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The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.02 a.m. and read the prayer.

WASTE MANAGEMENT COUNCIL

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

That there be laid before this house a copy of the report of the Waste Management Council for the year ended 30 September 1994.

By way of explanation I have been told by the Clerks that the Financial Management Act now applies to the Waste Management Council and this report would ordinarily appear like every other report. However, for the year in question it was not covered by the procedure.

Motion agreed to.

Laid on table.

LOCAL GOVERNMENT ELECTIONS

Hon. PAT POWER (Jika Jika) — I move:

That this house acknowledges that —

(a) the government's decision to delay the completion of local government elections until 1997 is of major concern to fair-minded Victorians;

(b) ratepayers and residents have the right, at the earliest possible time, to exercise their democratic vote in new municipalities; and

(c) the government is embarking on a cynical political exercise by acting to prevent the completion of local government elections before the state election without concern for the very poor public policy precedent it is setting.

Much as it did yesterday in a debate on the Regulator-General, the opposition seeks to establish community concern about the government's changed program in local government. Today our task is to put before the house the concerns and strong views of reasonable-minded Victorians in their communities about the freezing of their right to exercise a democratic vote and about the delay in the election timetable being driven by a political wish to have commissioners in place up until and beyond the next state election. Conversely the opposition argues that the challenge for the government is to respond to this measure and provide information to the house that when fair-minded Victorians read the Hansard in days to come they will be comforted by what the government has said. I claim that that will be a challenge the government will find impossible to meet.

In recent weeks the Minister for Local Government announced the schedule of election dates for all of Victoria's new municipalities — the Borough of Queenscliffe was the sole survivor of the Kennett juggernaut. The 1995 election timetable says elections will be held this coming weekend in the City of Greater Geelong, in the Surf Coast shire and in the Borough of Queenscliffe and that elections will be delayed until 1996 in the City of Melbourne, the City of Greater Bendigo, in those municipalities that are described as the inner Melbourne group, those municipalities in the Ballarat region and those that are described as being in the south-west.

Most unfortunately 55 new municipalities will be prevented from having elections until March 1997 and they are those municipalities that are described as being in the north-east region, the Gippsland region, the inner and outer Melbourne ring, the north-central region and the north-west region.

Of the 78 municipalities that now exist across Victoria as a consequence of the program of boundary change, 55 of them are being told by the state government that they will not and cannot go to election until March of 1997. We will argue that that election timetable is causing fair-minded Victorians major concerns.

Hon. P. R. Hall — What do you mean by fair-minded?

Hon. PAT POWER — As I said at the outset we shall put forward our views in anticipation of people such as Mr Hall speaking. I look forward to his definition of what a fair-minded Victorian is.

Hon. P. R. Hall — You used the term, I would like to hear your definition.

Hon. PAT POWER — I assume from the honourable member's interjection he is implying that a fair-minded Victorian is not somebody who believes that freezing democracy at the local government level until 1997 is unreasonable.

Hon. P. R. Hall — So, what is your definition?
Hon. PAT POWER — As I said at the outset, elections that are to be conducted in 1995 will occur this weekend in the City of Greater Geelong, the Surf Coast shire and in the Borough of Queenscliffe. We will await the results of those elections with great interest.

Hon. R. M. Hallam — As will I, Mr Power.

Hon. PAT POWER — As I am sure everybody is. The Premier will also be awaiting the results of the elections in the City of Greater Geelong because he made it absolutely clear at a Geelong public gathering in December last year — despite an attempt by the minister in question time yesterday to suggest otherwise — that if the incoming council did not work to implement the 'Steam Packet' proposal that had been identified by his commissioners, he would again replace that council with commissioners.

Hon. D. A. Nardella — That's democratic!

Hon. PAT POWER — The great tragedy about this election timetable is not just the fact that it stretches out until 1997, but also that on the eve of the first elections that clear threat from the Premier is hanging over all of the people who might seek to serve in these new municipalities, having been elected by their ratepayers and residents.

A few weeks ago Mr Kevan Gosper released information about proposals that Melbourne's commissioners had developed for a council structure. One of the most prominent parts of his presentation was that Melbourne — Victoria's capital city, presently run by Kennett-appointed commissioners — was ready, willing and able to have elections conducted in 1995. The government's response was to tell the commissioners, along with ratepayers and residents, they were wrong. The state government has determined that elections will not occur before 1996.

At the time of the government's intervention in the City of Melbourne, its hand-picking of commissioners, and its appointment of Mr Kevan Gosper as chief commissioner, it made great play of the importance that Melbourne plays as Victoria's capital city and the fact that matters concerning the City of Melbourne were issues not just for the ratepayers and residents who live in the municipality but indeed for all Victorians. It was Victoria's capital city.

The minister will acknowledge that the opposition recognised that structurally it was the correct way to approach it. In that sense, the opposition saw the government's actions with the City of Melbourne as an important precedent. Given that the government has identified Melbourne as so structurally important, the opposition cannot understand why it has provided the commissioners with the responsibility of addressing the restructure but failed to accept the advice and the recommendations of the commissioners that they are ready, willing and able for democracy to be reinstated.

My question to the government, a question that is posed by many people in the community is: if you put in place a team of commissioners, especially given the importance of Melbourne, and receive very clear advice from them about when elections should be conducted — in fact, they make it very clear that their preference is that elections be held in 1995 — and then ignore that, on what basis are you making a judgment about when elections should be held?

Quite clearly the government said to Mr Kevan Gosper, 'You're wrong'. Quite clearly the government said to the Melbourne commissioners, 'Your readiness to have elections in 1995 does not fit with our political strategy and you're to go back down to your burrows and wait until we tell you when local government elections will be held'. That is an experience that has been felt in places other than Melbourne.

During my presentation I will put forward clear evidence that a whole range of commissioners are prepared to have elections and believe there should be elections sooner than the government's politically driven timetable suggests.

The City of Greater Bendigo is another municipality I wanted to refer to. The minister and the Honourable Ron Best made much play in debate and by interjection across the chamber about elections being conducted in Bendigo in August of this year. In fact, as a consequence of an interjection, Mr Best might owe me a case of alcohol. I am not sure about that because I remember challenging Mr Best to be absolutely sure that his claim of August — the minister's target of August — would not be run over the top of by the person who decides all critical decisions in this government, namely the Premier.

We now have a situation where the August date that was reported to the community in this house by the
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The City of Ballarat is also not to go to the electors until 1996. The Ballarat region is another area where democracy sooner rather than much later?

Hon. R. M. Hallam — The City of Yarra is not to have elections before 1996. One of the first examples of how unworkable is the appointment of commissioners was the decision of the commissioners of the City of Yarra to close a community swimming pool. It was only as a consequence of the strength of the local community and the network of people across that region that the commissioners were forced to change their decision. The commissioners were forced to recognise that they had acted outside any community views or aspirations. I am unaware of what involvement the minister had in discussions at that time, and I am not for a moment suggesting that he sought to influence the decision one way or the other.

Hon. R. M. Hallam — Thank you.

Hon. PAT POWER — I certainly was not seeking to do that. As a consequence of my view that the minister would have been involved in some way, he too would have a very clear understanding of what a critical test the Fitzroy pool issue was in judging the notion of the appointment of commissioners. That issue was resolved in favour of the community.

It seems to me that a recognition of that precedent would have led to the Yarra City Council going to elections sooner rather than much later. Why is it that where the Yarra commissioners got it so wrong, and where the community was able to demonstrate that they got it so wrong, the government was not prepared to recognise the reality and say there is a special case for the City of Yarra to be returned to democracy sooner rather than much later?

The City of Ballarat is also not to go to the electors until 1996. The Ballarat region is another area where the Premier has had a remarkably strong hands-on involvement. Honourable members will recall that at the 12th hour the Premier insisted that Professor John Sharpham be appointed the chairman of commissioners of the City of Ballarat. This is the same Professor John Sharpham who had been rejected by his professional colleagues as someone appropriate to head their institution. At the time the Premier described Professor Sharpham as being Ballarat to his bootstraps. The Premier was obviously spot-on in describing Professor Sharpham in that way! He was obviously spot-on in appointing Professor Sharpham to that post because it was only a matter of weeks before the professor left not only the local government industry but also Ballarat! Professor Sharpham, like so many other Victorians, left the state!

Hon. PAT POWER — I am happy to respond to the minister’s invitation to mention his next posting. It is clear now that Professor Sharpham had no intention of remaining in the local government industry. Professor Sharpham indicated it was always his intention to return to academia. It was even more spurious for the Premier to intervene at the 12th hour to appoint as a chief commissioner somebody whose commitment to the industry, to Ballarat and to Victoria was so shallow that, at the time of his appointment, the professor was actively seeking a return to academia. Professor Sharpham is now at the University of New England.

I shall now provide additional information in support of the opposition’s motion. I will draw on information, opinion and anecdotal evidence that adds support to the broad community assertion that the government’s actions concerning the timetable have been unreasonable. Following the call by the City of Melbourne for elections in 1995, the government released its schedule which literally froze local government democracy in Victoria until 1997. That means that a program that commenced in Geelong, I think in May 1993, will proceed until March 1997, almost four years later.

The media responded to the minister’s timetable in a way that I believe is consistent with community view. As the opposition argued in debate yesterday, the media has also been consistent with community
view on privatisation. The Age described the timetable as a backflip and said:

The schedule of election dates contrasts with earlier assertions by Mr Hallam that all communities would have their councils back by next year ...

It is reasonable for media commentators to take the view that the minister had, quite rightly we would argue, said democracy would be returned at the very earliest opportunity. It is right for the media and for members of the community to believe the minister was telegraphing as much as he was able to that that would occur in 1996. It was not until the Premier started to make noises about a later date that people twigged to the fact that the minister's target would not be one that the Premier would allow to fall into place.

To put democracy on hold until 1997 is anti-community and certainly undemocratic. I notice the Premier is often drawn to describe people who oppose his political agenda as being unVictorian. I can think of nothing more unvictorian than inviting people to a Boston Tea Party; I can think of nothing more unvictorian than telling Victorians they are to pay taxes but they are not to have any representation. How more undemocratic or anti-Victorian can one be?

The government is a Boston Tea Party government. Its political agenda is so critical and important that the traditions of democracy are a mere technicality. The local government timetable has led to a wide range of responses in Melbourne and, as the Minister for Local Government and Mr Hall would know, across country Victoria. People feel sold out and let down.

There had been a not begrudging but sometimes welcome acceptance that change in the industry was inevitable. There had been a recognition that in 1985-86 the Labor government created the debate and had made it inevitable and simply a matter of time. However, this government has failed to tap into the goodwill that existed across the industry and among those observers of its habits and performance. It moved unilaterally to impose boundaries, to dismiss elected representatives and to put in place state-appointed commissioners. That was the recipe for the significant level of anxiety that exists now. That combination of strategies is why people are so anxious about a return to democracy.

In 1985-86 the Labor government claimed there was much to be made from a reformed local government sector; the opposition acknowledges that that claim still stands today. Many opportunities are to be created from this restructured industry, but the opposition is absolutely opposed to the notion that the state can intervene in the way it has and can prevent communities from having their elected representatives running their municipalities.

I have gone on record as saying that the opposition acknowledges that commissioners have a role to play. I have emphasised that such a role must be that of a short-term caretaker and that commissioners must not make decisions about matters that are important to communities and about which communities would normally have long and serious debates.

A ludicrous situation now exists, for instance, in the Shire of Bass where the commissioners have, in their view, been instructed to undertake whatever downsizing is necessary. They have been instructed to fund redundancies from within the resources of their municipality. As a consequence of not having the appropriate cash reserves, the commissioners in that shire are now contemplating what community assets they can sell to find the dollars necessary to fund the redundancies.

Those shire commissioners believe they have absolutely clear riding instructions from the government. They are to downsize; they are to provide for redundancy payments from within the municipal resources. They are faced with the situation of having to make decisions about selling community assets. Clearly, those commissioners have no right to make decisions about assets. They have no right to sell assets to achieve a political goal of the government or to raise funds through such asset sales which can be used to finance a political strategy of the government. Those decisions belong to the community and must be left until councils are again elected.

I said earlier that it does not matter in what part of regional Victoria or Melbourne you happen to live — community concerns are similar. Naomi Davidson, a spokesperson for a local government committee called the Werribee Watchdogs has said that that group is concerned that the state government may have a hidden agenda. At page 69 of the Herald Sun of 11 March 1995 she is quoted as saying:

What does the state government want to impose on us that makes it willing to take away people's rights to vote for two whole years?
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We're used to hearing about people in tin-pot Third World dictatorships waiting for the right to vote in democratic elections but this does not usually happen in Western democracies.

It is a little like the reaction of a visitor from China when he saw the Premier's montage on the Tullamarine Freeway!

In Australia we have the right to choose the people we want to represent us through the three tiers of government.

In Victoria this right has been taken away from us by the Kennett government.

Although the government may like to contest the imputation about Third World dictatorships, it cannot contest that there is a tradition in Australia that people have the right to choose who will represent them. The government cannot contest that right at the local government level has not been taken away from Victorians; in 55 municipalities that right has been put in the deep freezer until 1997.

I have said before in this house and in other places that if a federal government of any persuasion decided that the states were to be restructured I have not the slightest doubt who would lead the charge to argue with the federal government about where the boundaries should be or, more importantly, about who its commissioners might be, or to argue absolutely with the federal government about its right to dismiss us from office. Perhaps that is a far-fetched analogy —


Hon. PAT POWER — I am quite happy for Mr Atkinson to say that it is a ridiculous analogy. I acknowledge that it is far fetched, but the principle is the same. Mr Atkinson might draw comfort from the fact that the constitution currently would prevent such an occurrence, but people in the community would see it as an absolute parallel.

Hon. R. M. Hallam — Some might.

Hon. PAT POWER — I do not believe fair-minded Victorians would support a federal government's intervening against any state government in such an unilateral way. That is how they view the intervention of the state government in local government. There is no broad contest that reform is necessary and desirable, but there is a major contest about the way the government has gone about it. I refer to the responses of a range of people who have been involved or are involved in local government.

In Melbourne's north east in the Diamond Valley and Eltham region, former shire presidents of Diamond Valley and Eltham had this to say. They were elected by the ratepayers and residents and by the council to occupy the position of shire president and therefore in that sense — I am sure the government would acknowledge this — have some community mandate and community credibility.

Mr David Hay, the outgoing shire president at Diamond Valley, is reported in the Diamond Valley News as saying the minister had given every assurance elections would be held in Nillumbik and Banyule in March next year:

For most of us, having commissioners in place for 12 months was unpalatable but we had to accept that ...

Another 12 months on top of that is really unacceptable.

It indicates that the government is not really interested in returning democracy at a local level.

John Graves, a former Eltham shire president, made similar comments. Robert Marshall, a long-time Eltham councillor and shire president, in the same article is reported as saying:

The state government has become power drunk and seems to believe it can take the rights of individuals away from them.

I wish I had thought of the next line myself:

There is no local government in Victoria at the moment — only 78 branches of the state government.

That is a good line. It certainly sums up the way people feel. Don Nardella would be aware of the concern in Melbourne's outer west. In Sunbury, the President of the Sunbury Progress Association, Ms Margarita Caddic, said her association was appalled by the decision. She is reported as saying:

I think it is quite outrageous we are to be deprived of democracy at a local level for so long.

Residents have limited input into decision making, the commissioners are not answerable to the people they are only answerable to the state government.

A former Bulla councillor, Ms Sharon Phillips, made similar comments:
I am most disappointed by Hallam, everybody had been led to believe that there would be elections next year.

There is an enormous range of information reporting the comments of angry community representatives and angry former office holders in local government. They are too numerous to go through in detail, but comments have been made by those in Knox and Frankston, where a former councillor, Ken Mair, whom I have had the opportunity of meeting, described the timetable as bloody silly. He said he was surprised by the decision. He is reported as stating:

'It is still another year before elections were due to be held. I would have thought most of their work would have been done by then.'

The article continues:

He also said council staff were unhappy with the upheaval in local government and were 'leaving in droves' because of uncertainty over their jobs.

Similar comments are being made by those in areas such as Kingston, Glen Eira and Bayside. On page 1 of the Moorabbin Standard of 15 March, the Chief Commissioner of the City of Kingston, Mr Graeme Calder, said he was taken by surprise by Mr Hallam's announcement and said councillors had anticipated elections a year earlier. I find his comments interesting because the minister, in his press release and in comments in this place, said that representations and some information taken into account in the timetable decision were from commissioners, yet the evidence seems to suggest that the bulk of commissioners and municipalities were not consulted. The bulk of municipalities read of the decision in the newspaper, much as members in this place did. So the Chief Commissioner of Kingston — not just a commissioner — a major area in Melbourne's south east, was not consulted and did not know of the likelihood of that decision. He was prepared for a much earlier election timetable.

In the City of Greater Dandenong, the Chief Commissioner is Ian Cathie, a former member of the Parliament. The Oakleigh-Springvale Times of 15 March refers to the comments of Mr Cathie. The article states, in part:

City of Greater Dandenong chief commissioner Ian Cathie has spoken out and expressed disappointment at the delay in the return of elected councillors.

But Mr Cathie said he and his fellow commissioners were confident of completing their reforms by March next year and the government's announcement 'came as a complete surprise'.

'I'm disappointed — I believe we would have achieved the tasks ready for an elected council in 1996', he said.

Another chairman of commissioners in a critical area of Melbourne's south-east, in the Dandenong region, is complaining about not being consulted and about the timetable being inappropriate. He says he does not agree with the decision. Mr Cathie went on to say:

On the occasions we (all commissioners) had met with the local government department, this has never come up.

My view is if you have a tight deadline then you create the discipline that enables you to move towards that — if you move away from that deadline then you move away from the discipline.

Mr Cathie, who was appointed by the government as chairman of commissioners of the City of Greater Dandenong, states:

On the occasions we (all commissioners) had met with the Local Government Department, this has never come up.

The opposition's motion is supported by considerable information. We have moved the motion because of our desire to be advocates and representatives of the broad community. Clear evidence exists that the government's decision to delay local government elections is of major concern to fair-minded Victorians. People believe it is an infringement of their right as ratepayers and residents to exercise their democratic vote in local government elections. The City of Casey disapproves of the timetable for local government elections. The outgoing mayor of the former City of Cranbourne, Mr Peter Bottomley, makes an important point to which I can relate. He believes the decision will increase the community's feeling of helplessness in the decision-making process. He says people have expressed concern about the lack of consultation and that extending the period of the appointment of commissioners will be seen by people as the government's wanting to increase the time in which they will be subjected to commissioners.
The commissioners of the City of Bayside were also shocked when they heard they would have to run the municipality for another year. The chairperson, Mr Douglas Clark, was surprised by the announcement and said that it had been unexpected. Again, another chairperson of a municipality is saying he was surprised and had not expected this decision.

Similar views were put forward in Berwick. In an area close to Mr Hall's electorate the La Trobe Express of 9 March had a banner headline, 'Angry reaction to election deferral'. It quoted the former Mayor of the City of Moe, Mr Peter Wells, who Mr Hall would acknowledge is not a supporter of this side of the chamber.

Hon. P. R. Hall — I don't know about that.

Hon. PAT POWER — Mr Wells will read that comment with interest. Mr Wells claimed that by extending the term of commissioners locals will not be a part of government in that area. He states:

Quite clearly the commissioners have raped —

that is an unfortunate word —

what was left of local government. Localism has gone. I think the appointment of commissioners has made a difference already. The government has given them another 12 months to set up guidelines and policies that when elected representatives are in place they won't be able to undo.

I wait with interest to see whether Mr Hall's views are consistent with the voice of his community.

Editorials on this issue have appeared in a range of local newspapers. All of us would acknowledge that local newspapers are a critical measure of the local political Richter scale.

Hon. B. N. Atkinson — Rubbish.

Hon. PAT POWER — Mr Atkinson must be in a very safe seat to say that. All of us would acknowledge that when elections are close we are anxious to have copy and editorial comment so that we can understand what the local community is saying.

The Essendon Gazette editorial of 13 March had the headline, 'Polls delay a blow to democracy'. It states:

City of Moonee Valley residents have had a blow dealt to their democracy with the announcement that council elections will not be held until March 1997.

Many people would have expected the commissioners of all restructured municipalities would have had sufficient time to lock in reforms and achieve significant savings by March 1996, the date that was originally forecast by the Local Government Board.

Similarly, the Lilydale Express, with which Mr Atkinson would be familiar —

Hon. B. N. Atkinson — I am familiar with both newspapers. I am certainly familiar with the Gough Gazette.

Hon. PAT POWER — Mr Atkinson refers to the Essendon Gazette as the Gough Gazette. Barry Gough would be tickled.

Hon. B. N. Atkinson — It would certainly appeal to the man's ego, which is substantial.

Hon. PAT POWER — The heading of the editorial in the Lilydale Express of 14 March was 'Voters locked out of council'. The article refers to questions remaining about the validity of running local government without a mandate from the people. It states:

If a new streamlined council operation was needed why not let the community decide how to do it through the democratic processes we cherish as Australians?

I have referred to the fact that the Minister for Local Government has given, as much as he is able, an indication that elections would be held earlier rather than later. I indicated earlier that it was my suspicion, and a suspicion of my colleagues, that the Premier decided when elections would be held. I discovered I was wrong when I read the Mordialloc-Chelsea News of 5 March.

An honourable member interjected.

Hon. PAT POWER — Absolutely wrong.

Hon. R. M. Hallam — It was neither of us.

Hon. PAT POWER — The person responsible is the honourable member for Mordialloc in another place, because in a press release he said he was behind the poll delay. He said that he had actively lobbied the local government department earlier this year and had contacted officers.
Hon. B. N. Atkinson — He also claimed he was responsible for rain last week!

Hon. PAT POWER — He said he had contacted officers ‘very high up’ in the office of the Minister for Local Government. Obviously he was not on the ground floor. I said before that I was interested to hear what Mr Hall might say in this debate. I was able to get hold of a copy of the local express in which Mr Hall had the good sense — —

Hon. R. M. Hallam — You should get the title right for readers.

Hon. PAT POWER — The Traralgon Journal.

Hon. P. R. Hall — The La Trobe Valley Express.

Hon. R. M. Hallam — Get the title right.

Hon. PAT POWER — Given what Mr Hall said I suppose it is important to get it right. Mr Hall had the good sense to agree with the honourable member for Morwell in another place in respect of the election timetable.

Hon. R. M. Hallam — I don’t think he went quite that far.

Hon. PAT POWER — The honourable member for Morwell thinks he went quite that far. Mr Hall was reported as saying that he was disappointed the election had been held back for a further 12 months. He said:

I thought 1996 was a reasonable time frame.

Mr Hall and the honourable member for Morwell obviously have impaired judgment because Mr Davis does not agree with either of them. He is reported in the same article as claiming that it would not be sensible for the government to hold council elections. Here we have a situation where the National and Liberal parties have differing views on the government’s timetable, at least in that part of Victoria. Mr Hall has made it clear he believes he shares the broad community view that 1996 is a much more appropriate target. Mr Davis says it would be unreasonable for 1996 to be the target.

Hon. P. R. Hall — It is very selective quoting because I did say that I can understand the logic of the decision being taken.

Hon. PAT POWER — Yes, well you can quote all that in your contribution.

I want to make some broader comments about the issue with respect to country Victoria. People may be aware of a project that has been set up to review the community service requirements of farmers, especially those living in Victoria’s wheat and wool belt. This is a very interesting project funded by the Sidney Myer Fund and organised through the Anglican Church. It was instigated as a consequence of a realisation that state government cutbacks were affecting country Victoria. In an article in the Age of 23 February one of the project organisers is quoted as saying:

Since the Kennett government came to power in October 1992, more than 150 schools, 6 rural hospitals and 6 country rail lines have been closed. The privatisation of the state’s electricity industry and restructuring of the Rural Water Commission will increase charges and job losses in the bush.

The project organiser also referred to local government:

As the amalgamations occur in local government, people are going to have to travel further for services.

The article then refers to Dunolly in central Victoria where council amalgamations have forced the shire to relocate its offices to Maryborough, taking with it the only bank and supermarket in town and at least a dozen jobs. In recent weeks the Leader of the Opposition and I visited Dunolly and met with the young couple who had spent $300 000 building up the local supermarket. They are clear victims of this program. If democracy were returned to these new local government instrumentalities we would not have the sort of decision made where activity is transferred from Dunolly to Maryborough with the subsequent consequences of forcing economic downturn.

The federal Minister for Primary Industries and Energy has launched the Foundation for Australian Agricultural Women. It is a support organisation for rural women and it recognises their contribution to farm life and encourages their representation in farm policies. One of the people involved in that project is a woman who runs her family’s dairy farm near Sale. She said that many of the state government cutbacks in country Victoria have been particularly hard on women. She refers in particular to school and hospital closures, council amalgamations, increased service charges and public transport reductions. She says that the government has taken all those services and jobs away from women, and with the economic downturn on the farms many
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have been forced to speak up when they otherwise might not have. Again, if there is an earlier return to democracy in local government, as Mr Hall would argue, then the same level of dysfunction would not be occurring.

One reason why the community is so concerned and why the opposition believes its motion is at one with the community is the sense of politicisation people feel about local government. That sense of politicisation exists as a consequence of the Premier having a very hands-on approach to the selection of commissioners and to the types of tasks they are expected to do with respect to downsizing, asset sales and rate decisions.

This type of hands-on approach was reinforced recently. On 28 February the Premier spoke on ABC regional radio saying, 'We've given instructions to every council and every commissioner that their objective is to reduce the rate by 20 per cent before they go out of office, and every commissioner will go out of office by March 1997'. In addition to that he said — again this is the same threat made in Geelong in December last year — 'If any commissioners are not performing their duty, we can assure you that we'll call them in, we'll talk to them and if they can't carry out the government's desire, they will be replaced'.

They are not representatives of this community, they are representatives of the state government. They are not carrying out the desires of the community, they are, in the words of the Premier 'to carry out the desires of the state'. The Municipal Association of Victoria naturally responded to this and its chief executive officer said the Premier's comments would restrict commissioners from consulting communities before making decisions. The MAV recognises that the Premier is saying commissioners are there to drive state agendas; they are not there to represent the communities.

The Premier is quoted in the Age as saying that commissioners are inhibited from representing the views of their communities because they have to achieve savings targets. The Premier is responsible for bringing instability to the process of government, especially when people realise that commissioners or councillors can be sacked by the Premier.

The issue of rates is interesting because I recall that, again, the minister had a different view from that of the Premier. I recall the minister said it was the responsibility of commissioners to position these new instrumentalities to meet the challenges of the future, to position them for a return to democratic management. As I recall, and I am happy for the minister to correct me if I am wrong, the minister said initially that decisions on rates would be left until the councils were again under democratically elected management. However, the Premier is saying that decisions about rate reductions are to be made by the commissioners before they leave. Again the clear line from the Premier is that his appointees are to make decisions on rates on the basis of the government's desires. In the eyes of this government, gone are the rights of communities through their elected representatives to make decisions about what rates and municipal charges should be. The government says that, consistent with its political desires, its appointees will make decisions about rates.

An unfortunate incident in north-west Victoria must throw at least some embarrassment around the process used to identify commissioners; certainly in the north-west that is the reason why people are concerned about the delay in local government elections. The incident concerns the appointment of a Mr Gavin Jackson to the position of commissioner in the Rural City of Mildura. The minister may want to correct our view of this which is that Mr Gavin Jackson, as a member of the Liberal Party and over a period of years closely associated with the campaign efforts of Mr Bildstien in another place, applied to become a commissioner. When he was completing the appropriate paper work he was bankrupt and, from memory, he remains so until October of this year. It is my understanding that it is not possible for a bankrupt to be appointed to such a position in local government.

This matter escaped the scrutiny of the appropriate officers in the minister's office. It escaped the scrutiny of whoever it was in the Premier's office who ran his or her eyes over the paper work. The result was that the minister actually appointed a commissioner who was ineligible to be appointed to such a position. When Mr Gavin Jackson realised the sort of predicament the government had placed him in he resigned within a short time of the appointment. I emphasise that knowledge of this incident probably is isolated to the north-west. I am not sure whether people across the state would be aware of it, but it is an alarming incident of governmental process that somebody who is ineligible for appointment and who volunteers the information that establishes his ineligibility is in fact appointed. I wish to make some concluding
remarks. When I was researching for this morning's debate — —

Hon. B. N. Atkinson — You have been reading the local papers?

Hon. PAT POWER — I always read all the local papers and I encourage all members to do the same, especially if they are in marginal seats. Recently the Premier was in Warragul where a photograph was taken of him in the company of the Hon. Philip Davis, the Speaker in another place and the chairperson of the Baw Baw council. At a breakfast attended by 200 people the Premier obviously decided to do a comedy routine. I can only assume it was a comedy routine because the local paper reported him as saying that good government depends on a partnership between government and the community.

I say that the Premier must have been doing a comedy routine because, especially in local government, there is absolutely no evidence that the Premier is committed to a partnership between government and community. The Premier is committed to a process that is diametrically opposite to that which he was reported to have said at that breakfast. He has devised strategies that divide community from government, that prevent the community from interacting with government and that take away from local government the right of its citizens to elect those people who will manage it on behalf of the community.

Child care is another significant issue in local government and I am not sure whether the minister has had correspondence from interested groups on the matter, but I certainly have. Much of the correspondence I have received has been from people responding to statements and correspondence from the Premier, especially from his region in Camberwell. The Premier has created a view in the minds of parents that the government believes council-run creches will eventually be managed by parents. The Premier wrote to people who are users of municipal child-care saying:

All child-care centres will eventually be transferred to parent-run committees of management...

That is again a very clear political direction to his commissioners. I note that he says all — not some, not most, but all — child-care centres will eventually be transferred to parent-run committees of management.

All — not some, not most — municipal-run child-care facilities will cease to be so run. Again we have evidence of the Premier saying to his commissioners, 'These are the political imperatives that you are instructed to meet'. That is the same Premier who told 200 people at Warragul that he believes in a partnership between government and community. What an absolute joke! There is no partnership. It is not possible for there to be a partnership between the government and the community for so long as the Kennett coalition occupies the government benches.

I shall conclude by making reference to an United Nations document. Although I am not sure whether it is true, on first reading it appears that this document might well have been formulated as a consequence of the government's actions against democracy in local government, or at least in anticipation of it. It refers to the International Union of Local Authorities, which is the world-wide association of local government. It met in Toronto from 13 to 17 June 1993. I shall read some of the extracts from its proclamation:

Recalling the Worldwide Declaration of Local Self-Government it adopted and proclaimed in its 27th World Congress in September 1985, in Rio de Janeiro:

Determined that there must be a renewed campaign to promote and promulgate the essential nature of democratic local self-government and its critical role in securing social, economic and political justice...

