>
<td>Western</td>
<td>LP</td>
<td>Power, Hon. Pat</td>
<td>Jika Jika</td>
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<td>Connard, Hon. Geoffrey Philip</td>
<td>Higinbothat</td>
<td>LP</td>
<td>Pullen, Hon. Barry Thomas</td>
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<td>Cox, Hon. George Henry</td>
<td>Nunawading</td>
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<td>Skeggs, Hon. Bruce Albert Edward</td>
<td>Templestowe</td>
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<td>Craig, Hon. Geoffrey Ronald</td>
<td>Central Highlands</td>
<td>LP</td>
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<td>South Eastern</td>
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<td>Davidson, Hon. Burwyn Eric</td>
<td>Chelsea</td>
<td>ALP</td>
<td>Storey, Hon. Eadly Graeme</td>
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<td>Davie, Hon. Philip Rivers</td>
<td>Gippsland</td>
<td>LP</td>
<td>Storey, Hon. Haddon, QC</td>
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<td>de Fegely, Hon. Richard Strachan</td>
<td>Ballarat</td>
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<td>Strong, Hon. Christopher Arthur</td>
<td>Higinbotham</td>
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<td>Evans, Hon. David Mylor</td>
<td>North Eastern</td>
<td>NP</td>
<td>Theophanous, Hon Theo Charles</td>
<td>Jika Jika</td>
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<td>Forwood, Hon. Bill</td>
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<td>LP</td>
<td>Vary, Hon. Rosemary</td>
<td>Silvan</td>
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<td>Hallam, Hon. Roger Murray</td>
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<td>Hartigan, Hon. William</td>
<td>Geelong</td>
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<td>Wilding, Hon. Sue de Carteret</td>
<td>Chelsea</td>
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*Elected 18.9.93*
The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.33 p.m. and read the prayer.

PLANNING AUTHORITIES REPEAL BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. R. I. KNOWLES (Minister for Housing).

SUBORDINATE LEGISLATION BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. A. BIRRELL (Minister for Conservation and Environment).

CASINO (MANAGEMENT AGREEMENT) (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. HADDON STOREY (Minister for Gaming).

PROJECT DEVELOPMENT AND CONSTRUCTION MANAGEMENT BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. R. I. KNOWLES (Minister for Housing).

ELECTRICITY INDUSTRY (FURTHER AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. R. M. HALLAM (Minister for Regional Development).

WATER INDUSTRY BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. A. BIRRELL (Minister for Conservation and Environment).

QUESTIONS WITHOUT NOTICE

Workcover: injured worker groups

Hon. T. C. THEOPHANOUS (Jika Jika) — I direct my question to the Minister responsible for Workcover. There are 20 injured worker groups operating in Victoria that provide information and support to injured workers, and as I understand it, about half of them are provided with about $4000 to $5000 by Workcover. How does the minister justify spending $8 million on advertising for Workcover while providing such marginal support for injured worker groups that actually help injured workers, and will he undertake to increase the amount of those payments?

Hon. R. M. HALLAM (Minister for Local Government) — I am happy to answer this question. The chamber would be aware of the extensive TV advertising campaign that has taken place to promote workplace safety. I know why the honourable member would raise the issue of the dollar sign, but I do not think he does himself or his party justice by implying that workplace safety is an unimportant issue. It is clear that the extensive publicity campaign that has been undertaken has been extraordinarily successful. With the number of claims coming in the front door being dramatically reduced, with the time injured workers spend away from the workplace being dramatically reduced and with the cost of the system also being reduced, I should have thought even the honourable member in his capacity as opposition spokesman for workers compensation would understand the importance of promoting workplace safety.

On the question of the extent to which the authority funds injured worker groups, I also acknowledge that is an important part of the program. If he has any specific issue and wishes to pursue any particular cause then I invite him to put it to me in writing and I will consider it.
Coast Action

Hon. D. M. EVANS (North Eastern) — Will the Minister for Conservation and Environment advise the house of funding assistance from the government to repair recent storm damage to Victoria's coastline and address the long-term problem of coastal erosion?

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — I am pleased to advise the house that the government has allocated $1 million for urgent repair work to Victoria's coastline.

Honourable members interjecting.

Hon. D. R. White — Would you excuse us while James takes the phone!

Honourable members interjecting.

Hon. M. A. BIRRELL — It would be very hard for Hansard to capture this moment, with the movement of the water jug!

I am pleased to advise the house that the government has allocated $1 million for urgent coastal restoration works, particularly in the wake of last month's widespread storm damage along Victoria's coastline. Unfortunately Victoria is confronted with a long list of coastal works dating back to the 1980s, due to a shortage of funding and a lack of policy leadership on coastal issues.

As part of the government's Coast Action initiative, the beach protection program will make a substantial contribution to progressively addressing the serious backlog of beach maintenance works along the full length of the Victorian coast that is Crown land.

The beach protection program will assist coastal managers to commence urgent works and plan ahead with confidence in the knowledge that funding for the program has now been guaranteed at $1 million a year every year for the next five years.

Hon. D. R. White interjected.

Hon. M. A. BIRRELL — Just listen! Major initiatives under the new program include: $100 000 for statewide storm repairs and urgent maintenance; $220 000 to construct a rock wall, demolish a dangerous timber wall and establish a pathway at Point Lonsdale to protect threatened foreshore from erosion; $120 000 for major repairs to the existing timber wall at Port Campbell to protect the lifesaving club and other public facilities; $50 000 for the first stage of Hampton Beach renourishment works; $50 000 for scientific investigation and possible works at McCrae Surf Life Saving Club; and $100 000 for repairs to the foreshore at Loch Sport, Gippsland.

I am pleased to say that the $1 million annual grant is nearly double the amount provided by our predecessors in their last budget. It is money that will be well spent and it is money for which there is a very strong cause.

The challenge now is to solve long-term coastal issues and the more recent damage caused by last month's storms. The initial funding injection of $1 million is a major step in the right direction and will form part of a comprehensive solution to the beach protection issue that will be achieved over time.

I am pleased to announce that in February of next year there will be more community consultation when expressions of interest are sought for a further allocation of coastal protection grants. Most importantly, the community, local government and the committee of management know that $1 million is now available every year, and that is guaranteed against the fact that the previous government made only about $500 000 available in its last year in office, and in the year before provided not one cent.

Country racing clubs

Hon. PAT POWER (Jika Jika) — I direct my question to the Minister for Regional Development and ask if the minister is aware of concern across country Victoria today following the news that 14 country racing clubs may be closed. It is said that Stawell, Murtoa, Coleraine, Casterton, Camperdown, Penshurst, Mortlake, Nhull, St Arnaud and Wycheproof may be among those facing closure. Given the importance of country racing to regional jobs, will the minister develop a proposal to ensure those clubs are not closed but will continue as an important part of the economic and social activities of those country towns?

Hon. R. M. HALLAM (Minister for Regional Development) — I acknowledge at the outset that the racing industry is a very important industry and is particularly important to country and provincial Victoria where the racing calendar is a very important part of the social structure.
I am not in a position to give the commitment the honourable member is looking for because I do not know the particular circumstances of each course. I can say on the basis — —

An Honourable Member — Put it in writing — a standard reply!

Hon. R. M. HALLAM — Do you want to leave now? On the basis of personal experience of several of the courses I can say they are picturesque and an important part of the local community and it would be a great pity if a question mark were placed over their future. I am happy to take the issue that the honourable member puts to me and refer it to my colleague the Honourable Tom Reynolds in the other place who is responsible for racing in this state, and I shall report back to the honourable member.

Dairy industry: drought

Hon. R. A. BEST (North Western) — I direct my question to the Minister for Regional Development. Having spent last weekend in a very hot part of northern Victoria, which is in my electorate, attending various functions, experiencing the drought and hearing about the effects it will have on our cereal growers, will the minister advise the house of the adverse effect the prevailing drought conditions will have on investments in another agriculture sector, the dairying industry?

Hon. R. M. HALLAM (Minister for Regional Development) — I am pleased to report to the house that the dairying industry is well and truly running against the tide. A survey released by the Australian Dairy Industry Council in the past couple of days shows that Australia’s major dairy companies will have invested more than $700 million in new investment in the two years leading up to December 1995.

I make the point to the honourable member, who represents the north-west of the state where the drought is in fact worsening each day, that that is great news indeed. It is providing some relief against the background of worsening seasonal conditions.

In south-western Victoria the Warrnambool Cheese and Butter Factory Company Ltd, Bonlac Foods Ltd and the Murray Goulburn Cooperative Company Ltd have between them committed more than $74 million during the period to which I am referring and have created 120 new jobs in the process. In the north, Pacific Brands Foods Group and Murray Goulburn have separately invested a total of something in excess of $34 million in Echuca and Rochester. In the north-east, Kraft Foods Ltd invested $76 million in that period to create 300 jobs in Strathmerton, plus another $8 million on extensions.

In addition to that, Bonlac Foods has committed $18 million in Stanhope on upgrading new product lines. Two companies, Snow Brand Tatura Dairies Pty Ltd and Tatura Milk Industries Ltd, have between them spent $28 million and created 62 new jobs in Tatura. In addition, Murray Goulburn has invested $14.5 million in extending the effluent treatment system for its Cobram plant. In Gippsland, Bonlac Foods Ltd spent $5 million on upgrading its Drouin plant and Murray Goulburn has committed expenditure of $10 million on its Leongatha plant.

Melbourne also benefits from this boom with Kraft Foods investing $25 million in a new research and development centre at Port Melbourne and, as just announced by my colleague the Minister for Industry and Employment, Murray Goulburn will be building an $18 million global distribution centre at North Melbourne. That level of investment takes on even greater significance when I am informed by the Minister for Agriculture that in this year alone $1.3 billion worth of processed dairy product will be exported through the port of Melbourne.

I make the point responding to Mr Best that while much of rural Victoria is in the grip of the drought — and that is very sad indeed — the dairy industry is very buoyant and is providing welcome relief to stressed rural communities.

Workcover: claims

Hon. T. C. THEOPHANOUS (Jika Jika) — My question is again addressed to the Minister for Local Government as the minister responsible for Workcover. Approximately two years after the introduction of Workcover there are still nearly 6000 Workcover claims yet to be settled that might still have to go to trial. Recently Mr Ron Smith, President of the Law Institute of Victoria, criticised the growing delays in the courts and identified the refusal by the Victorian Workcover Authority to renegotiate after an initial settlement offer as a major contributing factor. Does the minister now accept that this inflexibility on the part of the VWA is a major cause of court delays, and what action will he take to rectify the problem?
QUESTIONS WITHOUT NOTICE

Hon. R. M. HALLAM (Minister for Local Government) — I acknowledge that there are something like 6000 cases yet to be settled, but I do not accept the criticism that that indicates an increase in the resolution time — in fact, quite the reverse. One of the features of the new Victorian Workcover Authority process is a dramatic reduction in the timing of settlement of individual claims. I again make the point that several years of accumulated work — approximately four or five — in the queue at the front door of the court has been settled in just over 12 months.

Although the honourable member might continue to pursue this line of questioning, it does him no credit because it is simply contradictory. It is a contradiction of the facts. I understand why individual members of the legal profession will see the need to criticise the process. Let me just make this point to you, Mr Theophanous — it should come as no surprise — that there are members of the legal profession who have a vested interest in going back to where we were, considering the fact that when I inherited the budget from the old Workcare system there happened to be a line item of $140 million for anticipated legal expenses that year. That expenditure has been dramatically reduced. I understand why individual members of the legal fraternity would not be at all pleased by that change. But I put it to you that the claimants have been given appropriate treatment and the delays have been reduced.

Every time you continue to raise the line of questioning you do you highlight the extent to which the Victorian Workcover Authority has turned around the process.

Ports: charges

Hon. C. A. STRONG (Higinbotham) — Will the Minister for Roads and Ports advise the house of reductions in port authority charges and explain what impact he sees them having on trade through our ports?

Honourable members interjecting.

Hon. W. R. BAXTER (Minister for Roads and Ports) — As the chorus at my back says, 'This is indeed great news'. As of last Thursday, 1 December, the Port of Melbourne Authority has the lowest charges of any port in this nation. That is a very significant milestone indeed, because the port has had a reputation for quite some time, in many respects ill deserved, for being a high-cost, inefficient port.

Although some price reductions are still to be achieved in the port of Melbourne, the reductions announced last week to commence on 1 December will mean some $17 million to the trading community. That amount of the reductions is made up, firstly, of the abolition of state tonnage duty, which will directly assist ship owners who are using the ports of Melbourne, Geelong and Hastings.

There is a 15 per cent reduction in wharfage charges for those using the port of Melbourne. That clearly goes directly to the cargo owners — the importers and exporters. They will see a direct reduction in the invoices they get from their shipping agents. As well as that, the Port of Melbourne Authority was also able to implement, as of last Thursday, an additional 10 per cent reduction in wharfage charges for coastal trade. That is an aggregate reduction of 25 per cent for the coastal trade on general cargo across Bass Strait, which will be particularly significant. It will also mean a direct reduction in charges for tourists who take their cars to and fro on the Spirit of Tasmania.

As I said, this is a $17 million reduction in charges paid by the trading community. In answer to Mr Strong’s inquiry as to what impact that will have on trade through the ports, I think it will have a very significant impact indeed. It will encourage a lot more trade to come to the ports. I congratulate the boards, particularly in Melbourne and Geelong, for the work they have done to enable these reductions to be delivered. It is part of the government’s reform process and it is an ongoing process. I look forward to further reductions being announced in 1995.

City of Moreland

Hon. D. T. WALPOLE (Melbourne) — The commissioners of the City of Moreland have attacked plans for the widening of the Tullamarine Freeway and the building of the Western bypass with a subsequent cut to public transport. Does the Minister for Roads and Ports agree that the position taken by the Kennett-government-appointed commissioners is in the best interests of the good citizens of Moreland?

The PRESIDENT — Order! Does Mr Walpole want to rephrase the question? It clearly calls for an opinion from the minister.

Hon. D. T. WALPOLE — Does the minister support the position taken by the commissioners of
the City of Moreland in their opposition to the widening of the Tullamarine Freeway and the building of the Western bypass?

Hon. W. R. BAXTER (Minister for Roads and Ports) — I have noticed comments in the media that purport to represent the views of one of the commissioners of the City of Moreland. So far as I am aware, no official submission has been made to me recently. There was a request from the former council to meet with the Minister for Public Transport, but I understand that it was deemed that such a meeting would be inappropriate until the plans were further advanced.

State-enrolled nurses

Hon. W. A. N. HARTIGAN (Geelong) — My question to the Minister for Tertiary Education and Training follows his recent report to this house on accredited training for state-enrolled nurses. Will the minister now advise the house of arrangements made to meet the training needs of state-enrolled nurses in Geelong and surrounding districts?

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — As Mr Hartigan rightly points out, last month I informed the house that as from next year a new form of training for state-enrolled nurses would be introduced into the vocational education and training system. Some 400 places across Victoria in designated TAFE colleges will be funded by the Department of Health and Community Services and the Office of Training and Further Education.

At the time I indicated that on-site training would take place in most major centres in metropolitan Melbourne and rural Victoria, but at that stage no decision had been made about the provision of training for state-enrolled nurses in Geelong, which concerned Mr Hartigan. Mr Hershaw has also raised the matter with me. Therefore, I am delighted to be able to inform the house of the establishment of a partnership between the Gordon Technical College in Geelong and the Victoria University of Technology, which is a leader in the training of state-enrolled nurses, to provide on-site training in Geelong itself.

In 1995, 20 state-enrolled nurses will be trained in the advanced certificate of nursing program at the Gordon Technical College’s Spring Street campus. The college and the Victoria University of Technology will cooperate in this joint venture with staff from both institutions to provide the training.

The Grace MacKellar Centre, which is well known as one of the district’s major palliative care providers and a strong supporter of the course, will provide on-site, practical experience.

This innovative partnership between the institutions has been negotiated with the full support of the local health industry. Geelong students will be able to train locally and take advantage of emerging employment opportunities in the region as the state’s economic recovery takes full effect. I commend the Victoria University of Technology, the Gordon Technical College and the Grace MacKellar Centre on their initiative. I believe it will serve the needs of Geelong as well as ensuring that there will be appropriately trained state-enrolled nurses in that region.

Environment effects statement

Hon. B. T. PULLEN (Melbourne) — I direct my question to the Minister for Conservation and Environment. In light of the minister’s claimed concern for and interest in Victorian coasts, which he indicated today by allocating money for repairs for storm damage, what action will he take in respect of the disastrous results of the decision he and the government made to not insist on environmental impact statements for the Queenscliff terminal, which was built on Crown land? There have been such significant changes in the levels of sand that the new ferry is unable to leave its berth and trips have been cancelled.

An Honourable Member — Ask the question!

Hon. B. T. PULLEN — There has been a rise of about 1 metre in the sand around South Pier and the area is changing rapidly in the way the locals predicted it would if works went ahead without an environmental impact statement being conducted.

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — I do not have my detailed notes with me but I recall that the overall area in question was subject to environmental assessment by the previous government, which sanctioned works in the vicinity in question and that a request for an environment effects statement was not taken up by the then minister for planning. I am happy to refresh myself on the details and provide an answer during a subsequent question time. I have no problem in doing that.

Hon. B. T. Pullen interjected.
Hon. M. A. BIRRELL — I am more than happy to face up to the inheritance I got from you! That is why we today announced the actions we have taken, which will lead to substantive, constructive, long-term protection for beaches. I am more than happy to be briefed on the background of the matter and respond on a future occasion with all the force necessary.

Housing initiatives in Mauritius

Hon. K. M. SMITH (South Eastern) — Will the Minister for Housing advise the house of the details of the agreement that will see Victoria providing housing and planning expertise in Mauritius?

Hon. R. I. KNOWLES (Minister for Housing) — I thank Mr Smith for his question; he has shown interest in the opportunities Victoria has for selling its expertise overseas. Recently, on behalf of the government, I signed an agreement with the government of Mauritius for Victoria to sell planning and housing expertise to that island state. The agreement is similar to that which has been entered into with the republics of Vietnam and Uruguay, where technical knowledge and training are provided to the recipient countries to develop better planning systems, to advise on infrastructure and to enable those countries to establish greater priorities in the targeting of housing assistance.

The contract has been developed by the Overseas Projects Corporation of Victoria Ltd, and I trust it will be a profitable one for the state. It demonstrates another opportunity for the considerable expertise available in Victoria to be used to earn export dollars. I commend those who have been involved in the development of the partnership and have no doubt that it will work to significantly advantage both Victoria and Mauritius.

CROWN CASINO: BID

Hon. D. R. WHITE (Doutta Galla) — I desire to give notice that on the next day of meeting I will move:

That this house calls on the government to conduct a judicial inquiry into the decision to award the permanent and temporary casinos to Crown consortium, including:

(a) whether the chief executive of the casino control authority, Mr Paul Connolly, met with the Crown Casino consortium but failed to record all his meetings in the contact summary book in accordance with the protocol;

(b) whether the chairman of the authority, Mr John Richards, failed to supervise the day-to-day activities of the authority;

(c) whether the Premier received documents from the authority outlining the financial and planning details of the two major bidders;

(d) whether, contrary to his government’s guidelines, the Premier met with Mr Lloyd Williams and Mr Ron Walker a number of times in private without witnesses;

(e) whether the decision by Crown consortium to include Federal Hotels as an equity partner was designed to deceive the casino control authority, the state government and the public of Victoria;

(f) whether the casino control authority gave adequate regard to — (i) the payment of secret commissions by Dominion Properties on the instructions of Mr Lloyd Williams to Mr Norm Gallagher of the BLF; and (ii) the payment to Mrs Faye Hinde of the amount of $80 000 by a $2 company which had as a major client Hudson Conway;

(g) whether the Chairman of the Melbourne Major Events Company, Mr Ron Walker, breached corporations law in personally disclosing to Mr Lloyd Williams the details of the heads of agreement to transfer the Australian grand prix to Albert Park; and

(h) whether the Chairman of the casino control authority failed to recognise and deal with a conflict of interest in relation to Mrs Tina McMeekan.

The PRESIDENT — Order! I remind the house of standing order no. 99, which states:

No question shall be proposed in the Council which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative.

In fact, the house came to a conclusion after an extensive debate in relation to the casino. I do not have the record of that debate before me, but I will consider the motion of which Mr White is giving notice. At the moment, with a motion having already been carried by the house, it may well be that I will have to rule some elements of his proposed motion out of order. I cannot say that as yet. For the convenience of the house, I will give a ruling on that later this day.
BUSINESS OF THE HOUSE

Sessional orders

Hon. R. I. KNOWLES (Minister for Housing) —
By leave, I move:

That so much of sessional orders as requires that no
new business be taken after 10:00 p.m. be suspended
until the end of December 1994, and that until the end
of December 1994, unless otherwise ordered by the
house, new business may be taken at any hour.

This is a standard motion that appears at this stage
of a session. I make it clear that the government does
not intend to have late nights but to stick with what
has been the practice over this session. However, if,
by agreement, it appears that we might finish the
program that has been agreed between the
opposition and the government for handling
business for the rest of this session by sitting until
11 p.m. or 11.30 p.m., it would be wise for us to do
so so we can stick to that timetable. It will mean that
the house will conclude this session in an orderly
way on Wednesday next, which is the government’s
intention, and I understand the opposition concurs.

Motion agreed to.

PETITION

Australian grand prix

Hon. B. T. PULLEN (Melbourne) presented a
petition from certain citizens of Victoria praying
that the Parliament enact legislation to prevent the
conduct of the Australian grand prix or similar
events at Albert Park. (12 signatures)

Laid on table.

BLF CUSTODIAN

Hon. HADDON STOREY (Minister for Tertiary
Education and Training) presented report No. 29
dated 30 November 1994 given to Mr President
pursuant to section 7A of the BLF (De-recognition)
Act 1985 by the custodian appointed under
Section 7(1) of that act.

Laid on table.

WOMEN’S BUDGET

Hon. HADDON STOREY (Minister for Tertiary
Education and Training) presented report for year
1994-95.

Laid on table.

TASK FORCE VICTOR

Police shootings

Hon. W. R. BAXTER (Minister for Roads and
Ports) presented report of Task Force Victor, Police

Laid on table.

PUBLIC ACCOUNTS AND ESTIMATES
COMMITTEE

Budget estimates and outcomes

Hon. P. R. HALL (Gippsland) presented report of
Public Accounts and Estimates Committee on
1993-94 budget estimates and outcomes, together
with appendices.

Laid on table.

Ordered to be printed.

SCRUTINY OF ACTS AND
REGULATIONS COMMITTEE

Subordinate legislation

Hon. B. A. E. SKEEGGS (Templestowe) presented
report of Scrutiny of Acts and Regulations
Committee on subordinate legislation concerning
statutory rules series 1993, together with
appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:


Dietitian Board of Victoria — Report, 1993-94.
Fair Trading — Report of Secretary to the Department of Justice, 1993-94.

National Tennis Centre Trust — Report, 1993-94.

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

- Bairnsdale (Shire) Planning Scheme — Amendment L43.
- Ballarat (Shire) Planning Scheme — Amendment L33.
- Gisborne Planning Scheme — Amendment L23.
- Hawthorn Planning Scheme — Amendment L25.
- Healesville Planning Scheme — Amendment L49.
- Korumburra Planning Scheme — Amendments L51 and L55.
- Kyneton Planning Scheme — Amendment L5.
- Lillydale Planning Scheme — Amendment L143.
- Mclvor Planning Scheme — Amendment L18.
- Moe Planning Scheme — Amendment L31.
- Moorabbin Planning Scheme — Amendment L46.
- Newham and Woodend Planning Scheme — Amendment L31.
- Phillip Island Planning Scheme — Amendment L54.
- Sandringham Planning Scheme — Amendment L14.
- Shepparton (Shire) Planning Scheme — Amendment L69.
- South Melbourne Planning Scheme — Amendment L92.
- Sunshine Planning Scheme — Amendment L78.
- Werribee Planning Scheme — Amendment L73.
- Williamstown Planning Scheme — Amendment L33.


- Statutory Rules under the following Acts of Parliament:
  - Physiotherapists Act 1978 — No. 188.


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

- Control of Weapons (Amendment) Act 1994 — Whole Act (except section 2) — 30 November 1994 (Gazette No. S92, 30 November 1994).

PERSONAL EXPLANATION

Hon. R. I. KNOWLES (Minister for Housing) — I wish to make a statement which corrects information that I gave to the house in the debate last week on the Health Services (Amendment) Bill. In the course of the committee stage of the bill I indicated that section 143 of the Health Services Act prevented an establishment calling itself a nursing home, or that it would be an offence for a proprietor to call premises a nursing home if they were not licensed, funded and monitored by the commonwealth. It has subsequently been pointed out to me that, in fact, the bill abolished section 143, and the information arose because there had been a misunderstanding between a departmental officer and me as to which was the actual provision.

The general context of my statement was correct, and it is best if I explain to the house that under the Health Services Act, any premises that is advertising or operating as a nursing home is also, by definition, operating as a supported residential service, that is, providing special or personal care. Those services must be registered, so under regulation 212 a false nursing home could be prosecuted as an unregistered supported residential service, or if registered, prosecuted for implying that nursing care is to be provided.

Specifically, regulation 212 provides that the proprietor of a supported residential service must not, without the approval of the Secretary to the Department of Health and Community Services, use or display any words which state or imply that some form of specialised care other than special or personal care is provided to residents. Thus, the term 'nursing home' would imply that nursing care as opposed to personal care was being provided, and that would be an offence. The penalty is five penalty units, which is $500.

If the proprietor of the offending service is not registered as a supported residential service the
The penalty for breaching section 111 — carrying on a health service establishment, that is a supported residential service, without being registered — is very significant because a penalty of 100 units may be imposed with continuing daily penalties. Because a person providing a nursing home service would also by definition be providing personal or special care and accommodation, that service would fall within the definition of a supported residential service within the act.

It is very clear that any service that claims to be a nursing home but which is not licensed, funded or monitored by the commonwealth government, will be in breach of state legislation and regulations.

Since the government has come to power, it has vigorously policed the regulations that cover the supported accommodation industry. In fact, a number of establishments have been deregistered. Other establishments have been prosecuted and further prosecutions are planned.

Although the regulations were developed by the former Labor government, it is important to note that they were not vigorously policed. I have instructed the Department of Health and Community Services to vigorously police these regulations. As I have indicated, that has led to a number of establishments being closed, and that is where our continuing focus will be.

I have now corrected precisely how these matters will be covered. I give a clear commitment to the house that the government will pursue this matter with some vigour. It is determined not to allow providers claiming to be nursing homes to operate in this state unless they are subject to the stringent conditions laid down by the commonwealth government as the basis for their licensing, funding and monitoring processes.

The main purposes of this bill are to wind up the Loddon-Campaspe Regional Planning Authority and the Upper Yarra Valley and Dandenong Ranges Authority; to repeal the acts which established those authorities; and to provide for the continuation of the Upper Yarra Valley and Dandenong Ranges regional strategy plan. The bill complements changes to the structure of local government in the greater Bendigo area and possible changes to municipal boundaries in the Upper Yarra Valley and Dandenong Ranges area.

One of the main reasons both authorities were created was that local government bodies in the two respective regions were small and fragmented. Authorities comprised of representatives from municipal councils and other relevant interests were needed to ensure a necessary regional perspective on planning and development issues in those regions.

The government's local government reform program has led to a review of the operation of the two authorities which are the focus of the bill. Members will remember that, last year, the Geelong Regional Commission — another regional authority — was wound up when the City of Greater Geelong was created by amalgamating a number of smaller municipal districts in the Geelong region.

LODDON-CAMPASPE REGIONAL PLANNING AUTHORITY

The Loddon-Campaspe Regional Planning Authority is to be wound up primarily because the new local government boundaries make it unnecessary for the authority to continue in its current form. Five of the municipalities around Bendigo have already been restructured to form the new City of Greater Bendigo. The remaining 19 municipalities in the Loddon-Campaspe region are currently being reviewed by the Local Government Board. The authority itself has also decided to disband.
The government records with appreciation the work of the authority’s members and staff, past and present, over 20 years in bringing a regional perspective to bear on land use and related issues. The bill provides for a speedy winding-up of the authority.

UPPER YARRA VALLEY AND DANDENONG RANGES AUTHORITY

The bill provides for a date to be set to wind up the Upper Yarra Valley and Dandenong Ranges Authority. The four municipalities — the shires of Lilydale, Healesville, Upper Yarra and Sherbrooke — are under review as part of the Local Government Board’s outer Melbourne review. When the government has made a decision on the board’s final recommendations a decision will be made about whether to set a date to begin the winding-up of the authority.

I wish to emphasise that the bill in no way pre-empts any decisions the government may take in relation to the restructure of local government in the Upper Yarra Valley and Dandenong Ranges region.

REGIONAL STRATEGY PLAN

The main task of the Upper Yarra Valley and Dandenong Ranges Authority since its creation in 1976 has been to prepare and maintain the regional strategy plan for the region. The government is determined to ensure that, if the authority is wound up, the regional strategy plan will continue to provide the context for planning and development decisions in that region.

Clause 13 of the bill inserts a new part 3A into the Planning and Environment Act 1987 to maintain the operation and effect of the regional strategy plan if the authority is wound up. The new provisions will clearly enable the minister to prepare amendments to the regional strategy plan using the well-understood procedures of an amendment to a planning scheme. There are also appropriate transitional provisions so that amendments to the plan prepared by the authority and which are not approved do not lapse when and if the authority is wound up.

While there is strong support for the role and function of the regional strategy plan, there will be a need to review the plan as it applies to urban areas so that development is directed to appropriate locations and that rural areas are protected from inappropriate development.

Proposed new section 46F of the Planning and Environment Act 1987 strengthens the provisions that already exist in the planning schemes in the region by providing that the minister must not approve an amendment to a planning scheme which is inconsistent with the regional strategy plan.

Proposed section 46G maintains the effect of section 25 of the Upper Yarra Valley and Dandenong Ranges Authority Act 1976 by providing that government and municipal works must conform with the regional strategy plan and that works not conforming to the plan may only proceed with the consent of the Premier.

Finally, the powers of the Parliament are to be enhanced in relation to approval of amendments to the regional strategy plan. That reflects the importance the government attaches to the future development of the regional strategy plan. Proposed section 46D provides that an amendment to the regional strategy plan approved by the minister can come into operation only when the amendment is also approved by resolution passed in each house of Parliament.

In conclusion, the government recognises and appreciates the very useful regional planning work undertaken by the two authorities. That work will not be lost and will continue to be put to useful effect. Local government reform will consolidate the authorities’ contribution to their regions.

I commend the bill to the house.

Debate adjourned on motion of Hon. B. T. PULLEN (Melbourne).

Debate adjourned until next day.

CASINO (MANAGEMENT AGREEMENT) (AMENDMENT) BILL

Second reading

Hon. HADDON STOREY (Minister for Gaming) — I move:

That this bill be now read a second time.

Under the Casino Control Act 1991, a casino licence may not be granted unless an agreement has been entered into between the state and a proposed
casino operator. The Casino (Management Agreement) Act was passed in 1993 ratifying the management agreement between the state and Crown Casino Ltd, the casino operator. Section 15 of the Casino Control Act provides that the agreement may be varied by the parties and that any variation must be ratified by the Parliament before coming into operation.

Crown Casino Ltd proposed a number of changes to the design of the Casino complex which must be considered under the legislation. The government established a procedure for consideration of the proposals. An advisory design committee was established comprising Professor Peter McIntyre, Mr William Corker and Mr Peter Manger, who were members of the original design and siting panel. The government also consulted with the Victorian Casino and Gaming Authority.

The advisory design committee engaged in a consultative evaluation regarding the design changes sought by Crown Casino Ltd. Crown’s proposals involved the deletion of some of the original features of the successful bid and modification to others, but the government advised Crown that to achieve any agreement to changes the amendments had to retain the major features of the original proposal.

The proposed changes have been examined by the Victorian Casino and Gaming Authority and by the members of the advisory design committee. These bodies have advised their support for the revised design proposals. The government has accepted this advice.

The amendments which have been agreed to include the expansion of the hotel from 360 to 1000 rooms, the deletion of the Ferris wheel, the expansion of the ballroom from 1600 to 2300 square metres and an expanded sporting facility which will have access to the roof garden. Retained will be the Wintergarden and the roof garden at its original size and with a similar configuration. A 1500-seat show room will also be retained complete with fly tower and a backstage area with a similar capacity to the original proposal. The showroom has been relocated within the complex to enable access to the garden terrace overlooking the river.

The amendments reflect other modifications which improve the design such as the reconfiguration of retail facilities to provide an internal streetscape between the gaming area and the river promenade. This enables visitors to walk the full length of the complex at ground level between Queensbridge Square and Clarendon Street without entering the gaming area.

Crown Casino Ltd is contractually bound to build a casino complex of high quality and design finishes.

The casino complex will provide an addition to the features which attract tourists to Victoria. The expansion of the hotel will improve the opportunities for Melbourne to attract larger conventions and conferences. It will benefit the tourism market and provide some support for the new exhibition centre to be built on the western side of Clarendon Street. The amendments provide for an upgraded facility which will enhance the performance of the casino. The benefits for Victoria will include increased tourism spending, additional employment in the construction and operating phases and the improvement of the facilities.

Clause 17 imposes an obligation on Crown Casino Ltd to pay liquidated damages for any delay in completion of the Melbourne Casino. There is, however, no provision in respect of damages for late completion of the remainder of the casino complex. It is therefore proposed to extend the obligation to pay liquidated damages in relation to late completion of the entire Melbourne casino complex.

I turn now to the deed of variation. The deed reflects the proposed changes where they impact on the management agreement and may be summarised as follows:

1. The definition of ‘Melbourne casino complex development proposals’ is expanded to reflect the new design.

2. Crown Casino Ltd is obliged to create an extra 600 car parking bays on an agreed location in Whiteman Street. The car park is to be connected by secure and weather-protected means to the casino complex.

3. In the principal act any significant design changes are to be approved by the minister. It is the responsibility of the state’s nominated representative to approve design and documentation at a more detailed level. The management agreement did not contain provisions for the state’s nominated representative to approve variations to the representative’s originally approved design documentation. This obligation has been included in the deed of variation.
4. Formerly, liquidated damages were only to be imposed upon Crown Casino Ltd in the event that the Melbourne casino — that is, the gaming area — was not opened within the specified time. There were no sanctions if the casino was opened but the balance of the works on the site were not completed.

Due to the increased significance of hotel works and the generalised entertainment focus of the complex, it has been determined that separate liquidated damages should apply in circumstances where the total complex is not complete even if the casino itself is operating.

There is no change to the provision that damages will be levied at $50 000 per day if the casino is not opened and functioning by the completion date for the contract. However, in the event that the casino is operating but the balance of the complex is not complete by the completion date, liquidated damages will be levied at the rate of $5500 per day through to completion of the complex.

5. The relationship between Crown Casino Ltd and Tourism Victoria is recognised and benefits to the state will flow from a commitment by Crown Casino Ltd to participate in joint marketing programs with Tourism Victoria both interstate and internationally.

6. The deed of variation precludes Crown Casino Ltd from relying on any aspect of this redesign or its approval as being cause of delay to the project and thus deferring liquidated damages obligations.

I commend the bill to the House.

Debate adjourned for Hon. D. R. WHITE (Doutta Galla) on motion of Hon. B. W. Mier.

Debate adjourned until next day.

PROJECT DEVELOPMENT AND CONSTRUCTION MANAGEMENT BILL

Second reading

Hon. R. I. KNOWLES (Minister for Housing) — I move:

That this bill be now read a second time.

There are two fundamental purposes of this bill. The first is to properly facilitate the delivery of infrastructure projects in which government is involved. The second is to establish new provisions for arranging and managing public works which will involve the repeal of the Public Lands and Works Act 1964. The bill also makes necessary amendments to the Bayside Project Act 1988. At the outset it is important to stress that all of the powers proposed in this bill currently exist in legislation. However, this bill when enacted will provide a more appropriate arrangement of these powers and more direct accountability.

I will deal first with the infrastructure project provisions of the bill. As honourable members will be aware, the government has given a high priority to promoting opportunities for the private sector to become involved in the provision of public infrastructure in Victoria. This is reflected in the government’s Infrastructure Investment Policy for Victoria, released earlier this year. This bill supports that policy by providing clear legal powers for government and its agencies, in place of other less appropriate arrangements, such as the use of the Urban Land Authority Act 1979.

Once enacted, the bill will provide the basic development and financial powers for the government to expedite nominated projects in conjunction with the private sector or on its own. Various development powers will be available to assist nominated projects.

Powers contained in the legislation may be made available to any minister or to any agency which is designated a facilitating agency for a project. This will be done by the Governor in Council on the recommendation of the Premier. An order in council is to specify reasons for bringing a project under the legislation. Orders are to be tabled in both houses of Parliament.

The Governor in Council, on the recommendation of the Premier, will assign the use of all or some of the powers to the responsible minister or facilitating agency on a case-by-case basis, and according to the requirements of each project. For example, one project may require authority to obtain or consolidate land while another may require authority to undertake construction works.

The bill provides appropriate powers to facilitate projects on a consistent basis irrespective of their funding source, a framework for the necessary approval and accountability processes, and for assignment of a project to an appropriate minister for implementation.
While the bill provides various powers to facilitate projects, it also contains certain safeguards. For example, the powers provided in the bill include the power to acquire land by agreement, or by compulsory means, subject to the Land Acquisition and Compensation Act 1986 and to have unreserved Crown land granted to the facilitating agency on the recommendation of the minister responsible for the Land Act 1958. However, the normal statutory processes relating to reserved Crown land are not affected and it will be necessary for Parliament to enact special legislation if permanently reserved land is required for a project.

In addition, the bill enables the Treasurer to issue directions in relation to project financial arrangements to an agency facilitating a nominated project and requires compliance with these directions. The bill includes provision to enable the Treasurer to waive, reduce or defer any tax, rate or other charge after written consent of the agency affected has been obtained by the responsible minister (other than where the tax or fee is payable to the consolidated fund).

The bill enables the Treasurer to execute guarantees in respect of a project, but requires the Treasurer to obtain the written consent of each minister or public authority that is a party to the agreement or contract and, in the case of public authorities, the minister administering the relevant act for that public authority. The Borrowing and Investment Powers Act 1987 is to apply to the guarantee as if it were made under part 5 of that act. The bill gives the facilitating agency the power to borrow, subject to the approval of the Treasurer and if the application order for a project specifies that the facilitating agency is to be deemed to be an authority for the purposes of the Borrowing and Investment Powers Act 1987. Other powers will include the power to develop land, construct buildings, enter into agreements with others to undertake works, and to construct, open and close roads.

An important element of the bill is the breaking of the nexus between the Urban Land Authority and the Office of Major Projects. Historically, delegations under the Urban Land Authority Act 1979 were used as a vehicle to provide the Major Projects Unit with broad powers to enable the government to undertake the civic projects assigned to it. This cumbersome mechanism, established by the previous government, has never been appropriate. It is even less so today, since the Office of Major Projects is now part of the Department of Planning and Development and since the Urban Land Authority is now operating under the State Owned Enterprises Act 1992. This bill enables the Secretary, Department of Planning and Development to exercise the necessary powers.

The transitional provisions of the bill will transfer assets and commitments relating to the major projects function from the Urban Land Authority to the Secretary to the Department of Planning and Development, which are necessary steps in dissolving the nexus between the Urban Land Authority and the Office of Major Projects and its predecessor, the Major Projects Unit.

Some of the facilitation powers, such as the powers relating to roads, may impact on the operation of local government. However, as honourable members will appreciate, where a project has a significance extending beyond the location in which it is situated, it is proper for the state government to be able to exercise powers to advance and protect the interests of the state as a whole.

In general the power to undertake project development will be subject to compliance with all other applicable acts. Special legislation will be required to exempt a specific project from compliance with the requirements of other acts. An exception is that the minister responsible for the administration of the Building Act 1993 is to be able to assign responsibility for the administration of building control for a nominated project to the facilitating agency or any other person or specified body by order published in the Government Gazette.

The powers in the bill will not necessarily be adequate for all future projects. Project-specific legislation may need to be enacted to advance certain especially significant projects or those with special requirements, and this will ensure parliamentary scrutiny of any special powers proposed for prosecution of such projects.

I turn now to the second major purpose of the bill, which is to establish new provisions for arranging and managing construction projects in the public sector and to repeal the Public Lands and Works Act 1964. The Public Lands and Works Act 1964 limits the power to carry out public construction in Victoria for most government agencies to the Minister for Housing. This includes accepting plans and specifications, accepting tenders and determining terms and conditions for public construction. The minister cannot currently delegate his powers or responsibilities to other ministers except for minor works.
The government believes that this limitation is not appropriate and that each minister should be able to exercise responsibility for the public works of his or her department and related agencies, subject to certain safeguards. Honourable members will be aware that the government has taken a number of initiatives to improve practices and probity in the building and construction industry and to ensure that government gets better value for its building and construction dollar, such as the development of the government’s code of practice for the building and construction industry.

While the bill will place authority and accountability to arrange public construction with individual portfolio ministers, this will be supported by a strong focus on setting policy and on building procurement reform so that quality and probity issues are addressed consistently across government agencies. The Minister for Housing will have the power to set standards and to issue directions to apply to government departments and agencies in relation to the design and construction processes relating to public construction. These will cover matters such as tendering, project delivery arrangements, contract administration and building economics.

As honourable members will also be aware, recent inquiries, most notably those by the New South Wales Royal Commission into Productivity in the Building Industry and the Victorian parliamentary Economic Development Committee, have highlighted the importance of safeguarding against improper or corrupt practices in the procurement of building and construction works. The New South Wales royal commission concluded that matters requiring expert involvement include tendering and contracting procedures, prevention of fraud, appropriate risk allocation between parties to a contract, prevention of default and cost control. It is matters such as these which will be addressed in the standards and guidelines issued by the Minister for Housing.

The bill will enable the Department of Planning and Development to be engaged to provide consultancies and to manage construction for other agencies and private entities within or outside Victoria by constituting the secretary to the department as a body corporate. These powers are consistent with those held by all statutory authorities and by the secretaries to the Conservation and Natural Resources and of Health and Community Services departments. The secretary will be subject to the direction and control of the minister.

Finally, the bill will amend the Bayside Project Act 1988 to repeal redundant sections of that act which were particular to the proposed Sandridge project, and it will repeal and amend provisions in other acts that are consequential to the repeal of the Public Lands and Works Act 1964.

I commend the bill to the house.

Debate adjourned for Hon. D. R. WHITE (Doutta Galla) on motion of Hon. B. W. Mier.

Debate adjourned until next day.

SUBORDINATE LEGISLATION BILL

Second reading

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — I move:

That this bill be now read a second time.

Shortly after its election in October 1992 the government gave the Scrutiny of Acts and Regulations Committee of this Parliament a reference to continue the review of the Subordinate Legislation Act 1962, which had been started by the former Legal and Constitutional Committee. The Scrutiny of Acts and Regulations Committee reported to this house in November of last year.

In responding to the committees report the government agreed with the committees recommendation that the Subordinate Legislation Act 1962 be repealed and re-enacted with amendments. The government response, which was tabled on 17 May of this year, had attached to it drafting instructions for a bill to replace the Subordinate Legislation Act 1962. It is that bill which I put before this house today. It is the governments 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 governments response to those recommendations are set out in the governments formal response to the committees report, which was tabled in May of this year. I do not intend to repeat the detail of the government’s response, except 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 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 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 situation under 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 as 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 ground 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 is 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. Procedures to be implemented to ensure that appropriate advice is obtained as to the nature and content of a proposed statutory rule is one of the matters specifically required to be included in those guidelines. The guidelines are to be developed by the Department of 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 by 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, now non-existent, 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 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 to 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 better position to identify problem areas than it can currently. 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 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
CROWN LANDS ACTS (AMENDMENT) BILL

Tuesday, 6 December 1994
COUNCIL 1125

... to 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 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 members 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 the whole or partial disallowance of a given statutory rule to the Parliament. 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, scrutinising of subordinate legislation. As I have stated, that 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 where it is not the responsible minister but a unit within the bureaucracy certifying as to the adequacy of any given regulatory impact statement.

I commend the bill to the house.

Debate adjourned for Hon. T. C. THEOPHANOUS (Jika Jika) on motion of Hon. C. J. Hogg.

Debate adjourned until next day.

CROWN LANDS ACTS (AMENDMENT) BILL

Second reading

Debate resumed from 29 November; motion of Hon. R. I. KNOWLES (Minister for Housing).
Hon. B. T. PULLEN (Melbourne) — The Crown Lands Acts (Amendment) Bill undermines public interest in Crown land and in a sense creates a de facto privatisation. It reinforces an unfortunate tendency, which can be traced back almost to 1881 and the inception of the original setting aside of a large number of Crown land reserves in Victoria, of a lack of attention by successive governments to the question of management, and it was in that vacuum that the entry of private use occurred. I do not pretend that it is an easy issue; what I say clearly is that this bill is a step backwards.

In 1881 the people of Victoria, through their Parliament, gained a considerable achievement in setting aside a massive amount of land of great value. The remnants today represent some 25 000 to 30 000 kilometres of streams with a width of reserved Crown land for public purposes ranging from 20 metres to 60 metres, generally related to the importance of the river, and something like 66 000 hectares of roads, or an estimated 32 000 kilometres. These figures are fairly accurate, although they must be approximate. Even the Department of Conservation and Natural Resources is unable to come up with definitive figures. That was a remarkable achievement in the context of the Western World in 1881, and it still stands to the credit of those administrators and the people in the Parliament who introduced such wide-ranging legislation in the interests of the people of Victoria.

From 1881 onwards there was a decline in attention. In 1903 we saw the first steps towards what has been described as the de facto privatisation of that land. It was not until 1983 that there was any improvement, when the Labor government introduced amendments that brought back some of the rights that had been eroded over that period. People again had the right to enter that land, even though it was licensed, for picnicking or fishing or just generally to spend some time there. That right had been lost between the passing of the 1903 act and the introduction of the 1983 act. We now have in 1994 a step backwards because the process of privatisation is being advanced by consideration of licences of up to 99 years for roads and 35 years for river frontages. The philosophy that was so progressive and remarkable in 1881 is being further undermined by this government. It is important that that be said on the record, because if you go back and read the volumes of Hansard covering other changes you will find that it is instructive to see the climate at the time. I want to make sure that the people who are concerned about the reasons for the changes in 1994 have no illusions about the differences of opinion between the community, the opposition and the government concerning motives.

The minister proposing the changes will be seen in time to come as failing to protect the public interest in the land. That will be the result of a long lobbying effort by backbenchers associated with the National Party and with Liberal members associated with country areas to obtain this sort of lien on that land and reduce the public interest. The minister is not being honest because he is attempting to dress this up as an advance in management or conservation. That is utterly false, and I will demonstrate absolutely clearly why that is so. I want to make clear the context in which we are dealing with this legislation. I should provide something of the background to the bill. In one of his few frank moments the Minister for Conservation and Environment had this to say in a press release dated 2 November 1993:

Victorian farmers may be able to enter into long-term leases or even purchase unused roads on Crown land within their properties under proposals being considered by the state government.

Conservation minister, Mark Birrell, said the proposal was designed to end the current antiquated system of annual licences in which licence collection costs absorbed about three-quarters of the licence fee collected.

'I am considering this reform at the request of individual members of the Victorian Farmers Federation who are justifiably annoyed at the current licensing system', he said.

The genesis of the issue is quite clear. It has not emerged from a broad section of the Victorian community. It has not emerged from a review that allowed public participation. It has emerged from lobbying by the Victorian Farmers Federation to advance their role in the management of this land.

It is obvious that at that time sale of the land was contemplated. The question of sale is not addressed in this bill, and I think we can be grateful for that, but we do not know why. We do not whether it is because the community reaction following that announcement was sufficient to give the government pause and pull back from the sale or whether it is too difficult to organise the sale of so many parcels of land because the surveying costs and the difficulties of identifying the land just make it too unwieldy. Instead of that we have a 99-year lease, but a 99-year lease is virtually tantamount to a
sale. It is not just me or other concerned people in the community who are saying that; no less an authority than Mr Roger Hallam when commenting on the Prahran Market was reported in the Age of Thursday, 1 December 1994, as saying:

... he was unlikely to grant an extended lease on the property. 'I have not been persuaded this is an appropriate outcome. In my view a 99-year lease is tantamount to a freehold sale.'

At least we have one minister who is honest enough to recognise that a 99-year lease or licence is a tenure of considerable value, but not the Minister for Conservation and Environment, who is charged with protecting the public land of Victoria without fear or favour so that it can be enjoyed by the people of Victoria and protecting a heritage that goes back to 1881 — a marvellous heritage. Victoria is one of the few states or countries in the world where more than 100 years ago people had the foresight to set aside such a vast length of rivers and streams in order to make them available for the people of the state. At the time it was seen to be marvellous.

That is illustrated by one simple quote from Water Victoria: A Publication of the Department of Water Resources Victoria 1989:

The original intention was to reserve waterfront land for development associated with inland shipping, but the value of reserves for watering stock, fishing and recreation quickly won popular recognition and support. The reservations often assisted in the movement of stock, lending the support of farmers and graziers ... A strong popular sentiment in support of frontage reservations was well established in the 1870s. Settlers were predominantly of British stock and generally from humble backgrounds. In the 1870s most Victorians were fairly recent arrivals following the gold rushes and the attendant population growth. In Britain their access to lakes and rivers had been restricted by private ownership of the banks and of land adjacent to the water. In the Old Country those who wished to fish were excluded by laws of trespass and those who wished to shoot were often obliged to pay the landholder for the privilege. Memories were fresh and the new-found freedom of access quickly became sacrosanct. Legislators and administrators could draw on this popular support to oppose established landholders who wished to own river frontages, and to impose strong sanctions against landholders who illegally fenced to the waterline. That culminated in the legislation of May 1881.

The publication states:

In May 1881 all Crown frontages along 300 named rivers and streams which still remained with the Crown were permanently reserved under the Lands Act 1869 ... broadly in proportion to the importance of the river.

Much of that has been eroded but there are now still 25 000 to 30 000 kilometres of Crown frontages. That is a very important but neglected heritage.

There is a distinct division between the way I want to approach the legislation and the way the government has approached it. In the community there is a capacity for common ground, and it is clear that for practical purposes the land-holder has an important role to play. He or she has the greatest capacity to enjoy the public land; he knows it best, can visit it more often, can enjoy the vegetation and can take an interest in the wildlife. Good luck to the person who owns a piece of land next to publicly set aside land.

A similar situation exists in towns. Anybody who owns a property near a public reserve has a better opportunity to enjoy it than somebody who lives further away. If that person is interested in the reserve and wants to preserve it and enter into a cooperative arrangement, good luck to him! Let us consider ways to make it easier. But people who live next to parks do not lobby to get a licence to make those parks an economical opportunity for them, expect the community to accept it and, because of the change that occurs, give the land at least the appearance of being part of their property.

There has been a struggle over the right to use this land. The legislation of 1881 was necessary because private land-holders took the land as if it were their own and did not recognise it as public land. They fenced people out and grazed their livestock indiscriminately, which affected the river banks. The legislators and the public service reacted to a need to protect Victoria’s river frontages by legislating in 1881. What are this government and this minister doing? They are saying there will be 99-year leases for the road reserves and 35-year leases for the 25 000 kilometres of river frontages. But what will happen over 35 years? The land will be grazed. Evidence indicates that 80 to 88 per cent of the streams that are currently licensed are grazed. That is the predominant land use of licensees.

When I met with representatives of the Victorian Farmers Federation to discuss the issue — there was
a useful exchange of views and I believe they have
taken a genuine interest in conservation matters —
they admitted that the main method of management
would be grazing. However, it is not practical to
have grazing on all those areas of land. As a
management tool, grazing can be used in particular
circumstances — nobody denies that there is a role
for it — but it is simply a means to an end and its
use should be limited.

If we are going to revegetate an area, particularly
with native vegetation, we have to face the fact that
cattle and sheep have to be kept off that area
otherwise we will finish up with ageing trees
topping over without any regrowth. That is obvious
when you look at certain areas around Victoria.

Hon. B. W. Mier interjected.

Hon. B. T. PULLEN — Chopping them down
does happen, I do not disagree with you, Mr Mier.
But even if such brutal action is not taken, mowing
the grass down by grazing cattle on it will result in
there being no appropriate native vegetation.
Remnant vegetation will be lost, if it has not been
lost already, and new vegetation will have little
chance. That is the issue.

Some people on the land are very aware of it. In a
letter to me Mr John Brown of the Midlands District
Angling Association, who has farmed the land for
25 years, indicates that he regards this as disastrous
legislation because of its potential impact on streams
and erosion. He says it will be a green light for
long-term grazing and exploitation. He has had a
licence for 25 years and recognises the role of the
farmer, but he does not believe this is an appropriate
way to go.

Perhaps because he also wears a fisherman’s hat he
sees Crown land as a public reserve to be enjoyed
rather than used as an additional grazing area. I find
it refreshing to receive a letter in the public interest
from somebody who is not a theoretician but a
farmer who is opposed to the idea of fencing off
these lands from the public. In respect of the 99-year
leases he says, ‘Bloody beauty, Father Christmas
comes early to a chosen few!’. He is right; a 99-year
lease on a piece of land is a great gift.

A lot of people are aware of the impact this
legislation will have. In the context of what we have
inherited it is a backward step. The motivation for
the change is not clear. I hope we will be enlightened
later during the debate, but I am tempted to think it
is a result of lobbying in the narrow interests of
people who want to have Crown land as part of
their property in a de facto privatisation
arrangement rather than as public land. It may well
be that it is just a weakness in the bureaucracy. It has
happened before; it happened in 1903. Because the
bureaucracy failed in its ability to support the public
land it first entertained the idea of handing it over to
the owner of the adjoining land and licensing him to
look after it and graze it. The 1903 act was the first
step back.

Perhaps it is because the department is now under
such pressure with a budget that gets smaller every
year that it is scratching around to find funds and
has come up with a proposal to raise money and
relieve itself of the responsibility of doing the job it
should be doing on behalf of Victorians without
having the necessary resources. In that case I would
have to say that Mr Alan Thompson is failing in his
duty. He follows a long line of public servants who
have been outstanding in their defence of the public
interest and in putting up proposals, which are often
knocked back by government, to preserve those
areas of land.

Hon. M. A. Birrell — You’re attacking public
servants.

Hon. B. T. PULLEN — I am not attacking them. I
am pointing out that there has been a tradition of
contributions by secretaries and other people who
have been charged with the management of Crown
land.

Hon. M. A. Birrell — Yes, but he’s a fine public
servant.

Hon. B. T. PULLEN — If you were a strong
minister perhaps I would not be leaning to this view,
but your record of protecting public land is not
strong. The view is very clear in the way the bill is
put together.

In the past the department has argued for
improvements in the public interest, and it has not
been listened to. In fact, I refer the house to RIVER
FRONTAGES IN VICTORIA AND THEIR CONTROL, a paper
produced in May 1984 by R. G. Hodges, who was
then director of Crown land management. After
reviewing the situation and the way we were given
the heritage of the Crown lands, he states at page 7:

The offer of licences also implied the bureaucracy’s
inability to enforce the fencing responsibilities and
regulations. Fencing was and still is the key to proper
positive management of the river frontages. Without
fences to mark the boundary between freehold and public land there will always be a reluctance of the law-abiding public to trespass over what may be freehold land.

The result was an almost complete privatisation of the public land frontages and a management policy that allowed little differentiation between the Crown frontage and the adjoining freehold.

On the issue of grazing he states at page 9:

Any grazing tended to prevent regeneration of the trees and shrubs and could often cause bank erosion as the animals clambered up and down the banks. As overstocking or unrestricted access of large numbers of stock occurred or insufficient watering points were provided by the land owner the degradation of the frontage increased.

This type of damage led to the need for river improvement trusts which had the job of correcting the results of bad management without being able to control cause. The cause in quite a number of cases may have been quite outside the river improvement trust’s boundaries.

The ability of public servants to remedy the situation of which they were well aware was hampered by political problems similar to those that occurred early this century. The paper continues:

Farmers did not wish to fence out the frontage, the privatisation had continued for so long that many land-holders considered the land as their right to use or abuse as they saw fit. They made sure their political representatives knew about their views to the extent that many of the reforms effected in 1983 had been put forward by the department a number of times over the prior 16 to 17 years only to have them rejected by the cabinet or the backbench members of the ruling government.

What stronger evidence does one need that a lobby was at work? The department was aware of the problems back then, when we would have been talking about prevention rather than about cure — an expensive one in many cases — as we are now. It is pretty clear that the stopper was put on that by the interests of members and lobbyists who did not want to see reform.

It was not until 1983 that we had a government that was prepared to make some reforms in the public interest. We had a recognition at least of the public interest and the rights of people to picnic, fish, linger — but not to camp — and at least be on these reserves if they could get to them. Very few people are actually prepared to trespass on an area parallel to a stream if it is fenced off or being grazed. That makes it practically impossible to distinguish between the end of the private paddock and the beginning of the verge of the Crown land. People do not know where the boundary is.