Considering that local government, as an integral part of the national structure, is the level of government closest to the citizens and therefore in the best position both to involve them in the making of decisions concerning their living conditions and to make use of their knowledge and capabilities in the promotion of development...

Considering that it is at the local level that the conditions can best be provided for the creation of a harmonious community to which citizens feel they belong and for which they assume responsibility.

Proclaims the following renewed Worldwide Declaration of Local Self-Government to serve as a standard to which all nations should aspire in their efforts to achieve a more effective democratic
process, thereby improving the social and economic wellbeing of their populations.

The document contains principles of self-government and says:

The principle of local self-government shall be recognised in the constitution or in the basic legislation concerning the governmental structures of the country.

This right shall be exercised by individuals and representative bodies freely elected on a periodical basis by equal, universal suffrage, and their chief executives shall be so elected or shall be appointed with the participation of the elected body.

Local authorities shall have a reasonable and effective share in decision making by other levels of government which has local implications.

If the constitution or national law permits the suspension or dissolution of local councils or the suspension or dismissal of local executives ... Their functioning shall be restored within as short a period of time as possible ...

Changes in local authority boundaries shall only be made by law and after consultation of the local community or communities concerned, including by means of a referendum where this is permitted by statute.

This United Nations document could well have been drawn up as an attempt to protect the Victorian community from the manner in which the Kennett coalition has moved in local government. There are references that create prima facie evidence that this government has moved in contravention of this proclamation. We are not just arguing that members on the opposition benches are unhappy with the style of this government with local government. We are not just arguing that the Victorian community is broadly unhappy with the way this government has moved with local government. We have now put on the table clear evidence that needs to be reputed; clear evidence that this government has acted against proclamations of the United Nations.

Briefly, that document makes a reference to the appointment of chief executive officers. In that sense alone this government has breached that proclamation. This government has acted to appoint chief executive officers, to lock them into contracts, and it does so in a style that is outside of that proclamation.

Opposition members have thought long and hard about the words that went into this resolution. We are absolutely confident that we speak on behalf of the broader community view that the government's decision to delay the completion of local government elections until 1997 is of major concern to fair-minded Victorians.

We say that ratepayers and residents have the right at the earliest possible time to exercise their democratic vote in new municipalities. We believe that the government is embarking on a cynical political exercise by acting to prevent the completion of local government elections before the state election without having concern for the very poor public policy precedent it is setting.

As I said at the outset, the challenge for the government is to not just put on the record contributions to convince the opposition that this resolution is not necessary, but to put on the record contributions allowing the broader community to believe that their anxiety, unhappiness and deep concern about the government's style is not necessary.

Debate interrupted.

BUSINESS OF THE HOUSE

Sessional orders

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

That so much of the sessional orders be suspended as would prevent general business taking precedence over other business until 2.30 p.m. during the sitting of the Council this day.

Motion agreed to.

LOCAL GOVERNMENT ELECTIONS

Debate resumed.

Hon. R. M. HALLAM (Minister for Local Government) — I am pleased to have the opportunity of responding to the motion moved by Mr Power today. Before I go to the substance of the motion — and I use 'substance' advisedly — I will respond to a couple of the issues Mr Power raised in the course of his presentation to the house.

Among other things he said that the commissioners of the City of Melbourne had made some sort of
public statement that they preferred the City of Melbourne to go to a democratically elected council in 1995. I place on record that so far as I am concerned that has never been the position of the commissioners. I have discussed that issue, among others, at great length with the commissioners and their position has been that they would be prepared to go to an elected council at the time that was most appropriate, and they are happy to discuss it. They have also said on the record that if a decision were taken that the election be held in November they would do what they could.

Hon. Pat Power — They would be ready.

Hon. R. M. HALLAM — They would do what they could to meet that time line. However, I do not recall their having said they would prefer an election date of 1995.

In addition, I want to make some direct response to the comments made by the honourable member on the City of Greater Bendigo and the fact that the target date for the election had been changed. To that degree the honourable member was kind in his comments toward me because 5 August was not only the target date but also the date nominated in the order establishing the City of Greater Bendigo and the commission. That much is simple fact. What the honourable member did not say, however, was that at the time we established the commission and set the preferred date we had no way of knowing the City of Greater Bendigo would be subject to not one boundary review but three boundary reviews held some months apart. I do not walk away from the fact that the target date for the city has been changed, but I advise the house that it has been changed on the most pragmatic of arguments, namely, that the charter of the commissioners was changed midstream, not once, but twice.

As I intend to respond to the general thrust of the motion, it is very important that we take into account the facts involved in this process as they emerged. It was simply not possible to predict all the eventualities. Although I acknowledge that the time lines have been changed quite deliberately, I suggest that they have been changed on the very best rationale.

In response to the honourable member’s comments on the City of Ballarat and particularly his unbecoming comments about Professor John Sharpham, I point out that Professor Sharpham was appointed as the director of the Ballarat University College in 1987. He was subsequently appointed as the interim vice-chancellor of the brand new Ballarat University, a position to which he brought great distinction. After having accepted the appointment as the chief commissioner for the new local government body he was awarded the post of vice-chancellor at the University of New England in Armidale, New South Wales.

Notwithstanding the slur and innuendo that was directed towards the good professor by Mr Power, which I said at the time, by interjection, was unbecoming and out of character for him, it is important to understand that Professor Sharpham has gone to a very important post in academia, and nothing the honourable member can say by way of inference or innuendo can change that fact.

The other issue I want to respond to specifically is the appointment of Gavin Jackson. I have to say — and it brings me no joy to do so — that I was extremely embarrassed about the process and that the circumstances the honourable member outlined, which I do not for one moment challenge in any way, were brought to my notice within minutes of the finalities of the appointment.

Hon. Pat Power — You should never have been put in that position!

Hon. R. M. HALLAM — I was torn between the two issues.

Hon. Pat Power — The buck stops there!

Hon. R. M. HALLAM — I accept that the buck stops here. I am not arguing where the buck stops; I accept that it stops with the minister. When I was invited at a press conference to comment on who had responsibility for the appointment of commissioners I actually said that I do.

Hon. Pat Power — I am not suggesting that you didn’t.

Hon. R. M. HALLAM — I accept responsibility for the appointment, but it was a very embarrassing circumstance, not just for me but for the person involved. I took the decision that I took in what I believed to be the best interests of the person involved — and I stand by that. I have done what I could both then and afterwards to ensure that whatever embarrassment he suffered was minimised by my involvement.

I now return to the motion itself, which I believe is a cynical exercise on behalf of the Victorian Branch of
the Australian Labor Party. In bringing the motion before the house Mr Power acknowledged that there was general recognition of the need for change in local government. That is not disputed. What we have now is a debate at the margins.

Hon. D. A. Nardella — Margins? It's democracy!

Hon. R. M. HALLAM — It might be different from the way you would have done it, Mr Nardella, but you acknowledged you would have changed the face of local government.

Hon. D. A. Nardella — That is right.

Hon. R. M. HALLAM — Thank you.

Hon. Pat Power — You prevented it at the time.

Hon. R. M. HALLAM — Mr Power has brought forward a very carefully crafted motion designed not to discredit the local government reform process — and I see him nodding his head in agreement — but to score political points.

I think what happened was that Mr Power drew the short straw as to who was to be responsible for the motion being debated today. In fact, let the record show that I asked his leader which motion was to be debated today and it took some time to get a response. I suspect Mr Power was the one left standing. I think he should speak to his leader about the matter of timing. Here he is bringing in a motion to the house castigating the government about the elections in local government in the very same week that we go to the first elections in local government!

Hon. Pat Power — It is 3 out of 78!

Hon. R. M. HALLAM — Not just in Geelong but in the Surf Coast shire and the Borough of Queenscliffe. We are a few days away from the elections and that is the time you choose to raise the issue.

Honourable members interjecting.

Hon. R. M. HALLAM — I submit to the house that the motion, particularly the way in which it has been crafted, indicates the opposition's search for relevance in the debate on local government. Members of the opposition all acknowledge one after the other that if they had been given the opportunity they would have changed the operation of local government in this state — and they now nod in agreement. So given that general policy position they have brought forward they now have to find some position for their party. It is not surprising because not only was it and is it their policy to change local government, but Mr Power has accused me on occasions of pinching the ALP's policies. He actually said, 'This is our policy. How can you claim credit for it? It is ours'. Therefore, I understand the dilemma confronting him. Mr Power wants to reach the position where this government is taking local government, but he also wants to reserve the right to criticise on the way through. I say again to him that the debate on local government is at the margin. We are talking about the small things at the edge.

Hon. Pat Power — Democracy is the small thing at the edge?

Hon. R. M. HALLAM — You know what I say hurts, Mr Power, because if you could arrange it you would be exactly where we are today.

Hon. Pat Power — No dictatorship under a Brumby government.

Hon. R. M. HALLAM — The opposition has asked me in this place, as Mr Power will recall — as he has asked me through the media — to guarantee that local government elections will be held again in Victoria. The concern at the outset was that there would be no return to elected councils. I was castigated on that issue and asked to put it beyond doubt by announcing the election dates. You will recall that, Mr Power? He is nodding his head in agreement.

The announcement I made on 7 April setting the election dates for every municipality across the state should have been welcomed by the opposition; at least that should have put the issue beyond doubt. You, Mr Power, have repeatedly said you are concerned about whether we will return to elected councils. Now I have nominated the dates. You could have at least said that that puts the issue of elected councils beyond doubt. What better guarantee could I give, Mr Power? He is nodding his head in agreement.

The announcement I made on 7 April setting the election dates for every municipality across the state should have been welcomed by the opposition; at least that should have put the issue beyond doubt. You, Mr Power, have repeatedly said you are concerned about whether we will return to elected councils. Now I have nominated the dates. You could have at least said that that puts the issue of elected councils beyond doubt. What better guarantee could I give, Mr Power, about a return to elected councils than to give you the dates of the elections?

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! There is too much interjection.
Hon. R. M. HALLAM — To support the point I make — and I am not in the habit of quoting from the *Melbourne Times* — —

Hon. Pat Power — When it suits, you will.

Hon. R. M. HALLAM — On 27 July last year that newspaper printed what purported to be a claim on behalf of the ALP. Under the headline, 'Election pledge would silence critics', the article purports to quote Mr Power, and states:

Local government elections should be held within six months or the Kennett government could be labelled totalitarian ...

The claim at the time was that a pledge about elections — that is, if we said we would return to elected councils — would silence the critics. I can think of no better way to demonstrate our determination to return to elected councils than to announce election dates for every municipality. Then everyone in Victoria will understand not only that we will return to elected councils but when it will happen.

Hon. Pat Power — They know you made a statement.

Hon. R. M. HALLAM — I suggest we have answered the critics. Again I have been disappointed by the opposition. It criticises me for not announcing the election dates, but when I do make the announcement it criticises me for the dates announced. It does not like the dates.

Hon. D. A. Nardella — Nor does the community.

Hon. R. M. HALLAM — Apparently it does not like some of the dates.

Hon. Pat Power — We liked 5 August.

Hon. R. M. HALLAM — Do you like 25 March this year? Is that a good date?

Hon. Pat Power — A good date for 3 of the 78.

Hon. R. M. HALLAM — You like this year; is March 1996 okay?

Hon. Pat Power — No.

Hon. R. M. HALLAM — You like March this year but not March next year?

Hon. B. T. Pullen — We are talking about democracy and people being represented and your responsibility as the Minister for Local Government.

Hon. R. M. HALLAM — You actually dropped the ball. You have ignored the term of the commission and have said, 'This is all right in Geelong' where — —

Hon. Pat Power — Three out of 78.

Hon. R. M. HALLAM — You had your go, Mr Power, and I listened to you almost in silence, almost without interjection.

Mr Power's motion apparently would have the house believe he accepts that March this year is okay; yet, in Geelong it is clear we have had a commission which has lasted 22 months.

Hon. Pat Power — Too long.

Hon. R. M. HALLAM — Maybe, but that is not your argument, Mr Power. You argued not about the term of the commission but about the date. My point is precisely that that difference should be acknowledged — and I say that to Mr Pullen in exactly the same context.

It is of critical importance to acknowledge that the term of the commission is one of the issues that should be considered. Given that the commissions have been established progressively, it logically follows that the elections should also be held progressively. I want the opposition to think this through carefully because, in my view, we would have had the worst of both worlds if, having gone through the process thus far, we lost an advantage at the last hurdle.

I would not mind if the opposition produced an alternative, if it produced its view of when elections should be held. We have had two years of quite specific reform. Sure, we have copped plenty of criticism and carping in the background, but nowhere has the Victorian opposition actually put on the record what it would do as an alternative. It has simply complained.

Hon. Pat Power — Not true. What did we say about commissioners and councillors?

Hon. R. M. HALLAM — You have acknowledged today that there is a role for commissioners; you are now on the record for all to
see that you would use commissioners and you have said you would appoint commissioners.

Hon. Pat Power — A year ago.

Hon. R. M. HALLAM — So you have changed on the way through?

Hon. Pat Power — No.

Hon. R. M. HALLAM — All pronouncements have been reactionary. I would like you to say in advance what it is you would like to pin down instead of coming along behind me like Tailend Charlie and talking about the things you do not like at the margin. Those things are at the margin because you acknowledged that, given the opportunity, you would changed the face of local government.

Hon. Pat Power — Not the same way.

Hon. R. M. HALLAM — I understand why that must be galling.

Hon. D. A. Nardella — You don’t understand anything.

Hon. R. M. HALLAM — Trot it out, Mr Nardella. What is your preferred option?

Hon. Pat Power — Not to sack councillors or to use commissioners.

Hon. R. M. HALLAM — You are on the record as saying you would use commissioners. The opposition has failed in all respects to deliver policy. Until today it has failed to offer an alternative. The role of an opposition is not to be a Tailend Charlie; it should put alternatives on the public record.

This motion highlights the dilemma Mr Power must face each day about local government. We all acknowledge that local government had to be changed. Even the most ardent of my critics acknowledge the need for change, and they acknowledge that in many cases they could not do it. We would be in fierce agreement on that, Mr Power! I understand why you would be faced with something of a dilemma, given that the government is taking up your policy platform and delivering on it.

Hon. Pat Power — It is the same group that prevented us from doing that.

Hon. R. M. HALLAM — I am happy to have a debate about that, Mr Power. I invite you to search the records.

Hon. Pat Power — Are you going to criticise John Cain?

Hon. R. M. HALLAM — No, I am not. I ask you to search the records for any quote attributed to me where I am critical of the change in local government.

Hon. Pat Power — I did not say you were.

Hon. R. M. HALLAM — I was very critical of what the Australian Labor Party was trying to do, but the notion of change in local government had my support.

Hon. Pat Power — So nothing has changed.

Hon. R. M. HALLAM — Except that we are delivering and you could not — that is all that has changed. The first part of the motion moved by Mr Power highlights the policy dilemma. I do not mind debating issues of policy with the honourable member. I am happy to debate the performance of former councils and the performance of commissioners. I am also happy, for what it is worth, to debate the boundaries adopted by the government on the recommendation of the Local Government Board. I am happy to talk about the level of savings or even to talk about compulsory competitive tendering. But before we go to any of those issues, we should analyse what the honourable member has brought to the house today. I want to go back one step.

Mr Power says that the government need be aware of widespread concern. Where is the evidence of widespread concern? Some former councillors have made some tough pronouncements. I have walked into some criticism, one could say a barrage of criticism. I understand that. A few newspaper editors have voiced their opinions. But I put it to the honourable member, quite honestly, that there has not been a flood of protest. I am not sure where the fair-minded Victorians the honourable member has been testing are from because since we announced the election dates two weeks ago — —

Hon. Pat Power interjected.

Hon. R. M. HALLAM — Sure, there has been a mixed reception. I acknowledge that. But for every one Mr Power quotes, others are coming to me and
saying that they respect the process now in place and the opportunity to lock away the advantages of the changes in local government.

Hon. D. A. Nardella — Those commissioners totally agree with the policy but the community does not.

Hon. R. M. HALLAM — The bottom line is that reform is not being carried out in the interests of former councillors. We are not running the agenda for the former councillors and the editors of the local newspapers but for the ratepayers of the state, the people whom you claim to represent. We want to deliver the best possible local government structure and performance at the lowest possible price. That is the objective. That is our agenda. If that does not fit nicely with the agenda of some of the former councillors — I make the distinction very clear because some of the former councillors are in enormous support of what we are trying to achieve —

Hon. Pat Power — Which ones?

Hon. R. M. HALLAM — I do not intend to belittle the process by offering names. That is Mr Power’s style. He comes in here with a range of quotations from daily newspapers. That is his research. I can tell him that the messages coming to me from across the community are inconsistent with the issue he has raised today.

If to get that objective, that outcome, I have to take on a few ex-councillors, I am relaxed about that. If I have to take on a few editors across the country, I am relaxed about that. I sleep well at night. Honourable members should remember that when this process was unfolding at one stage I had the Municipal Association of Victoria (MAV) lined up absolutely against me; I had the Victorian Farmers Federation absolutely off side and at one stage yelling for blood; I had all the councillors —

Hon. B. T. Pullen — Where is the MAV now?

Hon. R. M. HALLAM — The MAV is still there and doing nicely. It has a brand new role. I had to take on some of the councils. As Mr Power would be well aware, I had to take on his lot. The opposition said it opposed this.

Hon. D. A. Nardella — Rubbish!

Hon. R. M. HALLAM — I am pleased to have that on record. I had some opposition within the ranks of my own party. Not everybody was persuaded by the argument the first time round.

Hon. Pat Power — They’re still not.

Hon. R. M. HALLAM — Having people who are not as energetic and enthusiastic in the reform agenda as me is not a new phenomenon for me. I have almost got to the stage where I am used to it and expect it! If all the ex-councillors said that I was doing a great job, I would worry about the policy.

Hon. Pat Power — You are saying you are eligible to join the Pledge.

Hon. R. M. HALLAM — I am sure there is a smart response to that, but I do not know what it is.

The DEPUTY PRESIDENT — Order! So long as it is relevant to the discussion.

Hon. R. M. HALLAM — Mr Deputy President, let there be no mistake. I look forward to the return of elected councillors in the state, but I also want to ensure that when we go back to elected councils we have made the best of the special opportunity we have through the reform process. It would be the worst of both worlds if, having gone through the trials, tribulations and trauma of the changes in local government, the establishment of commissions and the appointment of commissioners, we were only to lose it all at the last hurdle by rushing back to an elected council and, to that extent, seeing some of the reform processes unwound. While some might put forward arguments at the margin in this forum, even members of the opposition would acknowledge that, having gone through this process, it would be crazy to drop the ball on the way through.

My point to the honourable member, in responding to his motion, is that fair-minded Victorians — his term — want to get the benefits of the reform process. They want to get the savings and the rate cuts. I put on the record that we are not talking about an issue at the margin. We are playing no small game. We are talking about savings of $300 million per year in reduced rates — $300 million per year, year on year.

Opposition members can trivialise that if they like and argue about issues at the edge, but at the end of the day they have to acknowledge that this is a big issue. It goes to every kitchen table of the state and every family, including the ones they say they represent. They have a big stake in this. My point is
that we are playing for an annual efficiency of around $300 million. I do not speak of that lightly.

I submit that what Mr Power wants to do, as demonstrated by his motion, is deny Victorian families rate cuts. I would like to see how he will rationalise and justify his argument to his constituents that we should not allow this process to proceed, that we should deny these people the opportunity of rate cuts.

Hon. Pat Power — That is not what I was saying.

Hon. R. M. HALLAM — That is the logical outcome of the position you take. Mr Power, you can argue that case but I would love to see how you rationalise your views with your constituents. If the state is to benefit from local government reform the job has to be done well on the way through. If I were cynical — —

Hon. Pat Power — Which you are not.

Hon. R. M. HALLAM — Thank you. If I were cynical I may believe Mr Power would like a return to elected councils before the reforms are completed so that he could say they were less successful than the minister predicted and gain some political comfort from that. However, that comfort would grow cold quickly when the rate notices went out. I believe the $300 million reduction is achievable. We have established that much from close consultation with the commissioners at an individual level. It would be a sad day for Victoria if we put that at risk. Of course, I do not think the opposition is cynical, certainly not Mr Power. Nevertheless, I suggest fair-minded Victorians are entitled to reap the benefits of the reform process.

I understand why some councillors feel sad. I understand why Mr Power had no trouble in doing his research and why there were so many editorials on the subject. It is traumatic for local government. I have never belittled the role of councils. I have suggested many times that councillors were as much a victim of the process as anyone else.

Despite what is said in the newspapers, I have talked to former councillors of municipalities over a long time and they have told me, more than anything else, of the need for change. There is criticism at the margin, but in answering that criticism I say that if you acknowledge change was supportable why didn’t you deliver when you had a chance at the council chamber?


Hon. R. M. HALLAM — I did not. I voted for a reform agenda and I suspect you did, too, Mr Henshaw. The point is that councillors could not deliver the reforms. Mr Henshaw, you of all people should be in a position to see that. You saw the skulduggery that took place in Geelong when your community was held back by enormous divisions. Some councillors saw the writing on the wall and took the issue to the courts to find a way through, but they could not. All of a sudden this opportunity has been provided to them. You can yap in the background as much as you like, but much of the criticism coming from ex-councillors is tongue in cheek because many acknowledge that change was necessary and that they could not deliver it.

Sure, they like a whipping boy in the minister — that is part of my role. I put their criticisms in proper perspective. I do not dismiss their views. In fact, many of them are my closest friends. I do not dismiss their views on any ground. Local government could not deliver the reform agenda.

The second part of the motion, which is almost completely gratuitous, states:

(b) ratepayers and residents have the right, at the earliest possible time, to exercise their democratic vote in new municipalities.

I give in. I agree with that.

Hon. Pat Power — You got rolled by him.

Hon. R. M. HALLAM — Why didn’t you say that the minister is not a bad bloke, but he has not brought on elections at the earliest possible time. I agree with the sentiment of the second part of your motion and always have.

Hon. Pat Power — You got rolled.

Hon. R. M. HALLAM — You have it your way. I have demonstrated my bona fides by announcing the election dates for all municipalities in the state. Mr Power’s timing is impeccable. The motion was moved in the very week when elections will be held for the City of Greater Geelong. I cannot think of a better demonstration of the commitment of the government to local government democracy.

I have given you credit for your carefully crafted motion, but if I take it literally — and I normally do take what you say literally — we are speaking about an issue at the margin. We are debating what
LOCAL GOVERNMENT ELECTIONS

constitutes the earliest possible time for local government elections.

Hon. Pat Power — Absolutely.

Hon. R. M. HALLAM — I am glad you agree with that. You argue that we should go back to elected councils at the expense of the benefits of the reform agenda. No-one would thank you for that. Having gone through the trauma and tribulations, no-one would thank you or me for dropping the ball on the way through. We need to ensure that the work is done before elections are held.

Regarding the City of Greater Geelong two annual budgets have been tabled by the commissioners and we now have savings in the vicinity of $20 million. Whatever else is said, and I suspect you would admit this privately —

Hon. Pat Power — How many jobs have gone?

Hon. R. M. HALLAM — I am delighted to put it on the record. It highlights the difference between the Kennett government and the Labor opposition.

Hon. Pat Power — Who is funding the savings?

Hon. R. M. HALLAM — You had your go and now it is my go.

Hon. D. A. Nardella — You brought up Geelong.

Hon. R. M. HALLAM — In debating the issue Mr Power relied on the City of Greater Geelong.

Hon. Pat Power — Absolutely.

Hon. R. M. HALLAM — I am responding in kind. The reduction in rates over a two-year period in the City of Greater Geelong amounts to $20 million in a budget of $120 million, a very significant reduction in the cost of the operation of that municipality. Mr Power, you raise the issue of jobs.

Hon. Pat Power — And the fact that pensioners now pay more for Meals on Wheels and home help.

Hon. R. M. HALLAM — At least you are consistent. You have said several times that my claim to fame is that there are now 283 fewer jobs than under the previous structure, which had six councils representing a single community. I have put on the record many times that I do not want to dance on the graves of people who are the victims of that process. I am saddened by it in some respects, but if there is to be a choice between a reduced cost in the operation of municipalities, represented by a reduction in rates to the people we both represent, there is no argument about the pursuit of efficiency in local government.

Hon. Pat Power — You are prepared to ask pensioners to pay more for Meals on Wheels and home help.

Hon. R. M. HALLAM — You are changing the argument. Every time you get cornered you duck off on a tangent. You criticise the government on the basis that the only benefit from the Geelong reform was the loss of 283 jobs.

Hon. Pat Power — I have not said that. I have said the savings have been funded by some of those strategies.

Hon. R. M. HALLAM — To a very great extent what has been achieved in Geelong has been achieved through natural attrition.

In a slip of the tongue in your presentation, Mr Power, you made the point that because of the changes taking place in local government a lot of staff members took the opportunity to move on. You used some slightly unkind terminology but it meant —

Hon. Pat Power — They ran in front of the bullet.

Hon. R. M. HALLAM — Well, that may be your version of it, but it does you no credit to phrase it that way when it is clear that much of the downsizing in local government — which we both acknowledge is an inevitable part of the process — has been done through natural attrition. I think that captures the best of both worlds.

Let me make this point before leaving the subject of Greater Geelong; if given the opportunity, would the ratepayers of the City of Greater Geelong have elected to trade the cut in rates for an earlier return to an elected council. Bear in mind that if we asked them to make that judgment — and it is quite appropriate that I make this comment in the presence of Mr Henshaw — and they were offered that option, what would they have taken into account. Do honourable members think for a moment that they might actually have taken into account that whatever rate reductions are achieved now are likely to be repeated year on year, so that if we get the cost of operation down it is likely to have
continuing benefits? Do you think they might actually have taken that into account when determining the wisdom of going to an election before time?

Hon. Pat Power — They understand the $100 home tax.

Hon. R. M. HALLAM — Every time you get cornered you duck off on a tangent. I am putting a simple proposition to you. When he has the opportunity to respond I invite Mr Power to suggest to the house whether the ratepayers of Geelong would have preferred to go to an early election knowing that that would have put at risk the rate reductions not only for this year but also for the years that follow. That is an open invitation for you, Mr Power. Be a man and put some policy on the line. Be upfront instead of yapping in the background.

If the opposition's motion is to be taken seriously — and of course I do take it seriously — Mr Power would have us believe he is concerned about public policy. He would have us believe he and the Australian Labor Party are concerned about public policy. That is just about the height of hypocrisy because when the Australian Labor Party was in power in Victoria for 10 years its idea of local government reform was simply to change the boundaries. All it was going to do was change the lines on the map — it was simply going to rearrange the deckchairs on the Titanic. If we were to take you literally, Mr Power, the Labor Party would have kept all the same staff as well. You have come out and opposed competitive tendering and said the only thing we achieved in Geelong was job losses.

The only logical conclusion is that the only thing the Labor Party intended to do was change the lines on the map. If you are prepared to think that through for just a moment, Mr Power, you might comprehend why I opposed what the Australian Labor Party was trying to do. Its vision was simple politics and was just changing the lines on the map to turn small, inefficient municipalities into big, inefficient municipalities. There was never anything other than the issue of boundaries involved in the reform agenda.

Hon. D. A. Nardella — Rubbish, absolute rubbish!

Hon. R. M. HALLAM — Well, Mr Nardella, let the record show that you weren't even there.

Hon. Pat Power — Yes, he was.
Hon. Pat Power — No, compulsory competitive tendering.

Hon. R. M. HALLAM — Thank you, Mr Power, for the correction. I am happy to stand by the notion that it is compulsory competitive tendering. The Kennett government's reform agenda is designed to fundamentally update the operation of local government. That issue has not gone unnoticed in other jurisdictions. Almost every week I get messages from other jurisdictions, and not just those in Australia. The most recent was from a respected commentator in New Zealand who now concedes that one of the lesser aspects of that country's reform agenda — which I acknowledge was very brave — is that it did not go the next step and appoint commissioners. New Zealand left it to elected councils.

I also make this point, Mr Power: what the New Zealand government did and the way it went about it was extremely heroic. They are to be congratulated for being prepared to put petty party politics to one side, give an open cheque to the architect of reform and then allow those who had been entrusted with that process to get on with the job. They went from something like 900 local authorities to something like one-tenth of that figure overnight. We would all acknowledge that as a very brave process. Yet the commentators that I respect most in that environment are now saying they wish New Zealand had gone one step further and been prepared to appoint commissioners.

Hon. Pat Power — The commentators that you most respect are the ones that agree with you?

Hon. R. M. HALLAM — I have not asked them that, Mr Power. Queensland and Tasmania have been reforming local government but they will achieve nothing like the savings targeted in Victoria. Somewhere down the track there will be recognised that the outcomes in those states will also be less than ideal.

I share with Mr Power the desire to see the return of elected councillors as soon as possible. However, I again stress that the government is not prepared to risk the reform process by returning to elected councils prematurely. It is taking longer than expected to return to elected councils and that is because the government wants to ensure the maximum benefits for ratepayers. To call this a cynical political exercise is quite stupid.

Hon. B. E. Davidson — That's what it is.

Hon. R. M. HALLAM — Then let me put this to you: the 1997 elections include elections in Gippsland and the north-central, north-east and north-west parts of the state. I am at a loss to understand why that could be described as a political gesture.

If the government had wanted to be political, would it have announced an election program two years in advance? Is there some sort of political motive behind the election date announced for the north-west? If Mr Power thinks so, he has been sadly disillusioned or misled.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! Interjection that is relevant to the point being made by the speaker is in order but to have cross interjections between two other members of the house is not in order. Mr Hall and Mr Power should not interject while the minister is speaking.

Hon. R. M. HALLAM — Thank you for your protection, Mr Deputy President, not that I feel I need it, because if the honourable member is suggesting we manipulated the process for political gain, he might be able to tell me where the marginal seats are in the Mallee. I should be interested to understand how that could be seen to be any form of political manipulation. In fact, Mr Power has been hoist with his own petard. We have demonstrated that this process has gone beyond politics.

Hon. Pat Power — The Minister for Agriculture is in a marginal seat.

Hon. R. M. HALLAM — Apart from pointing out that his seat is not in the Mallee, I shall let that go through to the keeper. Mr Power has been hoist with his own petard because most commentators and fair-minded Victorians would acknowledge that this program of return to elected councils has actually put the process beyond politics. He can jump up and down as much as he likes but I wonder whether he can persuade me that this has some political connotation in South Melbourne, North Melbourne or Albert Park. I should be delighted to see him wriggle around that one. In fact perhaps he can persuade me how there is some political advantage for us in either inner or outer Melbourne.

Hon. P. R. Hall — The silence is deafening.