Most people are very law abiding and when it is unclear to them that a path or track is public, if the vegetation does not change and there is no indication that an area is actually a linear reserve, most people stay out if there is no access in. That does not apply just to rivers.

Hon. M. A. Birrell — How has any of that changed?

Hon. B. T. PULLEN — I will come to that.

Hon. M. A. Birrell — You’ve been speaking for 15 minutes and haven’t explained one thing that has changed from the status quo.

Hon. B. T. PULLEN — I will come to that. We must understand the importance of public land.

Hon. M. A. Birrell — There is no change in public access. You know that.

Hon. B. T. PULLEN — The point is that an area of land that will be under licensed tenure for 35 years will be grazed and looked after in such a way as to make it very clear that it is part of the farming activity and not a reserve.

This move removes the potential for the land to be managed by collectives — whether they be water trusts, local committees of management, Landcare groups or friends groups — in cooperation with the government, if it cannot afford the resources to treat it as public land. Such organisations are denied the opportunity to do that because the philosophy —

Hon. M. A. Birrell — Why? This land is already licensed.

Hon. B. T. PULLEN — Because the philosophy of this legislation is to move to further privatisation of this land in a de facto sense.

Hon. M. A. Birrell — This land was licensed under your administration.
Hon. B. T. PULLEN — I am making it clear. If you do not understand it is because you do not understand your responsibility in relation to public land. You have not bothered to look at the history of this very important heritage of public land. You are creating circumstances where you will be seen as the great privatiser of public land in Victoria.

Hon. M. A. Birrell — You're the only one who suggested it.

Hon. B. T. PULLEN — You will be pointed to as the person who moved on the process of privatisation of land that started in 1903 to the point where people can have 99 and 35-year licences over this land. You will be pointed to as the minister who had neither the imagination nor the wit and persistence to look at any alternative forms of management.

Hon. M. A. Birrell — What alternatives did you look at?

Hon. B. T. PULLEN — I will come to that.

Hon. M. A. Birrell — You didn't implement any.

Hon. B. T. PULLEN — I will come to the question of what should be done because it should be addressed. I am showing that these areas were set aside wisely, that we need to protect our very important heritage and that because of what occurred before 1903 the original heritage was eroded and illegal occupation occurred. From 1881 the public service, which was not well resourced or supported, did not capitalise on that original action and in a de facto way the land fell away from being perceived as the public reserves it was originally intended to be.

The situation was exacerbated by the depression and the fact that not many resources were available. In the 1890s farmers did not have many resources and it would have been punitive to press them in those economic circumstances and enforce regulations regarding fencing out and preserving areas of public land.

The coup de grace was to give up in 1903 when it was decided to begin the first privatisation phase. The report in Hansard at that time was most interesting. Many protests occurred and assurances were given that regulations would be put in place to protect those concerned, but that was not done and the regulations were never followed through.

The only piece of legislation to address the issue was the one I referred to earlier, the 1983 Labor legislation, which brought back some of the rights people had to occupy that land.

The third area that I want to cover is that, notwithstanding neglect, this land has considerable potential in terms of its use as linear parks and refuges for wildlife and its contribution as remnant vegetation. It is important that all our efforts are used to maintain the land at this time. That requires a firm stance in recognising that it is ultimately and basically public reserve that has to be preserved in the public interest.

The fourth area I shall come to is the strong environmental argument for revegetation, preserving native wildlife and vegetation and maintaining water quality and protecting catchments. Fifthly, I shall show that there are other alternatives the government could have addressed that are practical, cooperative alternatives and could have had the support of people on the land and Landcare groups. In fact, it could have been a win-win situation in respect of how this land could have been managed and how with suitable arrangements farmers could continue to play a very positive part without going to privatisation.

Towards that end and to allow a process to facilitate that, I move:

That all the words after 'That' be omitted with the view of inserting in place thereof 'this house refuses to read this bill a second time until the minister has commissioned and received a detailed report from the Land Conservation Council on the current status and future options for Crown frontages to rivers, streams, lakes and coast reserved for public purposes and unused road reserves including options for future public management.'.

Hon. M. A. Birrell — You can tell us why you did not commission that type of study yourself. Why didn't you do it when you were a minister?

Hon. B. T. PULLEN — I would have.

Hon. M. A. Birrell — You couldn't get it through cabinet.

Hon. B. T. PULLEN — We do not have to make this a comparison, but I can if you like.

Hon. M. A. Birrell — It is grounds for hypocrisy that I am establishing.
Hon. B. T. PULLEN — I was a minister for eight months and you have been a minister for two years, so it has taken you two years as a minister to do anything about this. If I had been a minister for that period we would have had a process operating. The minister’s suggestion condemns him for the snail’s pace of his activity. In two years he has finally got around to doing something, which is a negative response that pushes the issue in the opposite direction.

Hon. M. A. Birrell — If you couldn’t do it why didn’t your predecessors? They had 10 years so clearly it was not on the government’s agenda. Your government did not support it.

Hon. B. T. PULLEN — Obviously the minister is distressed at his performance. The only legislation that was produced during this period of 100 years was legislation in 1983. The Land Conservation Council in that period produced the first definitive report to give some basis for this action. The process was away. We had the first substantial piece of work in that 10-year period.

Hon. M. A. Birrell — On what?

Hon. B. T. PULLEN — Rivers and streams of Victoria.

Hon. M. A. Birrell — That has nothing to do with this issue.

Hon. B. T. PULLEN — Of course it has.

Hon. M. A. Birrell — Rubbish! You never commissioned it.

Hon. B. T. PULLEN — Obviously the minister is nervous about this subject and the points I am making.

Hon. M. A. Birrell — I am trying to work out whether you did anything at all in government on this issue.

Hon. B. T. PULLEN — Despite the way this land has been neglected over 100 odd years since the heritage was provided by the 1881 act, it is clear it has important values that are recognised by a number of groups. The Royal Australasian Ornithologists Union (RAOU) wrote to me and other members about this issue. It also wrote to the minister indicating its concern about both the sides along the stream and the roads because it sees them as very important areas of remnant vegetation and as being important for wildlife. It has gone to the trouble to examine these areas and has provided detailed information on them. It states:

Work by our members shows that endangered regent honeyeaters have been located in the parish of Lurg on or near unused roads 68800, 68202, 63400 and 0803530 and in the parish of Winton on or near unused roads 66150, 35502, 57588, 61548 and 37355. A much longer list could be provided for grey-crowned babbler. The point I wish to make is not that we know of a large number of unused roads that are important, perhaps even a critical habitat (census FPg Act 1988) for threatened birds, but rather that there are many more high conservation areas that no-one knows the whereabouts of.

The RAOU is saying that if the government surveyed these areas and identified unused roads of value it would have up to 1000 members prepared to work with the government. I am sure there would be many crossovers where farmers interested in the wildlife and the bird life could give information regarding their property.

We have a resource that could be coordinated by the Land Conservation Council to efficiently and effectively evaluate those reserves. That should be done prior to their being privatised by 99-year leases. It is an important task, and if it is done the next generation will have something to thank us for in protecting this remnant vegetation. Because if farmers receive 99-year leases and pay an up-front cost, which they are able to do under the bill, they have an investment in that land. I believe in the majority of cases farmers will treat that land as part of their property and graze it, and that it will be indistinguishable from the rest of the property. That happens in many locations in Victoria and it is quite a substantial amount of land. Earlier I mentioned that there are between 25 000 and 30 000 kilometres of stream frontages in Victoria. There are approximately 67 000 hectares or 32 000 kilometres of road reserves. That is potentially a substantial public resource. Many of those areas may not be required as roads but people who have looked at this have indicated that that is no reason not to consider their potential.

I will quote from a discussion paper of December 1985 by Peter Cabena entitled Unused Roads in Victoria: An Historical and Geographical Assessment and Management Critique. Peter Cabena crops up a bit in this area because he has been engaged by the department to do considerable work and research on this topic.

Hon. B. T. PULLEN — I was a minister for eight months and you have been a minister for two years, so it has taken you two years as a minister to do anything about this. If I had been a minister for that period we would have had a process operating. The minister’s suggestion condemns him for the snail’s pace of his activity. In two years he has finally got around to doing something, which is a negative response that pushes the issue in the opposite direction.

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Work by our members shows that endangered regent honeyeaters have been located in the parish of Lurg on or near unused roads 68800, 68202, 63400 and 0803530 and in the parish of Winton on or near unused roads 66150, 35502, 57588, 61548 and 37355. A much longer list could be provided for grey-crowned babbler. The point I wish to make is not that we know of a large number of unused roads that are important, perhaps even a critical habitat (census FPg Act 1988) for threatened birds, but rather that there are many more high conservation areas that no-one knows the whereabouts of.

The RAOU is saying that if the government surveyed these areas and identified unused roads of value it would have up to 1000 members prepared to work with the government. I am sure there would be many crossovers where farmers interested in the wildlife and the bird life could give information regarding their property.

We have a resource that could be coordinated by the Land Conservation Council to efficiently and effectively evaluate those reserves. That should be done prior to their being privatised by 99-year leases. It is an important task, and if it is done the next generation will have something to thank us for in protecting this remnant vegetation. Because if farmers receive 99-year leases and pay an up-front cost, which they are able to do under the bill, they have an investment in that land. I believe in the majority of cases farmers will treat that land as part of their property and graze it, and that it will be indistinguishable from the rest of the property. That happens in many locations in Victoria and it is quite a substantial amount of land. Earlier I mentioned that there are between 25 000 and 30 000 kilometres of stream frontages in Victoria. There are approximately 67 000 hectares or 32 000 kilometres of road reserves. That is potentially a substantial public resource. Many of those areas may not be required as roads but people who have looked at this have indicated that that is no reason not to consider their potential.

I will quote from a discussion paper of December 1985 by Peter Cabena entitled Unused Roads in Victoria: An Historical and Geographical Assessment and Management Critique. Peter Cabena crops up a bit in this area because he has been engaged by the department to do considerable work and research on this topic.
At page 30 of the document he states:

There are many alternative uses to which unused roads could be put besides enclosure. These can be categorised as rehabilitation for conservation, or development for community enterprise. They may be regarded as interim uses pending road opening, or even permanent uses if formal closure and re-reservation is practical. Additionally, it may be possible to rationalise the resource by exchanging surplus stock for areas of greater community value.

So opportunities to do something cooperative with farmers to achieve an exchange of land could be considered, but we should start with the premise that it is useful public land. It is surprising that the situation has not been more actively looked at in that way. That has happened with unused railway reserves, in relation to which there has been quite a bit of effort expended and publicity gained for the potential of those reserves to be used as linear parks, by bicycle groups or as linking areas. That is a good idea and is to be applauded. Although road reserves are very different and we cannot consider them as transport-orientated networks of the same kind as railway reserves, many of them go to places and link areas that can be of considerable interest, and people should be able to use them for travel.

I cite as an example the Cape Liptrap area. Access to the coastline in that area is difficult because road reserves have been incorporated in private property and the original roads that provided access are not open. Often people can visit areas like that only by travelling around the coast at low tide. Bear Gully is an exception and can be visited, but in many other cases beaches are not able to be accessed by the public at all. Although that is not the situation on all of our coastline it applies in that particular case.

In that case the road reserves should be reviewed to see whether some of them could form part of a future coastline management arrangement to provide the public with some access to the area. It need not be vehicle access, but some access should be provided to people wishing to visit that remarkable part of the coastline of Victoria.

These matters should be looked at. That is why in the reasoned amendment I suggest that it is really a matter that requires the detailed attention of the Land Conservation Council and that the potential value of these areas cannot be dismissed. That is recognised by the Victorian National Parks Association. In a press release of 20 October 1994, the association states:

The Victorian National Parks Association today expressed outrage at a state government move to commit a huge area of public land to 99-year grazing licences. This is occurring without any prior assessment of the land's capability for grazing, or its conservation value.

The press release quotes Mr Doug Humann as stating:

We are appalled that long-term licences should be issued over public land prior to any assessment of conservation values.

That very much echoes the sentiments of others who are concerned, such as Dr David Baker-Gabb, the Director of the Royal Australasian Ornithologists Union, to whom I referred previously. We have two responsible organisations deploiring the fact that this is proceeding without a prior assessment of conservation values involved.

The press release goes on further to state:

There is no commitment to a review of unused road reserves, which shows inadequate recognition of their conservation values. Road reserves may have significant conservation values and constitute the last shreds of remaining vegetation in many agricultural districts.

In the long run it will also be a sad thing for people living in those districts because their quality of life will be diminished as a result of a reduction in the remnant vegetation and in the maintenance of or improvements to revegetation of these areas.

I would not have a problem if the management of these areas were being transferred to a local group dominated by farmers in an area. It could be a catchment committee — I think that is the correct new title; a committee of management for a stretch of the area; a grouping from a Landcare group; or a mixture of people from a friends group or local government. The essence is to have a collective management approach rather than incorporation in a single property.

In such a situation issues of the balance between revegetation, what you can do each year, what it is possible to revegetate, what areas need to be protected first, where fencing can be introduced, where seeds can be collected and planted and where cattle can be kept off can all be decisions made in the interests of regenerating the area and made in the practical context of people who know the area. I
have no problem with that sort of arrangement, which is completely in the spirit of what we have seen happening with Landcare. It is in the spirit of the people with whom I am pleased to associate from the Victorian Farmers Federation who have been supporters of Landcare. It would be a far better way to go.

In the situation proposed in the bill farmers working on Landcare principles could find that they were powerless in respect of other farmers who were simply taking the economic option and grazing the life out of these areas. Will they have the department to back them up? No, because the department will have no teeth and no resources. The minister seems to not recognise what is generally happening in his own department with regard to resource reduction.

If one looks at the department’s capacity one will see that in the last budget the allocation for wages and salaries in the catchment and land management area of the Department of Conservation and Natural Resources fell from $15.238 million to $13 million, which means there are probably 100 to 150 fewer people to look after catchment and land management in Victoria.

I have made a pro rata calculation, because not everybody leaves on day one when the budget is handed down. More people will have to go to obtain a saving of that magnitude over a 12-month period; some may work for half of the year and therefore must be paid for six months. There is almost a doubling of the calculation when it is varied out. In future the situation will be even worse.

Page 106 of Budget Paper No. 3 shows that the wage and salary allocation for the department in 1994-95 was estimated at $74.425 million and next year it is estimated to be reduced to $70.868 million. Other sections of the department will have fewer people on the ground assisting farmers, monitoring and checking that areas are protected or managed in the public interest. The department is under pressure and it is being stripped of resources at such a rate that it will be unable to manage all the land under its care. The decision to hand over is a backward step. The Treasurer is putting on the screws, which will have a far-reaching and damaging effect on the environment.

This is a serious issue, the effects of which will be felt over time. It is unfortunate that the government is responding in such a manner.

By way of interjection the minister asked where the new situation differs. A thoughtful letter from Dr Doug Robinson from Benalla under the heading ‘New law will weaken Crown land controls’ is reported in the Age on 25 November as saying:

Just as in the previous act, the new legislation states that directions may be issued to licensees regarding: grazing or management of the land, fencing, cultivation, water supply, reclamation of eroded areas and land degradation, retention or clearance of native vegetation and clearing of land.

In contrast to the previous act, the new legislation does not specify that licensees may be directed to exclude stock from areas to encourage regeneration, or that licensees must control is weeds and vermin, or that licensees must not clear native vegetation or timber trees without written permission.

In other words, the legislation changes the environmental controls on roads. It will be open slather, because a person who pays upfront for a 99-year licence will be keen to do some work on it.

I turn to a report I mentioned earlier about the values of river frontages — the Water Resource Management Report Series, report no. 78. The report, which was published in 1992, is headed River Frontage Management in Gippsland. Page 4 of the report indicates the uses and values of river frontages:

The main uses and values of river frontages can be summarised as follows:

- riparian vegetation plays an important role in maintaining instream values, by providing shade and through the input of organic matter into the river, providing both energy and habitat diversity (i.e., through fallen leaves, branches and trunks, etc);
- vegetated frontages provide an important habitat for plants and animals, perhaps, supporting populations of native flora and fauna not found in surrounding areas; they can also act as a wildlife corridor, allowing movement of wildlife between adjoining areas of habitat;
- riparian vegetation assists in minimising bank erosion by binding the soil;
- intact vegetation particularly groundcover, acts as a filter to surface water flow thus minimising soil loss and the passage of pesticides and fertilisers from adjacent properties; this assists in preventing turbidity and pollution in rivers.
Fencing must be erected to protect that vegetation and encourage new vegetation. This is additional to the value of fencing to define a public area that I mentioned earlier; it is the fencing out of stock to allow revegetation. That is not an easy task because of the magnitude of the problem, but it is reduced with community input.

Experience in the Landcare movement shows that, given an opportunity to work together on conservation issues, there is great strength out there and people have the ability to work together for common objectives. Unfortunately the history of licences is a history of management by grazing. Page 13 of the same report compares the areas of licensed and unlicensed frontages that are grazed. Orbost, Bairnsdale, Central Gippsland and Yarram have a total of 10,234 licensed hectares, of which 8,161 are grazed. About 80 per cent of the area is grazed. In Bairnsdale it is even higher: 2,787 hectares are licensed of which 2,537 hectares are grazed, which is equal to about 88 per cent. The chance of regeneration is slim.

We are considering public land that was originally set aside as public reserves. The use of grazing should be a necessary management tool when no other resources are available or appropriate to keep down weeds, to assist in fuel reduction or to hold the ground until areas can be revegetated or developed in other ways.

It is not the be-all and end-all of management of public reserves because in the end it finishes up destroying them. Where there has been overgrazing, carelessness or just accidents of the season, the banks crumble, the rivers become more turbid, the vegetation is lost, and eventually the old trees that can stand grazing topple one by one, and we then reach a much less natural situation. Restoring such an area is an incredibly difficult job, but it will not be restored unless there is a community approach, and this legislation is regressive.

To a large degree I have dealt with this bill in an historical context because it is an historical issue. We are talking about something that spans more than 100 years. I have emphasised the legislation of 1881 because it was a culmination of what occurred in the period from the 1850s onwards — a period of strong interest in and public use of the land and a period when arguments against privatising this land were put.

Some people are forward looking; some of the people who have written about this matter regard the areas as linear reserves. From time to time papers appear indicating the value that can be placed particularly on streamside reserves. A paper by Alan Webster appears in Trees and Natural Resources of 9 June 1989 and points out that the linear reserves, which are compared with railway reserves and road reserves, are extremely important because they are located in otherwise cleared areas and provide wildlife and travelling corridors. The paper states:

However, by its very nature, its elongated shape is vulnerable to the 'edge effect' and poses significant management problems of invasion and modification by pest and weed infestation, rubbish dumping, illegal clearing, overgrazing, cropping, stream bank erosion, pollution, difficult access ...

Some recreational uses can bring about their own damage. In the Gippsland study I referred to there are indications that the overuse of camping in some areas also caused its own type of damage. So nobody is pure in the management of reserves, and that is why it needs a collective effort.

In his paper Alan Webster indicates particular objectives for public linear reserves, which are:

To provide recreational opportunities for a wide range of active and passive recreational uses while minimising effects on the environment.

To conserve and protect flora and fauna, natural features and land systems, and to make the public more aware of their values.

To review occupations and establish conditions to:

(a) eliminate cultivation on immediate floodplain;
(b) set stocking limits on frontages to minimise degradation;
(c) encourage revegetation and management fencing on frontages.

The article is interesting because it shows by way of case studies and photographs the impact that properly maintained fencing can have in assisting regrowth and revegetation in particular areas.

As the reasoned amendment that I have moved indicates, the opposition believes the appropriate way of handling this is to involve the Land Conservation Council in conjunction with the interested parties. There are people from the conservation community, the farming community — there is often considerable overlap there — and
CROWN LANDS ACTS (AMENDMENT) BILL

Tuesday, 6 December 1994

Landcare people who would be prepared to participate in taking an honest look at the potential of the reserves and the options for management. There are good options available to us, and it is regrettable that the government has not been prepared to look at them.

One option I thought would have been feasible was to consider the use of the newly formed river catchment committees. The committees would be in a good position to look at local issues and could act as committees of management. In certain circumstances it could make the land available to local farmers for grazing use. It could have worked on revegetation with local Landcare groups, and it could have worked with local government on any reserves with particular recreational advantages. I believe that would have been a sensible way to go, but the government has rejected that model. I understand there was some discussion of it in the department but it did not proceed.

In the long term a greater effort needs to be made by government. It is an area that warrants serious attention by government in its budgets. The benefits of revegetation and fencing warrants attention at a national level. There is considerable argument to seek the assistance of the commonwealth government. It would allow people to be trained and involved in creative employment in revegetation and work associated with public lands. It would also have the potential to have a link in job creation and providing for the environment along the river frontages.

If the matter were raised in that context, many people would have supported it and a plan could have been prepared on the basis of setting some priorities for that. I believe that sort of plan would enjoy the support of the Landcare movement and many individual farmers, and it would certainly enjoy the support of groups like Greening Australia and the main conservation groups. It would make long-term economic sense.

The people who are charged with river management are continually warning us about the risks we run and the dangers we face in neglecting our river systems. In many cases we should start with preserving the stream sides, which are a crucial part of the catchment and very much affect the quality of the water that enters the streams. But no, we have not had that approach; we have not looked at a cooperative mechanism. We have moved towards a de facto form of privatisation.

In their arguments, the minister and the government have said that by giving longer licences, greater sensitivity will lead to better management. Let's look at that argument.

It is analogous to the timber strategy argument where benefits are seen for forest management if the timber harvesters, the mill owners and those involved in forest industries are provided with longer term licences. People in the timber industry then feel more secure and are able to invest in more equipment which contributes to value-adding, the use of kiln drying and better use of our forests. That is a sound argument. I have supported it and so have a number of people from all sides of this house.

In that case we are talking about land that we have agreed from the outset is acceptable and appropriate to manage in order to produce timber and to maintain the forestry industry. The opposition supports the most effective method of forestry. One way of achieving that is to encourage the people participating in it to invest properly. I have no problem with that.

To continue the analogy and to complete that scenario: it must be recognised that surveys are carried out to select streams and areas of natural value that will not be harvested at all. In so doing the opposition recognises certain conservation values will not be exploited. By contrast this bill is offering long-term licences which will encourage long-term economic investment appropriate for the farmer on his or her own land. We want farmers to be able to farm their land in the best possible way, giving them assistance to invest and to capitalise their farms appropriately, but which is a separate question for public reserves.

The government is saying it will provide certainty, but for what? It will not revegetate those areas. Surely no-one is so naive as to pay upfront for a 99-year licence and turn around and revegetate that piece of land. A few might, but evidence from the figures shows that without that certainty, even on a 12-month licence, 80 to 88 per cent of people graze it.

We are saying to people, 'It is your land, go to it'. The 80 to 85 per cent will move to 90 per cent, so we are moving towards encouraging grazing as the one and only management tool.

The situation in regard to streams is even worse. In almost all cases we do not want long-term grazing as the method of streams management. What we need — we are talking usually only one chain,
sometimes two or three — and what our vision should be is the best possible native revegetation of all Victorian streams having regard to the water that flows into the lakes, reservoirs and even the sea so that to the maximum extent we can return to a sustainable situation. If we have that vision we need to approach it by asking the question: how do we manage this as public land in the public interest? That is the fatal flaw with the way this legislation is framed because it pushes us in the direction of private interest.

It pushes us into the situation where people pay money to the government and to consolidated revenue for the right to use the land in their individual interests and, if they have any opportunity on the side, to do a bit for conservation. Even those farmers who are generously minded will be very tempted in tough years to utilise all the land and to graze it. Once you lose that vegetation it is incredibly difficult to grow it back.

It is a very basic issue; all the reading points to a basic need to fence out grazing. This bill will not encourage farmers to put in fences parallel to the streams. I would like to be proved wrong on that, but I think fencing will be simply taken through to the streams and we will see no distinction between the private paddocks and the public reserves.

Hon. M. A. Birrell — What distinction exists now?

Hon. B. T. PULLEN — If you had been here you would have heard that I outlined an entirely different path that you could have taken; a path that could have moved into the public interest and used the catchment committees, Landcare programs and local groups as committees of management to operate these areas and use grazing where necessary as an adjunct to revegetating. The government could have taken on that task and used the Land Conservation Council as a vehicle to assess the areas of most importance. We have had offers from people to assist with that. The Landcare movement would also lend its support, thereby providing an opportunity for the community to get behind it.

I also indicated that I believed a project of that kind could be presented to the federal government in a way that would enjoy much support. It lends itself to employment and training programs and to a very progressive approach to managing this valuable heritage of 25,000 kilometres of streamside reserves and public land. I repeat, because you were not there, Minister: it is a positive suggestion. It is not one that apparently you have considered — or if you have there has been no evidence of it.

There is some evidence from the briefing I had with departmental officers that some consideration was given to the use of catchment committees. If that had proceeded I would have given my support. It would have been a much better outcome, but apparently that did not enjoy ministerial support. It might have taken more effort to look at whether other groups, such as friends groups or conservation groups could have been managers for particular areas. That would best be preceded by an evaluation of the most important areas.

When I asked the question of the departmental officers at the briefing about whether a conservation or a Landcare group could take over some of these licences and manage them in the public interest the response was that the adjoining landowner would have first choice. Again, that is absolutely the wrong philosophy because it is basically public land.

Hon. M. A. Birrell — It is the existing law.

Hon. B. T. PULLEN — It is at the discretion of you, Minister, and the government in terms of who obtains a licence. It is a matter of policy. If the government wanted to encourage the management of licences, even under this legislation, by conservation groups and Landcare groups it could, but the advice I have had is that the adjoining owners would be given preference. That is entirely in line with the philosophy and the genesis of this legislation, which is towards privatisation.

Hon. M. A. Birrell — There is going to be a review in the first five years by the catchment councils, which you already support.

Hon. B. T. PULLEN — You are already entrenching a domain before having the review. It would be much better and it would be consistent in using the Land Conservation Council to review the management of the National Parks Service. The Land Conservation Council could have a dual reference to both identify the most important areas of streamsides and remnant vegetation in relation to the roads and to recommend to the government some options for ongoing public management.

Then the government would be presented with some options and the people who were concerned about this would be able to participate — —
Hon. M. A. Birrell — It could go on forever — like you!

Hon. B. T. PULLEN — You have taken two years to get this far!

Hon. M. A. Birrell — You had 10 years and did nothing!

Hon. B. T. PULLEN — That is not true.

Hon. M. A. Birrell — All right, 11 years!

Hon. B. T. PULLEN — You are going backwards.

Hon. M. A. Birrell — I am talking about the Cain and Kirner governments. They took 10 years and did nothing!

Hon. B. T. PULLEN — We know you are very slow, Minister. In that sense you might be right. If it were left to you to deal with Land Conservation Council reports it might take an incredibly long time. Notwithstanding that, we would be prepared to wait for your snail's pace administration if the process were a decent one.

Hon. M. A. Birrell — You're trying to create the snail!

Hon. B. T. PULLEN — No. The most telling comment I have heard from staff in the department is that you are much slower than I was, and they thought I was slow! That is the summation by people in the department. They think you are one of the slowest and most incredibly cautious people to make a decision. It is unfortunate that that caution does not extend to the protection of public land, which is the duty of any minister responsible for Crown land. Your record is not looking good.

Hon. M. A. Birrell — To you?

Hon. B. T. PULLEN — To the people of Victoria. This legislation is a backward step that ranks with the step taken in 1903 when the first privatisation occurred. The opposition opposes the bill and has moved a reasoned amendment which, if accepted, would be effective in putting into this measure a decent process. I am sure many groups would welcome the chance to participate in such a process. Many groups regard the Land Conservation Council as a fair umpire. Farming communities and conservation groups would be able to participate and we would all see a decent outcome. The opportunity is there for the government, and we would support the government in that process if it chose to accept the reasoned amendment.

The bill raises the matter of the Country Fire Authority taking over the management of alpine resorts. That is a sensible move because the alpine resorts, which are like villages, are closer to the style of operation and expertise of the CFA. We do not oppose that part of the bill.

In respect of fire risk in Victoria, which is of great concern now that summer has arrived, it is interesting to note the statistics in the annual report of the department for 1993-94. They show that fewer than 1 per cent of wildfires in national parks were caused by escaped camp fires, 94 per cent of such wildfires were caused by fire escaping from burning off conducted by the department and 86 per cent of hectares burned in the whole of Victoria were burned by fire escaping from fuel reduction burning. The argument that camping is a fire risk is not borne out by the statistics. The percentage resulting from fire escaping from campers is too small to be reported; it does not register on the table of figures as a percentage.