Hon. B. T. Pullen — That is easily done.
Hon. R. M. HALLAM — I shall look forward to that — I think Mr Pullen is misreading the tea-leaves. Most fair-minded Victorians have seen that this actually puts the process beyond politics and that is where Mr Power is wrong. By announcing the election timetable as we have, the debate and uncertainty over when we will be holding elections is effectively quashed. Everyone knows when their elections will be held and commissioners and council management and staff can work through the reform process with the benefit of a clear time frame. Ratepayers will have the benefit of knowing when their councils will have elections, therefore removing uncertainty. We have put that on record.

I turn now to the practical issue of why the timetable was set in the first place. We can have a debate, again at the margin, but I suggest there will not be too much heat in any opposition to the notion of having elections on a standard day. There is enough confusion in the local government environment for there to be at least room to argue that we should have a standard date. We actually made another fairly brave decision when that amendment was being debated.

Hon. Pat Power interjected.

Hon. R. M. HALLAM — I think even Mr Power would acknowledge the need for a standard date.

Hon. Pat Power — Absolutely.

Hon. R. M. HALLAM — And I do not remember him arguing about the change in the financial year.

Hon. Pat Power — Absolutely.

Hon. R. M. HALLAM — So we established a March election date in local government to fit in with the new timetable.

Hon. Pat Power — No, we did not.

Hon. R. M. HALLAM — Yes, I did.

Hon. Pat Power — We did not.

Hon. R. M. HALLAM — All right, you did not. The pain of opposition is what Mr Power would have done if he had the chance to swap places. I made the judgment about having local government brought into the real world, especially in respect of its financial operations, and established the standard of the financial year. That meant we had to go back and review the municipal calendar and it happened that the most logical time for the conduct of elections in local government — —

Hon. D. A. Nardella — Was beyond the life of this Parliament.

Hon. R. M. HALLAM — Mr Nardella does not know of what he speaks. All he is doing is illustrating his ignorance every time he opens his mouth.

Hon. D. A. Nardella — Are you saying this Parliament will extend beyond March 1997?

The DEPUTY PRESIDENT — Order! There is far too much interjection. Perhaps it would help if the minister ignored it.

Hon. R. M. HALLAM — In some cases it is easy to ignore. The point I was making is that having gone through the process of establishing the new municipal calendar, and having selected the third Saturday in March as the standard date for elections, there is at least room to argue — and I am sure Mr Power would argue — the rationale of having a standard date.

That was the issue placed at the top of the agenda. Sure, we heard debate about whether there should be another date in November, and Mr Power is right in saying that we actually heard in that respect from the City of Melbourne and from others as well, but we judged there should be a standard date for local government across the state especially when it was likely that as councils went to election there would be a mixture of annual and triennial programs. The standard date makes good sense. That was the first issue.

The next issue we looked at was making the most advantage of the reform agenda, and the opportunity that was provided to us was to look at the time suggested by the commissioners: the duration of the commission. Mr Power actually said a moment ago, I think unwittingly, that he agreed with the Geelong election. That happened at the culmination of a 22-month commission and we should go back and look at the time required in each case to carry out the charter.

Mr Power knows that charters vary dramatically from place to place. I said — and I stand by my word — that I would talk to the commissioners when they had had a chance to get their feet under the table, take in the circumstances and give me
advice on the job confronting them. Mr Power can actually cite some examples where commissioners were less than pleased about the announcement, but I can give plenty of examples where that was not the case and where the information was offered freely. If there is a single message coming from the commissioners it is that having gone through the process it would be crazy to rush to an elected council at the expense of the benefits of the reform agenda. That is the clearest example coming not just from the commissioners but from the chief executive officers and from many of the former councillors.

Mr Power and I can trade insults in this place and he can bring in his anecdotal evidence to support his argument and, if I had a mind to, I am sure I could counter it with just as many arguments in the opposite direction. I do not think Mr Power has proved his point by finding someone who agrees with the proposition he put to the house because I can find plenty of people who run the opposite argument. I said I would consult with the commissioners and I have done so, not only directly but also through my liaison officers, who are very senior officers — and I suspect opposition members would acknowledge them as being beyond reproach. They have been given the charter of making sure there is a direct link between the Office of Local Government and commissioners so that at least they do not lack for technical advice in respect of the issues coming to their table.

I have offered them all the support I can, partly through liaison officers and partly through local government offices. I add also that that support includes visitations from my policy committee of the Parliament. In my view that committee is also undertaking a very important task.

The other issue that came up again and again when we talked to the executive officers of the commissioners was the need to have the second budget framed under commissioners. Given that we would all acknowledge that some decisions would be difficult for a council when placed on the council table, in comparison with the circumstances of coming to the table while there are commissioners there — and I am sure there would be only mild argument about that — it seemed important that the commissioners be given the chance to frame the second budget. That is what has been captured in the program unveiled recently.

In addition, we took into account the mechanics of the process. Without dwelling on it for too long, honourable members would be well advised to consider the enormity of the task of preparing for the new elections, particularly if, as I am now being apparently advised, we should go back to local government elections on a single day.

One should bear in mind that the new external boundaries would require the construction of new electoral rolls and that the establishment of new internal boundaries would require the construction of polls on that level as well, and given that there is a very formal process that needs to be followed to make sure that the product is beyond reproach, the task itself is enormous. I point out to Mr Power that there was at least room to argue that we not set a single date. There was room to argue that if we had asked the Chief Electoral Officer to prepare rolls for every ward in every council under those circumstances for a single day, it may simply not have been possible.

I do not suggest that was at the top of the agenda but it was at least one of the issues that was taken into consideration. I suggest simply that the logistics of what the government has undertaken is frightening, and that many members in this chamber may simply — I do not mean this unkindly — be unaware of the logistics of the case they argue.

I finish where I started. I am very pleased to respond to this motion. I acknowledge that the rebuke offered by Mr Power is mild indeed. I do not think that the honourable member has made his case; I do not think he has a case to make at all. I do not think it was his objective. What he has done, rather, is to highlight the fact that the Australian Labor Party and the Victorian opposition in particular are looking for somewhere to stand on the issue of local government reform. The opposition is looking for somewhere to stand to be seen to be of some relevance in this debate.

I acknowledge that the announcement of the election date is a critical issue. I also acknowledge that the Kennett government’s commitment to a return to elected councils is also an important and sensitive issue. Now we have announced the program of a return to elected councils, I believe much of the issue has been addressed in the first instance. In addition, I suggest to the house that the program the government announced concerning the return to elected councils is both logical and practical. Sure, not everyone agrees with the government. I expected that the Victorian opposition, as part of its charter, would raise the issue in this way.
LOCAL GOVERNMENT ELECTIONS

Wednesday, 22 March 1995

I acknowledge that it is a very big call. I want the opposition to understand this: it was my call. I also want it to understand that from where I stand we are playing for very big stakes. I would welcome the opportunity of taking this issue beyond party politics because I have a love for local government that goes beyond party politics.

For what it is worth, if I had the opportunity to do it and I could do it with a stroke of a pen, I would delete party politics from local government now. I think that strongly on it. I know that in a perfect world we may never get to it. But my point to Mr Power is this: I would like to think that he and I, given that we share a respect for local government, could take this issue beyond the realm of cheap politics and make sure we get the best possible outcome, because what we are talking about as a target is a reduction of 20 per cent in the cost incurred by our ratepayers.

I shall finish on this point: most fair-minded Victorians would support the government in its determination that, having grasped the nettle of the reform agenda in local government, it will make every person a winner and get the best possible deal for the ratepayers of this state.

Hon. D. E. HENSHAW (Geelong) — My electorate of Geelong Province is very substantially the same. It will be the only area in Victoria from next Saturday that will have democracy in the traditional Australian sense, and it will retain that uniqueness for another year.

That concerns me. People should have access to a full-range democracy. People are put at a disadvantage and put in considerable danger of losing their involvement in democracy when they do not have full access to the three-tiered democratic processes of this country.

My understanding is that the four commissioners in place in Geelong — three in the City of Greater Geelong and one in the Surf Coast municipality — will finish their terms early next week: Monday, I understand. There are only four such commissioners in the state who will finish their terms, and who view their terms as successful. I am thus in a good position to comment on the opposition's motion.

I shall not go into specific criticism because it is not the decisions and actions of the commissioners I am concerned about. Rather, I have misgivings about the processes involved in allowing commissioners to have control over local government. I shall make some general comments on the length of the commissioners' tenure in the two municipalities; accessibility by commissioners to constituents in those municipalities; consultation with those constituents; and representation of the constituents' aspirations for local government. I shall also comment on planning processes within those two municipalities under the control of the commissioners.

I begin with the City of Greater Geelong. When honourable members debated the City of Greater Geelong Bill they were very aware that the consultants employed by the government, namely KPMG Peat Marwick, had said that the commissioners should be in office for a minimum, transitory period. In that debate the minister was very forthcoming and honest in saying that he totally agreed, and that they would be there for a minimum time, indicating it would be no more than six months. That seemed reasonable to me. At that time I visualised that the role of the commissioners was to put in place rolls and enable an election to be held as soon as possible, perhaps going to the extent of an arms-length choice of a short list of candidates for a chief executive officer, who could then have been appointed by an elected council. That seemed to me the main requirements of the local government commissioners.

At the time the minister did not indicate any requirement for commissioners other than the expressed ambition in keeping with KPMG's report to achieve savings in the operation of local government. Most people, including the opposition, expected savings. It is a desire that would have been supported by the wider community. People would welcome a reduction in rates resulting from increases in efficiency and therefore savings in the operation of local government.

To my mind there was no need for commissioners to have a reform agenda of achieving savings because savings would have been sought by all subsequent elected councils, and if councils did not achieve savings, they might well have been answerable to their electorates and suffered the consequences.

Commissioners appear to have had additional pressure imposed on them. They have a target of savings for rate reductions and to achieve that target they have to reduce services. There has certainly been a reduction of services in Geelong. It is the height of arrogance for another level of government to say to a community that it must achieve great savings. It is conceivable that a community may
decide to spend part of its rate revenue on some area where there was an ambition among members of the community. It might want to spend more money on supporting the disadvantaged, or on the provision of housing for the less fortunate people in the community. It is the prerogative of a community to make those decisions, whereas this government has taken the arrogant attitude that the municipality cannot do that because it must achieve a reduction in rates.

I now turn to the length of the tenure of commissioners. As I have said in debate on the City of Greater Geelong Bill, we were given a clear indication the commissioners would be appointed for something like six months but it has turned out to be between 22 and 23 months. I contend that the length of tenure is longer than is necessary. It has enabled the commissioners to take decisions for which they are not accountable and for which they will never be accountable. They cannot be voted out of office by their constituents, the people on whose behalf they have taken those decisions. It is a complete abrogation of democracy that accountability has been denied for 22 months, rather than a more reasonable period of eight or nine months. It is ridiculous that the people of Geelong have had commissioners for almost two years.

We have discovered that having three commissioners in the City of Greater Geelong replace some 90 councillors has meant that the community no longer has access to local government. Members of the community no longer find their local councillors at the shopping centre on Saturday mornings or at football matches in the afternoons. They cannot tell councillors what they have in mind or what should be done or ask why something cannot be done. They have lost accessibility to local government. Over the past two years the consequence has been that, in very large measure, the people of Geelong have lost interest in local government.

Hon. B. E. Davidson — Just as local government has lost interest in them!

Hon. D. E. HENSHAW — I agree, Mr Davidson. The people have lost interest in local government. Again that is an abrogation of traditional democracy as we know it. There has to be involvement between the constituents and their representatives. Without it democracy will not work. For two years we have had a decline in the involvement of people in local government and its relevance to people in the street in Geelong. I suggest that was totally unnecessary. I deplore the concept that other municipalities might go for two years, until 1997, without local representation.

In addition there has been a decrease in the consultation between the decision makers and the people of the Greater Geelong area. With only three commissioners it is difficult for them to consult, and in the initial stages they were saying they were too busy making the changes necessary to spend time on being accessible or in consulting their constituents. It was some months down the track before the commissioners realised that the people were missing out on something important. People are still saying that the level of consultation preceding decision-making by the commissioners of the City of Greater Geelong has been totally inadequate and could be better.

The commissioners have now reached the stage of formulating proposals for a new council, which I hope will improve the consultation processes and the council’s performance, because in the past the commissioners have not consulted adequately. I have referred to commissioners representing the aspirations of ratepayers and other members of the community. I say again that where there is no accountability, representation is inadequate. If municipalities wanted to spend money on something to benefit the community, it would be very difficult for them to achieve that.

A perfect example of representation arises as a result of the pressure under which commissioners have been seeking to sell assets in the City of Greater Geelong. Recently they sold a beautiful building, Armytage House, which stands in one of the main streets of Geelong. It is classified by the National Trust and was considered an ideal building for the commissioners to locate their offices. Local government is good at looking after historic buildings such as this and the people of Geelong, as many of them have told me, would have preferred for that building to remain in the ownership of the city. They were not consulted about its sale. The building was sold for some $600,000, which appears to be much less than what it was worth to the community. The building was considered good enough for the commissioners to use as offices during their term of office. Indeed they spent a lot of money in refurbishing it. I take it that sum of money has to be deducted from the sale price. The people of Geelong have lost an outstanding building for a return of what is relatively a pittance.
There are also moves to sell parkland that local residents say they want to keep. Again, they were not consulted when the decisions were made. To some extent the problem has been addressed by the commissioners and there has been further consultation. The point I make is that where you have commissioners where you formerly had councillors who were accountable to their constituents, there will be a lack of representation.

The City of Greater Geelong has had a long history of well-balanced planning schemes under which the community has operated extremely well, and they were eventually put into place by the Geelong Regional Commission. Subsequently — I am sure Bill Dix would acknowledge this — as chief commissioner he has been the proponent of many changes to the planning scheme, which he sees as encouraging development. That may have been a reasonable attitude for him to take. But it has involved him in negating decisions by panels, ignoring decisions by the Administrative Appeals Tribunal and seeking access to planning changes for development. However, he is not representing the aspirations of the community. He has shifted the balance in planning, from a good balance between developers and the community, to an imbalance leaning more towards the developers. There must be more consultation with the community when planning arrangements are made.

I refer the house to a totally different planning situation in the Surf Coast shire. The single commissioner was appointed on 9 March last year so we have had a commissioner in place for 12 months. It is my contention that the operation of the commission in the Surf Coast shire in that shorter time has been more satisfactory to the local community and more productive and constructive than the longer period in Geelong. There is no need for commissioners to be in place for periods such as two years. The Surf Coast shire is a model that can be used to illustrate that commissioners need not be in place longer then a year, and I suggest an appropriate period would be eight or nine months.

I have spoken about the one-year tenure of the Surf Coast shire and about accessibility. In that case, from the beginning the commissioner, Mrs Toni McCormack, made a strong point of getting out into the community and talking to meetings and groups. She talked through problems before decisions were made. Consequently, her role as a commissioner has been lauded throughout the shire. She has demonstrated the advantage of seeking and promoting accessibility. The community has remained interested in the role of local government; she has taken strong measures to maintain that interest.

To assist her in the heavy job of commissioner she enlisted the voluntary support of former shire president Lindon Crossland and former mayor of the old Barrabool shire Max Anderson. They had the advantage of having been involved in the local community and of knowing it thoroughly. They advised her well and represented her when she had overlapping commitments. The partnership was seen as exactly that — not to have commissioners working alone but trying to involve others in the operations of local government in that municipality. Similarly, Mrs McCormack sought to represent their aspirations, whether they be in the interests of conservation, tourist development or whatever. She sought their views and incorporated representations from various committees into her operations.

Rather than making planning decisions in her role as a commissioner, she divorced those decisions from the operations of the commission and appointed a four-person planning committee from the wider community within Surf Coast shire. She delegated to the committee the authority to make decisions on planning permit applications. If objections to the type of permit issued were lodged, that matter was then referred to the community committee, which the community regarded as being accountable to it. Similarly, applications which had been rejected by others were then reviewed by that committee. It had the capacity to overturn recommendations and grant permits. Officers had the delegated authority to grant permits where no objections had been lodged. That arrangement was entered into with all planning matters.

The situation in Geelong was in stark contrast with the Surf Coast shire commissioner who recognised that those in the community had a role to play. She used those people to exercise those roles and functions.

I have congratulated the Surf Coast shire commissioner, Mrs Toni McCormack, and I have also congratulated the Honourable Glyn Jenkins, Deputy Commissioner of the City of Greater Geelong. He did a very conscientious and dedicated job as a commissioner. I go so far as to say that had he been the only commissioner Geelong may now have benefited.
Surf Coast shire is a clear example that commissioners can play a positive role; it is a role model of how commissioners should operate. In view of my experience with Surf Coast shire, I would be happy with the process involving the appointment of commissioners had the appointments been limited to the shortest possible time, as the minister originally undertook. There is no reason to postpone matters for two years. I support the motion.

Hon. B. N. ATKINSON (Koonung) — I oppose the motion. In preparing for today’s debate I asked quite a number of coalition members whether they had received representations from any constituents about perceived delays in the holding of elections. Not one of the approximate 25 members I asked last night had received a letter of complaint from any person about such delays. Not one had received any representation about the postponement of polls or about the timetable established and announced by the government, yet this issue is supposed to be highly contentious.

Obviously those government members spend time in their electorate offices and are in tune with their communities. I asked further whether they had received telephone complaints. The 25 members had received only a handful of calls. I asked whether they had received representations as they moved through their electorates, and their reply was no.

The public is not concerned or upset by the way the opposition has represented it in this debate. The public has confidence in the process. The public realises the scale of reform that has been put in place by the government and it realises that it will take time to get that reform right. It must be done properly if we are to achieve the greatest benefits not only for the state but also for individual communities.

Members of the public are prepared to recognise that the election timetable announced by the government is appropriate for the job to be done. They have confidence in the government. They have not been running around saying there is a problem. Mr Power quoted heavily from newspaper headlines that appeared immediately after the announcements were made. He should have looked at follow-up editions and turned to the pages containing letters to the editor. He would have found no such letters on this issue despite the local newspapers pushing headlines which suggested that democracy had been lost for all time.

When you look at the names mentioned in many articles expressing concerns you see that many are ALP candidates for the next state election and many come from outside the electorates they wish to represent. They are complaining about a lack of democracy and are suggesting the government has got it wrong. They have been quoted extensively, yet in many cases they do not even come from the nominated electorates; they are not able to argue persuasively on the issue. They are just trying to get a run out of the issue!

Mr Power correctly identified a number of people during his contribution to the debate; some included a clutch of former councillors and former mayors, people who had lost the keys to the mayoral cabinets. They were upset. I come from a local government situation, as honourable members know. I have seen some of my former local government colleagues who have commented publicly and who have contributed to a couple of the articles that have been quoted. I well understand the context in which those comments were made.

Those people are more concerned about their own positions and the fact that they no longer hold the status and office of their locally elected positions than they are about the needs of the community. With the exception of the Sunbury Ratepayers Association, very few community groups have expressed any concern let alone outrage or anger — as has been suggested today — about the government’s timetable for elections.

Hon. Pat Power interjected.

Hon. B. N. ATKINSON — No, I read the same newspapers. The entire opposition research for the debate has centred on front pages of local newspapers which have given the issue some prominence and which have sought opinions from certain people in the name of publicity. In editorials they suggest a loss of democracy! They rely on local councils for good copy. Suddenly they are unable to report in their columns on personalities in local politics. Local government is easy pickings for local newspapers.

Suddenly councillors are reported to have made comments that are not consistent with the council line. The local newspaper editor does not necessarily get the same cut and thrust; he or she suddenly has to do more work. It is easy to run with this line, to kick up a frenzy and generate community support. Those local newspaper reports are of very little value.
Sitting suspended 1.00 p.m. until 2.02 p.m.

Hon. B. N. ATKINSON — Before the suspension of the sitting I was giving some curry to local newspapers for the sake of the independent publisher who happens to be a member of the house, Mr Smith. While there was a bit of humour attached to those remarks, I was making the point that the local newspapers had obviously sought to promote extensively the timetable released for local government elections because it was in their interests to do so because local government is so much a part of meeting its copy needs.

From the point of view of the public the timetable adopted by the government is not an issue. It does not regard the timetable as an affront to democracy, as the Australian Labor Party is claiming in the motion before the house. Rather it sees it as a necessary part of the reform process. The public, by and large, recognises the need to consolidate changes that have been made to municipal government and the need for us to get it right. That is the crucial thing as far as it is concerned.

Even in the municipality of Knox, within my electorate of Koonung, where there has been minimal change in the boundaries, it could be argued that an election may well have been called earlier. I raised with the minister on a number of occasions whether it was possible for Knox to go to an election early.

The minister made a good point and a point that ought to be made to the house. In developing the election timetable, there was a definite need for consistency to ensure some certainty to those preparing for the next local government elections. There was a need for some consistency in approach to the restructuring process in local government in Victoria. The government's process has been genuine and successful because it has been free from politically expedient interference in spite of local government being a highly politically charged area.

That the government has not been able to be accused of meddling politically has been part of the strength of the process. That is why, now that the election timetable has given some certainty of the restoration of elected councils, people have said, 'Yes, that is fair enough. We understand exactly what the situation is to be and we can support that and see the sense in it.' Ratepayers and residents see it is crucial that there be a consistent approach.

The people I speak to as I move around my electorate and other parts of Victoria have indicated they do not want political grandstanding in one municipality that has returned to having elected councillors at an earlier stage to undermine the integrity of the total reform process. They do not want political aspirants trying to raise their profile at the expense of the reform process. People are looking for consistency in the process, ensuring that the real gains of the restructuring are realised in the community.

It is also important to consider consistency not just in the election process but in what else might be achieved in local government. The commissioners and the new management structures being put in place at this time in local government around Victoria have a crucial role to play in achieving consistent management practice across local government.

One of the problems the Local Government Board has found, as I understand it from reading its reports and talking to people associated with the process, is that it is difficult to compare different service outputs from one municipality to the next because they all use different bases for their analysis and reports to their ratepayers, councillors and so forth. That has been a consistent problem whenever local government has been analysed by state government or federal government and governments have developed programs that envisage a partnership in service provision in municipalities, as found in the Bains report.

Each municipality has different management practices, reporting practices and so forth. It has been difficult to understand exactly the common base in local government. Many local government authorities argued as part of their submission to the Local Government Board that the categorisation of their services was not fair because it was entirely different from their categorisation.

Consistency is a big factor in the public's understanding of how services are being delivered, whether they are cost effective and efficient, and whether they are meeting the needs of local communities. Consistency is important for state and federal governments in the development of effective partnerships between levels of government in particular service areas. This process is a chance to get it right, a chance to form a local government that will not just be responsive to the needs of people well into the next century but reform a $3 billion industry. That is what the process has been about to
this point. This is a chance to ensure we get it right and do not lose any ground on what might be achieved by the process put in place by the government.

As I understand it, one key criterion adopted by the minister and, more importantly, the cabinet — certainly not, as suggested in this place, by the Premier alone — has had obvious input from people in the field such as commissioners. In Mr Power’s speech he made much of the fact that a number of commissioners are reported in local newspapers as having expressed surprise about the decision on the election timetable, but none of them, as Mr Power tried to suggest, has said he has not been consulted as part of the process. Not one of them has said he has not had some input in the development of the process by the government. Commissioners’ opinions have been sought in a range of areas in a series of meetings with the government and, as I understand it, with the minister on different occasions to ensure that the process gets it right. That is important in the interests of Victoria and Victorians.

One of the criteria established by the minister was that the commissioners ought to be responsible for preparing at least two budgets not, as suggested by the opposition, so they could guesstimate programs or make wholesale changes to services, but to consolidate some of the gains that ought to be realised and to ensure the structures were in place to have consistency in budget programs, financial reporting and the measurement of services.

On many occasions the government has referred to the reduction in rates that should accrue from the process. I believe much will be gained by the provision of better services and rate reductions. In some areas economies of scale have been achieved, in others funding is being reallocated for more effective projects. I am interested in the economic development opportunities in country areas.

The restructuring of local government has been supported broadly by the Labor Party throughout the process, but that support is accompanied by nitpicking and point scoring. Local government reform is supported by the community. It recognises the opportunities to establish an effective, responsive and economically viable local government to meet the future needs of Victorians. On that basis alone, the first part of the motion fails. It is irrelevant to suggest that the government’s decision to delay the completion of local government elections until 1997 is of major concern to Victorians. Clearly it is not. There is no ground swell of opinion against the process. As I demonstrated earlier, the only people expressing concern are former councillors who lost office as part of the process and who obviously expect to continue their careers in the future, if they introduce the right policies and programs, and Labor Party candidates who are looking for opportunities to push their platform prior to an election.

The government and the minister do not disagree with the second part of the motion. We want local government elections to be held at the earliest possible opportunity, but we want to ensure that the benefits flowing from this process are realised. We do not want to lose many of the benefits because of an expedient return to local government elections. We must make sure we get it right.

The third part of the motion refers to the government’s embarking on a cynical political exercise. There is no political agenda with the restructuring of local government.

Hon. D. A. Nardella — No doubt!

Hon. B. N. ATKINSON — If it were part of the government’s political agenda the election of councillors for the City of Port Phillip would have been deferred, given that the Melbourne Grand Prix is scheduled to be staged in that municipality. The government is not interested in political expediency; it wants a realistic timetable to deliver to Victorians the gains that ought to be achieved. Part (c) of the motion states in part:

… by acting to prevent the completion of local government elections before the state election …

That phrase acknowledges that a process is under way to restore democratically elected councillors to local government as quickly as possible.

Mr Henshaw’s contribution to the debate was interesting, particularly his reference to the Shire of Surf Coast. His comments demonstrated that the appointment of commissioners does not exclude public participation in local government. He indicated that members of the public were not excluded from the process. Although the government does not believe it is desirable to have commissioners in place instead of democratically elected councils, the commissioners have done a remarkable job in all municipalities in maintaining a level of public consultation.
LOCAL GOVERNMENT ELECTIONS

Wednesday, 22 March 1995

The one example that Mr Power cites of commissioners getting it wrong is the Fitzroy swimming pool. Mr Power must be on the edge of his chair waiting for examples to bring to the house of commissioners getting it wrong. He has not been able to do that. Labor Party candidates out in the field have their pens poised ready to write letters and issue press releases to local newspapers, but they have been unable to unearth great sins by commissioners of municipalities. The commissioners have recognised their responsibilities and they are sensitive to the needs of their communities.

Mr Power is having an each-way bet. Although he is calling for an election timetable and dates for elections, he is not so concerned about getting the timetable on the table so that everyone can see when they will occur. Mr Power was quoted in the Sherbrooke Free Press of 15 March discussing the opposition's opportunities arising from the process. He suggests the timing of the election for the Shire of Yarra Ranges of March 1997 is convenient for the Labor Party. If it is able to form a government after a state election in 1996, a future Labor government could make changes to the boundaries of the municipality, and, I suppose the inference is, to the boundaries of other municipalities if they deem the restructuring inappropriate. Mr Power seems to be saying that he wants elected councillors to be appointed, but he wants the opportunity, as a future Minister for Local Government, to change municipal boundaries. That will be disruptive to many communities and is not an appropriate process. We want to get it right in the first instance. That is what the process is all about. It is proceeding at its current pace because we want to analyse the work done and recognise the needs of the communities. We are aiming to get it right.

Mr Power and his colleagues can only nitpick. They cannot indicate any major disruptions to municipalities, which suggests the government has it right and will continue to get it right.

Hon. B. T. PULLEN (Melbourne) — I support the motion put forward by my colleague. It is not possible to do justice to the substance of the motion in the short time available to me. I make the point that I do not wish to make a personal attack on the minister because he has done his best in many ways. In terms of the relationship state government has with local government, the actions of this Liberal-National government represent a major departure from the bipartisan position of the former Labor government, which had respect for local government. It is a major departure from the views expressed in this house by such people as the Honourable Alan Hunt. He saw local government as a genuine partner and another sphere of government. The way this government is treating local government makes it simply a creature of state government to apply policies through commissioners to suit the interests of the state. Local government is no longer in place to respect local diversity and ability and to enable members of the community to put forward their priorities to their councillors and have them take action based on those priorities. We know there are good and bad councils and good and bad councillors, but it is a person's basic right to elect people and then judge them at local government level. It is a person's right to state at the polls whether he is being taxed too heavily or too lightly and whether he believes the council is supporting the right or wrong programs. That is the right this state government is taking to itself.

The state government would not accept the federal government entering its sphere of responsibility and appointing people to supposedly better perform its functions. Despite that, the priorities that are important to the ordinary citizen, which may seem minor to some people — matters involving local streets, planning approvals, libraries and local swimming pools — are being taken away by this government, and the minister is allowing that to happen.

Citizens have a right to judge whether their local representatives are performing. During the recent controversy involving the Fitzroy swimming pool — Fitzroy is now part of the City of Yarra — it became very clear that in acting out the economic rationalist approach of the state government the commissioners were hopelessly out of touch with the whole cross-section of the Fitzroy community and the wider community. People were saying they had a right to judge how much of their rates should go into providing a local facility, which in that case was the local swimming pool. The minister is on record as saying the commissioners adopted an eminently rational approach and that he was voicing the views of state government about what all commissioners should do.

That case demonstrated the essence of local democracy, and it cannot be overestimated. The signal sent out to commissioners across Victoria by the Fitzroy swimming pool issue was that they had to pull back and understand that local people will pull them up if they go too far. It is no wonder no other cases for the closure of swimming pools in
Victoria have been put forward because the message clearly went out to other commissioners not to try it on.

At the moment the City of Yarra is putting its toe into the water to see whether it will change or reduce library services in the city. The commissioners are very tentative because they know the people of Yarra are now aware through the experience they had with the swimming pool that they can defend their municipality.

The point the minister has failed to address in his reply to this debate is that there is more to it than the state government imposing a regime over Victoria and dictating to local government how it will behave. It is possible for elected councillors to provide both rate relief and to continue to carry out and enhance functions through the boundary reforms if their communities are prepared to support them in supporting employment and economic activity, addressing conservation issues or providing decent human services or libraries in their municipality. That is a decision local people are entitled to make and it will not be, and historically has not been, a uniform decision of the state government.

Local councils have represented their constituents in different ways with different priorities, and that is part of the character, flavour and value of local government. This minister is complying with a state direction to impose a narrow, uniform view on what people at a local level are entitled to receive. While in office the government is entitled to push a view in terms of its own responsibility. However, these changes have gone further and tell the people of Victoria that the state’s views will apply through every municipality, with the strange exception of Queenscliffe and the 4000 people to whom the minister has never been able to explain why that is the case. That is an example of the absolute inconsistency the minister has expressed to the house. For no good reason, we have a situation where people are denied the benefit — —

An honourable member interjected.

Hon. B. T. PULLEN — I have never denied the benefit of the improvement in the boundaries for the larger Yarra area. I argued for it with the reforms of the former Labor government and I support it now, as the minister knows. I believed that the Fitzroy area was too small and that the functions could be better carried out by being part of a larger area. Those functions should be carried out by people accountable to the people who pay the taxes and not by commissioners who receive directions from and follow the views of the state government. That is a travesty of the concept of local government.

The minister has been compliant, he has not pushed for local government rights or local democracy. He has not upheld his responsibilities or his office in terms of the importance of local government. In that sense I feel sorry for him because I accept that it is not his choice that local government is being treated in this way. Nevertheless the buck does stop with him. He has not been able to stand up for local government across Victoria. Irrespective of whether the people elected are good or bad, they are elected to determine on behalf of their constituents what priority should be placed on particular matters and where the funds gathered through taxes should be spent. It is a very basic principle.

If we want to recognise local government in a bipartisan way as a fully fledged partner in the democratic system in this country, the opposition challenges the way this government is going about local government reforms. That is understood not only by former councillors but also by those people who have been interested in and have contributed to local government in a multitude of ways during the history of this state. It is wrong to say that those people only are looking after their own positions because the argument is much wider than that. Of course, the most recent councillors and mayors feel the most aggrieved because they feel they have been displaced without reason and have not been treated well. It is not their careers or positions that are important; it is the fact that many people are now unable to express the local view through local elected representatives. For those reasons I support the motion of my colleague Mr Power.

House divided on motion:

Ayes, 13

Davidson, Mr Gould, Miss Henshaw, Mr Hogg, Mrs Ives, Mr (Teller) Kokocinski, Ms Mier, Mr

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

Noes, 28

Asher, Ms Ashman, Mr Atkinson, Mr Baxter, Mr

Evans, Mr Forwood, Mr Guest, Mr Hall, Mr
Electricity industry: demand management

Hon. T. C. THEOPHANOUS (Jika Jika) — I direct a question to the Minister for Conservation and Environment. At a Public Accounts and Estimates Committee meeting on 25 January this year the minister said that as Minister for Conservation and Environment he had effective oversight of the national greenhouse response strategy. He was asked whether, given that every state in the commonwealth has an ongoing demand management program, he supported such a program for Victoria. He replied, ‘I absolutely support demand management issues by electricity bodies and others’. Will the minister now inform the house whether he supported the abandonment of the $37 million demand management project in the SEC and, given his statement to the Public Accounts and Estimates Committee, what steps he will take to have it reinstated?

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — This is the International Year of Tolerance: but when that year was declared the United Nations did not have Mr Theophanous in mind! He has been sent to challenge not just the tolerance of the government but obviously the tolerance of his own colleagues.

For the third time in a row, I shall answer the question. The program was introduced by the previous government with our support. It had a short-term tenure which, from memory, was three years which we extended to four years — or two years extended to three. In other words, it was a program that was always meant to go out of existence, but we actually extended it.

We are and always have been committed to the range of energy efficiency measures in the demand management program of the natural greenhouse response strategy. However, I think Mr Theophanous may concede that there is now a strong imperative from the federal government to reform the electricity industry. He may even concede the likelihood of competition from interstate and the likelihood of a national grid which means that we should also deal with those issues as well as the demand management parts of the national greenhouse response strategy, which we supported in the past and which we will continue to support in the future.

Hon. T. C. Theophanous — Did you lie to the Public Accounts and Estimates Committee?

The PRESIDENT — Order! I remind the house of the problem when a member asks a question and continues with a barrage of interjections while the minister answers the question. Mr Theophanous has been on the other side of the house and he knows the rules. I suggest he keeps quiet while the minister responds.

Hon. M. A. BIRRELL — I am trying to honour my obligation to the International Year for Tolerance, and I believe I am doing pretty well in the face of the opposition’s remarks.

Hon. M. A. BIRRELL — We are committed to the National Green House Response strategy; always have been and always will be.

Hon. P. R. HALL (Gippsland) — My question is directed to the Minister for Roads and Ports, the Honourable Bill Baxter. It is a topical question; I hope at least some members in the chamber realise that today is being promoted by Bicycle Victoria and the State Bicycle Committee as the Autumn Ride to Work Day. These organisations make such days to encourage alternative transport means for people going to and from work. I ask the minister what role
the Victorian government is playing in promoting the use of cycling around the state of Victoria?

Honourable members interjecting.

Hon. W. R. BAXTER (Minister for Roads and Ports) — It is appropriate that Mr Hall should ask his question on this day, being the Autumn Ride to Work Day, because Mr Hall, among our members of Parliament, is quite a keen cyclist. I understand that prior to his coming to this place when he was based in the Latrobe Valley, he rode to work each day. Being now based in Melbourne, the distance is unfortunately too far to ride. Mr Hall has also been very active locally with bicycle groups in his home town of Traralgon. He has been instrumental in organising the Ride to Work Day in Traralgon, and I certainly thank him for his assistance in that regard.

I likewise thank him for providing a nomination for a regional representative last year to serve on the State Bicycle Committee. That nominee has made an outstanding contribution to the State Bicycle Committee. Richard Jeffrey, along with two other regional representatives, have been appointed to the committee for the first time to give it a statewide focus rather than a solely metropolitan focus. I do indeed thank Mr Hall for his keen interest in encouraging people to use bicycles to get to work.

I did not participate in the Ride to Work Day today. However, I attended a similar function six months ago, breakfast at Southbank, and I was surprised at and pleased by the very good turnout on that day and the number of people using bikes as a regular means of transport to get to and from work.

Last year the State Bicycle Committee released a three-year strategy. It sets an annual target for the completion of 100 kilometres of bicycle paths in Melbourne and 100 kilometres in regional Victoria. Vicroads has adopted that committee's report as its target and is moving as expeditiously as possible to achieve that target.

I shall give one or two examples of the good work that is being undertaken by this government. Vicroads, in association with Mr Birrell's associations with Melbourne Water, has assisted. Some $3.7 million is presently being expended to provide a connection between the Gardiners Creek path and the Yarra path in Hawthorn, which will link up the bicycle paths from the city. I am pleased to note that Mr White is taking note.

Hon. D. R. White interjected.

Bicycle Victoria and the State Bicycle Committee have recently conducted a Let's Share the Road campaign to foster cooperation between motorists and cyclists. Cyclists were asked to obey traffic laws and be visible at night. Motorists were asked to be patient and not to intimidate cyclists. That is the key to ensuring that the road is a safe place for cyclists on the road. In the past there have been mutual suspicions between the two. Nevertheless, the State Bicycle Committee is doing an excellent job in bringing the two together.

City Link project

Hon. D. R. WHITE (Doutta Galla) — My question without notice is directed to the Minister for Roads and Ports. In recent briefs from the two major tenderers for the City Link project, both major tenderers have indicated to the opposition that the scale of the project is in the vicinity of $2 to $2.5 billion. In many statements in the house the minister has indicated that the scale of the project is in the vicinity of $1.2 billion. Can the minister give a clear indication to the house on what his view is and what the government's view is? I ask further: can the minister give a clear indication to the house on what
the scale of the project is and what the government's view is of the precise cost of the City Link in view of the fact that the tenderers are saying that the dimension of the project is in the vicinity of $2 to $2.5 billion?

Hon. W. R. BAXTER (Minister for Roads and Ports) — I am interested that the consortia bidders have been briefing the opposition; that is a decision they can take. I am perfectly relaxed about that.

Honourable members interjecting.

Hon. T. C. Theophanous — I'm not concerned about it at all!

Hon. W. R. BAXTER — Bearing in mind it is a competitive bidding process, I have been very careful not to have direct contact with either consortia until the preferred bidder is identified by the City Link Authority, reported to government and a decision has been made. On that basis I am totally unaware as to what figures the consortia might well have given to the opposition.

Local government: savings targets

Hon. B. N. ATKINSON (Koonung) — I wonder whether the Minister for Local Government will inform the house of his announcement today of the savings targets he has set for Victoria's new municipalities.

Hon. R. M. HALLAM (Minister for Local Government) — Given the debate that we had in this house earlier today, I suggest it is appropriate that today I announced the savings targets to maximise rate reductions in Victoria's new councils. The targets, which have been released on a council-by-council basis right across the state, will reduce the cost of local government in Victoria by up to $400 million per year. In total the target represents aggregate savings between $362 million and $395 million across the 78 councils. In comparison with a turnover industry wide that is more than $3 billion, those aggregate savings are significant indeed.

I expect that about $300 million of the savings will go directly into rate reductions, which represents approximately a 20 per cent reduction in the rate take across Victoria. I expect that those rate reductions will be achieved over the next three years.

I make the point to the house that the savings are real and achievable. In fact, the targets have been set in consultation with commissioners. I also announce, to ensure that they are delivered, that I will introduce a bill into the house that will have the effect of providing the minister with the authority to establish a rate ceiling for the duration of the corporate plan being developed by the commissioners. Further, I expect those savings to be achieved without any adverse effect on the level of services and without impact on capital expenditure.

Hon. D. R. White — What is the period of the corporate plan?

Hon. R. M. HALLAM — It is to terminate in 1997-98. The initiative of the rate ceiling comes in response to concerns of business and community groups together with ratepayers in general about the need to ensure that the gains resulting from the reform process are maintained. This is good news for the ratepayers of Victoria, who can be assured of the government's determination to allow them not only to reap the benefits of local government reform but to keep them as well.

Environment Protection Authority: staffing

Hon. B. T. PULLEN (Melbourne) — In a recent letter to the union representing workers in the Environment Protection Authority the Minister for Conservation and Environment, in addition to making the patronising comment that he thought the EPA staff were confused, said the staffing levels in 1995-96 would be similar to those pertaining over the past five years. The annual reports indicate that in the past five years staffing levels in the EPA ranged from 299 to 346, with 315 as the average. Will the minister advise the house whether a fair interpretation of what he is saying is that there will be no reduction below the average 315, or will he indicate what will be the lowest level of staff that could be reached under his guidelines?

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — Two weeks ago when the house was last sitting I thought for a while that the opposition was actually asking questions that raised concerns about the environment, but we have since found out that it is asking questions on behalf of the union. The union primed the opposition and said, 'Ask these questions because we haven't got any EPA staff support for the union. We'd like to get our membership up a bit so we'll have a little membership campaign. There are a little over 300 staff in the EPA'.
Honourable members interjecting.

The PRESIDENT — Order! I count five individual dissertations on the opposition side while the minister is responding. I ask honourable members to desist.

Hon. M. A. BIRRELL — They do not want to hear the answer — that’s the problem. The union said, in effect, ‘The EPA has a little over 300 staff members and hardly any of them are members of the union so we’ll have a stop-work meeting’. Do you know how many people participated?

Hon. G. R. Craige — How many?

Hon. M. A. BIRRELL — About 45, by all accounts.

Hon. G. R. Craige — Out of how many?

Hon. M. A. BIRRELL — Out of a little more than 300. This is a fairly strong indication that the staff of the EPA, quite correctly, have confidence in the way it is being run and have great pride in their organisation. It is also a very solid statement that staff members do not have confidence in the union because they voted with their feet by not joining it.

They do not believe the smear campaign against the EPA by the Labor Party; they do not believe the smear campaign of the union movement. They believe our commitment that the budget in the future will be about the same as it is now and staff levels will be about the same as they have been over the past few years.

Universities: student places

Hon. ROSEMARY VARTY (Silvan) — Will the Minister for Tertiary Education and Training inform the house of the level of demand for university places in Victoria this year in comparison with other states in light of recent publicity which indicates a substantial decline in the numbers of applications?

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — This is a very important question because of the moves that are being suggested by the federal government to reallocate tertiary education places from Victoria to New South Wales and, more particularly, to Queensland. I advise the house that the recent statistics that have just been released on the number of applications point out yet again how unjust and unfair it would be if this change were to occur in the next federal budget.

Fortunately the federal Minister for Employment, Education and Training, Mr Crean, did not make a decision on the report towards the end of last year as he said he would but said it would be done in the context of the federal budget, which is obviously on its way now. The figures indicate that in Victoria there was a fall of 2.4 per cent in the number of applications for university places this year. That is against a fall of 4.1 per cent in the number of 18-year-olds because of demographic factors.

Honourable members interjecting.

Hon. HADDON STOREY — There are fewer 18-year-olds in Victoria this year because fewer were born 18 years ago!

An Honourable Member — They’re moving to Queensland.

Hon. HADDON STOREY — It is nothing to do with Queensland. In real terms there was not a drop but an increase in the number of applications for university places in Victoria this year. That is in marked contrast with New South Wales where there was a decline of 8.6 per cent in the number of applications for university places. In Queensland the demand for university places this year has fallen by 6.1 per cent, and over the past three years the demand has fallen by a staggering 15.8 per cent compared with a fall in Victoria over the same period of only 1.6 per cent. It is obvious there is a declining demand in Queensland whereas over the past three years and many more Victoria has maintained a very strong demand for university places.

Honourable members interjecting.

Hon. HADDON STOREY — The other factor to be borne in mind is that Victoria has concentrated on providing undergraduate places from the funded places that come from the commonwealth. In Victoria 76 per cent of additional places this year were allocated to undergraduates. In Queensland since 1993 only 34 per cent of additional places have been allocated to undergraduates. Again it is quite clear that even with the increase in the number of undergraduate places offered Victoria is unable to meet the demand.

I have written again to Mr Crean to draw these figures to his attention and to urge him not to take
any action on the report he received last year. He should recognise the real need of Victorians for university places and reject the concept that it would in any way help Australia by taking places away from this state and giving them to Queensland.

Electricity industry: country offices

Hon. PAT POWER (Jika Jika) — The Minister for Regional Development would be aware that electricity offices are to be closed in Castlemaine, Kerang, Cohuna, Warracknabeal, Kyabram, Bacchus Marsh, Casterton, Camperdown and Stawell. He would also acknowledge that operations will be reduced in Kyneton, Swan Hill, Maryborough, Cobram, Echuca, Hamilton, Portland, Colac and Werribee.

Will the minister give an assurance that the loss of disposable incomes arising from job reductions associated with these closures and wind-downs will not affect small businesses and the general economies of those important country communities?

Honourable members interjecting.

The PRESIDENT — Order! That is a very marginal question; it is seeking an opinion rather than information. I ask the minister to attempt to respond to it.

Hon. R. M. HALLAM (Minister for Regional Development) — Thank you for your protection, Mr President.

Hon. D. R. White — That is facetious!

Hon. R. M. HALLAM — No, it was not. Having had discussions with those involved, I have a great deal of empathy for those caught up in this process. So far as it is within my power I will ensure that disposable income in each community is not adversely affected.

I make the point that it is in the attempt to have those communities remain strong and viable that we are pursuing the reforms in the electricity industry. I also make the point that if the opposition continues to pursue the view that we can solve unemployment by throwing lumps of money at it from the public purse then it has learnt nothing from the 1980s. If we are to have viable country communities they need to be based on strong and viable industries.

More than anything else we need to have profitable industries in our country locations to generate the desperately needed job opportunities. If the opposition thinks the problem can be solved by featherbedding every service to those communities — —

Honourable members interjecting.

The PRESIDENT — Order! There is no way the house can persist with question time if this racket continues. I ask the house to settle down and allow the minister to respond.

Hon. R. M. HALLAM — I am happy to continue with my opinion: those communities will be strengthened if we get the sorts of reforms we are looking for because that will put the rural sector in a position where it can generate the jobs so desperately needed.

Director of Housing

Hon. C. A. STRONG (Higinbotham) — Will the Minister for Housing advise the house of the appointment of a new Director of Housing?

Hon. R. I. KNOWLES (Minister for Housing) — Since May 1992 Mr Bob Solly has been Director of Housing in Victoria. He has taken leave to take up a position as chief executive of the South Australian department of housing and development on a five-year contract. He has resigned as Director of Housing in Victoria but has preserved his rights in the Victorian public service. At the end of that five-year period he intends to return to Victoria to another executive officer position in the public service.

I place on record my thanks to him and I commend Mr Solly for his job as Director of Housing. He presided over quite dramatic changes in the delivery of housing in this state in a very professional manner. He is certainly recognised as one of the outstanding public servants in the housing field.

As a result of advertising for the position of Director of Housing I am pleased to advise the house that yesterday the Governor in Council agreed to the appointment of Mr Howard Ronaldson as the new
Deputy Secretary of the Department of Planning and Development and Director of Housing.

Mr Ronaldson is a man of great experience, having worked as Director of the Crown Land and Asset Division in the Department of Conservation and Natural Resources. He has served with great distinction and I have no doubt he will make a significant contribution as Director of Housing and that he will continue to preside over the reforms already under way. I congratulate Mr Ronaldson on his appointment and look forward to serving with him as Director of Housing for many years to come.

Libraries: municipal fees

Hon. C. J. HOGG (Melbourne North) — The Minister for Local Government will be aware that the chief commissioner of Bayside council has announced that consideration is being given to introducing borrowing charges throughout the municipality’s five libraries. Will the minister give the house an unequivocal assurance that he will act to ensure that local government commissioners do not introduce borrowing charges to municipal libraries in Victoria?

Hon. R. M. HALLAM (Minister for Local Government) — I am delighted to give Mrs Hogg that assurance, although I think it has already been given to the house by the Minister for Tertiary Education and Training.

Royal Botanic Gardens, Cranbourne

Hon. K. M. SMITH (South Eastern) — Will the Minister for Conservation and Environment advise the house of progress on the creation of a native Australian garden at the Royal Botanic Gardens in Cranbourne?

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — I place on record the close interest as a local member that the honourable member for Cranbourne in the other place, Gary Rowe, has shown in this matter; I thank him also for turning up for the opening.

The Royal Botanic Gardens has released its master plan for the continued growth of its native Australian garden in Cranbourne. The plan sets a path to develop a world-class botanic collection and display garden on a site which features indigenous vegetation of very high conservation value.

Most honourable members will know that the 350-hectare site is located in a major population centre on the edge of the south-eastern suburbs in Victoria’s fastest growing area. It is within easy reach of nearby residents and is also on the major tourist route to Phillip Island.

The garden is ideally located to attract considerable interest from Victorian, interstate and overseas visitors. A master plan was needed for the future of that great place. Recently I was pleased to launch the master plan, which establishes the design and development framework for the future development of the Cranbourne gardens in the next three decades. The key features of the master plan are the Australian display garden, the botanic collection, the woodland recreation zone and the conservation zone.

With this new plan in place Cranbourne is set to become Australia’s premier native garden — a major tourist attraction. Of perhaps greater importance is the fact that it will be an outstanding scientific centre in the next 10 or 15 years. The plan I released also includes a major visitor complex incorporating exhibition, education, retail and catering facilities. It also will have self-guiding walking tracks and lookouts.

The plan is the culmination of work dating back to the 1960s. I certainly place on record the appreciation of the government to the Maud Gibson Trust for its work since the 1960s to establish this area. I also particularly thank one of its well-known members, Dame Elisabeth Murdoch, who has been a supporter of this concept.

A generous donation from the Maud Gibson Trust enlarged the land by 174 hectares. The land was first set aside for this purpose in the 1970s by the Hamer government. Last year more than 70 000 people visited the embryonic gardens. That figure will increase with the release of the master plan and the developments that will follow.

STANDING ORDERS

Withdrawal of strangers

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

That standing order no. 49 be amended as follows:

Omit ‘shall’ (where second occurring) and insert ‘may’.
TRANSPORT (TOW TRUCK REFORM) BILL

Wednesday, 22 March 1995

Yesterday I gave notice of this motion and gave an explanation to the house of the proposed changes. The motion to replace 'shall' with 'may' is to give the Chair some flexibility when an inadvertent reference is made to strangers in the gallery. In those circumstances the present standing orders require the President to clear the gallery. This will allow some discretion to the Chair. I commend the motion to the house.

Hon. B. W. MIER (Waverley) — The opposition does not oppose the motion because it has been thoroughly scrutinised by the Standing Orders Committee. As the manager of government business has said, it provides more discretion to you, Mr President.

Motion agreed to.

Printing Committee

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

That standing order no. 304 be repealed.

The standing order to be repealed requires the Legislative Council to appoint a separate printing committee. After the passage of the motion we will rely on the Joint Printing Committee to look after the printing for Parliament.

Hon. B. W. MIER (Waverley) — The Standing Orders Committee has thoroughly considered this. In view of the establishment of a joint house printing committee, obviously there is no need for the Legislative Council Printing Committee. Accordingly, there is no opposition to the motion.

Motion agreed to.

Fees for private bills

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

That standing orders nos 315 and 316 be repealed and that the following standing orders be adopted in lieu thereof:

"Fees.

315. Unless the Council expresses the view that fees should be waived, before any private bill (other than a private bill which has been ordered to be dealt with as a public bill) is read a second time, a deposit of $1000 shall be paid to the Department of the Legislative Council, and a receipt for that payment shall be produced by the member having charge of the bill.

Promoter to pay expenses.

316. The promoters of any private bill for which a deposit under standing order 315 has been paid shall be liable for the costs of —

(a) its printing and circulation;
(b) the publication of any statement pursuant to standing order 312;
(c) any select committee appointed to examine its proposals; and
(d) any other expenses involved in the passage of the bill up to a maximum of $5000 —
and the sum of such amounts, less the deposit of $1000, shall be paid to the Department of the Legislative Council."

This is designed to ensure full cost recovery in those limited cases where fees are to be charged for the passage of private bills and is recommended unanimously by the Standing Orders Committee of the house.

Hon. B. W. MIER (Waverley) — As indicated by the manager of government business, there is absolutely no opposition to this motion. It provides for full recovery of costs on the introduction of a private bill and for those costs to be reimbursed to the Department of the Legislative Council. Accordingly, in view of the unanimous support of the Standing Orders Committee, there is no opposition to the motion and the proposals are fully supported.

Motion agreed to.

TRANSPORT (TOW TRUCK REFORM) BILL

Second reading

Hon. W. R. BAXTER (Minister for Roads and Ports) — I move:

That this bill be now read a second time.

The bill amends the Transport Act 1983 to implement far-reaching reforms to the tow-truck industry for the purpose of providing an environment in which the industry better services the community. The bill addresses a range of general towing issues which have been of concern to the
community for some time. The government continues to receive complaints about aspects of the towing industry and, in particular, its relationship to the vehicle repair industry. These complaints have come from a range of sources, including motorists themselves, the police and insurance companies. Also, the tow-truck industry has sought legislative changes to enable it to become more efficient and customer oriented.

REVIEW OF TOW-TRUCK INDUSTRY

A review of the regulation of the tow-truck industry has been undertaken by Vicroads over the past two years. As part of that review, private consultants were engaged to report on towing in Victoria and their report, submitted in May 1994, has been the basis of many of the changes in the bill before the house.

The changes proposed will require tow-truck operators to better control their operations. At the same time the bill provides significant penalties where operators and drivers are not acting in the best interests of the community and the client motorist. These measures are aimed at ensuring customer protection, particularly of the accident victim motorist.

As with recent reforms to the taxi industry, this bill proposes measures which will increase the efficiency of the industry, reduce costs, enable the provision of new and expanded services for the community, reduce regulatory barriers for trade towing and give the community greater security against illegal practices.

The Industry Commission has also inquired into the tow-truck industry as part of its report Vehicle and Recreational Marine Craft Repair and Insurance Industries. The proposals in this legislation address many of the recommendations in the draft report of November 1994.

Licence Categories for Tow Trucks

It is proposed that there be separate licence categories for trade towing, heavy accident towing and accident towing as defined in the bill. Trade towing will be as-of-right licences and will not be transferable. Heavy penalties will apply where a person operates a tow truck but does not hold an appropriate licence.

In most of country Victoria it will also be possible to tow a disabled motor vehicle on a trailer without requiring a trade towing licence.

ACCIDENT TOWING

The most significant changes in the bill relate to accident towing — that is, the towing of the normal motor car or light vehicle which most of us drive. A person must not operate a tow truck for accident towing unless he or she holds an accident towing licence. Severe penalties will be applicable for breach of these provisions. The accident towing licence held will attach only to a particular tow truck and the licensee must continue to be the registered owner of that tow truck. Accident towing licences will be transferable.

A practice has developed in the industry of some operators holding several licences and several tow trucks. Most of the tow trucks are not operable and the licences are not being appropriately used. This practice is clearly undesirable and the industry itself has expressed concern about the anomaly. The bill provides a transitional arrangement so that existing licences for accident towing will establish an entitlement within an accident allocation controlled area. Operators will have the choice of transferring those entitlements to an operable licensed tow truck or of selling those licences. For the purposes of an allocation for accident towing, operators will be able to use only the tow truck to which the specific licence applies.

New procedures are laid down in the bill for the granting of accident towing licences. In general, new licences will be issued only in a controlled area on the basis of the need for additional tow trucks arising from the level of accidents in that area. In areas that are not controlled areas new licences will be issued on the basis of population increase.

The bill also specifies the procedures that will apply to the granting of new accident towing licences and the circumstances in which the Administrative Appeals Tribunal can review any refusal to grant an application. In summary, licences will be issued through either a tender process or a fixed price method.

Criminal Records

The eligibility of people to hold accident towing licences will have regard to their criminal records. The government is determined that undesirable practices be eliminated from the accident towing
industry. To that effect people convicted of criminal offences as specified in the bill will be ineligible to hold an accident towing licence for various specified periods. Similar provisions will also apply to drivers of accident tow trucks, and I will refer to these further.

OBLIGATIONS ON TOW-TRUCK OPERATORS AND DRIVERS AND ON VEHICLE REPAIRERS

To promote operator accountability, both at the scene of an accident and subsequently, a number of measures have been included in the bill. It will be an offence to attend an accident scene without authorisation and to charge for unauthorised towing and storage. It will also be an offence to tout or solicit at the scene of an accident in relation to towing, storing or repairing of a damaged vehicle, other than in accordance with the regulations.

Repairers of damaged vehicles will be required to meet certain obligations with respect to damaged vehicles. They must ensure that they have obtained and recorded information about the authorised towing of the vehicle before quoting on the repair of the vehicle or before commencing repair work.

A cooling-off period will be introduced for the repair of vehicles towed from an accident scene. An owner of a vehicle or his representative can revoke an authority to repair within 48 hours of signing the authority.

Owners will also not be liable for the cost of repair work carried out on a vehicle at an unauthorised place. It will be an offence to fail to release, or to obstruct the release of a damaged vehicle from a place to which it has been towed.

These measures are aimed at ensuring that tow-truck operators focus on the task for which they are licensed — the safe and effective clearance of vehicles from the accident site. The bill also clearly separates the towing task from the repair task, an aspect which has been the subject of much concern and complaint.

DEMERIT POINTS SYSTEM

A demerit points system will be introduced for tow-truck operators. Operators who incur penalty points within any three-year period will have their accident towing licence suspended for one month — 6 points; three months — 12 points; or two years — 18 points, depending on individual points accumulation.

ACCIDENT TOWING DRIVER AUTHORITY

To ensure proper standards for public safety in the operation of tow trucks the bill provides for the introduction of an Accident Towing Driver Authority. An accident tow-truck driver or any person accompanying that driver must hold such an authority. Holders of the authority must carry the authority when driving to or when attending an accident scene and must produce it for inspection if asked to do so by police, Vicroads officers or the driver or owner of a damaged vehicle. An accident tow-truck operator must not allow a person to drive an accident tow truck or accompany that driver, other than the driver of, or passenger in, a damaged motor vehicle at the time of an accident unless that person holds an authority.

It is proposed that to gain an Accident Towing Driver Authority a person will require accreditation through an industry-based training program encompassing among other things, road safety, vehicle-towing practices and customer service aspects.

As with towing licences, people will be ineligible to hold an authority if they have been convicted of certain criminal offences. In addition, people will not be eligible to hold an authority if they have committed serious traffic offences. A demerit points system will also apply to authority holders in the same way as for licence holders. It provides for up to two years suspension of the authority.

This bill contains far-reaching measures important for the provision of efficient and effective towing services to the community and for ensuring that the community can have confidence and a sense of security about those services.

I commend the bill to the house.

Debate adjourned on motion of Hon. PAT POWER (Jika Jika).

Debate adjourned until next day.

ROAD SAFETY (AMENDMENT) BILL

Second reading

Hon. W. R. BAXTER (Minister for Roads and Forts) — I move:

That this bill be now read a second time.
This bill makes important amendments to the Road Safety Act 1986. As honourable members are aware, the Road Safety Act presently requires the taking of blood samples from road accident victims at hospitals and other treatment centres which are designated for that purpose in an order in council and published in the Government Gazette.

The list of designated places has been revised from time to time but a recent decision in a prosecution for a charge of exceeding .05 has exposed a problem with the description of treatment facilities. The hospital concerned had changed its name since the list was gazetted and the court was not prepared to accept that it was the same facility that had been gazetted.

Subsequent investigations showed that name changes had affected many hospitals and legal advice to the police was that prosecutions which relied on evidence of blood samples taken at designated places which had changed their names were unlikely to succeed.

Advice from the police is that a total of 164 cases are directly affected by the decision to which I referred. Of that number it is alleged that 127 exceeded .1 per cent, with 38 of that number alleged to have exceeded .2 per cent. Some of the cases may proceed as charges of culpable driving.

Honourable members will agree that those cases cannot be permitted to lapse and this bill seeks not only to close the loophole but to put in place a simpler and more efficient procedure for taking blood samples.

For the future blood samples will be taken at any place to which an accident victim attends or is taken for examination or treatment. Honourable members will recall that the rationale for designating places was to give treatment facilities the opportunity to adopt the Code of Practice for Taking Blood Samples from Road Accident Victims. That code has now been accepted by all treatment facilities to which accident victims are taken.

For pending matters and matters which may have fallen within the reasoning of the prosecution in question a deeming provision is included in the bill which in effect validates the taking of samples at designated places despite any error in description in the gazettal or change of name. In addition 'designated place' is deemed to include any public hospital within the meaning of the Health Services Act 1988. Identical changes are made to the blood sample provisions of the Marine Act 1988 and the Transport Act 1983.

The amendments are expressed to have no effect on the rights of the parties in the prosecution that raised this issue. The defendant having been acquitted cannot be placed in jeopardy of having that decision overturned by an amending act of this Parliament.

I commend the bill to the house.

Debate adjourned on motion of Hon. Pat POWER (Jika Jika).

Debate adjourned until next day.

PUBLIC SECTOR MANAGEMENT (AMENDMENT) BILL

Second reading

Debate resumed from 7 March; motion of Hon. M. A. BIRRELL (Minister for Conservation and Environment).

Hon. T. C. THEOPHANOUS (Jika Jika) — The opposition strongly opposes this bill. It has grave concerns that the legislation will increase the power of the Premier and the executive government over the public service. That concern is shared by many Victorians.

The bill will reduce the capacity of senior public servants to give advice without fear or favour. The public service has been undermined time and again by the government and the independence of the public service has been undermined in a profound way.