Campers are very responsible, but they are often denied access to certain areas because of the argument that they represent a risk. That risk does not exist but is dramatised, whereas the number of fires escaping as a result of reduction burning going terribly wrong is more significant. The recent fire at Moggs Creek is an example.

The opposition opposes the bill. It is philosophically and practically wrong. The government has other options that may be more beneficial to the interests of the people of Victoria and to preserving our vegetation and keeping faith with the enlightened people of 1881, who put many of the important river reserves in public ownership. This legislation does not do justice to their foresight.

Hon. B. W. BISHOP (North Western) — For a number of reasons it is with much pleasure that I support the Crown Lands Acts (Amendment) Bill. It is a sensible, practical piece of legislation that will bring the leasing and licensing of our public land into today's world and, I suggest, into the real world.

In reading through the statistics, as no doubt many honourable members have done, it is interesting to note that there are 40,000 separate tenures throughout Victoria. Some of the legislation the government is taking the initiative of dealing with today has been in place since the last century. A
complex range of licensing and leasing arrangements is in place but it is inefficient, and that was recognised in the drafting of this bill. The arrangements are inefficient for occupiers, farmers and governments. When you consider the 30,000 unused roads and waterfrontages which, I point out to Mr Pullen, are leased now, it is a step forward rather than a step back, as he tried to suggest.

We agree that heritage is important, but we cannot agree with the narrow point of view that was just put forward. We believe that argument has missed the point. I make that comment after listening very intently to Mr Pullen and his honest and real concerns. If he agrees that we have in this country cooperative producers who are also good managers, I suggest that the catchment and land management boards that will soon be in place will be the best possible managers of our public lands and the best people to give the right advice.

Those people will have been carefully selected. I am absolutely confident they will put in place some practical, sensible ways to manage our public land. In fact, I commend the minister and his department for the way they have worked through these quite sensitive issues with all interest groups, including the Victorian Farmers Federation, which put forward some practical views.

I reject totally the suggestion that our minister has been underhanded in any of that. I am absolutely sure that if lobbying is being done it is being done by all parties and that it is being done in good faith to ensure the right solutions and the right legislation are put in place. It is said that the government has been slow to enact this type of legislation, but when we do move, unfortunately, we seem to be wrong, according to some, and people want to put us off all the time.

The government has taken the right approach with this bill. Farmers — I am a farmer — are certainly not interested in blocking access to waterways and streams. They simply want a better and practical way to manage public land. They really want people to give advice who know what it is all about. I will give an example.

One of my constituents — many of them are in a similar situation — has three unused roads on his property. He would like tenure on those roads so he can look after them well. I can say that producers understand the fragile nature of land, but he has no opportunity to buy that because of the situation... Mr Pullen referred to — that is, a survey fee would cost more than the land is worth.

Therefore, the concept in the bill is a practical and sensible way to ensure our land is better managed by people who know what it is all about. I relate it to what I would loosely call the landlord policy and the landlord model, regardless of the type of government ownership you have. Through this bill the landlord model will create an ownership concept that we will be proud of in the future.

Mr Pullen quite rightly talked about the history of land management in Victoria. That is absolutely right and proper. As we move forward, a look back at our history will show there has been better care of this type of land because of this legislation.

Contrary to some views, which take a bit of putting to rest, the government has no plans to sell off water frontages or to restrict access to waterways and streams. No change will occur. What it wants to put in place is some good management and occupation of our land. Without doubt the bill will achieve administrative savings, which are important to all of us. It will provide more practical arrangements for occupiers of our public land. It will protect our land and maintain public access to waterways.

We have a couple of unused roads on our property for which we pay a $54 annual fee. I suspect, and I am advised by the department, that almost all of that is swallowed up in the administrative side of the business rather than being put to good use. The new payment systems in the bill are flexible, but they have incentives for up-front, multiple-year payments. I think that will get some support from the occupiers of this type of land.

Mr Pullen raised some concerns about that, saying that someone who took out a multiple-year licence would not care for the land. I ask him to refer to section 133 of the act which deals with forfeiture, cancellation and termination of licences and leases. It contains fairly strong provisions. Any occupier who read those provisions would know that if he or she did not adhere to the conditions he or she would be dealt with quite severely.

There is no doubt that the bill will provide practical and flexible arrangements for the future management of our public land. But the most important part is that it will allow individual cases to be adjusted for the life of the lease or licence. That matches up with the government's catchment and land protection legislation, which has been passed...
CROWN LANDS ACTS (AMENDMENT) BILL

Tuesday, 6 December 1994

I am sure the boards will be able to give practical recommendations that will, most importantly, suit the particular area of the state, and even a particular area in a region. It links up so well with the government's well-structured plans for good management of our most productive asset in Victoria — our land.

Hon. B. W. MIER (Waverley) — I support the reasoned amendment moved by Mr Pullen. In so doing I wish to express some concern about the bill and its provision for Crown land leases for extensive periods. The minister initially had the intention to sell a lot of this land, but for some reason or another — it could well be because of public opinion — he changed his mind and withdrew the concept of sale and replaced it with leasing.

An honourable member interjected.

Hon. B. W. MIER — Yes, it is cost all right: it is at no cost to those that become lessees. What better purchase could you get than a 99-year lease? That is really a gift of land for a lifetime. That is an incredible concept in this day and age.

The reality is that, as Mr Pullen pointed out, these issues are not new to this house or this Parliament. They have been around since before 1881, when they attracted legislation in this place.

The provisions of this legislation attracted the concerns of the citizens of this state, who believe that the land should not be cut up, divided or handed out willy-nilly. No-one argues that reservations should not be set aside for future roads. The land was set aside and in many cases put to good use according to that initial intention, that is, to develop roads. However, many reserves have not been used for roads and will not be used in the future, so it can be argued that some grazing should take place on the land. If land is sitting idle and there are no plans for roadworks people with an interest in those stretches of land should have some entitlement to graze livestock on them if, of course, it does not affect the environment and it is in the best interests of the community generally.

As indicated earlier, grazing can be a form of grooming of the land. Nevertheless, land should not be given away. It is owned by Victorians and should not be subject to long-term leases, particularly leases that extend to 99 years.

The former Labor government attempted to do something about this issue. A former Minister for

by both houses and which contains provisions detailing the formation of the regional catchment and land management boards.

It will enable the use of the unique skills of people on those particular boards. There are 10 regions throughout Victoria, so they will be chosen with specific skills in those specific areas and they will have the practical knowledge of community people — again, I stress 'community'. The regional boards will be on the spot. As I said, there are 10 regions around the state, so the people on the boards will know the land like the backs of their hands and they will have no trouble giving advice on the best way to manage the land in that area, particularly along waterways. They can certainly give advice on unused roads or whatever piece of public land it might be.

I point out to the house the responsibility that the regional catchment and land management boards will carry. I am not sure many people understand it, but the responsibility is substantial. I believe the boards will have a huge workload in the early stages as they find their feet and their very important place in the system of land management in Victoria. I congratulate in advance the members of the boards, whose names I am sure will soon be announced, who will have the task of providing what I regard as balanced and practical advice on the best land management, whether it be public land, salinity, irrigation or dry land. I point out that public land makes up almost half of the Mallee region, so I have some interest in this area.

I commend the bill to the house. It will bring the leasing and licensing of our public land into today's real world. It will generate savings for farmers, occupiers and, just as importantly, government. I am sure it will create a real ownership concept with the lessees and the licence holders. It will improve the already good management of public land. There are no plans to sell waterfrontages or restrict access to rivers or streams.

Mr Pullen made a strong comment, which he is quite entitled to do, that he believes it would have been better for Landcare groups to run it and that more meaningful cooperative measures could have been put in place. I do not believe there is any more community-based area than our regional catchment and land management boards. They are perfectly placed to give advice in this situation. I could not think of a better way to enable the community to drive land management than through the regional boards.
Conservation, Forests and Lands, the Honourable Rod Mackenzie, made provision for access to Crown land.

Hon. D. M. Evans — A good minister!

Hon. B. W. MIER — He was, was he? The Honourable Rod Mackenzie made provision for access to riverfronts; nevertheless, over a long period the land has been subject to mismanagement and encroachment. The concern of many on this side of the house is that abuses will occur if people are given control over these parcels of land for extended periods.

One of the abuses that immediately springs to mind is the situation that occurred in certain parts of New South Wales. One of the great disasters facing this nation is the management of our land, and I refer particularly to the damage done to the Darling River and the land adjacent to it. Because of very poor floodplain management and unrestricted access to the waterline 30-metre reserves did not exist. As a result, the river is unable to supply decent water to surrounding areas. In fact, it has been so abused that, particularly about this time of year, it virtually stops flowing and becomes completely poisoned. Because those restrictions did not exist and the land was not subject to the authority of the government but was open to free grazing, trees have been cut down over many years to provide more land for grazing with the result that salinisation has increased, further degrading the banks of the river.

Hon. M. A. Birrell — We are not able to clear vegetation under these licences.

Hon. B. W. MIER — We have seen what has occurred along the Darling River and the fear we have in our hearts is that the land will be abused when control of the land is taken from the supervision of the government and handed to individuals whose interests are to make profits from grazing. In New South Wales trees were felled to enable pasture to grow close to the river bank. Salinisation of the river bank destroyed the grass, which increased the run-off from adjacent land. The result is that the river is further polluted with herbicides and insecticides. The river runs into the River Murray and many Victorians and South Australians rely on that water.

This chain reaction has brought fear into most of our hearts and we are concerned when we see the government giving 99-year leases to individuals. That is why the opposition has moved a reasoned amendment asking that the issue be referred to the Land Conservation Council. The council was established by a former Liberal government and has gained considerable respect over the years from people on all sides of politics and from groups associated with rural protection and natural conservation.

What better authority could there be to handle this issue and determine whether the state should hand over its authority to individuals to administer this land? It does not matter whether these reserves are unused road easements or reserves set aside for future roads that may or may not be built. The Land Conservation Council could also investigate whether land up to 20 or 30 metres above the high waterline along our waterways should be subject to private management. That is our concern and the concern of most Victorians who generally have no interest in leasing the land. Victorians want the land retained under the control of the government.

Hon. M. A. Birrell — It is not in our hands; the land is already licensed.

Hon. B. W. MIER — Victorians do not wish a variation of this arrangement. If changes are to take place most Victorians would respect the decision of the Land Conservation Council. I am sure the council would make a fair and just ruling on the future administration of this land.

On that basis I fully support the reasoned amendment and urge the house to vote accordingly.

Hon. D. M. EVANS (North Eastern) — I rise to support the bill and indicate my concern and disappointment that Mr Pullen, who is the lead speaker for the opposition and a former Minister for Conversation, Forests and Lands and who spoke for an hour and 20 minutes on the bill, obviously does not trust farmers, has not read the bill and shows a lamentable lack of understanding of the issues involved in Crown land management, the setting aside of unused roads and frontage licences, why they were set aside in the first place and the problems faced by landowners.

I am afraid that Mr Pullen has shown quite clearly that despite protestations by opposition members and questions asked of ministers in this house by people such as Mr Power, the Labor Party quite clearly believes farmers have very little, if any, place in this community or in this state; that if there is any way in which the burden to which they are already subject can be increased and a lack of trust shown,
CROWN LANDS ACTS (AMENDMENT) BILL

Tuesday, 6 December 1994

his party will add to that burden and to that lack of trust.

Hon. D. A. Nardella — What is that quote from?

Hon. D. M. EVANS — That is a quote of mine, Mr Nardella.

Hon. Pat Power — Did you include me in that?

Hon. D. M. EVANS — Yes, I did. Unused roads were originally set aside to provide legal access to identifiable parcels of land that in many cases as far back as 1860 or 1870 were set aside from alienation from the Crown for the purpose of access and it is simply fortuitous if later some have become linear reserves of some sort.

Many unused roads have been occupied by an adjoining landowner for up to 100 or 120 years under the conditions set down in the relevant act, that is, that the adjoining landowner must either fence the land out or lease it. I can assure honourable members opposite that it will be grazed not as a management tool but as part of the normal operations of a farm, unless it is fenced. Animals do not come to survey point and say, 'Hey, this is public land, I stop here'. The land has been grazed in some cases for more than 100 years and will continue to be grazed.

Hon. B. W. Mier — We are not objecting to that.

Hon. D. M. EVANS — I am not sure what you are objecting to. Perhaps if you listen you may learn something about the subject.

The fact is that water frontages were correctly set aside many years ago for additional protection. A landowner whose land adjoins a waterfrontage must either lease or fence out that frontage, and there are reasons for doing either one of those two things. However, the very fact that such frontages were set aside as public land and were not in the ownership of landowners allowed for the introduction of disciplines so far as their management was concerned, which disciplines are again clearly spelt out in the bill.

I will now examine some of the problems that may be faced by landowners when dealing with unused road or waterfrontages. The first is that if you are not going to have animals grazing the land you have to fence it. If you want to exercise the riparian rights that are set down in legislation, which means access to water for domestic and stock purposes, you have to have access unless you want to install very expensive pumps. If you want the land to be managed somebody must do it and at that person's cost.

There perhaps will not be quite the problems with unused roads that there are with waterfrontages. There will certainly be problems of weeds and vermin. Under the act that has just been supplanted by the catchment and land protection legislation an adjoining landowner was responsible for half the width of the road adjoining his or her property. Under the new legislation unless a whole locally organised management plan is put in place he or she will still carry that responsibility. So you are saying to the landowner that he or she has no ownership but still has a responsibility to deal with issues that are of concern in the public interest at his or her expense.

In the case of the streams, about which we have heard such a great deal to this stage, even the more simple minded of us who care to have a good look at streams, particularly the higher reaches of streams in the eastern ranges of Victoria and in the Otway Ranges, will find there is a very major problem. We do not find a wide variety of native vegetation in those areas; rather, we find plenty of blackberries, St John's wort, broom brush, stinkwort, Patterson's curse and a number of other noxious weeds, none of which is particularly attractive and many of which are significant deterrents to access by fishermen or the general public.

You cannot expect farmers to deal with those problems unless they receive some benefit, and certainly not when they are faced with the disadvantage of the high cost of fencing. If you want to deal with them out of the public purse you must be prepared to foot the bill. And honourable members should not think it will be a few thousands of dollars or a few tens of thousands of dollars — it will be tens of millions of dollars!

Again I refer to the comments made by Mr Pullen about the thousands of kilometres of stream-side reservations and draw to the attention of the house that assuming that those were all to be fenced — and I am not sure whether he thinks that all of them, some of them or a few of them should be fenced — I will in a minute come to how in practical terms we might manage that to the benefit of the environment and the community at a reasonable cost. If you wanted to fence the whole lot you would have to fence both sides of streams — 50 000 kilometres — at around about $2500 or $3000 —
Hon. B. T. Pullen — I do not want to interrupt your flow, but 25 000 kilometres is both sides.

Hon. D. M. Evans — At $3000 dollars a kilometre for a good stock-proof fence — and Mr Pullen should not bring up this issue about two single electric wires or he will demonstrate his ignorance — the cost for 25 000 kilometres would be $75 million. I am not quite sure who the opposition believes should meet that cost. Is it the landowner? I would like that spelt out! Is it the community? When will it be done?

I understand that there are also some 60 000 to 70 000 kilometres of unused roads. Assuming that you fence both sides that would be 140 000 kilometres at $3000 per kilometre, which comes in at around $450 million. Assuming that some of the land has to be fenced on one side in any case because it is a boundary between neighbours, the figure would be something less than that, but Mr Pullen’s exercise in fencing this public property would cost anywhere between $300 million and $400 million. I am not sure whether he believes he will get that money from the federal government or not. I am not so sanguine; I do not think he will get the money.

The current management regime, which has been in place for 120 years, is the only sensible and practical way to go. Nothing has changed. The land has been grazed for 100 years. Conditions that have always applied to leases still apply.

I draw attention, as did my Mr Pullen, to certain things in the bill. Mr Pullen quite clearly has not bothered to read the bill yet he took up an hour and twenty minutes of the time of the house speaking on it. New section 130AC, general conditions regarding licences, states:

Without limiting section 130(2), a licence may contain conditions regarding …

It then mentions a number of different issues, including:

(d) compliance with directions issued by the Director-General regarding —
   (i) grazing or management of the land (including fencing), or the number and type of stock which may be depastured on the land;
   (ii) frequency, timing and method of cultivation;
   (iii) water supply and other improvements;
   (iv) reclamation of eroded areas and land degradation;
   (v) retention or clearance of native vegetation;
   (e) cancellation or termination —

I draw attention to the word ‘termination’ —

(f) clearing of land;

(g) entry by the Minister, or authorised officers or appointed persons to monitor compliance with the licence or for other purposes.

Clearly this is a cooperative matter between the state, which owns the land, and the adjoining landowner, who leases the land. It is not correct to say that 99-year leases or 5 x 7-year leases for a maximum of 35 years give right of ownership. Clear conditions must and should be met.

Hon. B. T. Pullen — Roger Hallam said 99 years.

The President — Order! Mr Pullen is out of his place.

Hon. D. M. Evans — It is pleasing to see Mr Pullen go back to his place. Interestingly Mr Pullen in his reasoned amendment said that the Land Conservation Council should look at this particular matter. Obviously he has not read the council’s report on heritage rivers, which was issued three years ago under his administration. If Mr Pullen wants to be reminded, under the Heritage Rivers Act, No. 36 of 1992, heritage rivers were a special class of river in the state and were legislatively set aside for specific treatment.

The Land Conservation Council was charged by the former Labor government with introducing recommendations for heritage rivers and how they should be managed.

Hon. B. T. Pullen — And good legislation it was!

Hon. D. M. Evans — Indeed, good legislation. Section 11 of the Heritage Rivers Act states:

A heritage river area set out in Column 1 of Schedule 4 must be managed in accordance with the recommendation of the Land Conservation Council …

If Mr Pullen studies those recommendations he will find a number of references that grazing should continue under different circumstances on those rivers. The Land Conservation Council, which Mr Pullen now suggests takes up public time on this particular issue, has already made a judgment that
certain areas should be grazed. He has either ignored that fact or forgotten it.

Hon. B. T. Pullen — Do you support the Land Conservation Council?

Hon. D. M. EVANS — At times I do.

Hon. M. A. Birrell interjected.

Hon. D. M. EVANS — Better than that can no man do. I will take Mr Pullen by the hand, lead him around and show him where it is happening. No, I will not take you by the hand; I will just lead you and show you where farmers in my part of the state are revegetating at their own cost to the exclusion of grazing particular areas because they — and at least you got this part right — understand that there is a need for this process. You will find, Mr Pullen, they are far more willing to carry out that task at their own expense, will do it better or even more conscientiously and willingly if you trust them. You have shown from your remarks in this place that you do not trust them. The sad part is that you are a member of the alternative government of this state and perhaps an alternative minister some time in the distant future, but you have shown that you do not trust the farmers of this state, and they will not forget it.

The farmers are protecting the land and revegetating in areas where genuine problems exist. People like referring to management boards and catchment authorities through the catchment and land protection legislation which mobilises the resources of people on the land in their own time and at their own cost. It is a small cost to the state for the protection of this land.

I suspect Mr Pullen is suggesting that the whole of the streamside should be fenced. I am not sure whether you are aware of this, but if one wishes to put a fence across a stream or down on the banks of a stream it is constantly at risk of being damaged by floods. If anybody has ever seen a 1-in-100-year flood, as happened on 3 October last year, one will realise that floods have the capacity to totally destroy fences. Fences on my property have been buried under a foot of silt and other fences have been carried 200 metres downstream. All those fences had to be replaced.

Mr Pullen is suggesting that farmers should fence the river areas to protect the land. He should have an understanding of how farmers operate. Farmers are willing to do the work, and they do it better than a government could by any other method. If one acts in a cooperative manner with the farming community there is a chance of getting somewhere. With the approach you are taking, Mr Pullen, you have no chance of getting very far. I again remind the house that if one cooperates with the farming community one will gain respect.

Hon. B. T. Pullen interjected.

Hon. D. M. EVANS — Mr Pullen is a very nice fellow. Although he may be a little stupid sometimes he is a decent fellow. I only wish he understood the issues to enable him to come to an understanding and realise that the correct procedure is to support the legislation. Mr Pullen should withdraw his reasoned amendment because the Land Conservation Council has examined this issue. He is three years behind the day.

The bill is sensible legislation and has the support of Victoria’s land managers and the farmers of this state. The bill will encourage and recognise them in the clearest possible way, showing them that the community and the government trust them and are prepared to work cooperatively to achieve the required results.

It is said that native vegetation will only revegetate and protect the streamside if it is kept free from grazing. That is not true. On my farm — regrettable I do not have pictorial evidence — there was significant revegetation of red gum trees where cattle were grazing. There was a good patch on the creek until the floods came and the sand blasted them into eternity.

The simple fact is that it will happen. It must be understood that in the high country streams do not stay within their banks. Over thousands of years one can trace the paths of streams by looking at the landforms and seeing where they have changed course. They have done so because high flows of water at high velocity strike the banks and wash them away and the soil is carried further down the river. That has been happening over millions of years. Also large old trees falling into streams causes a buffer and when silt and gravel pile up against it will alter the course of a stream. That happens under natural conditions. Simply removing livestock will not stop erosion because that is not the way nature works.

If one wishes to stop the banks washing away one does not plant a lot of native vegetation. The only place on my property and adjacent properties I
know of where no erosion has occurred are areas that have been protected not by native vegetation but by introduced species such as willow trees.

I turn to fencing streamside reserves. In many cases it is not known where the fence line or allotment boundaries are situated. It would take a surveyor to survey them, but the streams are constantly changing. We face a number of practical problems. The correct approach is to trust the farmers.

I noted the comment made by Mr Mier about the Darling River and wondered whether he knew what he was talking about. He seemed to think that grazing livestock that had access to the river banks was the cause of the problems.

Can I tell you what the problems are? The problems are that a lot of the water from the Darling is impounded in dams in the far north of New South Wales. It is used for irrigation purposes. That reduces the flow down the river, which leads to some urenification, that is, the gathering and the concentration of nutrients in the stream, many of which occur naturally because they occur within the soil, and it is that which causes the blue-green algae problem and the lower stream flows. It has nothing whatsoever to do with whether cattle or sheep were grazing in the last 10, 20 or 30 metres of the stream bank.

Even the protection of the banks is not simply a matter of addressing grazing livestock removing the grass. The major problem we need to understand and face with bank erosion in rivers such as the Murray and the Darling is that because of our irrigation practices — and maybe we will soon be attacking whether we should have irrigation for the production it brings — the unnatural stream flows, particularly the high levels in the summer and the lower levels in the winter, have totally altered the on-bank regime of plants.

Instead of having a winter season when the plants can grow, many of which can grow under water, we have high flows and warmer water in the summer time. This denudes the banks and keeps the streams at a constant level, does not allow vegetative regrowth and leads to slumping and other problems in the river. That is the cause of it; it is not the sort of thing that Mr Meir put forward.

Speakers from the opposition have regrettably demonstrated their lack of understanding of farmers, their lack of trust in farmers, and their lack of understanding of where the legislative program is going and of what is happening in river improvement trusts, catchment management, the Victorian Catchment and Land Protection Council and the economic cost imposed on the farming community and the rest of the community.

I reject this particular amendment. Opposition members need to go back to basics and learn this subject before they come into this house and demonstrate that they do not understand the problem.

Hon. PAT POWER (Jika Jika) — I shall make a brief contribution to the debate because it has been a lengthy debate and Mr Pullen has clearly set out the opposition’s position. I certainly join with him in opposing the bill and supporting the reasoned amendment.

I shall declare at the outset that like my colleague Mr Bishop, I also hold a lease. It is interesting — —

Hon. M. A. Birrell — Everyone in country Victoria does!

Hon. PAT POWER — Absolutely, and not all of them know it. It is interesting because I heard the minister talk about this issue in response to questions or just in general debate and it is a difficult issue. In a sense I recognise what the minister is seeking to achieve, namely a better mechanism to manage the administration and finances, so it is a question of the opposition having a view about the checks and balances or the safety nets that ought to be put in place because it is a difficult issue and in a sense it is almost impossible to meet.

The Honourable David Evans suggested that the Honourable Barry Pullen and opposition members are anti-farmers. I do not believe that is the case at all. We have a clear understanding of the importance of the farming sector to Victoria and its contribution to Australia’s productivity. However, we have to face the situation that whilst farmers may often be the people who are given responsibility for the care of this land, the land is Crown land and it is land that in that general sense is the property of all Victorians.

I am sure there are many people in this chamber who know of instances where farmers are put in invidious situations. I certainly know of farmers who use their lease acreage for farming production, usually for grazing and if it is beef cattle or fat lamb there are certainly times in the year when those farmers do not want people wandering through
their property. So we have situations where farmers put up signs of 'Private property: trespassers prosecuted', 'Keep out', and all those sorts of things.

Hon. D. M. Evans — They have a problem with visitors letting livestock out, which overrode those responsible.

Hon. PAT POWER — Absolutely, yes. As Melburnians continue to spend more of their recreational hours in country Victoria there are a whole range of problems for genuine full-time farmers: interference with stock, damage to fences, fires that can be left, rubbish that can be left littered at camp sites or riverbanks. I agree with Mr Evans that it is a difficult problem.

But the problem I have and the reason why I wanted to speak on the bill is that we need a marriage between the kind of administrative efficiencies that the minister is trying to get and the kind of environmental issues which I support and which Mr Pullen put forward because when you grant long leases, and certainly 99-year leases are very long leases, it is equivalent to giving people title. Certainly at the moment I cannot remember off the top of my head whether my licence is renewed every year or every two years —

Hon. D. M. Evans — Every year.

Hon. PAT POWER — I certainly cannot remember when anybody from the Shire of Yea or the Department of Conservation and Environment has been to inspect to establish whether I am using that land reasonably. Connans Road is the name of the road reserve; it forms the southern boundary on my property. When I purchased it there was no fencing; there were no surveying pegs that could reasonably allow anybody to determine where my property technically finished and where the road reserve technically began.

We do have a problem in pushing forward to the administrative efficiencies that the minister wants and protecting the environmental issues that the Honourable Barry Pullen, bird-watching groups and the others that he spoke of want.

We have all seen situations where Crown land has been inappropriately used and inappropriately interfered with. We have all seen situations with river frontages where a minority of farmers, usually in very dry seasons, have rejigged fence lines so that cattle and stock can drink directly from a creek. Those are things that we would all acknowledge are a problem.

I have a difficulty with the legislation as it exists because of the concern I have that long leases effectively grant title to people and disenfranchise the general community in the right that people have to have reasonable access to Crown land.

Mr Pullen’s reasoned amendment in which there is a call for the bill to be not read until certain action has been taken would be a reasonable compromise.

In closing, I reiterate that Mr Bishop, who was the lead speaker from the National Party, did not make any reference to the Labor Party being anti-farmer. I took exception to and was disappointed that Mr Evans chose to make such comments. The opposition supports the amendment as a community issue. It acknowledges it is a difficult issue for the minister. I acknowledge that the minister is seeking to achieve efficiencies of administration with licensing and so on, but the opposition does not share the government’s view that this is the correct way to go.

Hon. Bill Forwood interjected.

Hon. PAT POWER — I will be, but you will never be!

Hon. Bill Forwood — Never be a shadow minister — for sure!

Hon. D. A. Nardella — You won’t be a minister either!

Hon. PAT POWER — Remember, you cannot say that you are not prepared to have that read back to you, Bill!

Hon. M. A. Birrell — Can we not record that in the Hansard!

Hon. PAT POWER — I conclude by recording my opposition to the bill and my support for the reasoned amendment.

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

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CROWN LANDS ACTS (AMENDMENT) BILL

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Bowden, Mr
Bridgeson, Mr
Connard, Mr
Cox, Mr
Craigie, Mr
Davis, Mr
Davidson, Mr
Henshaw, Mr (Teller)
Hartigan, Mr
Knowles, Mr
Skeggs, Mr
Stoney, Mr (Teller)
Stoney, Mr
Strong, Mr
Varty, Mrs
Wilding, Mrs

Noes, 11

Davidson, Mr
Henshaw, Mr (Teller)
Hogg, Mrs
Ives, Mr
Mier, Mr
Nardella, Mr

Power, Mr
Pullen, Mr (Teller)
Theophanous, Mr
Walpole, Mr
White, Mr

Pairs

Wells, Dr
Guest, Mr

McLean, Mrs
Kokocinski, Ms

Amendment negatived.