The legislation, like the principal act, is poorly drafted and open to interpretation. It will allow the Premier to interpret provisions as he wishes. This is another example of the Kennett government's using the public service as a political instrument and it smacks of the same dangers raised by the important Fitzgerald report in Queensland.

Yesterday the government introduced legislation that will enable public servants to be imprisoned for up to two years if, in conscience, they provide information to the public, especially information which is sensitive to the interests of the government. It is a disgrace that the house should have been asked to agree to legislation of that sort, but it is yet another example of the undermining of the public service. It is another example of the important
checks and balances that have been built up over decades being undermined.

The bill goes to the heart of the democratic process because it blurs the distinction between the executive and the public service. It will give the Premier the power to hire and fire departmental heads at any time, for any reason, with no notice period. That is appalling. It gives the Premier the power to appoint departmental heads without Governor in Council permission. It reduces the capacity of senior public servants to act because they will always have hanging over their heads the fact that the Premier is able to remove or sack them at whim if they make one false move.

One false move and you're out! That is the message this legislation gives to public servants. This legislation and the amendments it makes to the Victorian Health Promotion Foundation paves the way for the pro-tobacco forces within the Kennett government to undermine the state's world-renowned anti-smoking campaign. I notice Mr Birrell is leaving the chamber. Isn't this your bill?

Hon. R. I. Knowles — Yes, he'll be back.

Hon. Louise Asher — You're too critical, you forgot to show up for one of your own bills that you were speaking on!

Hon. T. C. THEOPHANOUS — Mr President, I draw your attention to the state of the house.

Quorum formed.

Hon. T. C. THEOPHANOUS — As I was pointing out before I called for a quorum, this bill also paves the way for and allows the police commissioner to appoint assistant commissioners without Governor in Council approval. That reduces their independence and undermines the collegiate system of police command.

It is interesting to note that the Leader of the Government, who is also the minister responsible for this bill, has seen fit not to even bother to sit in on this debate. It is a very important debate about cronyism in government. It is about appointments in government over which he has some responsibility as one of the leaders of this discredited government. He has such arrogance and such contempt for this house that he is not even prepared to come in here and sit in on the debate. At least Mr Hallam is prepared to sit and listen to debates on bills for which he is responsible and make some kind of contribution. The Leader of the Government is not prepared to even come in and listen to the debate. It is yet another indication of the contempt with which this government treats due process and the Victorian community. That attitude is contemptuous and should be drawn to the attention of the people of Victoria.

The opposition opposes the bill. It continues the pattern of this government's politicisation of the public service. It is part of a pattern of political cronyism this government has established and continues. No government has shown less regard for the conventions of the Westminster system than this government.

It must be the all-time joke around this place: this government goes around saying that it does not support a presidential system for Australia on the basis that it has a strong affinity with the Westminster system, but when it comes to the real test in relation to the Westminster system — that is the separation of powers, due process and the like — this government is nowhere to be found. This government has shown less regard for and understanding of and more contempt for the principle of the separation of powers than any other government.

Let me run through some of the evidence supporting that claim. I will start with the attacks on the Director of Public Prosecutions, Mr Bongiorno. He was hunted out of office because he was an independent, fearless Director of Public Prosecutions. He was systematically hunted out of office by this government because it does not want independence and it does not want people who will not do its bidding.

This government is responsible for the sacking of Moira Rayner, and one could not imagine a more disgraceful and contemptuous episode in the history of the Kennett government. Moira Rayner was a defender of women's rights, ethnic groups, Aborigines and disadvantaged people in the community. Moira Rayner was a person who would defend someone who had been discriminated against irrespective of political background. Her record was clear in that regard. Given the strong stance Moira Rayner took on the rights of women and discrimination against women, Ms Asher should have stood up to her government and said, 'This is not right. You should not be sacking Moira Rayner. You should not be hounding her out of office'. When it came to the crunch Ms Asher was silent on this issue.
Hon. Louise Asher — I can never be accused of being silent. I take objection to that.

Hon. T. C. THEOPHANOUS — You were silent on that issue. I look forward to hearing you support Moira Rayner in your contribution. It must go down as one of the most disgraceful episodes in the short history of the Kennett government.

The sacking of the Accident Compensation Tribunal judges is another example of where due process and the separation of powers was just flicked to one side and made irrelevant. It did not make any difference. The government did not like the Accident Compensation Tribunal judges so it got rid of the court. The responsible minister in this place got up and carried on about how much it was going to cost. Regardless of whether it was $10 million, $15 million, $25 million or $30 million, he was going to do it anyway. It is another example of this government's lack of regard for due process.

The sacking of members of the Victorian Industrial Relations Commission is another example of appointed officers being sacked by this government. This bill will provide further power for the government to be able to sack public servants.

The government sacked George Brouwer in order to try to make him a scapegoat for the failure of the Employee Relations Act and it tried to force Greg Levine to resign. The government has put the heads of departments on contracts where they can be sacked with four weeks notice, and this legislation goes even further than that.

We have seen the politicisation of heads of the public service. We have seen Ken Baxter in the Age attacking Moira Rayner, a clearly political action and one which certainly an independent head of a department should not be involved in. We see the government constantly dragging in department heads to try to justify their own positions. We have seen the coercing of public servants to sign employment contracts. We have seen as many as 100 acts of Parliament changed in a way which prevents judicial review in the Supreme Court.

In debating the bill it is my intention to show by way of example that the bill is part of a pattern established by the government for the executive to get absolute control of the public service and of the running of government. There are extraordinary examples of the similarity between this government's and the Bjelke-Petersen government's approach to the independence of the public service and the separation of powers. Many people would have seen the television interview where Joh Bjelke-Petersen was asked what he understood by the separation of powers and he looked in blank dismay. He had no idea about the concept of the separation of powers. He made an absolute fool of himself and he underlined the importance of the Fitzgerald report in uncovering the blurring of the separation of powers that had occurred in Queensland.

When the government was in opposition, the Premier who was then Leader of the Opposition said he would establish a process whereby government members would get superannuation but not opposition members. That is a clear example of the way this Premier thinks. It does not matter that people have rights or that there is a long tradition in the Westminster system of fairness in government, the Premier thought he could give superannuation to members on one side of the house but not to those on the other. It was only the fact that he was so ridiculed about that proposal by every newspaper in the country that wrote about it that he decided that maybe he had made a mistake and he backed off before the election.

He has made all sorts of crazy comments. He has a lot in common with Joh Bjelke-Petersen, who made the same sort of inane comments when he was Premier of Queensland. For instance, our Premier said there was a professor somewhere or other who was going to invent a new form of electricity which would make our electricity industry irrelevant just as Joh Bjelke-Petersen said that he would invent a hydrogen car that would make petrol unnecessary. The similarities between the two men are astounding.

One aspect of the bill they would have in common is that they both believe it is appropriate to put their own cronies in as heads of the public service. The government has embarked on all these ways of doing business which involves a complete undermining of all independent and due process. Victoria has gone without an Ombudsman for 14 or 15 months. People with genuine complaints about the operation of the public service or decisions of government departments do not have an Ombudsman to turn to. Even when they had an Ombudsman his powers had been severely curtailed; he could no longer examine issues relating to the electricity or water industry or a whole host of other industries which he previously had power to vet.
The same situation applies with the Public Advocate. Ben Bodna left that position almost 18 months ago and now Victoria has no Public Advocate. The pattern is undeniable and the list goes on: the Accident Compensation Tribunal, the Commissioner for Equal Opportunity and the Director of Public Prosecutions. People have twigged; they understand what is going on. They know this is a government of cronies which has no respect for due process or the Westminster system. A key example is Moira Rayner who was sacked from the Equal Opportunity Board.

Hon. Louise Asher — She wasn’t on the board, she was the commissioner. There is a distinct difference between the board and the commissioner. You should get it right.

Hon. T. C. THEOPHANOUS — She was the commissioner and she was sacked. The Equal Opportunity Board nevertheless made a decision about the Northland Secondary College. The government then went through three court cases in an attempt to reverse the decision of the board. It did so at a cost to the taxpayer that is estimated to be more than $3 million. It was the most outrageous, the most appalling and the most discriminatory set of actions a government has ever taken against a minority group, in this case the Koorie community.

I describe the government’s actions in the way they were implemented and carried out as nothing short of racist. However, what happens in the end when the government has to cop the decision and is up for $3 million? What does the Premier say? This is the Premier this bill asks us to trust when appointing public service heads. I will tell you what the Premier says. He says, ‘We’ll get rid of the Equal Opportunity Board. We don’t like this Equal Opportunity Board, it has made an independent decision’.

People like Ms Asher, who I know has some sense of fairness, ought to blush at the government’s incurring this expense. She knows that the actions were nothing short of racist. She also knows that the actions of the Premier in seeking to change the Equal Opportunity Board because he did not like the decision is nothing short of absolutely contemptuous.

Let us not at least have the pretence that this government is about fairness or due process or any of those things. Let us just accept that this government is about imposing its will irrespective! It is about imposing its will; it is going to have its way, come what may!

Even the courts are not protected. If you do not like the courts, you abolish them. I shall read into the Hansard record a quote from the Fitzgerald report because it is worth noting.

Hon. Louise Asher — Brumby has already read this!

Hon. T. C. THEOPHANOUS — It is important that this house has the benefit of it as well.

Hon. Louise Asher — ‘A system that provides …’

Hon. T. C. THEOPHANOUS — Would you like to do it instead?

Hon. Louise Asher — I am just prompting you!

Hon. T. C. THEOPHANOUS — I am quite happy for the honourable member to state it. Maybe it would be good if she were prepared to say whether she agrees with it or supports it, or whether she supports her government’s abiding by the principle. The Fitzgerald report says:

A system that provides the executive government with control over the careers of public officials adds enormously to the pressures upon those who are even moderately ambitious.

Merit can be ignored, perceived disloyalty punished, and personal or political loyalty rewarded.

Once there are signs that a government prefers its favourites when a vacancy occurs or other opportunities arise, the pressure on those within the system becomes immense.

One of the first casualties in such circumstances is the general quality of public administration.

Hear, hear to that notion! This observation from the Fitzgerald report ought not be quoted only in the other place and in this place, it ought to be quoted ad nauseam whenever people are concerned about due process.

The Fitzgerald report was a landmark report in the development of Queensland. I can see us in this state at some time in the future having to institute a similar inquiry to uncover all the things the Kennett government has done and the way it has abused the
trust the people of Victoria placed in it at the last election.

The bill introduces arrangements to allow the government to sack departmental heads even without giving them four weeks notice. Proposed section 55(5)(a) of clause 7 states:

Without affecting any other means of terminating the contract of a department head under sub-section (5) or any other provision of this act, the Governor in Council may at any time remove a department head from office and on that removal the contract of employment of the department head is terminated.

That quite simply means that the government can, through a Governor in Council provision, remove a departmental head overnight or the same day, simply by issuing that edict.

Hon. Louise Asher — The Governor in Council!

Hon. T. C. THEOPHANOUS — Let me make it clear that when opposition members spoke to the government about this bill it was confirmed by officers of the Premier's department that this would be no obstacle to any government in terms of its terminating the employment of a departmental head. All it means is that the Governor in Council is asked to do that. We all know that the Governor in Council, except in very exceptional circumstances, takes the advice of the minister. In this case the minister would be the Premier. The Premier has the power to say or to ask the Governor — —

Hon. Louise Asher — So the Governor in Council makes no distinction? The Premier and Governor in Council is the same? Is that the basis of your argument? There is no distinction, the Governor in Council automatically accepts the advice of the Premier, is that right?

Hon. T. C. THEOPHANOUS — I don't know — —

Hon. Louise Asher — Is that your contention?

Hon. T. C. THEOPHANOUS — I do not know the last time the Governor in Council did not accept the advice of a minister. I doubt there is a precedent at any time in the history of Victoria that that has occurred.

It is like when the Governor comes into this place and is forced to read the government's program and propaganda for its next term of office. If the Governor reads it out, it does not mean he believes it. It does not mean they are his words. It does not mean he has had any part to play at all in the construction of that speech. When debating the Governor's speech everybody in this house, including Ms Asher, is aware that it is not the Governor's speech we are debating but the government's speech. The Governor is the vehicle. This bill is no different in that regard.

The bill allows the government to sack a public servant overnight without even giving him or her the benefit of the four-week notice period that was contained in the original bill. It is precisely for this reason that this bill has been referred to by some as the George Brouwer Bill because this is the way George Brouwer was treated by this government. The bill means that the government would not even have to send a departmental head on holidays, as it did with George Brouwer; it could just sack him or her on the spot.

The bill does not even appear to put any qualification on the sacking of departmental heads. It does not even say that the reasons have to be reasonable. It does not say that they are subject to appeal in the Supreme Court. In fact, the bill specifically excludes appeal to the Supreme Court by changing the constitution.

This bill allows for the sacking of public servants for any reason the government deems appropriate. Of course, that can be a political reason: 'I didn't like the advice'; 'I didn't like the way you handled the press'; or 'I didn't like the fact that you made a statement that was marginally independent'. Under this government's proposal those are all reasons for sacking somebody.

However, there is a much deeper and more sinister aspect to the bill. It affects not only department heads, it also changes the psychology within the public service. It is similar to what happens when a bill is introduced to provide the government with the power to put staff of the Office of the Regulator-General in gaol for two years. That puts the fear of god into the public servants who work in the Regulator-General's office and a message is also delivered to other public servants who start to think that perhaps they should not provide information that might be sensitive to the government or might embarrass it in any way; otherwise they will get themselves into trouble. It is an approach which targets the people at the top but which also sends a clear message right down the line to all public servants. It tells them that if they want to be
independent or try to be independent, they should be careful because they could finish up being sacked in the same way.

The bill has been referred to as the George Brouwer bill because it retrospectively legitimises what the government did to George Brouwer. When George Brouwer was sacked he was not even allowed to go back into his office. The same thing could happen to a department head when the provisions of this bill are proclaimed. All staff on the same floor as the office of George Brouwer were sent home so that other government officials could go through his files and extract anything that might be sensitive. They were afraid information could be passed on to someone else. It is like living in Nazi Germany!

What did George Brouwer do? He sent to all departments a memo that said staff were to be offered a 3 per cent pay rise for signing employment contracts. His mistake was not to say ‘up to 3 per cent’. For that terrible crime he was sacked. There is no doubt in anyone’s mind that the memo George Brouwer sent was approved by the Minister for Industry and Employment and the secretary of the Premier’s department. Although there is no doubt about that, they had to find a scapegoat, and in this case George Brouwer happened to be handy.

As a result of its actions over the past two years the government has lost some of the most talented people available in the public service. They have either gone out or been pushed out in droves. It does not augur well for the efficiency and effectiveness of the public service that this is occurring. Many of them have been forced out in nothing short of a McCarthyist fashion. People are targeted. The government probably keeps lists of public servants it believes are on side and of those who are not. The people in the latter case are then targeted. This is precisely the sort of action that took place in the McCarthy era. That is why I say Victoria has a McCarthyist government.

Many public servants have been coerced into resigning and others have been retrenched. George Brouwer was sacked and sent home. Others have been given nothing to do. One thing is certain: this bill adds to the existing fear that has been built up in the public service since this government took office. The bill strengthens the government’s hand to run the public service as its own political fiefdom. The government is totally intolerant of dissent. The best example of that is Moira Rayner and her criticism of the way the government handled the closure of the Northland Secondary College. Unfortunately, that is not the only example; there are many others. I refer to Greg Levine, Mr Justice Fogarty, the Director of Public Prosecutions and so on. The list is ever growing.

The bill makes a number of chief executives of the public service subject to part 4 of the Public Sector Management Act. They include the Chief Executive of the Public Transport Corporation, the Chief Executive of the Roads Corporation and the Chief Executive Officer of the Victorian Health Promotion Foundation. In the future these chief executive officers will no longer be subject to Governor in Council appointments, and even that minimal level of due process does not have to be followed. They will be on individual contracts and will be given four weeks notice on termination.

In schedule 2 of the bill the relevant ministers are listed as having the functions of the department head. What the government has done to blur the separation of powers between government ministers and departmental heads is appalling. What circumstances would allow a minister to have the functions of a department head? The Minister for Public Transport is listed as having the functions of the department head, who is the Chief Executive of the Public Transport Corporation. What does that mean? Has the government explained it in the second-reading speech? What reason can be given to designate the minister as a person who has the same functions as the chief executive of the PTC? There is no doubt that such a notion contributes to the blurring of the distinction between the role of executive government and the role of the public service.

The bill refers to the appointment of the Chief Executive Officer of the Victorian Health Promotion Foundation. That is a very important position because the foundation has been at the forefront of the anti-smoking campaign, which was the hallmark of the previous government and which resulted in a concerted effort to try to reduce smoking, particularly among younger people. What has happened over the past couple of years? Not so long ago there was an announcement in the newspaper, which was later confirmed by the government, that the giant tobacco company, Philip Morris Ltd, had made a $25 000 donation to the Liberal Party.

Hon. Louise Asher — What about the donations to the New South Wales branch of the ALP?

Hon. T. C. THEOPHANOUS — They made a $25 000 donation to the Liberal Party.
Hon. Louise Asher — And to the ALP.

Hon. T. C. THEOPHANOUS — What deal was struck on watering down the health warnings about cigarettes and defending cigarette advertising? We know that virtually no constraints will be placed on cigarette advertising during the grand prix. Ms Asher could not care less about the grand prix even though it will held in her electorate. Deals have been done for tobacco advertising for the grand prix and $25 000 has been donated to the Liberal Party.

The Victorian Health Promotion Foundation is an independent body. The chief executive officer (CEO) of the foundation must be seen to be totally independent; he cannot be seen as a crony.

Hon. Louise Asher — It is a ‘she’ at the moment.

Hon. T. C. THEOPHANOUS — Okay, a ‘she’. It may well be appropriate for the CEO of the foundation to say the government’s deal on cigarette advertising is inappropriate and runs counter to the aims of the Health Promotion Foundation. It may be appropriate for a CEO, now or in the future, to make such a statement. However, if that same CEO is subject to being sacked on 1 hour’s notice, to what extent can he or she possibly be seen to be independent, let alone to act independently?

It is important to understand the linkages, if you like, and the insidious way this bill affects a whole range of organisations which may have been prepared, under our Westminster system, to oppose the actions of the government. That is why the opposition finds this bill so objectionable.

This bill makes clear that certain statutory office-bearers, for example, the Auditor-General, the Ombudsman and the Electoral Commissioner, cannot be put on individual employment contracts or made subject to part 4 of the Public Sector Management Act. However, this position was arrived at amid an enormous public furore after the Auditor-General was forced to write to the Premier. The Premier originally denied it, but then agreed that the issue was raised with him. The Premier was forced to back down from that most extreme circumstance.

Hon. Louise Asher — You say he never backs down.

Hon. T. C. THEOPHANOUS — He was forced by the courts to back down on the Northland Secondary College issue and he was also forced by the Auditor-General to back down. He got his way with the Director of Public Prosecutions, Moira Rayner, the former Accident Compensation Tribunal judges and the then Industrial Relations Commission. The pattern is there with all sorts of people; the McCarthyist strategies are being pursued by the government.

The Premier did not get his way with the Auditor-General because the Auditor-General and the opposition raised the matter publicly and because the all-party Public Accounts and Estimates Committee was appalled at the prospect of the Auditor-General being placed on some form of contract. I am happy to place on record that the members of the Public Accounts and Estimates Committee were prepared to stand up on this issue as they were on a range of recommendations — later rejected by the government — to extend the powers of the Auditor-General.

It is important to emphasise that point. The Public Accounts and Estimates Committee produced a unanimous report about the extension of powers of the Auditor-General. Why did the committee consider it necessary to extend those powers? It became clear to the committee that the powers of the Auditor-General were inadequate to cope with the changing circumstances brought about by the government. Those changing circumstances related especially to the corporatisation of government business enterprises and the privatisation and partial privatisation of government business enterprises.

For example, it came to the attention of the Public Accounts and Estimates Committee that if the government sold a share — no matter how small — of a government business, the Auditor-General would not have the power to scrutinise that business. The Auditor-General would be excluded because of certain contractual arrangements that might be entered into by a private company. Partnership in a government business meant the Auditor-General could not examine a situation. In addition, the situation emerging was that contracts were being signed with private consortia such as Onelink, proposals regarding City Link were being investigated and the building of private prisons was under consideration.

The state must pay for City Link, Onelink and for the construction and operation of private prisons. The problem identified by the Public Accounts and Estimates Committee was that the Auditor-General did not have the power to investigate those matters.
When the Auditor-General’s powers were established, it was not envisaged that a government would be prepared to enter into contractual arrangements in such a way as to exclude the Auditor-General but still incur enormous liabilities on behalf of the state. The minister today refused to say whether the City Link proposal involved $1.2 billion or $2.4 billion. He said before it involved $1.2 billion. When he was told by the opposition, in good faith, that it had been told by the tenderers that they expect to put in bids of $2.4 billion — which, incidentally, would mean that instead of paying a $2 road toll people would probably have to pay a $5 road toll, a genuine issue of public importance — the minister was not even prepared to confirm that he had mentioned a figure of $1.2 billion. We all heard him say that. He would not talk about what the people of Victoria might be up for in those contracts. Can the Auditor-General look at the situation? No, he cannot.

The independence of the Auditor-General is of crucial importance. It is true that the legislation does not affect the terms of appointment of the Auditor-General — at least he does not have to enter into a contract — but I make it clear that the Auditor-General has not been provided with the power to look at the government contracts for the enormous projects the government has been entering into as part of its privatisation and contracting out push. He has not been given that power despite the fact that the Public Accounts and Estimates Committee recommended unanimously that he ought to be given that power. There is no scrutiny.

We do not know what the people of Victoria might be up for in future. The minister cannot tell us whether it is $2.4 billion or $1.2 billion. He does not want to say. The Auditor-General cannot become involved. There is no Ombudsman. Where is the accountability? The government treats everyone with such contempt that the minister responsible for the bill has not even bothered to listen to or sit in on any of the debate. That is the contempt with which the government treats important legislation such as this. The opposition makes it clear that it supports the notion that the Ombudsman ought not take part in these contractual arrangements but, 14 months later, we would like to see an Ombudsman appointed so that the people of Victoria have access to an Ombudsman.

Lastly, the bill makes it clear that under contracts of employment for the Assistant Commissioner of Police, assistant police commissioners will no longer be Governor in Council appointments. They will instead be appointed directly by the Chief Commissioner of Police.

There is a tradition of assistant chief commissioners being appointed by Governor in Council appointment. That arrangement was deliberately entered into in previous times to ensure that in policing we could be certain there were three independent commissioners: two assistant commissioners and the commissioner. Appointment by the Governor in Council reinforced that independence.

There is no more important thing in our community than to ensure the independence and integrity of our police force. The opposition has grave concerns about the removal of this safeguard. The terms of employment contracts for assistant police commissioners are not clearly defined in the legislation. Performance criteria might relate only to management issues, but they might not. We do not know whether there is a clause in the contracts that requires assistant commissioners to abide by government policy. How can we know that? These are issues of great importance to Victoria and Victorians.

Basically, I want to end where I began. The opposition opposes the bill because it increases the power of the Premier and the executive over the public service; it reduces the capacity of senior public servants to give advice without fear or favour; and it continues the government’s pattern of undermining the independence of the public service in a way that can only be described as McCarthyist. It is bad legislation, legislation that the Brumby government will repeal. It will restore the independence of the public service when it is elected at the next election.

Hon. LOUISE ASHER (Monash) — I will briefly comment in support of the Public Sector Management (Amendment) Bill. Mr Theophanous took us on a Cook’s tour of his complaints about the Kennett government. He itemised a dozen or so points of opposition of the Australian Labor Party to the Kennett government overall and somehow tried to relate them to the bill before the house. He referred very infrequently to the bill. I do not think he even understands why the Leader of the Opposition in the other place, the honourable member for Broadmeadows, opposed the bill.

Perhaps I should inform Mr Theophanous that the basic reason why the opposition wants to oppose the
amending bill is that it is still opposed to the principal act. The opposition argued strongly against the Public Sector Management Act. The honourable member for Williamstown in the other place has indicated that should the Brumby government — isn't that cute; it is Mr Theophanous's new term — come to power, it would repeal the act. The basis of the ALP's opposition, based on a philosophical divide, relates to the principal act. Summarised, the ALP opposes contract-based employment for certain echelons of the public service; it opposes the concept of merit-based appointment and strongly supports permanence in the public service. That is its scenario, and it is obviously its right to put that argument.

On the other hand, we are in favour of a merit-based public service, in practical terms a public service in which one's salary has some basis for comparison with the private sector and must in turn have a level of merit attached to conditions of employment.

Hon. T. C. Theophanous — Did Moira Rayner have merit?

Hon. LOUISE ASHER — I will come to Moira Rayner. Mr Theophanous raised that in the context of the separation of powers. I will raise the issue of Moira Rayner in that context.

While Mr Theophanous itemised a number of policy disagreements he has with the Kennett government, he did little to relate his opposition to the bill before the house. The amending bill concerns a number of quite unrelated points which in some respects improve the principal act and in other respects rectify anomalies. Altogether, it is not in the least as draconian as Mr Theophanous would have one believe.

I shall briefly go through the main features of the bill. The bill makes a number of additions to what are called declared authorities, which are public sector non-public service bodies declared by an order in council to be subject to specified provisions of the Public Sector Management Act. The declared authorities affected by the amendments are listed in schedule 2 of the principal act. The bill adds assistant commissioners of police to that schedule. The rationale for the inclusion of the assistant commissioners of police in schedule 2 is so proper management procedures can be applied. This is an important amendment and it should be made clear that it does not apply to policing matters. Mr Theophanous tried to make the point that it may apply to policing matters, but it does not. It relates to management accountability, and it is right and proper that it should do so.

Clause 14 makes a series of amendments to schedule 2. Mr Theophanous has overstated the importance of those additions to schedule 2. He made particular reference to the Chief Executive Officer of the Victorian Health Promotion Foundation and the fact that the position would be subject to a contract of employment. In citing that example he referred to a donation from the tobacco industry to the Liberal Party. I remind honourable members that the New South Wales branch of the Labor Party has received substantial donations from the tobacco industry. I would like to know what deal was struck between Bob Carr's Labor Party and the tobacco industry. Perhaps it relates to the Eastern Creek race track. The fact that Mr Theophanous would raise this issue demonstrates his lack of judgment on the eve of the New South Wales state election. By implication he is saying that the Leader of the Labor Party in New South Wales has done a deal with the tobacco industry. I shall take great delight in sending a copy of the Hansard to people in New South Wales because, based on Mr Theophanous's rationale, they will want to ask some questions of Mr Carr.

Hon. T. C. Theophanous — How much did they give to the New South Wales Liberal Party?

Hon. LOUISE ASHER — I have no idea. Mr Theophanous referred to the Melbourne Grand Prix and said there may have been some deal done with tobacco advertising. Unfortunately, Dr Carmen Lawrence, the federal Minister for Human Services and Health, decides whether an exemption will be granted, but the federal Labor government was prepared to grant an exemption to the Adelaide Grand Prix. In seeking to make some point regarding Rhonda Galbally, Mr Theophanous insulted her integrity and independence. The ball is clearly in the court of Dr Carmen Lawrence on this issue. It should not come as a surprise to anyone that Mr Theophanous would seek to raise extraneous matters during debate on this bill.

The only policy change in relation to the amendments to schedule 2 is with the inclusion of assistant commissioners of police. The other amendments were meant to occur earlier, but there was a failure to publish orders in council in the Government Gazette. Mr Theophanous may believe there is some conspiracy on behalf of the Premier and the government, but the reality is that the
amended schedule will correct a number of errors. The amendments are correcting mistakes that should not have occurred.

Hon. T. C. Theophanous — Tell us about Moira Rayner.

Hon. LOUISE ASHER — I cannot wait to tell you about Moira Rayner but I shall deal with the bill first. The bill also changes, to some extent, the appointment and termination procedures for senior public servants. The employment status of departmental heads under the provisions of the Public Sector Management Act is complex and ambivalent. Departmental heads are appointed by Governor in Council, but their employer, for contract purposes, is the minister responsible for the principal act, the Premier.

I note Mr Theophanous’s allegations against the Leader of the Government in this place, Mr Birrell. He said that the minister showed contempt for the processes of Parliament. I note that Mr Theophanous has now left the chamber and if he argues that my leader has shown contempt for the parliamentary process, it should be placed on the record that he also is contemptuous of the processes of Parliament and the debate on this bill. If Mr Theophanous returns to the chamber I shall comment on the manner in which he approached his contribution to the debate and his extraordinary action, in reacting to his boredom with the procedures, in terminating his speech.

Hon. M. A. Birrell — I was not showing contempt for Parliament, but contempt for Mr Theophanous.

Hon. LOUISE ASHER — I made that point by interjection when Mr Theophanous was speaking. The Leader of the Government is endeavouring to be very tolerant during the International Year for Tolerance, but his patience is tried when Mr Theophanous speaks.

Clause 5 refers to the appointment of departmental heads other than the official secretary of the Governor. It allows for the appointment of departmental heads to be made by the minister responsible for the principal act, the Premier. Mr Theophanous argued that Governor in Council appointments reflected the views of the government of the day. He did not see much difference between the minister, the Premier or Governor in Council. He argued later that Governor in Council appointments reflected a minimum level of due process. He cannot have it both ways. It is either one or the other. If he wants to argue that Governor in Council appointments in this clause are a protection, he cannot argue that they are not a protection when referring to another clause.

Clause 7(5) stipulates that although the Governor in Council will have no function in appointing departmental heads, it will continue to have power in terminating the employment of departmental heads in certain circumstances — for example, where there is no contract or where unusual circumstances apply.

Clause 7(6) prevents claims for compensation arising from termination of employment. I note that no claims have been lodged for this purpose.

The exception to this moderate reform to appointment and termination procedures is the Official Secretary to the Governor, whose appointment will be made and terminated by the Governor in Council. That is obviously a special regime given the secretary’s special relationship with the Governor.

The fourth major policy issue arising from the bill is that of the independence of certain office holders. Mr Theophanous made a number of comments alleging lack of independence as a result of this government’s policy. I will make two general points regarding independence which should go on the record. The first is one I have already touched on and relates to the police and the role of assistant commissioners. Assistant commissioners will be accountable to the chief commissioner for management issues not police issues.

The government recognised that concerns about police independence were very likely to arise, and I refer honourable members to clause 7, which provides that performance criteria regarding police contracts must relate to management matters alone and not policing — that is, not the areas alleged by Mr Theophanous.