Motion agreed to.

Third reading

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — By leave, I move:

That this bill be now read a third time.

In doing so I would like to thank honourable members for their comments, in particular the excellent contributions made by Mr Bishop and Mr Evans.

Briefly in response to the comments, there are some members in the Labor Party — —

An Honourable Member — Are you sucking up to the Nats again!

Hon. M. A. BIRRELL — There are some members of the Labor Party that, if I were to praise them, it would do no good for their careers if I did!

This policy area has been in longstanding need for reform, and I am delighted that at last the Parliament is dealing with the matter. It has been an issue that has simply been put off by others as too hard to solve.

I remember in 1983 as a new member hearing Mr Mackenzie, the former minister responsible for this area, answer questions on the need to improve the Crown Lands Act and the need to ensure that these ridiculous annual renewals of licences were reformed. Mr Mackenzie said he would do that but he did not. All subsequent conservation ministers said they would try but they did not, capped off by Mr Pullen who did nothing as well. I am pleased this government has done something.

It is not a time for the Labor Party to try to rewrite history and say they were ‘going’ to do something. They had a decade to do something and did nothing.

In addition, it is preposterous that they should continue the status quo. The status quo means that we have tens of thousands of unused road and riverfrontage licences which are routinely rubber-stamped every 12 months. We accrue $54 for every licence; it costs us $45 to rubber-stamp them! There is no environmental oversighting. There has been no assessment by the Department of Conservation and Natural Resources on these issues. The position this government has inherited is intolerable and indefensible.

I am proud to be associated with this reform and the fact that we have done the hard work that has led to it. Importantly, it will mean there is no diminution, in any way, of public access to waterfrontages.

The proud position Mr Pullen outlined in 1881 about allowing public access to waterfrontages is the proud position that is maintained today and will be maintained in the future.

Through its reform the coalition government has ensured that this land can be properly utilised and protected by the people who already use it.

Hon. D. R. White interjected.

Hon. M. A. BIRRELL — The unintelligent and misinformed interjection by Mr White calling this area ‘public open space’ sums up the opposition.

Hon. D. R. White interjected.

Hon. Pat Power interjected.

The PRESIDENT — Order! These proceedings need to be recorded by Hansard for posterity. They have no hope of hearing with Mr White’s barrage of interjections. I ask him and Mr Power to desist.

Hon. D. R. White — Mr Power has shut up and it is also dinnertime!
Hon. M. A. BIRRELL — Only an idiot or a halfwit would suggest that grazing licence land is public open space but that was suggested by the opposition. This is not public open space; it is land which, under every year of the Cain and Kirner governments, was licensed for grazing. All of this area is currently licensed.

We are ensuring that its use is subject to new and strict environmental issues which will ensure that these areas are properly protected for the future. They have not been adequately managed in the past. I look forward to reform coming in. It is long overdue.

House divided on motion:

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<td>Smith, Mr</td>
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<td>Wells, Dr</td>
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Motion agreed to.

Read third time.

Passed remaining stages.

Sitting suspended 6.37 p.m. until 8.12 p.m.
It then says:

... and calls on the government to immediately move for the establishment of a select committee to investigate all aspects of the tender process in relation to the Melbourne casino, including ... 

Certain questions are then listed.

My preliminary view in comparing those two substantive elements of each of the motions is that unless I can draw a distinction between the type of inquiry that is proposed — that is, a judicial inquiry as against a select committee — the motion is debarred as being contrary to standing order 99.

What distinction is there between the two types of inquiry, one presumably by a judge and the other by members from all parties in this house? Both types of inquiry would have coercive powers to require people to appear before the committee or to produce papers or things before the inquiry. In my view the nature of the persons conducting the inquiry does not alter the substance of the inquiry — that is, the inquiry would have all the legislative tools necessary to get to the bottom of a particular issue.

Before finally ruling on this matter, however, I invite Mr White and any others who wish to be involved in making submissions to make any submissions they wish on this issue. I point out, however, that even if I allowed the basic motion to proceed I would have to rule out paragraphs (c), (d) and (g). I could go into the details of that; I do not think it is necessary, but basically my reasons for doing so would be that those issues were specifically dealt with and decided by the house on 12 October.

We will deal with the first issue first. If, in fact, the debate is to proceed, I will then deal with paragraphs (c), (d) and (g). Having warned Mr White earlier in the day of my general thinking on this matter, I thought perhaps he might like to address the house.

Hon. D. R. WHITE (Doutta Galla) — Thank you for the opportunity, Mr President. In relation to the first point about a judicial inquiry relative to a parliamentary inquiry, I make the point that there is a qualitative distinction between a judicial inquiry and a parliamentary inquiry in terms of the nature of the personnel and the expertise involved in undertaking such an inquiry. I do not wish to reflect adversely on the conduct of a parliamentary committee because parliamentary committees are held in high regard by members, but the community perception is that a judicial inquiry is, in the normal course of events, of a higher order in the sense that it involves the legal profession in a form which may well lead to recommendations and conclusions, depending on the circumstances, in relation to legal proceedings against parties if the judicial inquiry saw fit. A parliamentary committee has less capacity in the normal course of events to do so.

Notwithstanding what you have said, Sir, in respect of standing order 99, I make the case that there is no authority for a ruling that a judicial inquiry and a parliamentary committee are of the same order and that it is a repetition of a previous debate. I put this to you: there is no evidence in May or the standing orders and, having regard to the ruling of your predecessor, the Honourable Fred Grimwade, there is in fact nothing specific in any ruling of this house in the course of its history to suggest that a judicial inquiry should be seen in the same light as a parliamentary committee.

Moreover, I argue there is no precedent in another place or in any house of the Westminster system for saying that a call for a judicial inquiry is the replication of a call for a parliamentary committee inquiry. In other words, there is no authority or precedent that suggests specific support for saying that the judicial inquiry is of the same character as a parliamentary committee of inquiry.

Without casting aspersions on the importance of a parliamentary committee, I do not believe any member of the house is of the view that they are of the same order.

Mr President, in respect of your ruling about paragraphs (c), (d) and (g), I would argue that at no stage have the issues surrounding paragraphs (c) and (d) been raised in the form that I intend to introduce them on this occasion. That is to say, since the debate in October I have been the beneficiary of information that I did not have in October that leads me to move the motion in the form that I have suggested, namely, that specific information now available to me was not previously available to me which leads me to put paragraphs (c), (d) and (g) in my motion.

Mr President, I thank you for the opportunity of commenting at this stage prior to your ruling. What I now say is hypothetical because it is subject to your ruling, but I argue that it is my intention to proceed with this debate in the current form, subject to your ruling. If that is not possible I will seek a further opportunity to rephrase the motion and introduce a
new notice of motion so that I can pursue the matters that I wish to pursue.

Through the notice of motion procedure I believe that over time, by one mechanism or another, I will pursue the matters that I have raised.

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — Mr President, I have heard your comments and I remind you that May says that in dealing with this matter:

"Whether the second motion is substantially the same as the first is finally a matter of the judgment of the Chair."

So it is a matter for your judgment.

It does seem to us that there is no substantive difference between a judicial inquiry or a select committee of inquiry in the context of this motion and the earlier motion that Mr White moved. The essence of each motion is not the instrument by which the inquiry is being held, but the subject matter which is asked to be inquired into. In other words, I am saying to you, Mr President, even if there were a substantive difference between the types of inquiries or judicial hearings, the essence of each motion is about an inquiry into the particular process involved and, therefore, they are substantially the same.

Mr White referred to the fact that it is his intention, if you rule against him, to come up with a notice of motion in some other form. That is as it may be. It is his right to do that. I point out that the rule is there to prevent the time of the house being taken up in debating matters already debated. I also hear what Mr White says about fresh information being obtained. I do not know if that bears on the issue of whether the house is required to address again the same issue. Mr White is perfectly entitled to raise something that does not transgress the rule.

It seems to us that your tentative view on this matter is the correct view.

Hon. T. C. THEOPHANOUS (Jika Jika) — This is an important ruling that you, Mr President, have made on this particular motion. Two major issues which you have identified need to be considered. The first is whether this notice of motion is substantially the same as the previous motion and the second is whether a judicial inquiry is substantially the same as a parliamentary committee inquiry.

Although it is true that a judicial inquiry and a parliamentary committee inquiry have similar powers and in that sense are similar, in substance they are of a different form. A judicial inquiry has a history of independence and a convention surrounding its independence, which is not the same as the independence of a parliamentary committee inquiry. A parliamentary committee inquiry is comprised of representatives of conflicting political views. We all know that when a parliamentary inquiry is established one of the major issues relates to which political party has the numbers on that committee. This clearly shows there is a substantial difference between a parliamentary committee inquiry and a judicial inquiry, the parliamentary committee inquiry being much more in the area of a political inquiry and the other being much more in the area of an independent judicial inquiry.

I point out that the differentiation of powers in our system depends on the differences between the political system and an independent judicial system. In terms of constitutional arrangements and conventions going back many years, a clear distinction is made between the judiciary on the one hand, as an independent body, and the political system on the other. The political arm, with its own system of inquiry, is a different system.

Mr President, in relation to whether the two motions are substantially the same, you have implicitly recognised that they are not the same by indicating that you would exclude only three of the points that have been canvassed in the two motions.

The PRESIDENT — That is if I allowed the motion to proceed.

Hon. T. C. THEOPHANOUS — Yes.

The PRESIDENT — You must get over the preliminary matter first.

Hon. T. C. THEOPHANOUS — The first part is in relation to the judicial system as against the parliamentary system, and I have put the view that they are clearly separate.

Secondly, in relation to the substantive motion, as my colleague has indicated there are a number of new occurrences and when one actually reads the specifics of the second motion one sees it actually addresses areas in which new things happen.

From both the point of view of its addressing a set of new developments since the last motion, and the
point of view of the clear difference between a judicial and parliamentary inquiry, I urge you, Mr President, to allow the motion to proceed.

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — Mr President, I appreciate that you are seeking views on this matter, as unusual as that is, and I put forward the following views in that context. Honourable members may word motions for debate on Wednesdays in a number of ways that will avoid the dilemma of the matter having to be discussed in this way. The government when in opposition had many years of experience of doing that and was conscious of being sure that motions it moved were not substantially similar or identical to any previous motion. That can be achieved.

I submit to you, Mr President, that this motion is substantially the same as a previous motion. The earlier debate we had was a debate on a motion moved by Mr White, which boiled down to the fact that he wanted the matters he raised to be formally inquired into. I believe that the current motion is substantially the same as the previous motion. Paragraphs (c), (d) and (g) appear to be exactly the same as in the previous motion. It is my submission that this motion in its current form is therefore out of order under the appropriate standing order.

It must be said that Mr White is at liberty to move motions in the future on a broadly similar topic in a different manner, which I do not believe would offend the long-standing rule that the house should not again debate the same substantial matter. That is particularly so when the house has concluded debating a matter.

The government does not shy away from the overall debate. Indeed, these are the sorts of debates the government would expect. However, the house has had this rule, within which we have all worked. I know that on some occasions it meant I had to move motions which were not in accord with what I personally wanted to do. However, it is logical for the house to have a rule that members cannot just repetitiously debate identical topics, and that is what would otherwise occur. I think we would all be honest enough to realise that any opposition, whether it be Liberal, National or Labor, may get advantage out of moving the same motion each week and driving every one balmy through repetition! That is why the standing order exists.

If there is a need to review the standing order I suggest that the opposition put that forward. That has never been suggested in the past. It is not a new standing order and it is quite common for honourable members to consult with the Clerks as to whether they think they will breach this ruling.

My submission on your interim ruling is that this is a matter akin to what we have already discussed; that paragraphs (c), (d) and (g) are identical to what has already been discussed; that this matter should not be debated in this form; and that if on a future occasion Mr White wants to put forward a motion on a broadly similar topic he is at liberty to do so.

Hon. D. A. NARDELLA (Melbourne North) — I submit that standing order no. 99 deals with the threshold issue of whether the motion is the same in substance as an earlier motion. I put it to you, Mr President, that the answer to that threshold question is that it is not the same in substance because of the different nature of the inquiries that Mr White has proposed in his motion.

A judicial inquiry is conducted by a judge assisted by expert and independent legal counsel and is above politics and influence, whereas a parliamentary select committee is by its very nature a political animal, whose politician members come to their conclusions and recommendations influenced by political considerations, and is not independent. That is not to denigrate the committee system; it is just a fact of life. We see that consistently when committees bring down both major and minor reports on the references they have been given.

The substance of and threshold question in the current motion are different. I urge you, Mr President, to consider my submission.

The President — Order! I thank honourable members who have taken part in the debate. It is because we have had very few rulings on the issue that I sought some guidance from the house on these matters. One thing the house must remember is that we are looking not just at the motion moved by Mr White on 12 October but also the detailed amendment put forward by Mr Storey, which was ultimately carried by the house. If one looks at all of those issues — the statements of 'whereas' and 'having regard to' from both sides — I think it is clear to say that the house came to a conclusion on those issues in the motion and the amendment.

Basically I have come to this conclusion based on a careful reading of the resolutions of the House. I subsequently read the report of the debate — honourable members will realise I was not here on
the occasion — but, with due respect, I obtained no enlightenment from that.

The basic issue is set out at pages 326 and 327 of the 21st edition of May, where it states:

Attempts have been made to evade this rule by raising again, with verbal alterations, the essential portions of motions which have been negatived. Whether the second motion is substantially the same as the first is finally a matter for the judgment of the Chair.

We have had some debate on whether there is sufficient distinction in the nature of these inquiries to negate the question, the question being: are we substantially debating the same issue? I inevitably come to the conclusion that it is basically the same issue and that the final form and strict nature of who conducts the inquiry does not really impinge on the nature or powers of the inquiry.

It is for that reason that I cannot allow the motion and I direct that it does not appear on the notice paper.

I point out, and I think we take pride in the fact, that the forms in this house are as wide as any in Australia. The opportunities for members in this house are as broad as one’s imagination, subject to a certain number of rules, one of which we are now discussing. It is up to each individual to draft his or her motion so that it fits the forms of the house. Usually views that members have on whatever contentious issues are able to be expressed in some form or other.

My direction is that the motion not be allowed. It is a matter for Mr White as to whether he wishes to give notice of moving a further motion, by leave of the house at this stage, in relation to alternatives.

Hon. D. R. WHITE (Doutta Galla) — By leave, I give notice that I will move dissent from Mr President’s ruling and foreshadow a further notice of motion tomorrow.

The PRESIDENT — Order! As Mr White has not moved an amendment to the motion he put earlier, Mr White will now give notice of a motion at the appropriate time tomorrow.

LOCAL GOVERNMENT (AMENDMENT) BILL

Second reading

Debate resumed from 29 November; motion of Hon. R. M. HALLAM (Minister for Local Government)

Hon. PAT POWER (Jika Jika) — It is to some degree with a heavy heart that the opposition opposes the Local Government (Amendment) Bill. I say ‘with a heavy heart’ because I believe some provisions in the legislation are good and progressive, but I oppose the measure with a clear mind because the opposition has major concerns about the bill. I shall walk the house through the legislation and in due course point out two major areas of concern and argue that our view is consistent with a strong theme in the community about those elements.

It would be wrong of the opposition not to acknowledge that the bill has a number of provisions which are sensible and which make good sense. I start by taking up some issues that were raised in the second-reading speech where, in a sense, the major elements of the bill are acknowledged. The first issue acknowledged is the change to the financial year. The opposition not only has no difficulty with that but also believes it is sensible, progressive and carries Victoria into a situation where it is parallel with local government in other states of Australia.

The next section that is highlighted refers to local government elections. Clause 5 brings the election date forward to the third Saturday in March. Those in this chamber who are familiar with local government elections would understand that it means that rather than local government elections being held in August — —

Hon. W. A. N. Hartigan interjected.

Hon. PAT POWER — As Mr Hartigan interjects, it is winter, it is cold and wet but I shall make reference to the third Saturday in March later.

Clause 6 of the bill is sensible. When I was looking through the debate in the other house I noticed that Mr Cooper paid acknowledgment — —

The PRESIDENT — Order! Under standing orders Mr Power cannot refer to members in the other place by name.
Hon. PAT POWER — Mr President, I wanted to acknowledge that it was a constituent, as I understand it, from the Bellarine Peninsula who directed this issue to the attention of the government. To its credit, the government has acted upon it. In reference to clause 8 the second-reading speech indicates that the bill provides:

... for the municipal electoral roll to be adjusted where a person has been taken off the state electoral roll because he or she suffers from Alzheimer’s disease or a similar disability.

We welcome that, and I am happy to join with others in acknowledging the initiative of that particular constituent.

As to clause 7 the second-reading speech states that it gives a council:

... the option of having an election in which all voting is by post.

Postal voting is available for other types of elections and recently proved most successful in the Tasmanian municipal elections. The advantages are numerous: it is an accessible, straightforward means of voting that should increase voter participation and deliver savings to ratepayers.

With reference to clause 21 the speech states:

... councils will be able to contract out the conduct of elections to another council, the State Electoral Office or the Australian Electoral Commission.

From my reading of the bill it is not clear that councils would contract out, given the climate in which contracting out is considered at this time. It is my view that the legislation clearly states that a municipality could ask another municipality to conduct its election, but I am unclear about whether the reference in the second-reading speech of 'contract out' means that it would be the result of some tender or competitive bidding process.

The opposition welcomes the provision about pecuniary interests, which says that:

The changes also require pecuniary interest returns to be completed by all senior council officers.

The opposition considers that as appropriate. Other provisions are good and are based on commonsense. Clauses 19 and 20 deal with the enforcement of local laws by police officers. People experienced in local government would know an almost silly process had to be undertaken, and the opposition supports the words and the intent in the second-reading speech that:

Currently only a person individually authorised and issued with an individual identity card can enforce a local law. In the case of police officers who are issued with their own identity cards, the requirement to issue separate cards is costly duplication and is to be removed.

The opposition welcomes that provision.

Similarly, as Mr Hartigan would know about the Bellarine Peninsula and the enforcement of local laws dealing with the possession and consumption of alcohol, the opposition takes the opportunity to reiterate that local laws that have been introduced to ensure as much as possible that festive events can be enjoyed by whole families, regardless of age and gender, being events where people can feel safe and comfortable and move about freely, have been a success. The opposition acknowledges that this is government responding to community expectation.

Hon. W. A. N. Hartigan — A clear statement of authority I think is important!

Hon. PAT POWER — Yes, the opposition supports the second-reading speech. Special provision is to be made for the enforcement by police of local laws dealing with the possession and consumption of alcohol. These local laws have proved successful, particularly in dealing with special events or holiday periods at resort areas.

Clause 20 will allow police officers to enforce the parts of the local law dealing with alcohol, possession and consumption. The remainder of the second-reading notes refer to amendments to the Environment Protection Act in respect to waste management. Again opposition members have no difficulty with the intent and the purpose of that. From our reading we see that the intent of this legislation is not to maintain local government as a leader in waste management, but to provide surety of administration by making the Environment Protection Authority responsible for issues to do with waste management, and the opposition applauds that.

It is important to acknowledge that along with waste management and recycling associations, local government has played a major role in contributing to community awareness in waste minimisation and...
Tuesday, 6 December 1994

LOCAL GOVERNMENT (AMENDMENT) BILL

recycling. I know that in my electorate the City of Whittlesea has been able to contribute to an enormous difference in the way ratepayers and residents in that municipality think about their waste and consider the recycling options. The opposition welcomes that and certainly thinks it is sensible for a situation to be created where it is clear in everybody’s mind that the EPA is the peak authority in administering, policing and monitoring.

I shall take the opportunity to pass over some documentation that has been provided to me about this legislation. I do so in the context of emphasising that there is much that is good about this legislation, but there are elements that the opposition considers to be major, which bring it to a situation where it is unable to support — —

Hon. B. N. Atkinson — Do you support the shift of the financial — —

Hon. PAT POWER — I will come to that, if I missed that in my preamble — —

Hon. D. A. Nardella — No, you didn’t.

Hon. PAT POWER — Thank you, I thought I did mention it. I shall make reference to correspondence that I received from the City of Whittlesea. I understand a copy of the correspondence was forwarded to the minister, and while I do not want to quote at length from the document I wanted to put on the record some issues the City of Whittlesea was concerned about. As the minister would know, Lindsay Esmonde, who is the chief executive of the City of Whittlesea, wrote to him on 19 October saying in essence that he was concerned about the way in which the minister’s press release led off with the issue about the postal vote option. We understand that. But, Mr Esmonde then went on to say that he considered it was:

... far more important, and far reaching for the community, that the municipal year will be changed from finishing in September to finishing in June.

Opposition members had not paid credence to this particular issue when we were making our deliberations. I shall quote just from one paragraph in Mr Esmonde’s letter, he says:

The implications for the community may be quite substantial, given that, as an example, most household budgets allow for either a payment of rates in April each year or for the payment of quarterly instalments at set times during the year. These are major payments for many people and the changing of the dates may represent a hardship in some cases and, at the very least, a change in circumstances.

I do not know whether the minister will seek to take this point up because the opposition’s reading of it was that at the end of the day ratepayers would pay the same — —

Hon. R. M. Hallam — Pro rata.

Hon. PAT POWER — Yes.

Hon. R. M. Hallam — Then why did you use the evidence, Mr Power? Why run the argument if you don’t agree with it?

Hon. PAT POWER — Mr President, this is the difference between the minister and me. I do not have any difficulty in being an advocate for — —

Hon. Louise Asher — Anybody!

The PRESIDENT — Order! Ignore the interjection.

Hon. PAT POWER — I am certainly not the member for Monash. As shadow minister I do not have any difficulty in accepting the responsibility of being an advocate for those significant players in the local government industry who want to use my services to put on the public record their reservations about legislation.

If the minister is suggesting somehow that I am being mischievous by reading out the concerns of the City of Whittlesea I certainly reject that. I think I was saying, as the minister interjected, that no doubt he might take this up in response.

Hon. B. N. Atkinson — After considering Whittlesea do you still agree with the change to the financial year?

Hon. PAT POWER — Absolutely, yes.

Hon. B. N. Atkinson — How can you justify having councillors being elected in August two months after the budget has been brought down?

Hon. PAT POWER — I am quite happy for Mr Atkinson to join with the minister in contesting the right of the opposition to perform the role of an advocate for constituent units. The Minister for Local Government would acknowledge that the City of Whittlesea is a significant player in local
government. I am sure the Minister for Local Government would acknowledge that Lindsay Esmonde is a significant player in local government, and I do not have any difficulty coming into this chamber and acknowledging that the opposition supports the change to the financial year. It makes commonsense. Indeed, in my preamble I said that the points Mr. Esmonde put before us were not things we had considered before we made our decision.

I want to proceed, and I am sure there will be other information that I will want to place on the public record that Mr. Atkinson and others might find curious.

Hon. W. A. N. Hartigan — Anything that makes you feel comfortable, Mr. Power. Let’s get on!

Hon. B. N. Atkinson — This is all helping you pad out the speech, isn’t it?

Hon. PAT POWER — No.

Hon. B. N. Atkinson — You have not reached the substantive point yet, have you?

Hon. W. A. N. Hartigan — You are just holding us on a point of participation here, that is what you are doing.

Hon. PAT POWER — I am quite happy to take up any opportunity to contrast the attitude of the opposition in respect to community opinion with the sort of arrogance that Mr. Hartigan would impose upon Victorians.

Hon. W. A. N. Hartigan — I am shocked and horrified. I am certainly not arrogant. Nobody has said that — apart from the Premier, repeatedly.

Hon. PAT POWER — Mr. Esmonde also says in his letter:

There are implications for compulsory competitive tendering targets which will require clarification, particularly as this legislation has only recently been enacted and people are only just getting used to its complexities and intricacies and, because of the imposition of yet more legislative changes, further clarification will be required.

That is a reasonable point to make. Perhaps the most important point in Mr. Esmonde’s letter is in the last paragraph where he says in part:

I am most concerned about the manner in which this bill has been presented to local government and I am concerned that such short notice for what is obviously an important piece of legislation has been given to local government.

I have met that view and concern in a number of places. I also sought the opinion of the Metropolitan Municipal Association. The MMA is at one with Mr. Esmonde because it advises me that it was given a limited opportunity to comment on the draft bill on a confidential basis:

In providing our comments on the draft legislation we pointed out that because of the limited time we were not able to consider the legislation in detail.

Again perhaps a good piece of legislation has lost some community support by virtue of the fact that there was not the full and open consultation and exchange there should have been.

I wrote to the Municipal Association of Victoria requesting its opinion and it responded to me. The minister would be aware that the MAV generally supports the balance of the provisions contained in the bill but —

Hon. W. A. N. Hartigan — You mean balance in terms of weight or the residual of the bill?

Hon. R. M. Hallam — He is just trying to help you.

Hon. W. A. N. Hartigan — Residual or balance?

Hon. PAT POWER — I am quoting from correspondence from the chief executive of the MAV addressed to me and dated 20 October. If Mr. Hartigan wants to mimic —

Hon. R. M. Hallam — No, no, he is actually looking for the context.

Hon. Louise Asher — He is looking for clarification of meaning.

Hon. PAT POWER — You ask Mr. Whelan. I am quoting from his letter —

Hon. R. M. Hallam — You did not say.

Hon. PAT POWER — I did say.

Hon. D. A. Nardella — Yes, he did.
LOCAL GOVERNMENT (AMENDMENT) BILL

Tuesday, 6 December 1994

Hon. PAT POWER — And I will say it again. The letter from Mr Whelan says:

The MAV generally supports the balance of the provisions contained in the bill but does have some problems with what it considers to be technical difficulties with changes to apply to regional libraries.

Hon. B. N. Atkinson — Did either of those associations say anything about the change to the financial year?

Hon. PAT POWER — In fairness I want to emphasise that the MAV has said to me — I am reporting to the house — that in general it supports the provisions of the bill.

Hon. B. N. Atkinson — Including the change to the financial year?

Hon. PAT POWER — Absolutely.

Hon. B. N. Atkinson — And the MAV supports that, too?

Hon. PAT POWER — Absolutely.

Hon. B. N. Atkinson — And it explained, as you said before, how it can elect counsellors two months after its budget comes out.

Hon. PAT POWER — In their correspondence to me the MAV highlighted clauses 12, 13, 14 and 17, and I would like to put some information on the record about that matter. The minister would be aware that this matter involves regional corporations. I suspect that at some time he has had the same correspondence. In part the MAV’s letter states:

The absence of reference to section 188 (power to accept gifts) in subsection (7) is curious as libraries regularly gain capacity through donations. It may be argued that the power to accept gifts is implied but the specific exclusion of such a provision may tend to suggest that Parliament wanted specifically to prohibit regional libraries from accepting gifts.

I understand the MAV has made that information available to the minister. They have certainly made it available to me. It is reasonable to put before the minister and on the public record the question of whether that is an oversight or whether the minister can give an assurance that it will not lead to anybody believing that regional libraries should not accept gifts.

Hon. R. M. Hallam — I am not sure I could give you an assurance that nobody would believe.

Hon. PAT POWER — It does not surprise me that you can’t. Did you pay any attention to the MAV’s views?

Hon. R. M. Hallam interjected.

Hon. PAT POWER — In reference to clause 13 the MAV states:

The borrowings of regional libraries should be modest as the assets are generally modest ... While incorporation could see a gradual change, those without property are likely to have limited borrowing potential. It is therefore questioned whether an alternative provision might be included in proposed section 197A ...

The MAV goes on to propose that there be an inclusion, and I will come to that later in my contribution.

The MAV also commented on clause 14:

The transitional provisions do not address the mechanism by which existing regional libraries will be handled which raises the question where the clause 197G is proposed as a mechanism for winding up all existing libraries. There is particular concern if this is the objective. It had been proposed that existing regional libraries would have the option to continue in the existing unincorporate state or to switch to a corporate body ...

Perhaps the minister might again refer to that formal concern from the MAV. The association goes on to say:

The concern about winding up such committees by section 491 includes the following:

proposed section 197G appears to empower the minister to order the winding up in any circumstances. That approach might be seen as:
unnecessarily disbanding an efficiently operating unincorporate body; or
placing the minister in an invidious position where the unincorporate body had been established under both the Victorian and interstate legislation.

The MAV goes on to refer to the library situation at Albury where the host council employs joint staff and provides joint services across the border.
LOCAL GOVERNMENT (AMENDMENT) BILL

COUNCIL

Tuesday, 6 December 1994

In respect of clause 17 the Municipal Association of Victoria says:

The sole objective of establishing a regional library committee ... is to save money by gaining economy of scale through sharing resources in a combined grouping. ... The question ... arises whether the whole cost of such an arrangement should be available to the member councils to be shared as CCT expenditure in relation to the finance provided ... rather than limited to the proposition of regional library expenditure which has been specifically put to tender.

I will come to that later. I should like to address some of the specifics of the legislation and place on record those issues with which the opposition is comfortable and believes involve community reservation, and those major aspects about which we are unhappy and which will form the basis of our opposition to the bill. The change to the financial year is very sensible and, as I said earlier, will place Victoria in a situation parallel to that of the rest of the nation. It is anachronistic that the financial years have been different for so long.

In respect of Mr Atkinson's concern about the letter from the City of Whittlesea, our understanding of the legislation is that the transitional arrangements mean that ratepayers' overall rate bills in the next two rating periods will not be affected. Perhaps the minister can provide information to me that will enable me to comfort Mr Esmonde, although that is not a usual habit.

Hon. R. M. Hallam — He has had correspondence from my department.

Hon. PAT POWER — I am sure he has. I turn to clause 5 and the issue of elections. When the opposition first examined the legislation and saw the clauses in respect of elections there was much clapping and cheering because quite a few Labor Party people and, I am sure, people from other political parties and community-based organisations have stood around in very inclement weather in August —

Hon. W. A. N. Hartigan interjected.

Hon. PAT POWER — Not in Camberwell? Many people will be packing away their rubber boots and Drizabones and considering the possibility of elections in the autumn month of March.

Hon. B. N. Atkinson — The footy season!

Hon. PAT POWER — Some things are important, and other people barrack for Collingwood! We have had a lot of discussion with people in new municipalities. I have said in this house on many occasions that one of the major problems with the government's program of change in local government is that it is stealing democracy from Victorians.

Hon. W. A. N. Hartigan interjected.

The DEPUTY PRESIDENT — Order! Mr Power, without assistance.

Hon. PAT POWER — Thank you, Mr Deputy President. Mr Hartigan was more than happy to be the recipient of democratic votes in October 1992 and now he happily sits in this chamber —

Hon. W. A. N. Hartigan — I don't know about happily, but I sit here!

Hon. PAT POWER — I am happy for Hansard to record that Mr Hartigan is not sure whether he is happy about representing the citizens of Geelong in this chamber. He and others were happy to be elected to this chamber through the democratic process but in an absurd contrast they are happy to suspend democracy for the very same people who elected them. The absence of democratically elected councillors and local government being run by Kennett commissars and appointees and people who are answerable to the Minister for Local Government is a major issue in the community. It is certainly a major issue in Geelong and other areas where local government changes have occurred. It is an issue in the City of Darebin in my electorate where those democratically elected councillors who served in the former cities of Preston and Northcote were assassinated, so to speak, and thrown from office by the Kennett coalition.

I reject absolutely the suggestion from the government benches that the absence of democracy in local government is not a major issue. When I discussed this with people who have been involved in local government as elected councillors or who have worked closely with elected councillors in ensuring that the management of their community represented the broad aspirations and ambitions of the community, we ended up being very uncertain about the election issue —

Hon. W. A. N. Hartigan — Which one?
Hon. PAT POWER — Not one you would be aware of. At the end of the day the intent of clause 5 is that councils — —

Hon. W. A. N. Hartigan interjected.

Hon. PAT POWER — Panic not, Bill! Councils, with the exception of Geelong and Surf Coast, are facing the fact that the majority of elections in new municipalities will not be held until March 1996.

That is a challenge I quite happily put before the minister tonight. If I am wrong I am quite happy for him to put on the public record that elections in the greater majority of newly created municipalities will be held before March 1996.

Hon. W. A. N. Hartigan — I'd hope they'd have the elections when they're ready.

Hon. PAT POWER — Mr Hartigan, an experienced campaigner in the disgraced City of Camberwell and now representing the citizens of Geelong in a way that he is not sure he is happy about, says that elections will be conducted when the government is ready. I actually think he is absolutely right: elections in these municipalities will be held just when the government is ready.

The fact is that clause 5 provides that instead of municipal elections being conducted in August they will now be conducted in March. All of us in this chamber would acknowledge that the majority of newly created municipalities will not be ready for their first election in August 1995, which means that the very first opportunity they will have under this timetable will be — —

Hon. R. M. Hallam — So you say.

Hon. PAT POWER — The minister says, by interjection — —

Hon. R. M. Hallam — You make your case.

Hon. PAT POWER — Keep thy mouth closed. The minister says by interjection, 'So you say'. If he knows I am wrong and that elections will be held before March 1996 I invite him to put it on the record and to indicate to the house when elections will be held, not just in two municipalities — Geelong and Surf Coast — but also in the rest of the municipalities.

The DEPUTY PRESIDENT — Order! I wonder whether Mr Power can move on to the next subject.

We have spent some 10 minutes on this particular issue.

Hon. PAT POWER — Thank you, Mr Deputy President. I will move on, but I do so reluctantly because the matter of elections, the issue of the abolition of democracy in local government, is a prime concern out there in the community.

The DEPUTY PRESIDENT — Order! You have already made that point. You are getting to the stage of tedious repetition, and that is why I suggest that you move on.

Hon. PAT POWER — Thank you, Mr Deputy President. I am happy to move on and say that we came to our conclusion after we had considered the community view about the ramifications of this election period.

I said earlier that we welcome clause 6, which refers to people who are of unsound mind being removed from the municipal electoral roll. The opposition strongly supports the view that voting in local government elections should be compulsory, but we certainly acknowledge that people such as those suffering from Alzheimer's disease or some other related condition should not be put in the situation of being anxious or concerned about being required to vote. The opposition welcomes clause 6, which brings the municipal roll provision into line with the state roll provision; we think it is a good move.

Clause 7 is another aspect of the bill about which we have major concern, again as a result of significant consultation with the community. I must say in fairness to the house that when this matter was first canvassed in the Labor movement the consensus of opinion was that creating a situation in which a municipality could conduct its entire ballot by post was a good idea. People said to us that this mechanism would ensure an ease of opportunity to vote, cut across inconvenience and so on.

Hon. W. A. N. Hartigan — And probably turn out more votes.

Hon. PAT POWER — It is interesting to note that the formerly democratically elected Camberwell councillor believes that the system under which he was elected was fraudulent in the sense that postal voting would have turned more people out to vote.

The opposition had substantial dialogue with a whole range of players before making a final decision about clause 7. Along with clause 5, which
LOCAL GOVERNMENT (AMENDMENT) BILL

COUNCIL

Tuesday, 6 December 1994

deals with the election date, clause 7 is the other major issue of contention for the opposition.

Hon. R. M. Hallam — So you are opposed to a change in the election date and the option of postal voting?

Hon. PAT POWER — No. You did not listen to what I said.

Hon. R. M. Hallam — I listened very carefully. I am actually trying to establish what it is you are saying.

Hon. PAT POWER — I do not know where the minister has been. I said — —

Hon. R. M. Hallam — I am actually trying to ascertain where the Labor Party is on this bill.

The DEPUTY PRESIDENT — Order! Perhaps we will hear if Mr Power could get on with his speech with as little interruption as possible.

Hon. PAT POWER — Just to put the minister at ease, if it is at all possible, I am saying that if the minister can give the Victorian community an absolute assurance that the transfer of the election date from August to March will not be used as a mechanism to delay the conduct of elections in newly created municipalities as opposed to — —

Hon. R. M. Hallam — The commitment is given, on the record. But it has nothing to do with it.

Hon. PAT POWER — The community is no longer able to accept those sorts of commitments.

The DEPUTY PRESIDENT — Order! Mr Power has been through that issue on two or three occasions. I ask him to move on to the next issue. This is a case of tedious repetition. I ask him to return to the bill.

Hon. PAT POWER — With respect to postal voting, I was saying that we are very concerned about the ramifications of the conduct of an entire ballot by postal voting. One of the great strengths of democracy in Australia is that voting for local government and state and federal government elections is compulsory. One of the differences between Australia and some of our international contemporaries is that whenever there is an election for local, state or federal governments, except for those people who have a valid excuse, people are required to exercise their democratic right. The opposition believes that this is both a privilege and a right and is very reluctant to allow this legislation to pass on that basis.

Hon. Louise Asher — I do not believe it is a privilege.

Hon. PAT POWER — In a free country being able to vote is a right and a privilege. Ms Asher, who supports the rape and pillage of Albert Park in order that a grand prix racing car event can be conducted, does not believe that voting is a privilege. I absolutely differ from Ms Asher in that respect. In a democratic society voting is a privilege; something that people ought to protect and enjoy. It is a right and an obligation. It is the requirement of being a citizen in a free country. We will do anything we can to protect the right of Australians to be required to vote in local, state and federal government elections.

The opposition is concerned whether the capacity for a municipality to decide to conduct its entire ballot by postal vote will lead to a situation where compulsory voting is undermined by default.

Hon. B. N. Atkinson — That is a long bow.

Hon. PAT POWER — It is a long bow and it may not be one that you have sympathy with, but the people who have spoken to us are genuine and committed to this.

In respect of compulsory voting, I want to quote briefly from an article that my year 10 daughter wrote recently, which was unrelated to the work I was doing.

Hon. R. M. Hallam — It is unrelated to the bill as well.

Hon. PAT POWER — Even without hearing what my daughter wrote, the Minister for Local Government says it is unrelated to the bill.

Hon. R. M. Hallam — You said it related to compulsory voting.

Hon. PAT POWER — The article is headed 'Should voting be compulsory?'

Hon. R. M. HALLAM (Minister for Local Government) — On a point of order, Mr Deputy President, Mr Power has abused both the spirit of your earlier ruling and the forms of the house. He is now deliberately canvassing the issue of compulsory voting, which is not raised by the bill.
The clause on which he is allegedly speaking is clause 7, which refers to elections being conducted by postal vote. That is a separate issue to whether voting should be compulsory.

**Hon. PAT POWER** (Jika Jika) — On the point of order, Mr Deputy President, the point I was making relates to the concern in the community that the use of postal voting as the sole mechanism for the conduct of a ballot for local government elections could — I emphasise that word — lead to a re-examination of compulsory voting.

**The DEPUTY PRESIDENT** — Order! I have heard sufficient argument on this issue. It is reasonable for Mr Power to raise a concern of that nature which is not addressed in the bill as part of the argument, but it is not reasonable to continue that debate ad nauseam, which is what I see happening now. I invite Mr Power to move to the next subject, otherwise I will call him for tedious repetition.

Compulsory voting, as was correctly pointed out by the minister, is not a matter to which the bill refers, so at the very best it is a peripheral issue.

**Hon. PAT POWER** (Jika Jika) — It is a matter of considerable importance.

**Hon. R. I. Knowles** — You said yourself it was only a maybe.

**The DEPUTY PRESIDENT** — Order! On the bill, Mr Power.

**Hon. PAT POWER** — With great reluctance, I move on from the question of compulsory voting. The minister's second-reading speech says that postal voting has been used with great success. My experience of postal voting in community groups, organisations and the trade union movement is that a 35 per cent return is a good return. As a consequence of your ruling, Mr Deputy President — —

**Hon. R. M. Hallam** — I hope you are not reflecting on the Chair.

**Hon. PAT POWER** — He does not need your support.

**The PRESIDENT** — Order! Perhaps Mr Power could move on to the next point.

**Hon. PAT POWER** — I was on the next point.

Mr President, I was saying when you came into the chamber that my experience of postal voting in community groups, organisations and trade unions is that a 35 per cent return is a good return.

I suppose it is a question of whether that is the sort of return the government is seeking to draw in respect of offering the facility of a postal vote.

In the second-reading speech the minister makes reference to how well postal voting has gone in Tasmania. The opposition acknowledges that postal voting has been successful in Tasmania and has increased the number of people who vote there. However, a number of reasons make the Victorian situation different from the Tasmanian situation. One is that the juggernaut of forced changes sweeping across Victoria has not been seen in Tasmania. The process of change in that state is entirely different from that being orchestrated in this state. Community involvement and participation in change in local government is entirely different from the way in which the community has largely been excluded from the process in Victoria. It is not surprising that in Tasmania the results have been good. The opposition acknowledges that.

The advantages of postal voting are stated in the second-reading speech as being accessibility, straightforwardness and cost beneficial. The opposition assumes that being accessible means people will receive their ballot papers in their homes. The opposition assumes being straightforward means the ballot papers will be filled out and returned. The opposition does not understand where savings will come from and awaits the assurance of the minister that the conduct of a ballot entirely by postal vote will deliver savings over and above the cost of conducting a ballot in the traditional manner.

The problems the opposition sees, some of which — perhaps most of which — are based on our experience from our various backgrounds, is that tampering with ballot papers — —

**Hon. Louise Asher** — You come from a background of tampering with ballot papers?

**Hon. PAT POWER** — Ms Asher did not listen to what I said. I said that some of the problems the opposition members see in respect of the backgrounds from which they come is that ballot papers could be tampered with. I do not know what assurances the minister can give the Victorian
community that ballot papers will not be tampered with.

Another problem is the question of literacy, familiarity with forms and degree of difficulty experienced by people from non-English backgrounds. I know from my involvement in union, local, state and federal government elections that many people with low literacy skills have experienced high anxiety about filling in forms. Many people from non-English speaking backgrounds are simply unable to complete forms without assistance. I await word from the minister about what assurances he can give to the Victorian community that people in those categories will be able to access assistance and will not be leant on in any way to complete their vote hastily, complete their vote under supervision or complete their vote in any way other than that which is their right.

The delivery of savings is directly connected to the opposition's concern about campaigning costs. It is clear to the opposition that in many parts of the state the first elections in new municipalities will be an issue of major community concern. In those municipalities in which commissioners operate to conduct the ballot by postal vote what assurance can the minister give that John Citizen and Mary Citizen who decide to run as candidates will be able to afford the campaign costs associated with competing in a contest entirely run by post?

Hon. Louise Asher — The campaign is not by post. The concept —

The PRESIDENT — Order! Ms Asher will have her chance shortly.

Hon. PAT POWER — I hope not. The concern of the opposition about postal voting is that there is a very high danger of a low return.

At this point I put on record that the briefings I have been given by the minister's staff and department officers have always been full and generous. Recently it was indicated to me that the return of the ballot paper would be the point at which a person would be deemed to have voted. That puts to rest the concern that ballot papers would be sent out, a person's name would be crossed off and that person would be deemed to have voted.

Hon. B. W. Mier — But you are not forced to return the ballot!

Hon. PAT POWER — That is right.
The situation is that the returning officer can be another council staff member appointed by the chief executive officer, the State Electoral Office or the Australian Electoral Commission, which the opposition would welcome. The union from which I came conducted elections through the Australian Electoral Commission. We consider that commission members are the practical people in the management of such matters, but we are concerned about the capacity for another council to conduct the election. It gets back to the point I made about the second-reading speech where it says that a council could contract another council.

I invite the minister to clarify whether that in any way means a municipality would have to advertise or could simply make a private arrangement with another municipality. That is an unhealthy development and councils should not develop an expertise that results in their conducting municipal elections for other municipalities.

Hon. R. M. Hallam — Even though they might have it in house?

Hon. PAT POWER — That is right. We believe the state government should concentrate on the upskilling of all new local government municipalities and that upskilling as much as is possible should be standard. One municipality should not be less capable of conducting its own elections than an outside municipality. That is unwise.

Clause 8 of the bill, which refers to pecuniary interest, is welcomed. In this day and age it is appropriate that:

... the spouse or de facto spouse of the Councillor or member of a special committee has a direct or indirect pecuniary interest in the contract, proposed contract or other matter.

We also welcome the intent of clause 9, which refers to a register of those pecuniary interests.

Clause 10 refers to senior officer positions. It is a progressive development that requires all senior positions other than acting positions of less than 12 months to be advertised externally before any new appointment is made. We consider that to be responsible.

Clause 12 amends provisions relating to the establishment and operation of regional corporations, in this case libraries. It allows a regional library to include others, clarifies the situation of a regional library coming into being and deals with the liabilities of parties to agreements for debts of a regional library.

Clause 13 drew some suggestions from the Municipal Association of Victoria that I mentioned earlier. It inserts new sections relating to regional libraries dealing with community consultation, the borrowing of money, the appointment of auditors, the preparation of corporate plans and borrowings.

Proposed section 197A inserted by clause 13 states that a regional library must not borrow money unless:

(a) it has the approval of the Treasurer; and

(b) the amount borrowed (or obtained by way of financial accommodation) —

(i) is secured over the assets and income of the regional library.

The Municipal Association of Victoria suggests the insertion of the words after subparagraphs (i) and (ii), 'is guaranteed by the members'. It is simply a suggestion from the MAV to make it apply at the grassroots level as that might make the workings of regional libraries more sensible.

Clause 17 of the bill inserts a new section to allow calculation of a council’s financial involvement in a new regional library’s compulsory competitive tendering to be a proportion of its compulsory competitive tendering formula. That is sensible.

Concern has been expressed about clause 26, which refers to the repeal of the Prahran Market Act. The minister would be aware that the concern raised at a local level was in part due to decisions of commissioners at Yarra to close the Fitzroy pool, as it was then, and a quick decision by the commissioners at Ballarat to close the Browns Hill pool, which was reversed even more quickly than the Fitzroy pool decision. The major concern is about the development proposals and the issue of 50-year or 99-year leases.

Mr Pullen in his contribution to the debate on the Crown Lands Acts (Amendment) Bill directed to the attention of the Minister for Conservation and Environment the difference between his view on these matters and the view of the Minister for Local Government on this matter.

The opposition supports the comments the minister made to Ms Asher recently when she said that a
LOCAL GOVERNMENT (AMENDMENT) BILL

1162 COUNCIL Tuesday, 6 December 1994

99-year lease would — and I am paraphrasing, not quoting — be granting freehold. The opposition certainly supports the message that the minister seems to have given about the Prahran Market: that a 50-year lease would be appropriate and that a 99-year lease would be inappropriate.

I was sent, by the friends of the Prahran Market, a clipping from the Malvern Prahran Leader of 2 November. Page 5 refers to their having formed this Prahran Market group and the article then refers to comments made by Stonnington commissioners, which again seems to me to be in contrast to the comments coming from the City of Yarra commissioners. It says:

Stonnington’s commissioners last week moved to allay fears that the market would be sold, with chief commissioner Neil Smith stressing that the market would remain in council hands.

‘There is no chance of that (being sold): it is a community asset, we will not sell it.’ Mr Smith said.

The opposition certainly welcomes that decision by the commissioners and supports the undertaking that the minister gave Ms Asher. I support Ms Asher in the comments that she made in that adjournment debate by suggesting that commissioners had no right to tamper with community assets and that they should be caretakers only.

The final section to the bill, part 3, involves amendments to the Environment Protection Act related to waste management. It goes back to what I said in the preamble. It allows for waste management groups to be established; it requires waste management groups to comply with EPA criteria; and it allows the EPA to evaluate, approve and monitor waste management.

The opposition supports those initiatives because it believes they will create a situation in which local government will continue to play a lead role, and will transfer clearly in the eyes of all players the responsibility of monitoring to the EPA.

In conclusion, and I am happy to go on longer if you like — —

Hon. W. A. N. Hartigan — Why would you be happy to go longer? You must be as bored as we are!

Hon. PAT POWER — In conclusion let me say that the opposition has major concerns about two parts of this legislation. One is the election and the other is this issue of postal voting. It argues that the legislation does nothing to establish clear guidelines about elections in new municipalities. It does nothing to comfort those people who will see elections transferred from August to March and therefore the first opportunity they will have for an election will be in March of 1996.

I said earlier that if the minister wants to put on the record tonight when the elections will be conducted in Darebin, Yarra, Stonnington, Moorabool and so on, let him do it because in the meantime he has to understand that the community is suspicious about when democracy will be returned to them. There is a clear concern that the intent of this legislation will be to delay until 1996 the conduct of their first election. There is no message in the legislation about elections in the municipalities; there is no message that reassures the community that this government values their involvement in local government.

The other concern is about postal voting. The traditional conduct of elections at the local government level has contributed to community involvement and interest and it is our view that it has assisted in an excellent voter turnout. A move to postal voting, except in large municipalities like East Gippsland or perhaps the city of greater Mildura, will create a different climate. It will place a pall over local government elections; it will take community interest out of the local government elections because the normal interaction will be absolutely absent. In the opposition’s view it will place a significant financial burden on candidates trying to campaign across their ward and across their area. It will certainly lead to lower voter participation.

Issues of literacy, the issues facing Australians of non-English speaking backgrounds, and the lack of previous involvement in postal voting will dangerously lead to the possibility of a call for non-compulsory voting.

I shall conclude by reiterating what I said at the start. There are aspects in this legislation which the opposition thinks are positive, good and sensible. It is unable to support the bill because it has major concerns about the election date and about postal voting. The opposition rejects absolutely the arrogant way in which government members have ridiculed the views that opposition members have tried to put on the public record on behalf of Victorians.
Hon. P. R. HALL (Gippsland) — I cannot believe the contribution that we have just heard from Mr Power in the house here tonight. I usually listen with interest to what Mr Power says, however all he has done is taken the house around a debate in concentric circles. He never got to any substantial point at all in the contribution he made. As a person participating at this stage in a debate, usually it is my role to rebut the substantive arguments that have been made by the previous speakers. However, Mr Power left me with nothing to say because there has been no point made. I can tell Mr Nardella that I will not be spending 1 hour and 25 minutes like Mr Power has in saying nothing. In the next 5 to 10 minutes the point I will make will be made succinctly because my argument will be based on substance contrary to the arguments put forward by Mr Power.

I am perplexed with the conclusions that the opposition parties have drawn on this bill because in opposing the bill outright Mr Power in his conclusion reiterated there were only two clauses that the opposition had concerns with, they being clause 7 relating to elections by postal voting and a latter clause in the bill, clause 21, relating to certain provisions about returning officers.

I say to Mr Power and the opposition through you, Mr President, that if it were concerned with just those two aspects of the bill — mind you, it is a bill that makes something like 28 amendments to the Local Government Act and Mr Power himself said he supports the vast majority of the amendments — why does it oppose the bill outright? Why did it not move amendments relating to those two clauses that it has a problem with? I cannot believe it! I cannot believe that the opposition has come to the conclusion to oppose the bill when there are only two clauses out of the total 31 clauses that it has any problems with.

Mr Power, you must have got rolled in your party room on this particular bill because in your hour and 25 minutes tonight you did not debate with any conviction at all on this issue. As I said, you took us round and round in circles without making any substantive point at all. You started your contribution — —

Hon. Pat Power — You are not wrong!

Hon. P. R. HALL — With respect, I will not elaborate on that interjection of Mr Power’s.

Hon. Pat Power — That is the difference between you and me. I am happy to do as my caucus says.

Hon. P. R. HALL — Mr Power started off by quoting a letter from Mr Esmonde from the City of Whittlesea. My perception was that Mr Esmonde did not raise any fundamental objections to the bill, rather, he raised some queries and sought points of clarification on particular matters. It was also revealed during the course of Mr Power’s contribution that some of those queries had already been answered by the Office of Local Government. I do not think Mr Esmonde raised any fundamental objections at all to the amendments in the bill. He was a bit cross about the lack of consultation.

Mr Power also commented that there was not enough time to consult with various interest groups about the provisions in this bill, and I think he quoted a letter from the Metropolitan Municipal Association saying that it did not have time to give a fair analysis to the clauses in the bill. This measure was introduced in the other place on 6 October this year — two months ago.

Hon. Pat Power — They are talking about the period before then.

Hon. P. R. HALL — It was not debated until 15 November, so there was at least a five-week period between the introduction of the bill and debate on the bill. Here we are at 6 December, two months since the introduction of the bill. That is a lot of time to go back and consult with various interest groups.

Hon. Pat Power — Do you support delay in consultation until after you have introduced the bill?

Hon. P. R. HALL — No. I am saying that it was common practice in the four years I spent in opposition that the day the second-reading speech was made in the house and was available was the day we would go out into our communities and to interest groups to consult with them about the bill.

Hon. Pat Power — That is what your role as government did, not what the opposition did.

Hon. P. R. HALL — There are two rules are there, one for us and one for you? It was different when you were in government. I reject the implication that there was not time for various interest groups to give fair analysis to the bill between the time of its introduction and the time of its debate in this house.
LOCAL GOVERNMENT (AMENDMENT) BILL

COUNCIL Tuesday, 6 December 1994

Hon. Pat Power — Are you saying the MAA was wrong?

Hon. P. R. HALL — Mr Power is trying to take us in circles. I am just saying that on that particular issue I would say that at least five weeks between its introduction and the first time the bill was debated in the house was plenty of time for any organisation to have a look at a piece of legislation.

Hon. Pat Power — I will tell Lindsay Esmonde and the MAA that you think they were wrong.

Hon. P. R. HALL — Whatever you say is fine by me. My contribution to this debate is on public record and anybody is free to read it. You interpret my comments as you wish to and I am sure other people reading the debate will interpret it in their own way.

Mr Power raised a query about election debates and invited comment from the ministers. That was a valid question to ask, no problems at all. But once again I did not see it as being a fundamental objection to that particular election date. Rather, Mr Power sought clarification on that from the minister. He also raised some matters concerning the delegation of returning officer duties and had particular concerns if that power were given to another council. The opposition has every right to express that concern, but once again I say that you could have acted upon your views on that particular matter by moving an amendment to remove certain words on that particular clause.

Hon. Pat Power — And you would have supported it!

Hon. P. R. HALL — I am not saying we would have supported it. I am saying there is no logic whatsoever in opposing this bill when all but two of 28 amendments to the Local Government Act the opposition supports. I cannot believe you came to that particular conclusion.

The main objection raised by Mr Power related to clause 7 — that is, the issue relating to elections conducted by postal voting and the option given to councils in that regard. Once again Mr Power put forward very few arguments to support his position on this. The main argument he put forward was that postal voting may — I underline the word 'may' because that is the word Mr Power used — lead to an outcome where compulsory voting is abandoned. By way of responding to an interjection he admitted that that was rather a long bow to draw, and the record will show that. That was the primary argument of Mr Power opposing the concept of giving councils the option for introducing postal voting. I would say that is a very weak argument, as evidenced by Mr Power's admission that it was a rather long bow to draw.

Let us have a quick look at clause 7 of the bill and see exactly what it says. Proposed section 41A is headed 'Election by postal voting' and states:

A Council may decide that all voting at an election is to be by means of postal voting.

I stress the word 'may' because it gives councils the option of introducing voting totally by post. If councils consider the issues raised by Mr Power that their communities may have trouble in interpreting forms sent to them in the post because they come predominantly from non-English-speaking backgrounds the council does not have to choose to use that method of voting. That is simply an option for them to use, Mr Power, and that is all I say to you on that particular point. If a council thinks there is a disadvantage in using it, it does not have to use it. There are a lot of advantages in using postal voting.

I want to go to some of the advantages. Firstly, postal voting offers advantages to people living in some rural areas of Victoria, particularly those a long way from the main communities where polling booths are located. Councils can choose to offer postal voting. There are also some advantages with absentee landowners because not all of them are within the municipality at the time of the election.

Hon. Pat Power — They can apply now.

Hon. P. R. HALL — They could apply now but I do not think many of them would. In fact the record shows that not many of them bother to make direct application to the council and have forms sent out to them. As a matter of course, under this proposed legislation the council sends the postal ballot out and you will get a far higher return, as evidenced by the experiences in New Zealand and Tasmania. In certain circumstances, because of its convenience factor, postal voting can be a distinct advantage.

Hon. Pat Power — What about NESB, how does it advantage them?

Hon. P. R. HALL — In other areas it may not advantage them but councils do not have to choose to use that method.
Hon. Pat Power — But what happens if they do?

Hon. P. R. HALL — What happens if your council does something you disagree with? Where is the force of reaction? Councils do not make key decisions.

Hon. Pat Power — You go to the commissioners.

Hon. P. R. HALL — Councils do not always make decisions that all sections of their communities agree with, do they? What happens in situations like that? You can voice your concern to councillors.

Hon. Pat Power interjected.

Hon. P. R. HALL — Don't try and sidetrack the issue about commissioners. In any debate in this house you always try and throw in red herrings, Mr Power.

The opposition has not put up any substantive arguments at all that lead them with any logic to the decision they have made to oppose this bill. Mr Power's contribution was scandalous, one of the worst efforts I have heard from him during his time in this house. There was no logic, no reason whatsoever.

This bill brings in some necessary reforms that will benefit local government in its day-to-day operations. The measures are very sensible, and the bill deserves the support of the house. There was no logic, no reason whatsoever.

Hon. D. A. NARDELLA (Melbourne North) — I oppose the bill for a number of fundamental reasons that revolve around postal ballots. In supporting postal voting the government is placing before the house an ideological position. In actual fact postal voting reduces the numbers of people who vote.