The second issue of independence is more fundamental. I draw the attention of the house to the principal act because it appeared to me that not only had Mr Theophanous not read the bill he was opposing but he certainly had not looked at the principal act either. He made a number of very serious allegations — they are spurious but nevertheless serious — relating to lack of independence, the separation of power and so on. I
refer the house to section 5 of the Public Sector Management Act which provides that the act:

... does not apply to any of the following positions:
(a) any judge of the Supreme Court;
(b) any judge of the County Court;
(c) any master of the Supreme Court;
(d) any master of the County Court;
(e) any magistrate;
(f) the Solicitor-General ...

And the list goes on. The points he was trying to make about the courts were irrelevant because those people are not covered by the principal act. The principal act specifically exempts those holders of judicial office from the Public Sector Management Act, as it should. That is a completely correct policy decision.

I also draw attention to section 17 of the principal act relating to the powers of prescribed officers. It gives independence to the Auditor-General, the Solicitor for Public Prosecutions, the Electoral Commissioner, the Chief Commissioner of Police, the Ombudsman and the Public Service Commissioner. Clause 6 of the bill adds the Regulator-General to the list of people who have a significant and very important degree of independence preserved under the principal act. It is very important to clear up the point that the Public Sector Management Act does not apply to certain office holders and it should not apply to those officers, particularly those judicial officers I outlined earlier.

This government considers it to be inappropriate for office holders such as judges to be placed on contracts, and that was made very clear in the second-reading speech. The bill ensures that such authorities are not subject to declared authority orders. The exceptions to this proposition are the Assistant Commissioners of Police, and I have already touched on how the bill deals with that situation. The bill clearly safeguards the independence we on this side of the chamber value very highly.

The fifth major policy issue raised by the bill is contained in clause 13, which makes various amendments to schedule 1. In particular the amendments relate to the Victorian Government Solicitor. Schedule 1 lists all department heads in the service and includes people who have the functions of department heads in relation to particular offices. The schedule can be amended by an order in council which is gazetted.

On 7 July 1993 an order was made to add the Victorian Government Solicitor to that schedule, however, the order was not gazetted until 12 months later. In the intervening period the Victorian Government Solicitor was performing functions on the assumption that the order was valid. Clause 13 simply adds the Victorian Government Solicitor to schedule 1, validates the actions taken by the Victorian Government Solicitor and revokes the order. That is a very low-key issue, but Mr Theophanous seems to think there is some sinister purpose underlying the bill. That is not so.

In part the bill rectifies a number of errors in gazetting procedures. The bill is completely consistent. The objectives of the Public Sector Management Act, which the ALP opposed at the time and continues to oppose, are in part to promote among public sector employees a spirit of service to the community, to emphasise the principles of merit, responsible management, management competence and efficiency within the Victorian public sector and to maintain appropriate standards of integrity and conduct for employees in the Victorian public sector. It is significant that the ALP places so much emphasis not on merit and competence but on permanence for its own sake.

Hon. B. N. Atkinson interjected.

Hon. LOUISE ASHER — It is very difficult when you have mates to look after to effectively evaluate competence. The Public Sector Management Act eliminated what is known as the golden parachute — the over-generous payout to those people the previous government wanted to get rid of — and substituted a system of performance and merit-based contracts.

I will go through the arguments Mr Theophanous put forward in opposition to this very small bill. They were simply a re-run of the arguments advanced in opposition to the Public Sector Management Act in 1992. His first point was that the bill will somehow result in the politicisation of the public service and somehow increase the power of the Premier. The issue of putting people on contracts and moving to a merit-based system is exactly the way to go in the public service.

He then moved on to a more fundamental point claiming that the bill will reduce the capacity of the public service to give advice without fear or favour.
He was very concerned about this issue and thought that people would somehow be intimidated. I make a comparison with the private sector and say that advice without fear or favour is given even though employment can be terminated. The ALP has confused the issues of permanence and quality. Permanence does not automatically result in a quality public service and the best quality advice, and the coalition is all about merit and performance.

I have heard Mr White comment in this chamber at various times on the calibre of public servants according to his thoughts. Whether an officer of the public service is able to give advice without fear or favour is totally dependent on the capabilities, capacities and personality of that particular officer. It is not dependent on whether the officer is permanent or on a contract; it is based on the capacity of the particular officer.

Permanence does not automatically mean that advice is impartial; it does not mean that at all. The coalition has tried to set up a public service system based on merit. It is a very laudable and simple objective but one that creates great concern among members of the Labor Party who are in favour of a system which includes golden parachutes and looking after their mates — a system that pays no attention to merit.

The third argument advanced by Mr Theophanous in opposition to this bill is that it will somehow or other undermine the independence of the public service. That is very interesting because when the Leader of the Opposition discussed this bill in the other place he welcomed the fact that the bill preserved independence.

Again I note another diversion of opinion between Mr Theophanous and the honourable member for Broadmeadows. Inappropriately Mr Theophanous made much of the Fitzgerald report and quoted a section of it. I, too, shall quote exactly what Mr Theophanous quoted — that is, the section stating that a system that provides the executive government with control adds to the pressures upon those who are even moderately ambitious. Merit can be ignored.

Fitzgerald noted that merit can be ignored under the sort of system the ALP is actually supporting. I find the fact that Mr Theophanous would use that section of the Fitzgerald report strange because it does not support his argument. Fitzgerald was clearly arguing for a public service system based on merit, which is what we introduced under the Public Sector Management Act.

Mr Theophanous went on to say that the bill was an attack on the separation of powers. I have already illustrated that the judiciary is not covered by the Public Sector Management Act — and that is important. Section 5 of the principal act states that the judiciary is exempt from the Public Sector Management Act.

He then went on to make a number of points about the former Commissioner for Equal Opportunity, Moira Rayner and, apart from the fact that he did not know whether Moira Rayner was a member of the Equal Opportunity Board or whether she was a commissioner or what her role precisely was, he made a number of points about her. I shall make a couple of points in response. The Attorney-General introduced amendments to the Equal Opportunity Act which allowed for a five-person commission to make the decisions previously made by one person, Moira Rayner. In fact, the Attorney-General introduced greater accountability, with more than just one person being involved in the process of deciding on the work of the Equal Opportunity Commission. I am happy to state on the public record that the Equal Opportunity Act was one of the most important pieces of legislation introduced by the Hamer government.

Following the sanctimonious comments of Mr Theophanous, I direct the attention of the house to the fact that a former Attorney-General, Andrew McCutcheon, sacked an equal opportunity commissioner, Barbara Wertheim, who complained vigorously that Mr McCutcheon sacked her for holding political views that were in opposition to his views. It is hypocritical — an overused word these days — for Mr Theophanous to come into this chamber and complain about the treatment of one Moira Rayner when pretty much the same treatment was meted out to Barbara Wertheim by the ALP's Attorney-General, Andrew McCutcheon.

Another argument advanced by Mr Theophanous related to George Brouwer. He seemed to think George Brouwer had made an excellent contribution. The honourable member for Williamstown defined Mr Brouwer's contribution as distinguished. We all know that David White is of a different view and one day in this chamber he in fact subjected Mr Brouwer to what can be described only as character assassination. It is inconsistent for one member of the ALP to show sympathy for that public servant while other members of the ALP have
brutally character assassinated him. Some consistency would have been of benefit on this issue.

In conclusion, the bill should not induce a great song and dance. It is a fairly routine bill. It is consistent with the principles of the Public Sector Management Act which the ALP said it opposed strongly. The bill increases accountability in the public service and strengthens the existing Public Sector Management Act of 1992. It cleans up a number of gazetting anomalies and preserves the independence of a number of officers. The fact that that independence has been preserved has been acknowledged in the other place by none other than the Leader of the Opposition.

Mr Theophanous said the days of appointment for life in the public service are long gone. The objective of the Public Sector Management Act was to match the system that exists in the private sector and in the open market, which is basically that if higher salaries are to be given for higher performance, performance must be tested and contracts must specify what is required. Certainly at the senior level permanence is a concept of days gone by.

I make the point that the bill does not cover the ground Mr Theophanous covered in his contribution. He took a number of examples of what the Kennett government may or may not have done or was alleged to have done and said he opposed them. He somehow tried to link them to the bill. His speech was so irrelevant and so boring that even though he was the only member of the Labor Party present in the chamber he called a quorum. I have been a member of Parliament for only two years but I query the logic of calling a quorum on oneself. There can be only one explanation and that is that he was so bored by his own inanities that he decided he had better take a break. Nothing could better illustrate the low-quality opposition to this particularly innocuous bill. I support the bill.

Hon. C. J. HOGG (Melbourne North) — I rise briefly to oppose the bill which once again makes some amendment to the principal act which, as Ms Asher said, the opposition opposed with some vigour at the time of the original debate. Once again, the bill raises a number of questions about the public service, the public sector and the role of public servants at a time when perhaps the public service is being redefined. Without doubt the worldwide trend today is towards putting things into the private sector, towards perhaps the old Galbraith definition of private affluence and public poverty or squalor. There is no more appreciation of what goes on in the public sector. There is an undervaluing and a devaluing of the public sector, and that exists almost right across the world.

I imagine that most Victorians would want to find ways of redefining the public sector to re-assert some of the civilised values that underpin the links we hold in common. Public health, public open space, public education and public transport are issues of enormous importance. The way policies are carried out and the way in which public servants do their jobs are matters that should be of grave concern to each and every one of us.

How do we make certain that public servants carry out their jobs in the best way? That is an enormous question. One would hope they did so with some kind of direct engagement, with as much sympathy, empathy, sense of responsibility and good commonsense that they would apply to their own affairs and their own undertakings. It always seemed to me that it would be self evident that people would apply to the public sector exactly the things they would bring to a business of their own or to their own households. I do not believe that is always necessarily the case, but it should be. I do not know how the qualities I have mentioned are translated formally into the public sector.

It is a very interesting question; it is a big question. One of the things I learnt in 10 years of government and almost 8 years in cabinet looking after various portfolios was that small teams seem to work very well — small teams of people with a high sense of responsibility and with considerable accountability. Felt they were able to provide not only very flexible responses to situations but also direct and practical advice back to the minister. That advice the minister gets comes through the permanent head, the chief executive of the department. It is that person, he or she, who presents the advice to the minister. It seems very important to me that that advice is presented as it is heard, as it comes sifted perhaps through some processes of the department, even if is advice that the minister absolutely does not want to hear.

I believe that this amending bill does not help that situation. The change in the way permanent heads are appointed and the fact that their positions can be terminated without any notice at all to speak of is a bad message to send to public servants right across the departments, not just the permanent heads in question but also the people from whom they receive the advice. I do not think it assists the process of fearless advice, of frank advice or of really
brave advice. It is a bad signal to convey through the system. It means a lowering of morale in the public service. The message that comes with an amendng bill like this is quite a subtle one but it is pervasive. That is a great worry. The message that came from George Brouwer's exit from the public service was a stark and terrible message. I am happy to place on record my respect for George Brouwer. I thought he was a terrific head of the Premier's department. I thought he had all the subtlety and suppleness of mind that the head of a central agency ought to have. George Brouwer kept a very protective eye on the public service. I believe he had something perhaps even more precious than those other qualities, and that was a capacity to choose members of a team around him who were first-rate public servants regardless of which set of criteria one might apply. They were terrific public servants.

I imagine some of them are still in the Victorian public service. Others have gone to other states; some have retired; some are simply around no longer. George Brouwer was a very interesting and a totally dedicated head of a central agency. While in some ways I was surprised to see him as a head of a different agency in 1992, I nonetheless believed that George Brouwer would, as he always had, discharge the obligations of that job in a way that was extremely careful, extremely thoughtful and in the best interests of the people of Victoria.

I must say his untimely exit from that job caused a lot of shock to people who knew him. But it sent enormous shock waves through the public sector. They were not good shock waves. A jolt can be good for any institution or group, but I do not think they were good shock waves by any means. They sent out a cynical message.

In some sense I deeply regret the fact that George Brouwer is no longer a member of the Victorian public service. Mr Theophanous suggested that around the traps this particular piece of legislation is called the George Brouwer Bill. I have not heard it called that, but I can certainly see why it could be when the legislation allows for the removal of such an office holder virtually overnight or immediately without the customary several weeks notice and without allowing for things to be wound up.

I believe this instant dismissal procedure is a bad change in the public service. I grew up with the notion that permanency in the public service was not a bad thing, that the public service should not be a pacesetter in wages or conditions but that security of tenure should always be there for the public servants. This would enable public servants to give advice that was frank and fearless, as I have mentioned before, and to enable continuity of government when governments change during elections.

In the 1980s I understood that there would probably be a mixture of some short-term appointments but, with a largely permanent public service, that might be the very best blend. I say outright here and now that my views are probably formed by the old notions of permanency in the public sector, but I do not welcome the changes that are made by this legislation, namely, the ability to dismiss immediately and the capacity of the Premier to make permanent head appointments when formerly there were different ways of appointing them. When I was in government appointments were decided by a small group and then ratified by the government and then the Governor in Council, which seemed to provide many more safeguards not only for the person concerned but also for the government of the day.

I believe this bill is an unhappy piece of legislation that will do nothing for the way the public service is managed in this state. It has the capacity to make the public service — not all members obviously — cynical about the way its legislation is framed, and cynical about what government and governments expect from it. I also believe the capacity is here to render the public service craven and fearful. In any country anywhere in the world that is a bad thing, but here in Victoria where the tradition has been so absolute and utterly different, it is a terrible thing. The opposition oppose this legislation.

**Hon. B. N. ATKINSON (Koonung)** — I support the legislation. I listened intently to the speech of Mrs Hogg when I was in the chamber and also to Mr Theophanous when I was in my office. I have heard both speakers from the opposition on this particular bill. I find it a lot easier to digest the points that were made by Mrs Hogg because they were a more constructive contribution to this debate. They recognised a public service structure that I am not sure existed in reality under the past government, nevertheless they may well have reflected her management and ministerial style.

I am not aware of the particular circumstances in her department but certainly I know that across the board the experience of the public service under the previous Labor government was an unfortunate one. More was done to undermine the integrity and the value of the public service under the previous
government than has ever been suggested by this particular bill.

The previous opportunity of having jobs for life in the public service has changed with a whole range of things. Some of those factors dealing with the changing nature of the public service, privatisation and so on have meant that the public service has taken up different responsibilities. Some of them have changed in line with general employment trends in the community and moves towards greater part-time work and casualisation of the work force. There are obviously other changes relating to government responsibilities and policies.

I was briefly in the public service when I was a callow youth just before I started a journalism cadetship. When I was in the personnel section of the federal Department of Civil Aviation I was given the advice — I cannot give the exact expression — ‘Don’t offend the director-general’s wife and you have a job here for life’. I certainly observed a number of people who went out of their way not to upset the director-general’s wife, and they have been there for some time.

The message I was getting was that it really was a job for life. There was no real problem about continuing in the public service. You did not have to be particularly competent; you just had to stay out of people’s way!

Clearly, that is no longer acceptable in a public sector organisation. I do not agree with Mrs Hogg’s suggestion that because the bill establishes accountability and some new procedures in terms of the appointment of department heads in particular it is sending a bad message to the public service. I believe the message it sends is that department heads will be appointed by government and that the government will be accountable for the quality, calibre, performance and competence of people put in those positions. It sends a message that future governments of all political persuasions, not just this government, will expect public servants to behave in a manner which has been described correctly by Mrs Hogg as being able to give advice without fear or favour, to be professional and to have more ownership of some of their decisions, which is one of the values of those small teams to which she referred.

It is a bit rich for me and members of the government to have to sit by while the opposition suggests that this bill will bring about a sinister approach in the public service, especially when we recall that the Labor government from 1982 to 1992 made politicisation of the public service an art form. Within 18 months of coming to power all but one of the department heads had changed. The only one who survived was Mr Paul Clarkson of the arts department; every other department head changed. The people who applied for the top jobs were asked whether they were card-carrying members of the Labor Party. I am aware of an incident when a person was sent to do some computer work with the Treasury and the very first question he was asked was whether he was a member of the Labor Party. It was not whether he was competent, had similar experience in the work force or could provide other skills; he was simply asked whether he was a member of the Labor Party.

I am not suggesting all ministers would have done that because I am sure many ministers recognised the importance of getting the best people for the job. Unfortunately, however, some did not. The anecdotal evidence is absolutely legend of members of the public service who were extremely concerned about the undue influence ministerial advisers had on some ministers of the previous government. Those ministerial advisers basically ran departments with very little knowledge or experience of the areas of responsibility under those ministers. They were usually flying in the face of the fearless advice given by public servants — advice steeped in knowledge and experience of how departmental matters worked. Ministerial advisers were running roughshod over departments in the names of their ministers and politicising the whole process to an extraordinary degree.

We also had examples of people being appointed at all levels of the public service simply as watchers and minders to keep their eyes and ears open to make sure things were going all right for the Labor government. Again I am sure it did not happen in all ministries. Some ministers for whom I have fairly high regard in the previous government approached their jobs with a great deal of integrity. Unfortunately, other ministers saw themselves as playing a political game, and they did a lot of damage to the public service. It is a bit rich to have to listen to some of the comments of Mr Theophanous when we have all had to put up with that situation in the past.

The proposed legislation establishes accountability for department heads. It is appropriate that when we appoint department heads we should recognise their competence and ability to carry out the programs of government rather than the period of
time they have been around, as was the case with the old seniority system.

I suggest that in some ways the contribution of Mr Theophanous to this debate can be seen as a classic example of the problems of dealing with people in opposition who have never directly employed anybody in their lives. They may have employed people on the payrolls of others, whether it was as union officials or as members of Parliament, but they have never been fully and totally responsible for the employment of people in their own right. Therefore, they are not in a position to assess effectively the employer-employee relationship and to understand some of the issues that are so crucial.

I heard Mr Theophanous say, 'I think it would be all right if people pass on information from the public service. I think it is all right if people baulk at what the government is doing and leak documents against the government if they are in the public service'. He then had the audacity to talk about the Westminster system, which he clearly does not understand. He has no concept of what that system is all about. The Westminster system is not about the civil service or public service opposing the actions of government as he suggested. He said that if they do not agree they can stand up and oppose what the government is doing. That is not what the Westminster system is all about. It is more correctly about providing balanced advice to the government based on the best experience, knowledge and research work that has been done to provide that information without fear or favour.

Once the decisions are made public servants should get on with implementing those decisions, even if they are counter to the advice given, perhaps because other considerations were taken into account by the minister or cabinet. Public servants should certainly get on with the job and not stand up and say that because ministers or the cabinet did not take their advice they will release the reports put to the government to try to bring their ministers down. That is just not on. The suggestion by Mr Theophanous that they have that prerogative is just not right. The public service must implement the government's program and agenda, no matter which government may be in power. We expect the public service to provide a balanced position in its work.

Given the tenor of Mr Theophanous's contribution, I wonder if he is prepared to make a commitment to this house that, if and when the Labor Party returns to office in Victoria, his government will retain all public servants in their existing positions. Clearly, he would not do so because that would not be a tenable position. That is not on because the roles of government change, programs change and new governments reshape aspects of bureaucracy to suit the policies and programs endorsed by the electorate. Clearly and importantly, governments want to achieve confident working relationships with those people, particularly at a senior departmental level and with department heads, so that programs are implemented properly.

Ms Asher used the word, 'sanctimonious'. I had already written that word in my notes to reflect the opposition position put today, particularly by Mr Theophanous. The bill is not about the government not tolerating dissent, nor is it about trying to throttle the independent advice it receives. It is not about the government trying to hold any control over public servants or using the big stick. It is very much about making sure the public service is transparently accountable for its work, that it is responsible to ministers and gets on with the job when decisions are made.

As Mr Theophanous mentioned, an interesting aspect of the bill is that the Governor in Council process rarely, if ever, changes the decisions of a minister or cabinet. The Governor in Council process certainly means that the i's are dotted and the t's are crossed but it essentially accepts the recommendations of ministers. Of course, the Governor in Council will never act against a recommendation about the sort of department head the minister wants in his or her department. Clearly, that process is irrelevant to the actual employment or to the hiring and firing of a department head.

In the context of this bill, it is more important and valuable to understand that the minister must stand up at the end of the day and say that he is responsible for the decision to appoint the department head. It is not on for the minister to use the Governor in Council as a shield and say that he had something to do with it but that the Governor in Council made the appointment.

This legislation is appropriate. It makes a number of provisions for particular departmental personnel who have some independence from government decisions and other processes. It ensures their independence in the process but also ensures that overall we have a more effective, efficient and accountable government through the appointment of department heads and the work they undertake.
on behalf of all governments in implementing future programs. I trust the house will endorse this legislation.

House divided on motion:

Ayes, 27
Asher, Ms Forwood, Mr
Ashman, Mr Guest, Mr
Atkinson, Mr Hall, Mr
Baxter, Mr Hallam, Mr
Best, Mr Hartigan, Mr
Birrell, Mr Knowles, Mr
Bishop, Mr Skeggs, Mr
Bowden, Mr Smith, Mr
Brideson, Mr (Teller) Stoney, Mr
Connard, Mr Storey, Mr
Cox, Mr (Teller) Strong, Mr
Craig, Mr Wells, Dr
Davis, Mr Wilding, Mrs
de Fegely, Mr

Noes, 12
Gould, Miss Nardella, Mr
Henshaw, Mr (Teller) Power, Mr
Hogg, Mrs Pullen, Mr
Ives, Mr (Teller) Theophanous, Mr
McLean, Mrs Walpole, Mr
Mier, Mr White, Mr

Pair
Varty, Mrs Kokocinski, Ms

Motion agreed to by absolute majority.

Read second time.

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 so moving, I thank honourable members for their contributions, particularly those who referred to the bill and to the principal act.

The DEPUTY PRESIDENT — Order! So that I may be satisfied that an absolute majority exists, I ask honourable members supporting the motion to rise in their places.

Required number of members supporting the motion having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

CORPORATIONS (VICTORIA) (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. HADDON STOREY (Minister for Tertiary Education and Training).

Second reading

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — I move:

That this bill be now read a second time.

The bill amends the Corporations (Victoria) Act 1990, which applies the Corporations Law in Victoria and forms part of the national legislative scheme for the uniform regulation of corporations, the securities industry and the futures industry. Similar application of laws legislation has been passed by each of the other states and the Northern Territory.

The national scheme is based upon an agreement reached between the commonwealth, the states and the Northern Territory at Alice Springs in June 1990. While the scheme does not specifically state that the States or Territory are bound to introduce and pass legislation complementary to or consequential upon commonwealth legislation, the spirit of the agreement requires this where the legislation has passed through the Ministerial Council for Corporations process.

On 30 June 1994, the commonwealth Parliament passed the Corporations Legislation Amendment Bill. Schedule 1 of this legislation confers on lower courts, including intermediate courts in each state and territory, civil jurisdiction in respect of corporate law claims relating to debt recovery or monetary compensation. In accordance with the aim of uniformity of the national scheme, all states and the Northern Territory agreed to introduce
amending legislation which complements the commonwealth amendments.

The bill presently before the house performs this function as well as taking the opportunity to make a number of minor technical amendments. The bill covers four main areas.

First, the bill confers jurisdiction on lower courts to hear certain civil matters arising under the Corporations Law. Over the past few years there have been court decisions to the effect that lower courts such as the County and Magistrates courts do not have jurisdiction to hear civil claims made under the Corporations Law. These cases have raised the issue that legitimate civil claims are not being pursued under the Corporations Law because of the cost of bringing actions in superior courts such as the supreme or federal courts.

The amendments propose that civil jurisdiction will be conferred on lower courts in respect of corporate law claims relating to debt recovery or monetary compensation. Civil jurisdiction will not be granted to lower courts where this would involve high level discretionary powers. The civil jurisdiction granted to the lower courts will be subject to the monetary limits applicable in the relevant court.

Secondly, the bill provides for the amendment of the term 'officer'. This amendment is consequential on the commonwealth Corporate Law Reform Act 1992 which replaces the official management provisions relating to voluntary administration of bodies corporate.

Thirdly, the bill provides for an amendment to section 75 of the act, which enables the application of certain provisions of the commonwealth Evidence Act 1995 which updates references to provisions in the commonwealth Evidence Act 1905.

The passage of this bill will once again demonstrate the government's commitment to reducing the cost of justice and thereby ensuring access to the court system as well as confirming this government's support for a national scheme for corporate regulation.

I commend the bill to the house.

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

Debate adjourned until next day.

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

That the house, at its rising, adjourn until Tuesday, 11 April.

As a result of the commonwealth government's deferring its autumn statement until 10 May, as has been the custom and practice when the statement will be delivered later than was planned, there has been a rescheduling of sitting dates. Parliament will not sit next week, nor the week commencing 4 April. Parliament will sit the week commencing 11 April. Parliament will not sit the next sitting week scheduled — that is, 18, 19 and 20 April — but the following week Parliament will sit on 26 and 27 April. The rest of the schedule is as honourable members have previously been advised.

On Wednesday, 26 April, given that the house will not have sat on the Tuesday, to facilitate what has been the practice and custom of opposition debate of general business, the government will give leave for an opposition motion to be debated on that day, conditional of course on our being notified the day before of the motion the opposition wishes to debate. That is the outline of the dates. They will be circulated to honourable members accordingly.

Hon. T. C. THEOPHANOUS (Jika Jika) — On behalf of opposition members, I put on record my opposition to the motion moved by the government. There is no justifiable reason for the house not sitting next week except that the government does not want another week of debate on

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — Then change it! Come in spinner! There is no justification for this change. The notice paper lists under government business the following bills: the Transport (Tow Truck Reform) Bill, the Road Safety (Amendment) Bill, the Courts (General Amendment) Bill, the Judicial Remuneration Tribunal Bill, the Coastal Management Bill, the National Environment Protection Council (Victoria) Bill and the Statute Law Revision Bill. The opposition gave leave for the second reading of the Corporations (Victoria) (Amendment) Bill. All those bills can be debated next week. There is no justification for next week not being a sitting week, except that the government does not want another week of debate on
privatisation, the ports or other issues; it does not want amendments to come before the house.

I would like to debate notices of motion, general business, No. 5 relating to the selling of the port of Geelong. It was my expectation that the house would debate this measure next week. It is an important issue for the people of Geelong. They want to know whether the port will be sold and for how much it will be sold. They want to know whether the sale price for the port will be less than half the value of the assets. The opposition can show conclusively that the government will sell the port for half the value of its assets. The opposition is being denied the opportunity of making those points next week.

Hon. K. M. Smith — Make the point the week after.

Hon. T. C. THEOPHANOUS — It is all right for the clones on the backbench to carry on, because they do not want to be in the chamber. They spend most of their time in the bar or the dining room. They are not interested in doing any work. You never see members of the government's backbench in this place except when they are dragged in to vote on a measure.

The opposition strongly objects to being given 2 hours notice about changed sitting times by the manager of government business. It is another example of the way the government treats due process and the contempt it has for the parliamentary process, the public service or anything else that may place it under scrutiny.

The opposition will not allow this issue to pass without making a substantial point about sitting next week. Members with notices of motion on the notice paper will be disadvantaged. Mr Cox should vote against the motion because he has a motion listed under notices of motion on the notice paper. We look forward to Mr Cox crossing the floor and voting with the opposition on this matter. Mr Cox, we will go further: we will guarantee that if you cross the floor and vote with the opposition we will support your speaking on that motion.

Other honourable members have motions listed on the notice paper. There is no shortage of work for this house next week. It may be true, as the manager of government business said, that there is less business to deal with. However, that is because the government has stuffed up its legislative program. The government uses the absurd excuse of the May economic statement soon to be made by the federal government. It is trying to blame the federal government for its own ineptitude. The appropriation bill that would have been introduced in the lower house next week is a limited supply bill. It does not cover the full budget period, only the three months until the next sittings of Parliament. Even if the opposition accepted the argument of the manager of government business that this house will not sit next week because of the May economic statement, other matters are listed on the notice paper. Did he have in mind that this chamber would debate the interim appropriation bill next week? That is clearly nonsense.

There is no reason why this house should not sit next week. The bills listed on the notice paper are important and require public scrutiny. They were debated at some length in the other place, but members in this chamber are being denied the opportunity of debating the bills under the timetable previously set.

The government is running scared because it knows that Victorians do not agree with its program of privatisation of the electricity industry. The people of Geelong do not want the port of Geelong sold. Victorians want those issues debated in this place and the opposition will accommodate the government by debating the measures.

If I had been given the opportunity of debating my motion on the sale of the port of Geelong, I would have raised the fact that the users of the port have walked away from the government's initiative. They are not interested in purchasing the facilities and we want to detail why the users of the port are not interested in purchasing the facilities. We could have waited until next week to place that motion on the notice paper, but it was placed on the notice paper this week because of its importance. The opposition has documented evidence to support each of its claims. We know that when they were approached by the government the dedicated users of the port said they were not interested in acquiring the facilities. They expressed concern that private ownership could lead to a monopoly and uncompetitive pricing. The Minister for Roads and Ports does not want to be scrutinised about that.

Hon. W. R. Baxter — Why didn’t you bring it on today?

Hon. T. C. THEOPHANOUS — The opposition debated an important motion relating to local government. The former Labor government never
ran Parliament this way. The government is creating a precedent. We do not know from one sitting day to the next whether the rug will be pulled out from under us and we will not have a sitting the next day!

The government member can move at any time a motion that the house will not sit tomorrow or the next day or next week or whatever. It is appalling because we have always worked on the basis of agreement. The agreements are that people know when the house will be sitting and they can plan debates around that. The debate on the port of Geelong was planned around the timetable provided to the opposition by the government, and for it to come in with some mickey mouse excuse when there are eight bills that can be debated — —

Hon. D. R. White — How many? Tell them the names, they can’t hear.

Hon. T. C. THEOPHANOUS — Eight. I will tell you the names of the bills if you want me to. Why is it that the government does not want to debate those bills? What is the problem with the bills? This is an appalling misuse of convention in this place; it is an appalling misuse of the Parliament and there is no justification for it. I know there are honourable members on my side — —

Hon. K. M. Smith — On a point of order, Mr President, Mr Theophanous has been speaking now for about 15 minutes and he has repeated himself the same number of times. It is becoming boring and tedious, and I ask you to bring him back to order and ask him to sit down.

The PRESIDENT — Order! The motion before the house is that the Council, at its rising, adjourn until Tuesday, 11 April. The Leader of the Opposition is mapping out an argument as to why that motion should not be accepted and that is in order.

Hon. T. C. THEOPHANOUS — Preparation has occurred for debate on all those bills and there are members of the opposition who have an interest in each of them. For instance, I am aware that Mr Davidson is very interested in the Transport (Tow Truck Reform) Bill. I know he is interested in this issue, that he is prepared on this issue and that he wants to debate the issue.

Honourable members interjecting.

Hon. K. M. Smith interjected.

The PRESIDENT — Order! Well, the honourable member has a number of options. I am concerned that Hansard cannot hear the comments being made by the Leader of the Opposition. I ask the house to quieten down.