Local government needs a strong, participatory, community-based structure. Clause 7 will not provide it and postal ballots will not provide it. In fact, they will take the human element out of voting and make it a sterile experience.

One of my major concerns is that postal ballots are not secret. When people fill in ballot papers on behalf of others such voting is not secret. Family members may put pressure on others to vote in a certain way. For example, parents may tell children how to vote and husbands may tell their wives how to vote. I do not agree with that situation.

Postal voting raises a fundamental question about the secrecy of voting. I put it to the house that voting at a ballot booth promotes secret ballots. There is no coercion; there is no fear; there is no favour. Once you are in the compartment you are in a private environment where nobody can tell you how to vote and nobody will know how you vote. It is one of the fundamental tenets of democracy that still remains in local government in Victoria and is one that I support. I do not want to see that democratic right weakened through this legislation.

Ballots through the post are open to corruption, illegal tampering and distortion. Corruption is not what it was, but there are still abuses and illegalities in the present system and postal voting will only expand the opportunities. For example, when there were elections in local government — we remember those days! — people voted twice or even more, but because they had to vote in person and had to confront a polling clerk at a polling booth they were often caught.

Ballot papers can easily be stolen from letterboxes, especially where there is a high concentration of people. High-density units and flats are not very secure, and I assure honourable members that unscrupulous people will steal ballot papers and put them in to support their particular candidate.

Further, there is the opportunity for outside coercion and influence. For example, a community leader, councillor, councillor's agent, campaign director or worker might have in his or her municipality a soccer club president who wants a club to be built and will request or, in his own way, demand ballot papers to be forwarded to him. Because of the undue influence and the structures of various community groups those ballot papers will be handed over and filled in by those people. That concerns me. We can pass legislation to minimise it, but this legislation will not protect the community from that kind of activity. In fact, it expands the probability and possibility of its occurring. When you take away the human element of voting —

Hon. Louise Asher — Dead people voting in Richmond?

Hon. D. A. NARDELLA — It is interesting that the issue of dead people voting has been raised. The system the government is trying to put in place through this legislation will make it easier for people who have recently passed away to vote. If I passed away tomorrow you could not have any member of this house turning up at the polling booth and
claiming that he is Don Nardella or anybody else who has recently passed away. In the postal ballot situation all you would have to do is go to the letterbox, steal the envelope and put it in. When you take away the human element you remove the checks and balances in the system.

Hon. R. M. Hallam — Rubbish!

Hon. D. A. NARDELLA — It is not rubbish, Minister. You do not understand the extent council candidates will go to be elected. You do not understand how corrupt they can become when they are seeking office, and the inducements to be elected to these positions of power will be massive because local government authorities will have much more power than ever before. The price for being on a council or being a mayor is vastly greater than what it was in the past. We had corruption in the past, and now the government wants to open up more opportunities for it to take place.

Removing the human element also means there could well be problems with people who do not understand how to vote. Nobody will be there to help them when they get their ballot papers. The point Mr Power made about people of non-English-speaking backgrounds is valid, especially in the constituencies that we on this side of the house represent.

Many people are not able to read English or even their own language. They may be unduly influenced by friends or relatives. In fact, somebody else may vote on their behalf because they do not understand what is going on; so they may not get to vote at all because they do not and cannot understand what is requested of them.

That situation can be contrasted with the assistance given to people at polling booths. Along with the poll clerks, who are independent, I have spent many an August Saturday assisting people with voting and getting into polling booths. The poll clerks have an independent role to play and it is important that that be retained. Disabled people may also be placed in the same situation. They get independent advice at a polling booth where the secret ballot is paramount and totally safeguarded. That is a privilege for many disadvantaged people in our society and should be protected.

Postal voting may eventually lead to getting rid of compulsory voting. Another issue related to postal voting is that of the return. Other members on this side of the house and I have been involved in the system of postal voting at union elections. In the vast majority of instances there is only a maximum 30 per cent return, and that is after a very organised, vigorous campaign that has been waged over a long period.

Let us not use just the experience of union elections as an example. Let us examine what happened when Telecom conducted its postal ballot. It did not even get the amount of returns it required — 50 per cent from memory — and had to go through the process again because not enough people voted. The Telecom experience demonstrates that people will not be encouraged to vote via the post and will get confused. In the case of Telecom a massive amount of money was put into the campaigns. Both Telecom and Optus spent millions and millions of dollars wooing people to vote for them. The government is trying to transpose that sort of process into local government authorities.

A final issue I want to deal with is that of confusing people. Your next door neighbour may vote under a different system from yours. I will explain that. There are very close borders between Footscray and Sunshine, for instance, so you could invariably have people on one side of the road who vote by postal vote —

Hon. R. M. Hallam — What is a close border?

Hon. D. A. NARDELLA — Within that community you have people on one side who vote by postal vote and their neighbours on the other side who are expected to turn up and vote at a polling booth on a particular day. That will confuse people and I am concerned about it.

Even though Mr Hall attacked everybody else for their contribution, he really hit the nail on the head when he talked about the real reason for postal voting. Currently we have absentee landlords who have to apply for a vote. There is a low rate of applications by absentee landlords to vote in municipal elections. Under this legislation those absentee landlords will automatically get a ballot in the post, and that will immediately increase the percentage of voting among that class of people.

Hon. R. M. Hallam — What?

Hon. D. A. NARDELLA — I believe it is more important to have residents voting, having their say and making the decision on who is elected to represent them on the council than to support what Mr Hall is on about — that is, making it easier for
absentee landlords to elect people to local government.

Hon. Bill Forwood — That is the most bizarre suggestion I have heard.

Hon. D. A. NARDELLA — It might sound bizarre, but they are the words of Mr Hall, and I am rebutting those remarks and putting on the public record my concerns about the government’s reason for wanting to change the system of voting in local government elections. For those reasons I do not support this bill. It is not a positive step.

There is another issue in relation to postal voting that the government has not addressed. If it were genuinely concerned about rural people automatically voting by post, it would have included in the legislation a provision enabling councils to determine which ridings could conduct compulsory postal voting.

The government has not put that before the house because it is not fair dinkum about representing rural people in isolated communities being able to vote in local government elections. According to the government, with the proposed compulsory postal-voting system in this bill, councillors may decide that ratepayers in town-based ridings may vote in the traditional way, but ratepayers in outlying ridings may not vote by postal vote.

Hon. R. M. Hallam — Would you support that system?

Hon. D. A. NARDELLA — You have not put it before the house.

Hon. R. M. Hallam — Would you build another straw man? Would you support it?

Hon. D. A. NARDELLA — It is not a straw position. I am putting an option that has not been put before the house.

Hon. R. M. Hallam — You are now advocating it.

Hon. D. A. NARDELLA — I am not advocating it. I am putting an option that you did not put during your truncated consultative process. If you were fair dinkum about representing rural people or giving isolated communities a say and truly believe that compulsory postal voting is the way to go, you would give councils that option.

The minister may wish to look at that. I cannot say whether the opposition would support it.

Hon. R. M. Hallam — That is inconsistent with what you have said earlier.

Hon. D. A. NARDELLA — It is not inconsistent with what I have said. The opposition would consider its position if that issue were put before the house. It is not before the house because the minister did not think of it! The government does not represent rural people. The consultative process was truncated and many of the options were not canvassed.

I agree with Mr Power that some aspects of the legislation are worthwhile because they will result in positive changes. However, the opposition cannot support the bill in its present form. I urge honourable members to vote against the bill.

Hon. LOUISE ASHER (Monash) — I wish to speak on two aspects of the bill, the first being the repeal of the Prahran Market Act and the second being postal voting and the ALP’s record in postal voting over many years.

The repeal of the Prahran Market Act is an important issue for my electorate. There are three comments I shall make about the repeal of the act. Firstly, the act is very old and the rationale for it was to facilitate the market development in the late 1970s. The development that took place then cost $6.5 million and the 1979 legislation was needed to ratify tenders and leases at the market. The act is now extremely antiquated. Section 2(2) states:

... the council shall not without the approval of the minister undertake any further development of the Prahran Market involving an expenditure of $100 000 or more ...

Clearly the act is antiquated and was designed for a specific purpose, namely, to facilitate the issues that arose in the late 1970s.

Secondly, the act is now redundant or irrelevant. The new Local Government Act allows councils to have entrepreneurial powers that exceed those provided for in the Prahran Market Act. Thirdly, and most importantly, the act was almost redundant before the government came to power. The Minister for Local Government told the house on 29 November 1994 that in January 1992 the Office of Local Government wrote to the City of Prahran suggesting that the act be repealed because it was
redundant. That was before the change of government, so the reforms were being put in place before this government took office.

The repeal of the act has absolutely nothing to do with the future of the market. Members of the Labor Party in my electorate claim that clause 26, which repeals the act, has something to do with the future of the market. That is not so. I have indicated that previously and those people know it. I noted that Mr Power did not continue with that nonsense tonight, which was probably the only sane aspect of his one-and-a-half-hour contribution. He knows that he cannot support the honourable member for Richmond in another place in this outright deception, and I thank him for that.

It is important for people to understand that the repeal of the Prahran Market Act has nothing to do with the debate in Prahran about the future of the market. I raised this matter in the house on 29 November. I do not want to go over these issues in detail, but I must say that the former council put the market redevelopment out to tender with the provisos that the council sought retention of the market atmosphere and compatibility with Chapel Street. The former council wanted a 50-year lease. There is no doubt the market needs redevelopment, particularly a new car park facility. There is nothing more frustrating than queuing for parking on Thursday, Friday and Saturday mornings. The market needs to be redeveloped. However, questions have been raised about the Lustig and Moar preferred developer and their requirement for a 99-year lease. The Minister for Local Government was required to give approval under section 193 of the Local Government Act for a lease as extensive as 99 years. The Labor Party has sought to confuse the issues involving the repeal of the act and the minister's requirement to give approval under section 193 of the Local Government Act for an extended lease. The minister has said that the former council did not convince him of the need to allow the 99-year lease. As a result of the minister's statement in the house the other night, the commissioners have been forced to re-evaluate their strategy and have appointed a panel to take submissions and provide an independent report to the commissioners by 31 March 1995. The report will look at community and trader needs.

The membership of the panel is David Elsum, Andrew Rodger and Jane Nathan. The terms of reference are important. The panel is to:

- receive written and verbal submissions and conduct investigations which will enable it to identify the benefits and disadvantages of the following options for the future of the Prahran Market site: retain the status quo; refurbish or redevelop it using public money; refurbish or redevelop it using private money.

In a letter from Mr Neil Smith, the Chief Commissioner of the City of Stonnington, which appeared in today's Age, Mr Smith makes the following point:

The City of Stonnington will ensure the Prahran Market is improved in ways that maintain its historical features and market ambience. That is why the consultation has begun and why an independent panel has been set up to hear from all interested parties.

I welcome that statement from the chief commissioner on a matter of concern to many of my constituents and I am pleased that the commissioners have moved in that direction following the raising of the issue in this forum. I hope the debate will now get back on track.

As I indicated earlier, there is a need for some redevelopment of the market. The market provides substantial benefits in my constituency. It benefits the traders in Chapel Street by increasing trade, although that market trade is declining; it benefits the ratepayers of Stonnington because it provides a return to council and rates have been held down, and as a ratepayer I think that is beneficial; and it also obviously benefits shoppers by providing them with access to a magnificent fresh-food market.

I did not intend to speak on the next issue but I was so amazed at the contribution of Mr Nardella that I feel moved to make a couple of observations about the Australian Labor Party's expertise in postal voting. Mr Nardella makes contributions of varying quality but I thought his contribution tonight was probably one of the most astounding he has made since he was elected to Parliament.

I make the general point that corruption that occurs at elections is not necessarily the fault of the voting system but is most often caused by the players. It is people who induce corruption, particularly in a country like Australia which has a democratic framework but in which the safeguards that are in place are sometimes overlooked. I will provide an example of safeguards not being in place in a moment.
Democratic systems of themselves do not induce corruption; rather it is the players, the people who do corrupt actions, who are involved in corruption. Postal voting has been proposed because of the general convenience of postal voting as a system and because of poor voter turnout in some areas.

I draw the attention of the house to part 1 of Report of Board of Inquiry Relating to Certain Matters within the City of Richmond, which is dated 1982. The inquiry was conducted by Alastair Nicholson, the Chief Justice of the Family Court of Australia, who was then a prominent Queen's Counsel and who in the report made a number of comments about practices at the Richmond council.

It will probably be instructive for me to refer to a couple of findings of the Nicholson inquiry. At page 416 of the report Nicholson states:

Additionally, I have considered the position and role of the outdoor staff, particularly having regard to the close political links between key figures amongst the outdoor staff and the ruling group of the ALP in council.

That was what happened in an ALP-controlled council in respect of which there was an inquiry into corruption in electoral practices. It was not the system of postal voting that was at fault; postal voting occurs all over Melbourne yet this sort of thing did not occur all over Melbourne — this happened only in Richmond which had a Labor-controlled council.

Mr Nicholson made the following general findings:

Serious electoral frauds involving the fraudulent substitution of postal votes in large quantities took place at the 1980 and April 1981 elections.

Honourable members interjecting.

Hon. LOUISE ASHER — I say 'Come in, spinner!' to members on the other side. Opposition members are saying that the problem is with postal votes and the fact that in 1980 and 1981 there was fraud in Richmond is some sort of support for their argument. However, the key question: why did that fraud occur? It did not occur because of a system of postal voting! Alastair Nicholson did not say, 'I direct the whole system should be changed'. Nicholson pinpointed the cause of the corruption clearly.

At page 466 of the report Nicholson states:

I can say, however, that I regard the root cause of many of the problems besetting Richmond as stemming from a need to preserve the power of what I have described as the 'ruling group' within the ALP in Richmond.

We have received a lesson tonight from Mr Nardella in how to manipulate a voting system. It is a disgrace for him to cast aspersions on an entire system of voting because the ALP manipulates voting in union elections, just as it manipulated it in Richmond as per the findings of the inquiry. It is an absolute disgrace for opposition members to cast aspersions on the democratic right of people to cast a postal vote simply because the ALP misrepresented and abused a system.

At page 467 of the report Nicholson states:

A long history of the acceptance of electoral malpractice by members of the ALP associated with the council in Richmond.

Hon. Bill Forwood — Read that again.

Hon. Louise Asher — It states:

A long history of the acceptance of electoral malpractice by members of the ALP associated with the council in Richmond.

Nicholson also pinpointed that there was:

An attitude on the part of ALP councillors that the end of obtaining power justified the turning of a blind eye to the means by which it is obtained.

That is the ALP in action! In fact, Minister, it will be interesting to hear how opposition members respond to this. I stress again that it is not the system that is inherently faulty but the way the ALP manipulated the system in the example of Richmond council. It is people that make a system corrupt. The postal voting system works well federally, at state elections and at most local government elections.

Hon. Pat Power — Why are you changing it?

Hon. LOUISE ASHER — To have postal voting. It works well in elections in all those tiers of government.

In Richmond the ALP was responsible for a range of practices. Nicholson highlighted matters such as:
The failure of the council to employ officers purely on the basis of merit and ability thus depriving itself the type of independent advice which it so badly needed.

He went on to talk about:

The lack of integrity and the political partisanship of a number of council officers.

He also referred to, and this is vintage ALP:

The intimidation of council officers, particularly by the members of the outdoor staff.

It is important to look at other aspects of the then Richmond council elections that Nicholson talks about. Probably the most telling remark that he makes, which is particularly relevant to opposition members, was in his finding at page 468 that there was:

The failure by the ALP to preselect sufficient suitable persons as endorsed ALP candidates over the years.

I understand why the ALP is a bit uneasy about postal voting. I suppose I understand its concern, given its track record in Richmond. At that stage Mr White was working for Clyde Holding, the current federal member for Melbourne Ports, and was implicated in this.

It is important to place on record that postal voting of itself works well in a democratic system. It works well in federal elections, state elections and local government elections across Melbourne and Victoria. However, it did not work properly in Richmond at a time when the ALP controlled Richmond council, had a cushy relationship with councillors who were involved in their own little power struggles and was not preselecting candidates of sufficient quality.

It is still the case in this chamber that the ALP is preselecting candidates of insufficient quality.

I support the bill and the repeal of the Prahran Market Act. I am delighted that the minister has moved to protect the Prahran market. The ALP is severely misrepresenting the issue on that aspect of the bill. I believe the performance of ALP members in the chamber tonight has been disgraceful, given that they are masters of electoral deception, as practised in Richmond and as found by Mr Justice Nicholson. I support the bill.

Hon. D. E. HENSHAW (Geelong) — Like Mr Nardella I shall concentrate on postal voting. I say at the outset that there is some merit in postal voting for rural municipalities but there are better possibilities. As I understand it, current legislation provides for postal voting in regulations under the aegis of schedule 12.

Council elections are part and parcel of the local government ethos; there is a fixed day when the local community knows they have to make arrangements to go to the poll. They discuss local government matters with other people and start thinking about it. Often they change their commitments to go to the poll. When they go to the poll it is something of a social event; they see people they have not seen for years. They know that when they go into the polling booth their name has been crossed off and they are assured that no-one else can vote on their behalf. They then return home and wait until that evening or first thing the next morning to learn who has won. That helps to generate a local interest in councils which is valuable for the council's credibility and worth.

I also support the capacity of the current legislation to provide postal voting where people apply for it. Often people cannot attend a voting booth or they may be out of the electorate. Postal voting enables them to exercise their vote. A recent innovation is pre-voting, which has some merit. In that case someone can cast a vote when they know they will not be in the electorate at the time. That will make a valuable contribution to local government.

A number of problems will occur with universal postal voting, firstly, the loss of community involvement when one receives something in the mail a few days before an election. Many people forget they have received the ballot material and forget to post it. Because of that they lose contact with their council compared with the current system. That could be a great loss to the local government scene over a period.

There is also greater capacity for postal votes, as opposed to votes at a ballot booth, to be rigged. Mr Nardella referred to the possibility of individual voters being influenced by families, neighbours and associations rather than going to a voting booth where they have to make a decision. Ms Asher referred to a particular situation in Richmond, which is beyond my experience, but I have heard stories of postal vote rigging which did not involve the ALP — it involved Liberal members. Such rigging is not confined only to particular operators in one
political party; it occurs across the spectrum and includes councillors. I know of situations where council officers have been involved. That danger is always present.

As I understand it, the minister will instigate the control of the process of postal voting via the regulations, and I ask the minister to exercise all care to minimise such rigging. It is my keen desire that universal postal voting should be controlled by the Australian Electoral Commission because people respect that organisation, have faith in it and will expect a fair result.

The minister implied that postal voting will be compulsory. My view is that it will not be practical to achieve compulsory voting as it would involve registered or certified mail. That will blow the whole system out of the water not only in terms of cost but also the capacity of the agent to handle it. If postal voting is to be introduced the percentage of people who vote will decrease with the result that there will be more capacity to rig the vote. Also the community in general will lose interest in the process.

I plead with the minister that, firstly, if he persists with the postal voting proposal, it be conducted by the Australian Electoral Commission. Secondly, the minister should contemplate the point that only councils have the ability to submit postal voting applications to the minister, in which case there will be a capacity to differentiate between rural areas and urban areas.

Postal voting will be a disaster. With the present legislation the regulations are not determined by the house. I do not support the bill.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! I am of the opinion that the second and third readings of this bill require to be passed by an absolute majority.

House divided on motion:

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Motion agreed to by absolute majority.

Read second time.

Third reading

Hon. R. M. HALLAM (Minister for Local Government) — By leave, I move:

That this bill be now read a third time.

In so doing I seek the indulgence of the house to make a few comments by way of response to honourable members who have contributed to the debate. In deference to my leader and the lateness of the hour, they will be extremely brief. But I have to say that I am very disappointed that the opposition took the attitude that it did because the decision to oppose the bill was not consistent with the argument that was led by Mr Power. The position taken by the Australian Labor Party is quite illogical.

In respect to the precise issues raised by Officer Esmonde from the City of Whittlesea, I can report to the honourable member that my director has written to that officer and responded directly to the issues he raised. The basis of the criticism was, in part, that there would be less than appropriate consultation. I do not accept that criticism, and point to the fact that both the MAV and the MMA were supportive of the process itself.

The opposition opposes the issue of the election date and somehow reached the conclusion that the change in the financial year had triggered the change in the election date, and that that somehow lead to a deferral of the first elections in the new municipality.

All I can say is that that is more of a product of a fertile imagination because there is no logic to that process. In addition, the opposition opposed the issue of postal voting and led the most extraordinary
array of evidence on what might take place in respect of postal evidence, and I would love the opportunity to rebut that because I would simply refer honourable members to the experience in Tasmania, New Zealand and South Australia where each of the issues have been addressed in advance. I make the point that what is being offered to local government on this occasion is nothing more than an option available to individual councils to pursue if they believe it will further the convenience of their electors.

Then there was some debate about the appointment of the returning officer and the delegation of that position. I hear a very strange argument that notwithstanding the fact that it is quite appropriate for a council to conduct its own elections, where expertise along those lines is developed, councils cannot conduct an election for perhaps a neighbouring or other council. I do not believe that to be logical at all. I simply make the point that this is an important bill in the local government reform agenda and I am disappointed that the opposition has taken the stance that it has.

The PRESIDENT — Order! So that I may be satisfied than an absolute majority exits, I ask honourable members supporting the question to rise in their places.

Required number of members having risen:
Motion agreed to by absolute majority.
Read third time.
Passed remaining stages.

GAS INDUSTRY BILL

Introduction and first reading
Received from Assembly.
Read first time on motion of Hon. R. M. HALLAM (Minister for Regional Development).

SUPERANNUATION ACTS (FURTHER AMENDMENT) BILL

Introduction and first reading
Received from Assembly.
Read first time on motion of Hon. R. M. HALLAM (Minister for Regional Development).

CORRECTIONS AMENDMENT BILL

Second reading

Debate resumed from 29 November; motion of Hon. W. R. BAXTER (Minister for Roads and Ports).

Hon. B. T. PULLEN (Melbourne) — The opposition is concerned about the direction the Corrections (Amendment) Bill is proceeding. In that regard the opposition will move a reasoned amendment pointing out that it does not believe a case has been made by the government for the dramatic changes in the prison system and the way prisons will be constructed. Therefore I move:

That all words after 'That' be omitted with the view of inserting in place thereof 'this house refuse to read this bill a second time until an independent and public committee of inquiry has examined, considered and reported on the proposals contained in the bill with a particular emphasis on:

(a) the likely economic costs and benefits of private sector management of prisons and other corrective services;
(b) the likely social costs and benefits of private sector management of prisons and other corrective services;
(c) the likely impact of privately managed prisons and other corrective services on the achievement of social objectives through the corrections system;
(d) comparative safety and security considerations;
(e) the likely impact of the creation of a commercially motivated penal and corrective industry on public debate and policy formulation in relation to crime and punishment issues; and
(f) alternative financing methods for the construction of three new private prisons as required.'.

The opposition has two quarrels with this legislation. One is the introduction of such radical change without any cost-benefit analysis of its impact on the prison system and the second is the lack of detail, balance and checks in the proposed change.

I indicate, however, that had some provisions of the bill been presented separately the opposition would have been happy to support them. I refer in particular to the proposals in clause 22, which provide for an interstate leave of absence scheme for prisoners to attend funerals and visit sick or dying relatives and close friends. That is done with
attendant security, and significant penalties exist for prisoners who attempt to or indeed do abscond in those circumstances. The opposition believes that is a significant reform.

As mentioned in the second-reading speech, the need has been highlighted by requests from Aboriginal prisoners to attend the funerals of family members, particularly at the Cummeragunga Mission across the River Murray in New South Wales. As I said, if those measures the opposition does not have a basic objection to had been presented separately the opposition would be happy to support that provision. Clause 25 brings in the Australian Capital Territory as a participating state in respect of the transfer of prisoners. That also seems a sensible and appropriate change. Again in isolation the opposition would support that change.

The opposition has moved a reasoned amendment because there is no evidence of any work being done to justify the change. My colleague the honourable member for Yan Yean in another place has sought to obtain information through FOI legislation and has met with extreme secrecy in relation to this legislation and the details of the contracting arrangements that would follow from it. When he was provided with a list of the names of the papers associated with it he discovered that there is no paper which in any way could be a cost-benefit analysis of the impact of this change to the prison system.

It makes the opposition extremely suspicious that the government proceeds in this direction, not because the legislation will provide efficiency gains and some alternative for comparison within the system, but because it is ideologically based. It is a move towards a more privatised prison system without the checks and balances that are warranted. It would be useful to have some alternative models to look at when dealing with something as difficult as running prisons.

I do not think the opposition would object in principle to some examples in order to demonstrate different ways of doing things. This looks like a lurch in the direction of privatisation of prisons unsupported by documentation and unsupported by any public debate or any evidence to show that the change is warranted.

Other parts of the bill give the opposition cause for concern. Clauses 17 and 18 expand provisions regarding FOI and the Ombudsman. They will be extended to cover contractors and subcontractors doing work as private contractors for the building and running of prison establishments.

Clause 20 is a 'grand prix' clause that makes the significant details confidential. This situation is different from any open tendering process that would allow people to have information about the undertakings, benchmarking and performance criteria of a privatised prison system. Although generally welcomed, in that sense the extension of FOI is immediately hobbled by the confidentiality provision. The agreements will be commercially inviolate. The public is not entitled to know and there is no need for the public to know. How any real comparison of the performance quality can be made in the public domain escapes us.

Another point of significant concern is that it is not the secretary of the department who is to make the agreements with the private operator who is going to build and operate the private prisons; it is the minister. That is a dangerous move. We understand that it is at the behest of a possible private bidder, that the bidder wants to deal directly with the minister rather than the secretary of the department. If the bill were implemented in the way the government is proposing, I should have thought that in an area as sensitive as the prison system the bidder would also contract to take responsibility for custody from the police.

We recommend an arm’s length relationship with the minister. We would not suggest that the minister be pressured to be involved in a direct relationship with potential private prison operators. I believe it is imprudent not to maintain an arm’s length relationship and that it would have been better to have kept what I think is the normal relationship in the Westminster system, and have the secretary of the department as the one responsible for the contracts and dealings with anyone contracting to build and operate a prison.

Another part of the bill that concerns the opposition is the appointment of the Commissioner for Corrections. The notion of such a position may be reasonable but we submit that a person in that position should have a degree of independence, that it would be more appropriate for it to be a Governor in Council appointment and that carrying out this role should have some status.

Another matter which is of particular concern to me and which, because of recent experience, should be of concern to members of the government is that section 218 of the Building Act is not to be applied to
works carried out by private contractors. They will not need to obtain building approvals and permits from local councils. The members of the Environment and Natural Resources Committee are unanimously concerned about the extension of the commonwealth’s protection to agencies such as Optus and Vodaphone, which may now erect towers in all parts of Victoria without seeking the approval of local authorities. These actions are taking place without the normal due processes.

In its report to Parliament that committee has expressed its view that the commonwealth should insist on those agencies complying with state laws. The difference between state and commonwealth law is not just a question of state rights; the law of the higher standard should be applied. The principle has been that just being privatised is not an excuse for not applying. The same applies to people who operate weekend markets in airports without going through the normal planning process.

Here we have legislation prepared by the state government to remove the need for a private operator in the corrections system to comply with council laws. Government members cannot have it both ways. If they are prepared to argue that the commonwealth should comply with state laws they should see that the situation is the same. The processes the government establishes should comply with local government laws for the sake of consistency. If government and opposition members of the Environment and Natural Resources Committee were to consider that they would see the consistency, but it is not apparent in this legislation. That is another example of the government’s hypocrisy.

From the comments we have already received I would expect the response to the government to be generally positive. I see Mr Evans nodding. The Environment and Natural Resources Committee spent some time considering that point and I am sure they all see the concern.

A further concern is the removal of the jurisdiction of the Supreme Court. In the operation of a privatised prison people will not have recourse to the Supreme Court. The Scrutiny of Acts and Regulations Committee has suggested that it is unnecessary for it to apply in this case. It seems that a large number of benefits and ease of operation are being provided to the proposed private operators of prisons. The government might be beginning its aim by suggesting that this is a move towards greater efficiency in the operation of prisons, but it has not provided pre-cost benefit studies or evidence to show that that is the case.

We say this is another hasty example of the ideological predilections of this government to privatise at all costs and move away from anything done under public scrutiny according to the normal Westminster system or a public service organisation of which we can be proud because of its freedom from corruption and its quality as a system for people with careers. We are moving to a fragmented system of privatising prisons. Comparisons have been made between the Borallon prison in Queensland and the Barwon prison in Victoria.

Again, scant evidence has been provided to support that comparison. In fact, I have heard evidence both ways. In any case, the prison in Queensland is a medium-security facility whereas Barwon is a high-security prison. If you are going to compare unit costs, it is absolutely essential that you compare like with like. You need to equalise those comparisons to ensure the facilities are doing the same job so you have a qualitative comparison as well as a financial one. My understanding is that if you take account of that, Barwon Prison stands out quite well.

However, if the government were undertaking this exercise seriously, it would have presented a cost-benefit analysis and made reports available so that the public and the opposition could examine them to see whether there are any economic benefits in moving to a privatised prison system.

In addition, we would like to know the social implications of a privatised system, what kinds of standards we can expect from it, what impact it will have on the operations of the police and how it would interact with normal policing. All those issues are worthy of examination. They should not be swept under the carpet and there should not be a shroud of secrecy about the way the government is moving into this. As I said before, there is no need for special provisions to prevent the public of Victoria knowing the details of contracts. It is what I refer to as the grand prix secrecy clause. The grand prix provision has caused considerable concern and disquiet in the community because no-one knows what the costs will be, and yet people are asked to accept it. The provision regarding the grand prix is analogous to that proposed for private prisons.

The general issue is the number of prisons we need. The other suspicion is that, through its general law and order policy, the government is leaning more
CORRECTIONS AMENDMENT BILL

Tuesday, 6 December 1994

and more towards the model in America, where the solution is simply to lock up people. That is too simplistic a solution and is creating pressure for more prisons, hence the need to look at economies because prisons are extremely costly.

The overall scenario is a bit disturbing given that the American experience is very stifling and the society there is more violent than ours. The directions followed in America have not resulted in lowering the level of violence, and efforts to be preventative, support families generally and support people at a younger age so they have a sense of belonging in society and a framework to operate in are seen as wimpy solutions. Tough solutions are sought, which means locking them up. That then leads in the direction of prisons and increasing prison costs.

It would be much better to address the issue at a social level. Heinous crimes are committed and we all feel very strongly for the victims of such crimes. It is natural to feel vindictive and to want to punish people who perpetrate crimes on others, leaving a lot of pain. However, if you extrapolate that to the way society is treated on law and order issues, the overall situation is disastrous. That is why it is important to see a complicated situation as it really is rather than looking for simplistic solutions. Part of the pressure on the government to privatise is that it is a victim of its own direction and its overall law and order policy.

I have given a summary of the reasons why the opposition is serious in opposing this legislation. That is why we are suggesting that if the government presented the work and was prepared to follow through the points set out in the reasoned amendment, we would have an opportunity to scrutinise rationally whether there is a role for some different models in our prison system.

The opposition is opposing the bill on two points: firstly, it is ideologically flawed and lacks evidence; and, secondly, it shows haste and insufficient care in the preparation of the details. We oppose the passage of the bill.

Hon. P. R. DAVIS (Gippsland) — I support the bill and oppose the reasoned amendment. I shall immediately respond to a couple of remarks Mr Pullen made about the detail of the bill. In particular, Mr Pullen referred to the notion of an ideological thrust towards privatisation. It is quite evident that he does not understand the government's policy that was clearly enunciated prior to the election in 1992 — that is, to bring into play in the Victorian correctional system a discipline to provide some efficiencies and improve the standard of accommodation for the holding of prisoners and thereby improve what was, in fact, a derelict correctional system.

Mr Pullen also referred to the notion of confidentiality as being in some way surreptitious or clandestine, when in fact the obvious understanding we should all have is that these are very complex commercial arrangements that involve a very competitive situation in the bidding process between the various proponents. Therefore, the issue of confidentiality will naturally arise, which also flows through to the issue of security.

Security was also picked up by Mr Pullen when he referred to the exemptions from the Building Act and planning processes. In fact, the appropriate planning processes will be followed in the main, with the exception that the detailed plans will not be made available for public inspection because it would make a farce of the security arrangements of a prison that is constructed to contain prisoners and to stop them from escaping. We would not want the general public to see how these prison facilities were constructed and to know about the detailed security arrangements.

Given the lateness of the hour and representations made to me earlier by the Leader of the House about abridging my speech, I will move very quickly through the points I wish to cover. Firstly, the bill contains provisions for facilitating the contractual and administrative arrangements relating to the operation of private prisons. Further, it enables the contracting out of management of prisoners or of detainees currently held in police cells.

I believe the opposition supports the other two substantial provisions relating to interstate leave of absence for prisoners and the amendment to the Prisoners (Interstate Transfer) Act to recognise the ACT as a participating state.

My comments are restricted to those aspects of the bill the opposition opposes, in particular, privatising correctional facilities. Correctional facilities in this state, especially Her Majesty's Prison Pentridge, have been described as Dickensian. There is universal accord to upgrade the facilities that hold prisoners in this state and it is evident that the opposition, when in government, was unable to address this serious and costly issue.
CORRECTIONS AMENDMENT BILL

The government has had the foresight to see that the best way of achieving the right outcome is to introduce private equity into the process, while at the same time reducing operational costs. That will achieve savings for the state as well as improving and enhancing the accommodation of prisoners.

It is interesting to note the range of costs involved in holding prisoners. A comparison of prisons based on 1992 figures shows that the costs range from $66 per day in one prison to $158 per day at Her Majesty's Prison Fairlea. Prisoners at Pentridge prison cost $155 per day. Clearly, some discipline must be imposed to ensure that the culture of the prison system is changed radically to meet the needs of this era and to provide a benchmark against which to test the delivery of services in correctional institutions. To this end, the government announced in its policy statement on corrections prior to the election that the maximum use would be made of contracting services from the private sector, including the operation of private correctional facilities.

Regarding the notion of privatisation and community support for that process, I read from an editorial in the Age of 17 December 1993 which states:

There is no reason why the private sector should not run part of the state's prison system, if it can do it more cost effectively ...

It is also sensible to sell Pentridge, which is old and dilapidated and long ago outlived its usefulness.

There has been much discussion in recent years about the need to move in this direction. It is not really a new direction, because the United Kingdom and the United States of America have many private correctional facilities. Queensland has two private correctional facilities and New South Wales has one. They are at the leading edge in terms of their correction process and accommodation of prisoners.

The important aspect of the approach taken by the government is that it developed a process of site selection to accord with another aspect of government policy, regional development. In fact, during this year approximately 30 municipalities provided 54 potential sites to the Department of Justice as potential sites for a regional 600-capacity male medium-security prison. Given the long history of association of correctional institutions in Gippsland, there being three institutions operating presently, it was pleasing to note that three of the seven sites short-listed were in Gippsland and more pleasing again that the site at West Sale, Fulham, was finally selected as the appropriate site for a new institution.

The central Gippsland development group worked extremely hard to facilitate the successful submission in support of the City of Sale and Shire of Rosedale. The Fulham site was selected as the most appropriate. The prison will prove a significant stimulus to the local economy. Indeed, it will replace the downsizing that has occurred in employment because of the collapse of the former National Safety Council of Australia and the transfer to Melbourne of the Esso-BHP headquarters in 1991.

The Gippsland community supports this project. Unemployment rates are approaching 20 per cent in the Latrobe Valley and 16 per cent in the Sale employment sub-group. It is estimated that between 600 and 1000 people will be used in the construction of the prison, approximately 240 employees being employed in an ongoing operation with a flow-on effect of nearly 250 jobs in the general community. That will be a great fillip to the economy. I congratulate the government for introducing the initiatives and I support the bill.

Hon. D. A. NARDELLA (Melbourne North) — I oppose the bill. As Mr Pullen outlined, the opposition supports clause 22 regarding compassionate leave, because it introduces reasonable measures and should be supported. However, the opposition opposes the balance of the provisions vigorously because of the lack of information and accountability involved in the privatisation of not just the management but the ownership of prisons.

A number of serious issues have not been addressed regarding the establishment of a private prison system. The opposition opposes the limitation of the jurisdiction of the Supreme Court as it protects the contractors and their employees. The Scrutiny of Acts and Regulations Committee decided that the same outcome can be achieved through other means. That is, processes can be developed to protect guards and others involved in looking after and maintaining these institutions. The government's heavy-handed approach has not looked at alternative options that would not reduce the rights of prisoners.

I shall refer to the lack of competition that the government is putting in place by its proposal to establish private prisons. It is important that I bring
this aspect to the attention of the house because it challenges the rhetoric of the government. It challenges what the government tells the community it stands for and states what it has done in practice in other areas that I have brought to the attention of the house in previous debates, particularly competition in the Workcover industry.

In December 1993 the government announced that there would be three new prisons built in Victoria. It was also announced that the Victorian prisons service would not be permitted to submit a bid to operate the new prisons.

That is an absolute contradiction of the rhetoric of the government. It is an extraordinary statement and an extraordinary position for a free-enterprise government to take: that it does not want open competition in the prisons area. That goes against its public utterances and rhetoric but is consistent with the unfortunate position it takes that public is bad and anything private is good. It is not a position I support.

If you are to have true competition and if the government is seeking to have a situation in which it achieves the best outcomes for society in general it needs to allow companies, be they private or public, to compete against each other for the provision of services.

However, this bill goes further than that. Not only can we not gauge in a comparative sense what a private enterprise company or companies could do and how that compares with the performance of the public prison service, but there has been no real cost-benefit analysis carried out of private prisons in Victoria. The opposition believes that the community needs to know what is the cost to it of providing a private prison system and what would be the benefits to the community if such a system were to eventuate. However, that is not happening. The government is derelict in its duty of informing the community of what the results of that cost-benefit analysis would be. The government is skewing the tendering system against any public input and is not allowing for an open process.

There are no real figures available to allow a true comparison of the cost of keeping prisoners and how that would change under private prison management. One cannot compare Pentridge prison with new prison facilities. I have been through Pentridge. It is one of the most awful places I have been to. I have also been to the Barallon and Arthur Gorrie correctional centres in Queensland and there is no comparison. Going into Pentridge is, as other people have said, a walk into Dickens — it is the same as walking into the Old Melbourne Gaol down the road where Ned Kelly was hanged. Worse still, it is still in use!

If you wanted to put together a cost-benefit examination of the various private and public management systems you would need to look at some of the newer facilities that are available in Australia. The government has not done that type of analysis; it has not provided those figures to the community of Victoria to allow a debate on whether that is the best way to go. If it did it would come up with figures such as these: in Queensland at the Barallon privately managed prison the net annual cost of keeping a prisoner in 1991-92 was $39 240; in 1992-93 it had increased to $42 900. At Lotus Glen Correctional Centre, a publicly managed prison in Queensland, the net annual cost in 1991-92 was $42 870 and in 1992-93 it had fallen to $39 060.

Those two prisons could be compared with the Barwon prison, which from my understanding is, in an analytical sense, comparable to the other two prisons. It is publicly owned and managed and currently the net annual cost of keeping a prisoner in that facility is approximately $38 000. Those comparisons have not been made. We are being asked tonight to make a decision to support a bill that has not been backed up by such a cost-benefit analysis. The government has not allowed a debate on the issue to occur in the community.

Further, I do not support the principle of making profit from prisons. I do not believe that is the way for a mature and sophisticated society to go. A mature and sophisticated society has a responsibility to safeguard the community without having companies making a profit from the incarceration of criminals. There are a number of flaws in that system.

I am concerned that in future, in order to retain profits and make appropriate returns to their shareholders, private companies may skimp on costs and rehabilitation programs. By contrast, the public prison service has a responsibility to safeguard the community within a reasonable framework of costs.

That is the important difference between a public system and a private company making profits from incarceration. I find the idea about secrecy alluded to by Mr Davis ludicrous. He put the argument that there must be secrecy to safeguard the various plans and construction of a private prison and therefore
there must be secrecy with the contracts that are let. That is a ludicrous position because when a facility is being built carpenters, bricklayers and many tradespeople on site know what is going on.

Checks and balances are put in place for the private companies to adhere to. In a sense there is a service agreement for the keeping of prisoners, but the opposition is against it being secret, it is not the case in Queensland. When the Crime Prevention Committee went to the Borallon prison in Queensland the authorities explained that the documents are publicly available and are part of the checks and balances which the conservative Bjelke-Petersen government and the Goss government put in place. Those checks and balances are open to the public so that it knows what it is getting for its money. The private company is performing a public service, and that should be transparent and open for the community to see. Secrets should not be given away on ways of building tunnels, but there should be accountability by both the government and the private company so that the community is informed of what is occurring.

Mr Davis finally alluded to benchmarks. He said they rely on having an open tendering system that allows proper scrutiny and analysis of the different facilities that are put in place and that they should be on an equal footing.

I reject any notion that Mr Pullen put that the government has a lock-them-up mentality when one looks at other measures that have been put in place to keep people out of prison and in the community. I formed the distinct impression that the reasoned amendment was moved as a means of opposing privatisation. My suspicions were confirmed when Mr Nardella let the cat out of the bag when he said he was opposed to private prisons.

It is clear that this is not a genuine reasoned amendment; it is simply a statement of an ideological position against privatisation per se, whether it be a prison or anything else. The government clearly does not support that position.

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

Ayes, 26
Asher, Ms
Ashman, Mr
Atkinson, Mr
Baxter, Mr
Best, Mr
Birrell, Mr
Bishop, Mr
Bowden, Mr
Brideson, Mr
Cox, Mr
Craig, Mr
Davis, Mr (Teller)
de Fegely, Mr

Noes, 11
Davidson, Mr
Gould, Miss
Henshaw, Mr
Hogg, Mrs
Ives, Mr (Teller)
Mier, Mr

Amendment negatived.

The PRESIDENT — Order! I am of the opinion that the second and third readings require to be carried by an absolute majority.

Motion agreed to by absolute majority.

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

Third reading

Motion agreed to by absolute majority.
Tuesday, 6 December 1994

MELBOURNE SPORTS AND AQUATIC CENTRE BILL

Read third time.

Passed remaining stages.

MELBOURNE SPORTS AND AQUATIC CENTRE BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. W. R. BAXTER (Minister for Roads and Ports).

ADJOURNMENT

Hon. R. I. KNOWLES (Minister for Housing) — I move:

That the house do now adjourn.

Queenscliff dredging

Hon. B. T. PULLEN (Melbourne) — I raise with the Minister for Roads and Ports the extent and cost of dredging occurring at Queenscliff at the moment and the involvement his department has had in that operation. As I indicated previously today, when the new terminal was proposed many people warned of the possible impact on beaches and sandy harbours in the area.

Cr Kerri Erler questioned the need to properly understand and model the environmental impact on the coastline. The officer in charge of Swan Island defence department, Mr Bill Clifton, was concerned that the new terminal would worsen erosion of the island. The new terminal protrudes something like 75 metres into the sea and has a 150-metre rock wall.

As I understand it the Peninsula Sea Road Transport ferry has been unable to leave its berth on a couple of occasions and the sand has increased at a rapid rate in the bay between the south of the ferry terminal and what people know as the south pier, to the extent that the average is something like the rise of 1 metre, which is extremely rapid given that the terminus has not been open all that long. Also erosion is occurring on Swan Island.

People are working overtime on dredging to try to maintain the ferry services. My question to the minister is: what is all this costing? Who is paying for it? And has the minister received any report or estimate of the cost to rectify this situation? I further ask what ongoing work will be required to maintain the facilities in some reasonable order, not just the facility of operating the ferry but the extension of sand deposit, which is affecting the other pier and the general amenity in the area. I believe the locals are quite observant; they are seeing real changes in the area. I have had conversations with several people who are knowledgable about the area and who have expressed a concern. As I have said earlier this matter has resulted from the failure of the government not to do the work properly in the first place and the planning and conservation minister’s failure to insist on a proper study. It is also a failure on his part to insist on an environment effects statement before allowing this large construction to go ahead.

We are now paying the price for that failure, and the Minister for Roads and Ports is the minister who will have to pick up the tab. I ask him what that tab is and whether the taxpayer will be picking it up or whether it will be borne by the operator of the ferry service.

Domain tunnel

Hon. LOUISE ASHER (Monash) — I raise for the attention of the Minister for Roads and Ports a matter that concerns the way the Domain tunnel will be constructed in Southbank in my electorate, in particular, and its potential impact on the Malthouse. It is important to place on the record that I am a director of the Playbox, Malthouse Ltd. I ask the minister whether provision exists in the tender document for the Domain tunnel to be lidded from Sturt Street to Dodd Street. There have been concerns about the Domain tunnel project in the area if the tunnel is open and not lidded.

The Malthouse is concerned about the possible traffic noise. There is also concern in the area that it may divide Southbank into sections, which may not be consistent with the long-term planning objective for Southbank. There is also a feeling that the Domain tunnel should be lidded from Sturt Street to Dodd Street.

I seek the minister’s advice as to whether, firstly, these concerns are well founded, and secondly, whether there has been consideration by his department for inclusion of a lidded section of the Domain tunnel in the tender documents.

Forklift operator licence

Hon. D. T. WALPOLE (Melbourne) — The matter I raise for the attention of the Minister for Local...
Government, who represents the Minister for Industry Services in this place, concerns a constituent of mine, Mr Malcolm Pratt. It is a long and sad story and, given the lateness of the hour and the fact that the minister's office has some of the details, I shall be brief. I will hand up the papers to the minister at the end of my speech.

In 1991 Mr Pratt was employed by Comet Transport and sought to gain a forklift licence. At the conclusion of his test he claims that the examiner sought a bribe from him to ensure that he got the licence. It was a bribe of $50 and I have an affidavit to that effect in my possession. Mr Pratt refused to pay the bribe, subsequently took the test again another three times and on each occasion he claims, and is supported by his brother who attended with him on one of those occasions and who also has signed a statutory declaration, that the test was virtually impossible to pass. He has produced the sheets made out by the examiners on each occasion that he sought to pass those tests, and it does appear on the initial test that the examiner’s test sheets have been changed, which may lead one to the conclusion that the examiner did make an attempt to make sure that Mr Pratt did not pass his test because the failure mark was 30, the mark that Mr Pratt gained was 30 but a further addition was made which caused the failure mark to go up to 33, which caused him to fail the test.

As I said Mr Pratt sat the test on a further three occasions and through raising the matter in another area he was tested by an official from the occupational health and safety authority. That particular official effectively gave him a green light and a letter to the effect that he was competent in all areas in which he had been tested, and I have a copy of that letter in my possession.

Subsequently Mr Pratt lost his job while he was on jury duty, which is another matter that has been taken up with the Deputy Sheriff. He has since been on sickness benefits and the whole matter, as I said, is a fairly sad story. I would certainly like Mr Pratt’s concerns dealt with in a proper manner. I ask the minister to take it up with his colleague.

Local Government Board: Sunbury

Hon. D. A. NARDELLA (Melbourne North) — I raise a matter for the attention of the Minister for Local Government. Last week the minister met with two Sunbury riding councillors, the honourable member for Tullamarine, Mr Bernie Finn, and a small number of Sunbury residents on two occasions. I understand that those people are asking the minister to remove Sunbury from the new City of Hume and to place it in a Macedon Ranges-based municipality. They claim to represent the majority view of Sunbury residents, but this is not the case. The delegation included Jack Ogilvy, who has verbally assaulted my electorate officer after I stood up and represented my constituents on this particular matter. I think he is a coward. However, the vast majority of people voted via a survey to remain with the rest of the Shire of Bulla in the new City of Hume. This fact was taken into account in the Local Government Board’s final report.

I ask the minister whether he will assure me and the Sunbury community that the final recommendation by the Local Government Board, which includes the Sunbury community and township within the new City of Hume, as supported by the majority of Sunbury residents, will be implemented?

Householder mail

Hon. PAT POWER (Jika Jika) — I ask the Minister for Tertiary Education and Training to raise a matter of considerable alarm with the Attorney-General. It concerns householder mail that appeared in my electorate office. Three copies came with my mail. For those honourable members who cannot see it from where they are seated, the material is called ‘Hard bodies entertainment now, male and female strippers for all your special occasions, it just doesn’t get any better than this’. The literature contains a number of young women in what I consider to be inappropriate poses and it contains names and telephone numbers.

I know that a whole range of advertising is done through householder mail and we all accept that is part of the commercial reality. However, I consider this to be most unsatisfactory. I recognise that it is a federal issue but I ask the minister to seek advice from his colleague as to whether there is anything that the state government can do about this sort of material. If the answer is no, I give an undertaking that I will recognise that it is a federal responsibility, and will take it up in that way.

Henty Bay

Hon. D. R. WHITE (Doutta Galla) — I direct a matter to the attention of the Minister for Roads and Ports regarding Henty Bay and ask whether discussions have occurred on the recent further damage at Henty Bay between the Port of Portland Authority, the Department of Transport and
representatives in the minister's office regarding a resolution of the land claims, and, if discussions are occurring, whether there will be any resolution before the end of this year on the issue of who will take the financial responsibility for the restoration of Henty Bay. It specifically follows, as one would appreciate, the comments by the Leader of the Government earlier in the day about the beach refurbishment program. For obvious reasons the issue of Henty Bay was not dealt with. As the minister would appreciate, the total cost of reclaiming Henty Bay from the most recent damage will probably be in the vicinity of $5 million. I look forward to a further comment from the minister about what discussions are occurring at this stage.

Local Government Board: Sherbrooke

Hon. R. S. IVES (Eumemmerring) — I direct an issue of concern to the Minister for Local Government. There is considerable unhappiness in the Shire of Sherbrooke against the amalgamation 'and subsequent borders of the Yarra Ranges Shire' but deputations have been organised to the Premier by persons better qualified than me to make this protest. On this instance I would like to acquaint the minister with the urgent need for a small but very significant border realignment.

Betty Marsden, a senior and respected environmental leader in the Dandenongs, has pointed out a blunder in the re-drawing of the boundaries between Knox and the proposed Shire of Yarra Ranges. Because the alteration was performed without fanfare, it was not immediately picked up, but now that it has, this issue will become the subject of mounting protest.

I refer to three parcels of land no more than 200 acres in total, which were previously within the Shire of Sherbrooke.

The approximate Melway reference is: map 66, AB9; BC7,6; CD8; in the vicinity of Ferndale Road, the Basin-Olinda and Old Bayswater-Sassafras roads. This privately owned land is currently under particularly tight planning controls. It is very close to the back of the Sassafras township, on the west face of the range, which is the visual backdrop of Melbourne. It is an area worthy of preservation.

This particularly fire-prone area was devastated by fires in 1962 and 1968. They typically started off Queenscliff, particularly to keep the channel open. The channel is used not only by the ferry that operates in the area but also by fishermen and recreational craft. It is alleged to be a planning issue. My recollection is that by and large the decision to expand the Peninsula Sea Road Transport terminal was undertaken in the life of the former government.

victory of the areas involved in the buy-back scheme initiated by the Bolte government. Under this scheme land of particular environmental and scenic significance was bought back at public expense, in this case to provide a link between the northern and southern forests of the range.

The land is in the vicinity of the fire-buffer properties that were bought to allow the CFA the time and space to fight fires. The land acts as a buffer to protect the west face of the Dandenongs against the disfigurement of development. When one considers the time, trouble and effort put into this area to buy back environmentally significant areas and fire-buffer properties, it seems pointless to now hand over 200 acres to the City of Knox with the expectation that the land will be developed and removed from the protection of the regional strategy plan and local planning schemes currently in place in the Shire of Sherbrooke.

That action is mindless, pointless and dangerous. It will achieve no public good whatsoever. It will only increase the danger of fire and disfigurement on the west face of the Dandenongs. I urge the minister to instigate a review of this particular border alignment.

Responses

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — Mr Power referred to household mail. I am not sure whether he or one of his constituents received it. Although the material, which is called Hard Bodies Entertainment, refers to male and female strippers it has photographs of only female strippers. I do not know what happened to the male strippers. Mr Power finds the material offensive and asked that I refer it to the Attorney-General to determine whether any action can be taken by her or by the government. Mr Power said that since it is essentially a federal matter there may be nothing the Attorney-General can do. However, I will be pleased to pass the matter on to the Attorney-General and I will ask her to advise Mr Power.

Hon. W. R. BAXTER (Minister for Roads and Ports) — Mr Pullen referred to dredging that is occurring off Queenscliff, particularly to keep the channel open. The channel is used not only by the car ferry that operates in the area but also by fishermen and recreational craft. It is alleged to be a planning issue. My recollection is that by and large the decision to expand the Peninsula Sea Road Transport terminal was undertaken in the life of the former government.
Hon. B. T. Pullen — Not true!

Hon. W. R. BAXTER — Environmental studies were undertaken at that stage and subsequently the matter received further consideration after the change of government. The environmental studies are not within my administration. It is my understanding that that was handled by the Minister for Planning. Nevertheless it is true that extensive dredging is required. On Friday last I met with the Port of Geelong Authority, which has responsibility under its act to keep the channel open for the use of craft.

Hon. B. T. Pullen — The agreement was to be no more than before!

Hon. W. R. BAXTER — It is executing its statutory responsibility. The degree of dredging that will be required as part of an ongoing basis is clearly a future issue.

Hon. B. T. Pullen — What is the cost so far? Who will pay for it?

Hon. W. R. BAXTER — That matter will require further negotiation. The important point is that dredging be undertaken by the Port of Geelong Authority, which has the responsibility.

Hon. B. T. Pullen — So the public is paying?

Hon. W. R. BAXTER — The public is not paying. By and large those who use the port of Geelong — —

Hon. B. T. Pullen — Other people are paying for the minister's mistakes.

Hon. W. R. BAXTER — It is important that during holiday periods the ferry operates properly and safely. The citizens of Queenscliff are enjoying a great deal of benefit from the presence of the ferry. It brings an enormous number of visitors to the town.

Hon. B. T. Pullen — It is not running. You drive to it and are turned away!

Hon. W. R. BAXTER — I can assure Mr Pullen that Mr McKeddie would be on the telephone if the ferry was stopped for more than 5 minutes.

Hon. B. T. Pullen — That is how he got the permit.

Hon. W. R. BAXTER — Despite the delay that occurred on Friday evening I have not heard from him during the past few days so I am confident the ferry is operating.

Ms Asher raised an interesting question concerning the Domain tunnel and its western course. She made the perfectly valid request that if Grant Street is utilised consideration be given to providing a lid over the tunnel. Although the project brief is not prescriptive in its instructions to the two bidders, it certainly makes it clear that the government is looking for innovative proposals rather than just the building of a road from point A to point B, especially in a sensitive area such as the Malthouse precinct.

It is highly desirable that the pedestrianisation of this area not be unduly interrupted by some trench-like entrance into the Domain tunnel. To facilitate the prospect of lidding or some other suitable treatment, the project brief makes it clear that although access to the casino is required, it need not be provided sufficiently close to interfere with the lidding. That option was given to the bidders so that ingress and egress from the West Gate Freeway into the casino could be provided farther to the west.

It also makes it clear that the Minister for Planning is giving some consideration to the air development rights over that area. Therefore, the bidders have an incentive to provide a solution that gives them some capacity to realise that potential. I am confident that we will see proposals come forward on 31 January that deal with that area sensitively and appropriately. When the government is evaluating the two proposals those sorts of issues will be taken into consideration in determining the preferred option.

Mr White spoke about erosion that occurred at Henty Bay. I expect he was referring particularly to the Ferguson Road area. He asked whether discussions will take place between my officers and the Port of Portland Authority on the issue. So far as I know discussions have taken place. Certainly there has been correspondence and discussions with the Shire of Glenelg, which has principal carriage of the matter. Correspondence has been received by the Port of Portland Authority from a legal firm representing the two landholders in the Ferguson Road area. Advice has been sought from the Victorian Government Solicitor on the content of that letter prior to the issue proceeding.

Hon. R. M. HALLAM (Minister for Regional Development) — Mr Walpole raised with me an issue in my capacity as the representative of the Minister for Industry Services. He related a very sad
story about a constituent, Mr Pratt, who claims to have been subject to a bribe when undertaking a test for a forklift licence. I regard that story seriously and will certainly follow up the issue.

Mr Nardella offered me some advice on the weight I might give to evidence led to me by a delegation from Sunbury in respect of the review of local government. I take that on board and say to Mr Nardella that all those issues will be carefully weighed up. I take the issue very seriously indeed. I met the delegation and listened to their story and I will take the evidence they offered me into account.

Mr Ives raised a similar issue with respect to the Shire of Sherbrooke and asked me to consider a boundary alignment slightly different from that proposed by the board. He has done me the credit of providing me with some really detailed background to his issue and I will certainly take it into account.

Motion agreed to.

House adjourned 12.51 a.m. (Wednesday).