Hon. T. C. THEOPHANOUS — I am aware that my colleague Mr Davidson has a keen interest in debating the Transport (Tow Truck Reform) Bill. He has made preparations and was ready to come in here next week and debate that bill.

What is the reason the government has decided not to sit next week? The manager of government business said it is because of the budget papers, but these bills are on the notice paper and should be debated next week.

Hon. B. T. Pullen — Repeat the point about the budget paper.

Hon. T. C. THEOPHANOUS — It is a good point because as I understand it the argument is that the lower house, not our house, cannot sit next week because it wants to debate the budget papers and the commonwealth government has not done something or other which has meant that the Treasurer cannot prepare his budget. The problem is in the lower house. Is that a reasonable summary of the course of events? The minister forgot to mention that we would not be debating the budget papers in the upper house next week, but that we would be debating the bills on the notice paper. Even if his argument were correct, which it is not, he forgot to mention that.

We know what has happened. The Premier has spoken to the manager of government business in this place and said, 'Right, the lower house is not sitting and there is no way we are going to let the upper house sit on its own and debate things like a courts bill and other issues of interest to the community.

Hon. B. T. Pullen — I don’t think he would have talked to the leader, he probably would have told him!

Hon. T. C. THEOPHANOUS — That is absolutely correct. There probably would not have been any consultation; he probably would have been told.

Hon. B. T. Pullen — Was it a long conversation?
Hon. T. C. THEOPHANOUS — He might not have even been spoken to; he might have been sent a little note saying, 'Do it!' and that would have been the extent of the consultation.

People on our side of the house are amused when government members carry on about the role of the upper house and the independence of this chamber relative to the other place. At the first opportunity that allows them to show some guts and say, 'Well, look, hang on a minute, Jeffrey, we have bills on the notice paper that we could actually debate next week', they do not do that. When it is time to stand up to the — —

Hon. D. R. White — Assembly.

Hon. T. C. THEOPHANOUS — Well, not just the Assembly but the Premier. When it is time to stand up to the prefect, these people just give in and roll over. I know Mr Pullen wants to make a considerable number of points in relation to coastal management.

Hon. K. M. Smith — Let him make the points.

Hon. T. C. THEOPHANOUS — He will. He might get up in a minute and make them. There are a range of bills this house should be dealing with next week, let alone the motions the opposition wishes to debate. The government is treating this place with contempt by the way the manager of government business put the argument because the argument does not stand up. If the argument does not stand up then it has no credibility. I look forward to the Minister for Housing, or somebody from the government, explaining why it is that the eight bills, two motions by Mr White, motions by Mrs Hogg, a motion by Mr Cox and a motion by me on the notice paper do not warrant being debated next week. No argument has been put forward as to why that should be the case. Opposition members look forward to someone from the government enlightening us as to why that is the case.

We believe the real reason why the government wants to stop debate is because the government is leaking like a sieve on issues such as privatisation. Any number of documents have now been leaked from the Office of State Owned Enterprises and from the government itself. Even though they have tried to put two-year jail terms in place, the documents keep coming out. They know that if we have the opportunity to debate some of these issues next week that more documents will come out and there will be more embarrassment for this government. Those documents would show that this government is a half-price government and that it is prepared to sell all of Victoria's major assets — the State Electricity Commission, the port of Portland, the port of Geelong, a range of other assets — for half price. It is a half-price government and it does not want that debated in this place next week.

The government does not want issues debated and it does not want the documents dropped in this house. It does not want us to be able to debate those issues. The opposition is strongly opposed to the motion moved by the manager of government business and will vote against it. There is no reason why this house should not sit next week. It should sit next week and all members should be given the opportunity to debate the bills and motions currently on the notice paper.

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — The number of sitting weeks in the autumn sessions of Parliament since 1989 were: 1989, 7 weeks; 1990, 8 weeks; 1991, 10 weeks; 1992, 9 weeks; 1993, 9 weeks; 1994, 8 weeks and in 1995 it will be 9 weeks under this arrangement. It is perfectly normal and predictable for both houses to sit together.

Honourable members interjecting.

Hon. M. A. BIRRELL — From this day on I am ruling a line for explaining things slowly to you. The normal practice where this house sits at the same time as the lower house is replete with tradition, including all the years of the Cain and Kirner governments, and the opposition knows that full well.

Hon. D. A. Nardella — What about the last week?

Hon. M. A. BIRRELL — Mr Nardella is right in his interjection. The exception is the last week, and I introduced that reform. The Council sits an extra week because of the respect I have for it as an institution. It also reflects the fact that the reason for the houses sitting together is that the flow of bills to this house is determined by the flow of bills from the Assembly. That is more the case now because of the successive diminution of bills being introduced by ministers in the council. In reality, more bills are introduced in the Assembly. That is why the lower house sits at the same time as the upper house, except for the last week where it is more than logical for this house, if necessary, to sit an extra week. The sitting times, of course, will be consistent with past practice.
Hon. D. R. WHITE (Doutta Galla) — The explanations from the manager of government business and the Leader of the Government are totally inadequate. As the Leader of the Opposition has said there is sufficient work on the notice paper for the conduct of the Legislative Council next week. The reason we delay the sitting of the Council is to await business from the Assembly, but we now have enough business to resume next week.

The manager of government business observed that the delay was brought about because of the federal government's postponement of its May economic statement. There are two supply bills each year in the Council. The second supply bill, which is introduced in autumn, is not normally a policy statement; it is introduced to cover the period from 1 July to 31 October and is not usually built around major policy initiatives. In any event, if it were to be built around major policy initiatives, presumably it would take account of the federal economic statement of 10 May and it would be delayed until after that date which would have no bearing upon the deliberations of this house or the other house next week.

The arrangements proposed by the manager of government business have no regard for the economic statement proposed on 10 May because the extra week of sitting actually precedes it. If the events of 10 May were to have some input, one would expect an additional sitting week after 10 May. That was the sole explanation given. However, the additional sitting week is in April, prior to the delivery of the economic statement so there is no basis for building the deferment of next week's sitting around the May economic statement by the federal government. In the normal course of events it is taken into account in the supply bill introduced in August or September and covers the major policy initiatives that take place from 1 November to 30 June.

In addition, we understand the other place has run out of business, for whatever reason — whether it is a consequence of parliamentary counsel or the cabinet — but clearly the government has messed up or stuffed up the sitting arrangements in the Assembly. The Council has business to conduct and, regardless of whether the Assembly is sitting, no case can be made for the Council's failing to sit.

The reason the Council does not sit in the first week of the autumn session is because it does not have sufficient business generated from the Assembly or left over from the previous sittings. However, next week the Council has sufficient business and there is no reason not to meet. The excuse given by the manager of government business was totally inadequate. The rationalisation by the Leader of the Government was a set of schoolboy observations about the number of weeks the Council is sitting or not sitting. It did not address the fact that the Council has sufficient business before it to conduct sittings next week and neither minister has given any explanation why that business could not be conducted next week other than the fact that the Council should not meet in isolation from the Assembly. The Council does so on an increasing number of occasions and there is no reason why the Council should not be able to set its own path and be seen as a chamber in its own right.

After having said how important it was to have a full program, as a consequence of this initiative the government has actually diminished the autumn session by one week with no explanation. The likelihood is that business that could be conducted next week will be pushed further towards the end of the autumn session when there will be insufficient time to have adequate deliberation on a number of bills.

We are making it clear that not only is there sufficient government business but also substantial opposition business. One example of the importance of sitting next week is the urgency of dealing with the Transport (Tow Truck Reform) Bill, which is a remedial bill. Previous deregulating legislation has not been working and the number of unlicensed tow-truck drivers undermines the safety of our roads. The bill should be debated as quickly as possible. Instead, there is a further delay even though the government knows of its urgency. The opposition has placed a substantial range of issues on the notice paper not only relating to the privatisation of the ports but also other matters.

The manager of government business and the Leader of the Government have failed to address the agenda on the notice paper. The delay in debating the bills will be for three weeks, not one week, and that will lead to a reduction in the quality of both the legislative program and the conduct of this house. Based on what I have heard, there is no justification for the proposed adjournment.

Hon. B. T. PULLEN (Melbourne) — In support of my colleague’s remarks, this house did not meet at the same time as the Assembly because it did not have any business at the beginning of the session. That was a sensible and acceptable arrangement.
Now the Council has sufficient business for next week and beyond. As I have responsibility for some of the bills I assure the house that there is plenty to be debated. Some bills on the notice paper will need to be dealt with in committee.

It would be a much more measured response giving due recognition to the Parliament if the business of the house were spread over more than one week. We often have situations where we cannot deal with some bills because of insufficient time, and now, when we have the opportunity to spread government business over time, the Assembly has run out of business.

The arguments that have been presented do not address that matter at all. Given that we have come to have some respect for minister Rob Knowles's ability to manage the house in a fair and reasonable fashion, it comes as some surprise that he is not responding to the situation here in a reasonable manner. It leads to the assertions being made that this house is not in control of its own destiny.

The relaying of orders for the business of the house comes as a directive from the Premier in terms of the political needs of the government. In that sense, it would be totally inauspicious for any member on the front bench to pretend he or she supports debate in the house as something valued in itself. That is clearly shown by the way the business program has been handled this week. It is a total creature of the political needs of the government. If that is clear, at least it may remove the farce of people wanting to pretend that debate in this house is of some intrinsic significance to them.

It is perfectly clear from the way it is being handled that there is no integrity in the management of this house. It is in total contrast to what we have come to expect from the Honourable Rob Knowles. I regarded him as reasonable and a fair manager of arrangements between the parties in the conduct of business.

There is nothing more to be said except that this is a farcical and political move by the Minister for Housing and the Leader of the Government in this house. They are both simply creatures of the government's whim in the operations of the Council.

Hon. PAT POWER (Jika Jika) — I preface my remarks by saying I understand that it is easy for the comments of a member of Parliament to sometimes be seen as pious, but what I want to say is something that I personally believe in very strongly.

The recent parliamentary Open Day was from all reports very successful. Events such as that go a long way to demonstrating to the communities at large that the Parliament and its workings are an important part of our society's structure and that the processes of Parliament make important contributions to people's lives. The more opportunities we have to allow people to recognise that, the better.

For me, as the member for Jika Jika province, I find this issue embarrassing. I am not seeking now to contest the reasons why the government is promoting this. Nevertheless I point out that when I visit schools, as I will be doing in the near future, one of the perceptions that young people have about members of Parliament is that they do not spend a lot of time at their designated tasks, that the life of an MP is very relaxed and sometimes high flying. Notwithstanding the problems that may or may not exist in the other chamber, it is quite clear that in terms of workload there is no basis for the proposed sittings of this chamber to be interfered with in any way. It would be extremely difficult for me as a member of Parliament to go to the South Morang Primary School and explain to those young people why this Parliament was being closed down.

Hon. Louise Asher interjected.

Hon. PAT POWER — I am quite happy for Ms Asher to accompany me. She may be able to explain why, with an existing workload, it is necessary to close the Parliament down. In that sense I find the contemplation of this issue to be an embarrassment. I consider myself to be — —

Hon. Louise Asher interjected.

Hon. PAT POWER — I said at the outset that I suspected that I would be accused of being pious. I am quite happy to cop that, but I want people to understand that this is an issue I feel very strongly about. I consider myself to be well paid; I consider myself to have a significant workload, and I have not the slightest doubt that we could all employ ourselves profitably if the Parliament does not sit. But the fact of the matter is that the community does have an expectation that the Parliament will sit, that the Parliament will deliberate, and that there needs to be extraordinary circumstances for the sitting of Parliament to not occur.

As my colleague Mr Pullen indicated, the bills that are listed on the notice paper that are my responsibility are ready to go. We can debate them
tonight, tomorrow or next week. Again I do not want to be associated in any way with a community perception that I, as a member of this chamber, am not prepared to do the work.

At another level, almost every day the Parliament sits I ask a question on notice and I raise an adjournment issue. Those questions are questions that at least the opposition considers to be important. The adjournment issues that I raise are almost always issues relating to matters that are of concern to my constituents. Preventing members of Parliament from exercising that opportunity is unfortunate.

I conclude by saying that I acknowledge that some people might think the comments I have made are nonsense, but I feel very strongly about the Parliament. I feel very strongly about the obligations that parliamentarians have, and I believe we ought to do whatever we can to enhance the image that the community has in its identification of Parliament. Interfering with Parliament's sitting, at least in this chamber when clearly there is a sufficient workload in front of it, will not be viewed favourably by the community at large.

Hon. D. A. NARDELLA (Melbourne North) — I rise to oppose the motion. It is disturbing to me that the government is closing down the Parliament at its own whim when we have all made a commitment through the timetable that has been provided to honourable members at the beginning of the year. That timetable is important when we are programming our work and setting down the tasks that we need to perform over the first half of the year. Nevertheless, that timetable has gone out the window. It means that the appointments and the tasks we set down for 26 and 27 April, for instance, will not be met, or that we will have to change our arrangements in this house to be able to meet those commitments. That is disturbing to me. I treat this Parliament with due respect. I believe that I have a responsibility to my constituents to work to the best of my ability. Chopping and changing and forcing me into a position where a non-sitting day scheduled at the beginning of the year has now become a sitting day puts me in conflict with my timetable. That should not be the case.

One other aspect is that this house, as has been pointed out by Mr Knowles and by members of the opposition, works on the spirit of cooperation. That spirit of cooperation was evident in earlier arrangements today when it was decided that opposition business would finish at 2.30 p.m. and the house would adjourn before dinner. Under that spirit of cooperation the parties can live together and work cooperatively in the house. We have a good working relationship in dealing with the business before the house. It is not like the bearpit atmosphere of the other chamber. It is not like the adversarial dog-eat-dog approach of the other chamber because of the cooperative arrangements the parties have made. However, these unilateral changes, without consultation, are making that arrangement more difficult.

Another aspect the government has not considered is the arrangements that schools and other delegations of people have made to visit Parliament when the houses are sitting. They will now miss out on watching democracy in action within Victoria. It is not easy for school teachers to set up excursions for their students. It is not easy to get everyone together. Many of those excursions are made specifically to coincide with the sittings of the houses of Parliament so that they can view the workings of Parliament, see their members in action and see what they get for the $90 000-plus a year that is paid to members. People can come to their own judgments on the basis of watching us in action. That is their right and that is what the operation of Parliament should be all about.

The changes proposed by the government mean those young people will miss out on witnessing debate in the house. They will come along and look at the books on the table, the plush chairs and benches that we sit on — but we will not be here. We will be out in our electorates doing something else, and the people of Victoria will miss out on an essential part of what we do. It is important that young people should have the opportunity of viewing their members in action. They should be able to see the workings of this house and the other place. It is not as if there are no bills for this house to deal with. Even if we did sit next week we could change the timetable that was sent out earlier this year without disrupting the government's program or the arrangements we have made as a result of receiving that timetable.

I do not support the motion. This is an important issue. There are a number of other important aspects of what the government is doing at this time, and this action does not bode well for the future.

House divided on motion:

Ayes, 26
Asher, Ms de Fegely, Mr
Hon. R. I. KNOWLES (Minister for Housing) — I move:

That the house do now adjourn.

Workcover: FOI requests

Hon. T. C. THEOPHANOUS (Jika Jika) — I raise with the Minister for Local Government in his capacity as the minister responsible for Workcover the way in which the Victorian Workcover Authority deals with freedom of information reports. It has been brought to my attention by Shatin Bernstein, barristers and solicitors, that they are experiencing a significant number of problems in the processing of freedom of information through Workcover, as are other members of the community and members of Parliament.

That firm of solicitors drew to my attention the specific case of Mrs Marie Andrews who was refused access to a circumstance report on the basis that it was commissioned for the purpose of a common-law claim for damages when it was clearly proven at the subsequent FOI hearing that that was not the case and that the Victorian Workcover Authority (VWA) officer in charge of the initial decision, Mr Robert Skelton, had no understanding of the principles in the Grant v. Downs case. His supervisor, Graham Riches, was equally in the dark about the precedent used.

Not only was the VWA asked by the tribunal to provide the information but damages were awarded against the authority in the amount of $3200, which is certainly an unusually large amount of money simply to fight a case about the non-provision of information.

This pattern has been experienced by solicitors and others involved in FOI requests to the VWA. The officers involved are constantly rejecting the FOI claims and the matters must go before the courts. In those circumstances, obviously costs are incurred on both sides.

In a further development, Mr Alex Draghici has asked for a similar circumstance report in almost identical circumstances, and that has also been rejected. That matter will have to go to court, again with the possibility of that level of costs being awarded against the authority.

Hon. R. M. Hallam — Assuming the authority loses, of course.

Hon. T. C. THEOPHANOUS — Increasingly, it is losing.

Hon. T. C. THEOPHANOUS — Is this on the same issue?

Hon. R. M. Hallam — So you say.

Hon. T. C. THEOPHANOUS — Perhaps the minister could provide figures about how many cases have been lost. I also draw the attention of the minister to the fact that the VWA has become absolutely paranoid about litigation. In the recent case before the courts where the VWA lost more than $400 000 because it persisted with a particular case, the minister did not rush in here — —

Hon. R. M. Hallam — Is this on the same issue?

Hon. T. C. THEOPHANOUS — You are quite at liberty to take a point of order, Minister.

Hon. R. M. Hallam — Is this on the same issue?

Hon. T. C. THEOPHANOUS — If the minister wants to comment about whether such actions and their associated legal costs are justified he should look at these cases.

Hon. R. M. Hallam — Are you complaining about legal costs or the administration of FOI?
Hon. T. C. THEOPHANOUS — I am raising this matter with the responsible minister. I ask him to examine the FOI process within the Victorian Workcover Authority and, in particular, to provide some kind of policy advice about the situations in which circumstance reports are to be made available through FOI. The correspondence I have read about these cases demonstrates inconsistency in the way those requests have been handled. The consequence is unnecessary litigation and costs.

I ask the minister to investigate the issue and to provide clear guidelines about how FOI requests relate to circumstance reports.

Dr John Helmer

Hon. K. M. SMITH (South Eastern) — I direct to the attention of the Minister for Regional Development who is the representative in this place of the Minister for Industry and Employment issues which raise serious implications for a former Victorian government minister. I refer to the Age of 18 March and to an article by Phillip McCarthy and Kendall Hill under the headline, 'Australian academic denies KGB spy claim'. I refer to the article:

An Australian-born academic and journalist is alleged to have been the linchpin in the Washington operations of the KGB, the former Soviet Union’s intelligence agency.

The 60 Minutes report quoted the one-time head of the KGB’s recruitment operations in Washington as saying the KGB took initial steps to ‘induct’ Dr Helmer and arranged to bring him to Moscow after initial meetings in Washington.

The article continues:

... the KGB gave Dr Helmer the code name of ‘Socrates’ during the recruitment process.

The allegation coincided with the publication in the US of a book, Washington Station, by Yuri Shvets, the man who headed the KGB’s recruitment efforts in Washington at the time. Much of the book is about Mr Shvet’s dealings with Socrates.

That article was on the front page of the Age. The article continues on another page, and refers to the 60 Minutes show:

Mr Shvets dispensed with such subterfuge and stated outright that Socrate’s real name was, ‘John Helmer and he was born in Australia’.

It further states that a psychology lecturer at the time:

... who used to clash regularly with Dr Helmer over Marxism, said the former student was a ‘committed Stalinist’ back in the mid-1960s.

The next section is important:

While in Moscow, Dr Helmer also worked as a contracted consultant for the former Victorian Labor government.

The Labor frontbencher and former Minister for Manufacturing and Industry Development, Mr David White, said Dr Helmer provided advice on debt and investment opportunities in Russia.

Hon. G. R. Craigie — The David White here?

Hon. K. M. SMITH — Yes, the former minister. I have done some research on this matter and it explains something about Dr Helmer’s involvement with the Victorian government. He is described as a scribbler from The Financial Review.

The PRESIDENT — Order! What are you reading from, Mr Smith?

Hon. K. M. SMITH — From the Sunday Sun of 11 April 1990. It states:

John Helmer, scribbler for The Financial Review and husband of Claudia Wright, has quietly taken a top job in the Department of Industry and Economic Planning.

The job was considered to pay about $60 000 a year, with perks. Another article in the Age — —

Hon. T. C. Theophanous — On a point of order, Mr President, the honourable member has done nothing other than quote from newspapers for virtually the past 5 minutes.

Hon. R. M. Hallam — He has not taken as long as you did.

Hon. T. C. Theophanous — I was quoting from material provided to me by solicitors. The honourable member has done nothing other than quote newspapers reporting on this item.

Hon. M. A. Birrell — At least he has a source.

Hon. T. C. Theophanous — Newspapers — that is a good source!
Hon. M. A. Birrell — That is better than your source.

Hon. T. C. Theophanous — How would you know?

Hon. M. A. Birrell — I have to listen.

Hon. T. C. Theophanous — Mr President, I ask you to ask the honourable member to come to the point of the matter he raises with the minister. If he has no point, if all he is doing is reading into the Hansard what has already appeared in the press, we are wasting our time and he ought not be progressing along those lines. I ask him to come to the point. If there is no point, he should sit down and shut up.

Hon. M. A. Birrell — On the point of order, I understand Mr Theophanous's wish to protect the interests of his predecessor as Leader of the Opposition from the information Mr Smith is making available to the house. It is ironic that Mr Theophanous of all people asks someone to come to the point, given that we have just sat through another 7 minutes of his rambling diatribe, as we do on every adjournment.

Mr Smith has not transgressed the rules in the way Mr Theophanous did, and always does. He is stating a case, as he is allowed to. He made it clear at the beginning to whom he is addressing his argument and he probably would have been finished in the absence of the unnecessary point of order raised by the Leader of the Opposition.

The PRESIDENT — Order! In responding, I remind members of the basis on which speeches on the adjournment are allowed. The member is to make a complaint, make a request or pose a query. The member must only raise matters within the administrative competence of the Victorian government, confine his remarks to a single subject and be brief. The desirable maximum is 5 minutes.

I am advised that Mr Smith has been speaking for 4 minutes and Mr Theophanous spoke for 7 minutes. Mr Smith, to this stage, is within the guidelines. I therefore do not uphold the point of order and ask Mr Smith to conclude his remarks.

Hon. K. M. SMITH — The other article I shall quote appeared in the Age of 1 May 1991, which reads, in part:

While some would say that the creators of Vic. Inc. are better placed to receive advice than to give it, this is not a view shared by representatives of the Premier, Mrs Kirner, and her Minister for Manufacturing and Industry Development, Mr White.

In an approach made through the Victorian government's representative in the Soviet Union, Dr John Helmer, a deal is proposed to Mr Yeltsin's government (regarding) financial advice.

Hon. T. C. Theophanous — What is the date of the article?

Hon. K. M. SMITH — It is from 1991. My concern is that these articles tie Mr White with Dr Helmer. As the articles tie a former Victorian government minister, Mr White, with an illegal KGB spy and draw attention to the use of taxpayers' funds to pay an alleged Soviet spy, I ask the minister the following questions.

Is the minister aware that Dr Helmer has been named in recent weeks by former KGB operatives and a top-rating American 60-Minutes-type program as an alleged KGB spy? Is he aware that Dr Helmer was employed in a Victorian government department by Mr White? Can the minister provide details of the business arrangements of former Australian Labor Party minister Mr White with Dr John Helmer, the alleged KGB agent? Is the minister aware whether the former minister, Mr White, or his department contacted Australian security before the contractual arrangements were made with Dr Helmer? Can the minister provide details of any contractual arrangements?

The PRESIDENT — Order! Although the honourable member is limiting his comments to one topic, he is now expanding. He has made his major point. I am sure the minister will be in a position to answer.

Hon. K. M. SMITH — I did have a couple more issues to cover. They all relate to the same topic. It is a reasonably serious issue.

The PRESIDENT — Order! If you want to raise them through a point of order, you can do so.

Hon. K. M. SMITH — I have two points to go, if I may.

The PRESIDENT — Order! I have ruled that the member has so far kept within the guidelines. If he
believes I am wrong, he can use a point of order to suggest to the contrary.

Hon. K. M. Smith — On a point of order, I wish to raise some important issues. Can the minister verify that Mr White and his office paid Dr Helmer an alleged $60,000 a year for the consultancy, and how much was Dr Helmer paid in total? Is the minister aware of any alleged KGB agents who may have been employed or contracted by Mr White or any department he has headed?

The President — Order! That is not a point of order.

Hon. T. C. Theophanous — I would like to raise a point of order concerning what has just transpired in the house. It is clear that Mr Smith is upset that he has had to pay $35,000 of his own money in defending himself. He is now running a smear campaign.

Hon. M. A. Birrell — What is your point of order?

Hon. T. C. Theophanous — Why don’t you listen and find out? The point of order relates to the abuse of the house. This is an attempt to smear the reputation of a member of the house through making allegations without a skerrick of evidence except what is reported in newspapers that are public documents. It is an inappropriate use of the house.

My point of order is that if the honourable member wishes to raise Mr White’s dealings, he ought to move a substantive motion to be dealt with by the house in the appropriate manner in the way Mr White raised a matter —

Hon. B. N. Atkinson — David White is on the phone. He is saying, 'Don’t help'.

Hon. T. C. Theophanous — You do not like listening.

The President — Order! That is clearly not a point of order. The honourable member knows that. I have read out the guidelines. The guidelines allow a member to make a request or to pose a query concerning a single subject. The single subject in this case is the employment of a particular person by the former minister, Mr White. The questions all relate to that issue.

Henty House

Hon. R. S. Ives (Eumemmerring) — I wish to address a matter to the Minister for Tertiary Education and Training. Henty House, Pakenham, was originally set up and funded during the previous Labor government as an innovative effort to provide a broad range of community and human services to the growth corridor.

Over the years, Henty House has gathered under the one roof a range of human services and community activities, one of the most recent being a joint commonwealth Department of Employment, Education and Training (DEET) and state Department of Education funded community careers centre. It will no doubt come as a surprise to the minister to realise that it is now almost a year since I attended his opening — on 11 May 1994, to be exact — of the community careers centre at Henty House in Pakenham. It was a happy occasion, I might add.

My understanding is that the performance of the community careers centre was excellent. Placement rates were high. The centre was linked to the DEET database, which was of inestimable value. Residents from surrounding areas, for instance, Upper Beaconsfield, were travelling to Pakenham rather than to the DEET office at Dandenong because they regarded the service as more personalised and less bureaucratic than others. There was excellent synergistic and effective cooperation between the partially commonwealth DEET funded community careers centre and the state-funded, community-based employment scheme, also situated at Henty House. Such cooperation between DEET and state-funded employment schemes has not been a general statewide experience.

It could be argued that in Pakenham we had a model of a highly integrated and effectively coordinated use of federal and state resources for the benefit of the taxpayers and citizens of rural Australia. Since 1 March the DEET worker has been withdrawn. We now have a fully resourced community careers centre, with all facilities, including sound-proof walls, lying idle.

Further, because of prudent management, funding exists for rental, telephone services and so on for a further 12 months. At the very least a part-time worker should be appointed to the careers centre before the impetus is lost and infrastructure funding already spent and a year’s work go down the drain.
I understand the Department of Education and the Department of Business and Employment are jointly evaluating the three community employment centres, and that an evaluation team will be visiting Henty House this Thursday. I anticipate its evaluation of the performance of the community careers centre will be as positive as the evaluation of the Pakenham community centre. If that is so, I plead with the minister to consider the urgency of the situation. A very important service may be lost to a needy country area that is on the edge of a growth corridor. The careers centre currently serves an area based on the Shire of Cardinia with a population close to 40,000.

I stress the need to make effective representation to DEET to revive the service or to fund the placement of a part-time worker in this established centre from state funds.

Parliament House: Open Day

Hon. PAT POWER (Jika Jika) — Mr President, I raise a matter for your attention and seek your assistance. I refer to the successful Open Day conducted at Parliament House recently. I compliment and congratulate those officers of Parliament who were responsible for the preparation of the Open Day because it was a wonderful success. I compliment you, Mr President, and Mr Speaker for your commitment to the Open Day.

A number of my constituents visited Parliament that day and enjoyed the opportunity of looking through the building, talking to people who had knowledge of the traditions and practices of Parliament and particularly looking at the operation of Hansard and the parliamentary library.

The issue I raise refers to the access to the building via the front steps. I am not sure what proportion of our visitors enter through the rear courtyard or via the front steps of the building. I suspect the majority walk up the front steps. It has been brought to my attention that elderly people who have problems with mobility do not have the assistance of railings on either side of the steps to provide them with support. Mr President, will you advise whether you or Mr Speaker have considered this issue? Is there any likelihood in the near future that such facilities will be provided?

Conservation: wetlands water diversion

Hon. B. T. PULLEN (Melbourne) — I direct the attention of the Minister for Conservation and Environment to the fact that some 20,000 megalitres of water normally dedicated for environmental flows in wetlands near Echuca and Kerang has been sold and made available for irrigation in that area.

Considerable concern has been expressed by various organisations that have an interest in the preservation of those wetlands, including the Field and Game Association. Will the minister explain why the diversion of 20,000 megalitres of water was made in the first instance, especially in a drought year when the natural environment of the wetlands is at risk? Was the decision made on the advice of ecologists or people with knowledge of the wetlands? People who have local knowledge of the area are sceptical about the wisdom of this decision.

People were led to understand that $600,000, which was the proceeds from the sale of the water, would be available for the pre-purchase of water for the wetlands in the future. My understanding is that this is not occurring and that the proceeds from the sale of the water will not be available for environmental action.

The minister would be aware this area is short of water for environmental purposes and that it is an area of considerable environmental degradation. He would be aware of the efforts of various governments to address these issues, as he was a representative on the Murray-Darling Basin Commission. I do not understand why the water diversion has occurred and why the proceeds have not been directed back for environmental purposes.

Responses

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — Mr Pullen asked a legitimate question. The decision regarding the use of excess water was a decision handled exclusively by the Minister for Natural Resources. I am not sure where the proceeds of the sale of the water went. I will find out and get back to Mr Pullen. I will also provide him with a detailed indication of the environmental issues that were taken into account.

I know from the casual comments made to me by the Minister for Natural Resources that the issue was at the forefront of his mind and that he took into consideration all the environmental issues. I understand he received advice that this action was
desirable in terms of environmental outcomes. I have only a casual memory of the conversation with the minister, but I understand the decision was made on the basis that the characteristics of the drought should not be artificially interfered with by having an extra flow that was not needed.

The questions Mr Pullen asks were questions I had in my mind when I had the casual briefing with the minister. I shall refer the issues to the minister and come back to Mr Pullen so that he can fully understand the reasoning and procedures behind the decision.

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — Mr Ives referred to Henty House at Pakenham. I remember the opening we both attended last year. It is a pity the Department of Employment, Education and Training has withdrawn its funding for the worker at the centre. But I presume the honourable member has spoken to his federal colleagues about the funding and sought some action by the federal government to restore it, because that is really what is needed.

I do not know if it is possible for the state government to pick up the balance of the funding that has been withdrawn by the commonwealth government. Essentially the project worked because there was a partnership between the commonwealth and the state, and the withdrawal of commonwealth assistance will make it difficult for it to continue. I shall take up the issue and see what I can do either by persuading the federal government to restore the funding or finding some other means of funding the centre from our meagre resources.

Hon. R. M. HALLAM (Minister for Regional Development) — Mr Theophanous raised a concern about the Victorian Workcover Authority’s administration of freedom of information legislation and cited a particular case to support his claim. He was quite scathing in his criticism of a particular officer, and I will investigate the circumstances he brought to the house. He asked whether I will review the FOI process and issue clear guidelines. I give him this commitment: I will investigate the circumstances he cited in this case and make a judgment about any general issue of guideline in the light of that investigation. In any event, I will report back to him on the particulars of his submission to me.

Mr Smith raised extraordinary allegations against Dr John Helmer which appeared in the Age of 18 March in particular. He was good enough to provide me with an extract of the media articles upon which he relied in raising his concern. He asked me to raise the matter with my colleague the Minister for Industry and Employment whom I represent in this place. Although I did not catch all the detail of the claims because of the toing and froing in the house, I will read the Hansard record, catch the detail he raised and make sure it is covered in my request to the Minister for Industry and Employment. I expect that my colleague will respond directly to the honourable member in due course on what I regard to be a very serious allegation.

The PRESIDENT — Order! Mr Power raised a matter dealing with access to Parliament House by the front steps and the need for a handrail. The House Committee accepts the need for a handrail and, due to the nature of the building, one has had to be carefully designed. My recollection is that the matter went to tender but the result was unsatisfactory. The heritage architect at the Department of Planning and Development, Susan Balderston, is currently overseas. When she comes back the matter will be addressed.

We are also considering signs for the front of Parliament House. The problem is that people pass Parliament House and have no idea whether it is open or not. We are considering setting up appropriate signs that will fit into the niches on the two columns on each side to advise people of sitting and non-sitting days. They will give people a welcome and let them know that we are here and want to have visitors.

It is true that Open Day was again a great success with some 7000 people coming through this chamber. I stood in a position next to the President’s chair and gave — not quite 7000 speeches — some interesting tidbits of information about this house. Feedback has been good. It is clear that most of the people who visited Parliament House on Open Day had never been to Parliament House before.

I was interested in the number of people of obvious Asian background who attended. One of the things I have been working on is a brochure for Japanese visitors. The people I referred to at Open Day obviously live in Australia, and we are also considering the possibility of a brochure in Vietnamese.

Mr Power raised a matter concerning the FOI process. I have asked the Heritage Architect and the Heritage Committee to consider the issue of handrails and signs as a priority. Mr Power has a valid concern and I hope to address it as soon as possible.

A military band played music on the front steps and the state concert orchestra provided entertainment.
in the gardens. Many members of staff were involved in making it a very successful day.

Hon. K. M. Smith — On a point of order, Mr President, I walked up the front steps of Parliament House early this morning and obviously a large number of eggs had been thrown which had not been cleaned up by our staff. It looked untidy and was not in keeping with what the Parliament is about. There were large numbers of them on the first couple of steps.

An Opposition Member — Weren’t they thrown at you?

Hon. K. M. Smith — No, at you! I ask that there be a bit of extra effort because it looks very untidy.

The PRESIDENT — Order! The Usher of the Black Rod has taken a note of that.

Motion agreed to.

House adjourned 7.04 p.m. until Tuesday, 11 April.
QUESTION ON NOTICE

Tuesday, 21 March 1995

COUNCIL

Tuesday, 21 March 1995

QUESTION ON NOTICE

Education: integration

(Question No. 82)

Hon. M. M. GOULD asked the Minister for Tertiary Education and Training, for the Minister for Education:

In relation to integration assistance for students in government schools:

(a) What funding and staffing support for integration was provided in 1992-93, 1993-94 and 1994-95 respectively?

(b) What has been the process for assessing eligibility for integration assistance in 1995, indicating in particular — (i) what role guidance officers and psychologists have played in establishing assessment criteria; and (ii) what review process and criteria have been followed for the allocation of funding?

(c) What was the number of applications for integration assistance — (i) in total; and (ii) by region?

(d) What was the number of successful applications — (i) in total; and (ii) by region?

Hon. HAD DON STOREY (Minister for Tertiary Education and Training) — The answer supplied by the Minister for Education is:

(a) Support for integration is provided on a school (calendar) year basis. Resources provided to schools for the 1993 school year amounted to $51.5 million. This included 1277 effective full-time (EFT) teacher aides, 507.5 EFT teachers and $1.2 million in grants to schools.

In the 1994 school year, schools were provided with resources amounting to $53.8 million. This included an additional $2 million for 100 more teacher aide positions taking the total aide allocation for 1994 to 1377 EFT.

In 1995 resources will be provided to schools in two ways. For students previously on the program, in addition to any integration teacher allocation to the school, schools will receive funds according to the level of continued individual resources (teacher aide and paramedical) the student received in 1994. New eligible students in the priority areas will be funded according to one of six levels of funding ranging from $3000 to $23 000. An additional $2 million has been provided to schools bringing the total commitment in this area to $55.8 million.

Resources provided to schools are supplemented by support staff located in schools (educational psychologists, visiting teachers, speech pathologists and social workers) which raises the governments commitment to support students with disabilities in regular schools to $73.2 million. Note that while the level of support staff has been maintained there will be some adjustment to the number of support staff as a result of the Catholic Education Office and the Association of Independent Schools of Victoria being now funded directly for these services.

(b) (i) & (ii) The process for assessing eligibility for each student is that the principal in conjunction with parents assemble the relevant evidence in terms of the established criteria. This evidence can be obtained from information held by the parents, from relevant professionals such as medical practitioners, psychologists, speech pathologists, and various other sources including clinics or screening panels such as the Visual Assessment Clinic.

The information which is assembled at the school is sent to the resources coordinating group which consists of regional and central senior officers from the area of student disability supported on a consultancy basis by a senior Directorate of School Education educational psychologist and speech pathologist. This group matches the information provided against the criteria to determine whether the student is eligible and falls within the established priorities for funding. Each school is then notified of the results of this process.

The criteria for entry to specialist schools, facilities and units have been used as the benchmark for funding students with disabilities and impairments in regular schools. A process of consultation and review took place with various disability groups as well as regional and central officers responsible for the programs for students with disabilities and impairments (a number of whom were experienced psychologists).

The established review process is:

a request for review/reappraisal including reasons and any additional information is forwarded to the General Manager (Schools) in the region where the student is located.
the general manager then investigates/reappraises the case and forwards a recommendation to the resources coordinating group.

if eligibility is clearly and unequivocally established and the student falls within the priority areas for funding, the resources coordinating group assigns the appropriate level of resources to the students school.

The established priorities for funding in 1995 are:

eligible students who are commencing preparatory year in primary schools, and
eligible students who are transferring from another system, from interstate or overseas.

The priority in the allocation of remaining resources is:

eligible students in receipt of individual resources in 1994 whose condition has seriously deteriorated to such an extent that they need additional support in 1995, and
eligible students not in receipt of individual resources in 1994, but whose condition has changed so significantly that they warrant consideration for resources even though they have not been resourced previously.

(c) (i) Total new applications received for integration assistance was 2423 of which the majority were for students who were ineligible or had unsuccessfully applied in previous years for resources under this program.

(ii) Applications received from regions

<table>
<thead>
<tr>
<th>Region</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barwon South Western</td>
<td>244</td>
</tr>
<tr>
<td>Central Highlands Wimmera</td>
<td>106</td>
</tr>
<tr>
<td>Loddon Campaspe Mallee</td>
<td>114</td>
</tr>
<tr>
<td>Goulburn North Eastern</td>
<td>115</td>
</tr>
<tr>
<td>Gippsland</td>
<td>191</td>
</tr>
<tr>
<td>South East Metropolitan</td>
<td>848</td>
</tr>
<tr>
<td>North West Metropolitan</td>
<td>805</td>
</tr>
</tbody>
</table>

(d) (i) Total number of new eligible students whose applications met the criteria and the priorities for resources is 807. This does not include a number of students who will be resourced as a result of the appeals/reappraisal process.

(ii) Number of eligible students now resourced in each region is

<table>
<thead>
<tr>
<th>Region</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barwon South Western</td>
<td>609</td>
</tr>
<tr>
<td>Central Highlands Wimmera</td>
<td>320</td>
</tr>
<tr>
<td>Loddon Campaspe Mallee</td>
<td>474</td>
</tr>
<tr>
<td>Goulburn North Eastern</td>
<td>379</td>
</tr>
<tr>
<td>Gippsland</td>
<td>501</td>
</tr>
<tr>
<td>South East Metropolitan</td>
<td>1699</td>
</tr>
<tr>
<td>North West Metropolitan</td>
<td>1646</td>
</tr>
<tr>
<td>TOTAL</td>
<td>5628</td>
</tr>
</tbody>
</table>

Note: This does not include just under 5000 students who are attending specialist settings.
Tuesday, 11 April 1995

The PRESIDENT (Hon. B.A. Chamberlain) took the chair at 2.32 p.m. and read the prayer.

PORTS ACTS (AMENDMENT) BILL
Introduction and first reading
Received from Assembly.
Read first time for Hon. W. A. BAXTER (Minister for Roads and Ports) on motion of Hon. M. A. Birrell.

DENTAL TECHNICIANS (AMENDMENT) BILL
Introduction and first reading
Received from Assembly.
Read first time for Hon. R. I. KNOWLES (Minister for Housing) on motion of Hon. M. A. Birrell.

LAND (REVOCATION OF RESERVATIONS) BILL
Introduction and first reading
Received from Assembly.
Read first time on motion of Hon. M. A. BIRRELL (Minister for Conservation and Environment).

ABSENCE OF MINISTERS
Hon. M. A. BIRRELL (Minister for Conservation and Environment) — The Leader of the Opposition has been informed, and I would like to inform the house, that the Minister for Roads and Ports is not present in the chamber today because of a serious illness of his father. It is expected that he will be back in the chamber tonight and from then on.

The Minister for Housing is not present as he is attending a federal/state housing ministers conference in Brisbane. He will be back by tomorrow morning for normal business.

I advise that the Minister for Local Government will be leaving the house after question time to go to the local government ministers conference also to be held in Brisbane, but he will return by question time tomorrow.

QUESTIONS WITHOUT NOTICE

Accident Compensation Tribunal

Hon. T. C. THEOPHANOUS (Jika Jika) — The minister responsible for Workcover might have noticed that last night it was alleged on *Four Corners* that the DPP bill was prepared in secret without the knowledge of the DPP and without the normal involvement of parliamentary counsel. The program also raised serious questions about the sacking of the independent former Accident Compensation Tribunal judges.

Will the minister now advise the house whether the law firm of Baker and McKenzie, which helped prepare material for the Liberal Party for the election, also secretly prepared the draft Workcover legislation to abolish the Accident Compensation Tribunal? Was this done without reference to the judges themselves and without the normal involvement of parliamentary counsel?

Hon. R. M. HALLAM (Minister for Regional Development) — There was a series of questions going to the role of Baker and McKenzie, both when we were in opposition and in the early days of the Kennett government. I am not trying to be coy or to dodge the issue but you really are testing my memory, Mr Theophanous.

I recall that an officer from Baker and McKenzie was involved in drawing up a draft bill when we were in opposition. I recall involving the same officer on a retainer to work with my office in preparing the initial bill when we were in government, but the notion that it was done in secret and the notion that it was done outside the normal system is quite fanciful. We made no secret of the fact that we intended to dramatically change the workers compensation system in this state.

Hon. T. C. Theophanous — What about the sacking of the judges?

Hon. R. M. HALLAM — We actually put our intentions on the line in advance of the election.

Hon. T. C. Theophanous — Did you say about the judges in advance?
Hon. R. M. HALLAM — We actually made very clear what we intended to do in advance.

Hon. T. C. Theophanous — Were any of the judges consulted?

Hon. R. M. HALLAM — All those issues were canvassed extensively in this chamber. We actually brought a bill to this place which nailed the workers compensation system to the board.

Honourable members interjecting.

Hon. R. M. HALLAM — I am quite relaxed about this government’s changes to the workers compensation system and the extent to which it has actually got injured workers back to the workplace. I suggest, Mr President, that given the honourable member who raised the question having had a role in the administration of workers compensation in the state under the Cain and Kirner administrations he would be embarrassed about raising this issue. The workers compensation system was literally out of control. You can pick and choose the issue at the margins —

Honourable members interjecting.

Hon. T. C. Theophanous — On a point of order, Mr President, I do not know whether Mr Hallam has finished his answer, but he has gone on about changes to Workcover legislation when the question was specifically about whether the Accident Compensation Tribunal judges had been consulted in any way prior to legislation being drafted by Baker and McKenzie. I ask you to ask him to answer the question.

The PRESIDENT — Order! The question contained a very long preamble which raised a number of issues. The minister is entitled to respond, as Mr Theophanous knows, in any way he sees fit so long as the answer is responsive, and Mr Hallam’s answer clearly has been responsive. I ask the minister to continue.

Hon. T. C. Theophanous — Were the judges consulted?

Hon. R. M. HALLAM — I am happy to place on record that at least the senior judge of the Accident Compensation Tribunal was consulted very closely.

Hon. T. C. Theophanous — Before it was drafted?

Hon. R. M. HALLAM — Well before it was drafted, when we were actually in opposition. I have a very good relationship with the judge in charge of the Accident Compensation Tribunal and I listened carefully to the advice he offered me when I was in opposition. In any event I return to my former point that Mr Theophanous raised the issue of workers compensation from his position of leaving workers compensation in this state in an absolute disgrace. Worse still, by his own admission we were not getting injured workers back to work, and the employers of this state were faced with a premium rate which was something like double that which applied in other states. The Kennett government is quite relaxed about being judged by history on changes to workers compensation and the extent to which it has returned injured workers to work.

Local government: savings targets

Hon. R. H. BOWDEN (South Eastern) — Will the Minister for Local Government inform the house of the recent release of the savings targets for Victoria’s new municipalities and explain how this will benefit ratepayers of the state?

Hon. R. M. HALLAM (Minister for Local Government) — I am delighted to have the opportunity of reporting upon the substantial changes in local government in this state.

Hon. B. E. Davidson — Is this a ministerial statement?

Hon. R. M. HALLAM — This is not a ministerial statement.

Hon. B. E. Davidson — You said you were going to report on it.

Hon. R. M. HALLAM — I know it actually hurts you, Mr Davidson, but it is appropriate to put some of these issues on the record.

Hon. D. R. White — We told you that you would give us a good council in Geelong and you have. The results in Geelong were good news!

Hon. R. M. HALLAM — I see. Thank you, Mr White.

Hon. D. R. White — I just wanted to put that on the record — the results in Geelong were good news.

Hon. R. M. HALLAM — Thank you, Mr White.
QUESTIONS WITHOUT NOTICE

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Hon. W. A. N. Hartigan interjected.

Hon. D. R. White — And we'd like to thank you, too, Bill, for your campaign efforts.

The PRESIDENT — Order! I ask honourable members to settle down so that we can continue with question time in the normal way.

Hon. R. M. HALLAM — The 78 new councils across the state have been set an aggregate savings target of between $362 million and $395 million per year. Given that local government turns over each year more than $3000 million, that represents a significant reduction in the total cost of services provided by local government.

I am happy to put on the record that I expect $300 million of those savings to be delivered in rate reductions, which represents something like a 20 per cent reduction across the board for the ratepayers of this state. Most importantly I expect those efficiency gains to be delivered with no impact on service levels and with no impact upon capital expenditure programs, either.

The savings are real and achievable, and I believe they can be delivered without any deleterious effect on services. I suggest that the cities of Melbourne and Greater Geelong and the Surf Coast Shire have already demonstrated that those efficiencies can be achieved without any adverse effect on services.

We can expect to see an improvement in the service profile. It is a matter of fact that the City of Greater Geelong has reduced the cost of operations by $20.6 million in just two years and the City of Melbourne has made operating savings of $19.2 million in 1994-95. It is a matter of record again that the Surf Coast Shire has reduced its operating costs by $1.2 million in its first year and it is projected to achieve efficiency gains of $2.8 million over the next three financial years — a figure that is more than its savings target. In each case the savings targets have been established in consultation with the commissioners who I am sure would acknowledge that they are absolutely achievable.

The targets themselves are good news for the ratepayers of this state. The government has embarked upon an open and transparent process to deliver a much improved deal for ratepayers and now, as a result of the publication of the annual targets, each ratepayer can see what the council is able to achieve and what they can expect by way of efficiency gains and rate reductions in the future.

Docklands: rugby stadium

Hon. D. R. WHITE (Doutta Galla) — The Minister for Major Projects may recall that last year Mr Rupert Murdoch announced that News Ltd intended to build a rugby stadium at docklands. Can the minister inform the house whether the government has received further submissions from the Murdoch organisation, News Ltd, on the proposal? If so, what progress has been made in the development of the stadium and when is it likely to become an eventuality?

Hon. M. A. BIRRELL (Minister for Major Projects) — The honourable member is correct — he did ask me a question on this matter the day after it was publicised in the Herald Sun. It was a new proposal and the concept had still to be put before government. Although there may have been direct dealings with the Docklands Authority about which I am unaware — and I am happy to have inquiries made — no detailed plans have been put to me. There is certainly an interest by the same organisation in film studios, as Mr White would probably be aware, and there has been detailed assessment of that area by them. As the Premier has indicated, although we think it is a long shot, it is worth facilitating.

I would be happy to receive information from the Docklands Authority on the stadium proposal and, within the bounds of commercial confidentiality, provide those details to the member if he wants them. However, in the context of direct approaches to me, from memory, there have been none.

State Library: Pictoria

Hon. ANDREW BRIDESON (Waverley) — The Minister for the Arts recently launched the State Library's image database known as Pictoria. Will the minister inform the house of the nature and significance of this database?

Hon. HADDON STOREY (Minister for the Arts) — I thank the honourable member for his question and his interest. Pictoria is a new and important development in the State Library's role of preserving and making available Victoria's cultural heritage. The project was started by the previous government and continued under this government, with financial assistance from the Myer Foundation.

Pictoria's role is to take video images of the library's extensive picture collection, which is the most magnificent and fascinating picture collection in
Australia. It is also the oldest historical collection and one of the nation's most comprehensive. It tells us an enormous lot about our history.

Priority in selecting images for the project has been given to high-use, significant, fragile and inaccessible material. There are about 650 000 images in this collection, and at this first stage 107 000 of them have been put on to videodisc. The range includes image formats for painting, drawings, photographs, postcards, prints, posters, cartoons, negatives, architectural drawings and screen-prints, as well as a wide collection of ephemera such as greeting cards, wrapping paper, placemats and matchbox labels. All of these things seem fairly insignificant because we are used to throwing them away. They tell us a great deal about our history, and we are very fortunate that the library has such a vast collection.

Imaging technology provides an opportunity to unlock the library's valuable research in a form that makes it accessible to people. A person simply has to go to one of the monitors and bring up the picture on the screen. It also means that the oldest, rarest and most fragile pictures will be protected because there will be no need for any further handling. The completion of the first stage of Pictoria will be a great opportunity for Victorians to access information about their past. I congratulate the library and the technical people who have brought this to fruition. I also thank the Myer Foundation for its assistance.

Pictoria is part of the new information age and the State Library is playing a leading role in the exciting developments in multimedia technology.

**EPA: air-monitoring network**

**Hon. B. T. PULLEN** (Melbourne) — What steps is the Minister for Conservation and Environment taking to satisfy himself that reducing the number of EPA air-monitoring network stations from nine to four will not lead to an inadequate capacity to monitor long-term air quality trends in the Melbourne metropolitan area?

**Hon. M. A. BIRRELL** (Minister for Conservation and Environment) — No steps have been taken to implement changes to the air-monitoring network. As the honourable member knows, the issue was placed under review on the initiative of the Environment Protection Authority. The EPA held a seminar on the matter in March 1994, which was attended by the leading air-quality experts in Melbourne, to identify the need for existing and future air-monitoring issues. In October 1994 it also put out a draft concept paper entitled *Air Monitoring Network Review*, which discussed further issues relating to this matter. It is the wish of the EPA to research the science of the system, which has been in place since its establishment in 1970.

The single most significant action the current government has taken on this matter has been the establishment of a new fixed air-testing station in Box Hill. Our record speaks volumes: we established the air-testing station because there was a need for it. That was a direct action of the Kennett government.

A number of air-testing stations have been closed over time, and I shall give the house some examples. I am advised that under the Cain government the air-testing station at West Meadows was closed in 1987, the air-testing station in Camberwell was closed in 1989 and the Seddon air-testing station was closed in 1986. In 1994 the coalition government opened an air-testing station in Box Hill.

The chairman of the EPA has made it clear that if there are to be any changes they will made only on the basis of the issues involved being widely discussed. The EPA was very open about discussing the question at its seminar, just as it has been about discussing the draft concept paper that was released in October 1994. It would be premature of me to express an opinion on the draft concept paper until proper public input and consultation have occurred, which we should not pre-empt.

If there is an option to be introduced, the bottom line is that the air-testing station system must be improved.

**Pines Flora and Fauna Reserve**

**Hon. S. de C. WILDING** (Chelsea) — Will the Minister for Conservation and Environment advise the house of the steps taken by the government to increase open space in Melbourne’s south-east growth corridor?

**Hon. M. A. BIRRELL** (Minister for Conservation and Environment) — I am pleased to advise the house that the government has almost doubled the size of the Pines Flora and Fauna Reserve in Frankston through the addition of 90 hectares of remnant native bushland that was managed for many years by the Department of Agriculture, Energy and Minerals.
Honourable members will be aware that this is the most botanically significant reserve in south-eastern Melbourne and is home to a number of threatened species. Through extensive cooperation with the Department of the Treasury and Finance, my department has been able to secure a future for the remnant bushland, which includes 300 indigenous plant species and 130 species of native fauna.

This area of land has had a most turbulent history. All honourable members, including Mrs Wilding, Mr Smith and, in particular, Mr Peter McLellan, the honourable member for Frankston East in another place, will be aware that the issue had to be resolved because it had been left unresolved by our predecessors. I am pleased that the reserve’s turbulent history is behind us and that it has now entered a far more positive phase.

Our response to the community debates has led to the area’s being preserved and managed by the National Parks Service. Visitor access will be improved, information and interpretation facilities will be available and the area will provide additional opportunities for walking, relaxation, picnicking and nature study.

I place on the record my support for the friends and volunteer groups that have been involved in the area. I had the pleasure of meeting up with them again last week. Those friends groups have campaigned long and hard to preserve the area, and I am delighted that we have been able to meet their needs.

Local government: CEO appointments

Hon. PAT POWER (Jika Jika) — I remind the Minister for Local Government that commissioners are charged with the responsibility of selecting and appointing permanent chief executive officers. I ask the minister whether the decisions made by the commissioners have been and will be truly independent? Can the minister assure the house that the appointments are not made by anybody other than the commissioners. However, I also make the point that the commissioners, where they deem it appropriate, consult very widely and, given the fact that there are many people who have — —

Hon. Pat Power — You just called them chief executive officers — are they temporary ones?

Hon. R. M. HALLAM — No; chief executive officers. You are being pedantic, Mr Power. I am simply making the point that to describe them as permanent is inaccurate.

I am happy to respond to the substance of the honourable member’s question. The response is that the appointments are not made by anybody other than the commissioners. However, I also make the point that the commissioners, where they deem it appropriate, consult very widely and, given the fact that there are many people who have — —

Hon. Pat Power — They are your appointments.

Hon. R. M. HALLAM — No; they are not my appointments at all. I repeat what I said: they are the appointments of the commissioners. One of the things that Mr Power should understand is that the commissioners are in fact quite independent and on many occasions take some joy in demonstrating their independence. I am sure Mr Power would not be surprised to hear that the commissioners consult very widely before making crucial appointments: it is not uncommon for them to call the office and go through the short list, even if simply for another point of reference, but the appointments are those of the commissioners, absolutely.

TAFE colleges: rural

Hon. P. R. HALL (Gippsland) — Can the Minister for Tertiary Education and Training inform the house of what steps the government is currently taking to improve the delivery of TAFE training programs in Victorian rural TAFE colleges?

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — I thank the honourable member for his question; I know he is very interested in the TAFE colleges, particularly in country areas.

In January the government announced that it would allocate $1.5 million of technology money to improve the delivery of TAFE training programs in
regional Victoria. In February submissions were called for: 89 submissions were received from 26 colleges across the state. These were assessed against key selection criteria, including the needs of isolated rural students and delivery issues relating to small class sizes.

The submissions were all very good and it would have been very good if there had been enough money to finance them all. However, the colleges showed a good deal of innovation in the way technology can be used to improve the quality of training for students outside the metropolitan area. The government was so impressed with the submissions that it added $200 000 to the amount previously available, so a total of $1.7 million has been allocated to a number of regional colleges resulting from these submissions. In fact the submission of every regional college has been accepted either in whole or in part.

The largest project, and a good example, is a cooperative venture between Wimmera, Sunraysia and South-West colleges which involves funding of $370 000 to develop video conference links across the west of the state. The plan is to relay classes from one regional city to the students in other cities throughout the western part of Victoria.

This will provide a wonderful opportunity and will enable students who would otherwise not have access to the full range of training to access that training and be able to do it in a classroom situation, even though the teacher will be present only on a screen.

Other examples are Central Gippsland, which has received $240 000 for an inter-campus flexible delivery, and the School of Mines in Ballarat, which has received $180 000 for an interactive video classroom linking Ballarat and Ararat. That is a very good and fascinating proposal because the Ararat Secondary College is becoming a community college: TAFE facilities will be built on the campus of that college, a classroom will be established in the TAFE facilities and the students will be able to access classes being conducted in Ballarat and, in time, in other parts of Victoria. Indeed the proposal seeks to extend the link to Wimmera and Stawell in due course.

All told, it is an excellent way of using technology to improve access for students in the rural parts of Victoria to the highest quality of training. I congratulate all the colleges that have received these grants.

### Armadale municipal library

**Hon. M. M. Gould** (Doutta Galla) — I draw the attention of the Minister for Local Government to reports that Stonnington commissioners plan to close a municipal library facility in Armadale. Is the minister totally satisfied that this is an appropriate decision given that ratepayers, library users and potential users have not been involved in consultation about future use of the facility?

**Hon. R. M. Hallam** (Minister for Local Government) — I am not in a position to offer comments on every individual decision taken by commissioners — —

*Honourable members interjecting.*

**The President** — Order!

**Hon. R. M. Hallam** — For exactly the same reasons I outlined in response to an earlier question. The commissioners were given a quite specific brief, which included taking the tough decisions that come to the table.

*Honourable members interjecting.*

**The President** — Order! I ask the house to settle down so we can complete question time.

**Hon. R. M. Hallam** — I make the point that this sort of issue has been raised with me several times. I repeat that as far as I am concerned the commissioners are appointed to do a specific job.

**Hon. D. A. Nardella** — And it is your responsibility.

**Hon. D. R. White** — You are responsible; you appointed them. They were not elected.

**Hon. R. M. Hallam** — I do not walk away from the responsibility. If you had listened to the answer, Mr White, you would have heard that I said I stand by the decisions that they make, given that they take into account all of the circumstances that apply in respect of those decisions. I make the point — and I am happy to put it on the record — that this is where the opposition is different from the government. Although you have actually taken the position and put it on the record that the commissioners should be there in a caretaker capacity, I do not believe that to be the case. In fact, I say that there are many issues that the commissioners can address that would be very
difficult for elected councillors, given the fact that they come to the council table with a quite different territorial responsibility. It is my view that the commissioners are addressing their responsibility if they put those hard issues on the table. I am happy to stand by the outcome.

Laminex Industries, Ballarat

Hon. R. S. de FEGELY (Ballarat) — Will the Minister for Regional Development advise the house on the recent announcement of the multimillion dollar upgrade of the Laminex Industries factory at Ballarat and indicate whether the company received any government support?

Hon. R. M. HALLAM (Minister for Regional Development) — I thank Mr de Fegely for his question and for his role in securing an important investment for a facility such as this in his community. I am able to report on that event in Ballarat on the basis of first-hand knowledge because I had the pleasure of taking part in the announcement last Thursday as a guest of the company. In fact, I took my invitation as a compliment. Apart from a handful of key operators the factory closed down for an hour or so to enable the staff to be present at the formalities and to enjoy the refreshments that followed in the canteen.

The latest upgrade involved the replacement of the critical component of the process, the dryers. The company has invested $12.5 million, which will be spent over the next 12 months. In addition, the Office of Regional Development has provided a grant of $150,000 to assist in the development of internal infrastructure, particularly waste management. The new drying system will have the latest in technology and will draw on timber dust as a power source, thus reducing waste and cost.

As Mr De Fegely knows, the Laminex particle board mill has had a long association with Ballarat; indeed, later this year it will celebrate its 25th anniversary. The mill employs about 220 people on site and generates jobs in associated industries to do with harvesting. There are many industry contractors in the Ballarat community. The Ballarat employees of Laminex are delighted, as are the many others who have an indirect but nonetheless important interest in the development of the industry. The upgrade follows the announcement last year of a $2 million investment on the same site, which demonstrates the confidence the company has in the Ballarat community.

It is no secret that the particle board industry is extremely competitive. The Ballarat factory faces competition from plants not only in Victoria but also across the nation, as well as from international sources. It is also no secret that the Ballarat plant was at the crossroads. I am pleased to report that the future of the plant is now secure as, more importantly, are jobs in a regional location. I was pleased to play a part, albeit a small part, in a process that attracted the investment, which has removed the question mark hanging over the installation. It is great news for Ballarat and for Victoria.

PETITION

Sexual discrimination

Hon. R. H. BOWDEN (South Eastern) presented a petition from certain citizens of Victoria praying that the Council not permit amendments of the Equal Opportunity Act 1984 to grant homosexuals privileged legal status and protection under the act. (121 signatures)

Laid on table.

DARATECH PTY LTD

For Hon. W. R. BAXTER (Minister for Roads and Ports), Hon. Haddon Storey presented report of Daratech Pty Ltd for year 1993-94.

Laid on table.

HEALTH SERVICES COMMISSIONER

For Hon. R. I. KNOWLES (Minister for Housing), Hon. Haddon Storey presented report of Health Services Commissioner for period 1 January 1993 to 30 June 1994.

Laid on table.

COMMUNITY DEVELOPMENT COMMITTEE

Early childhood services

Hon. LICIA KOKOCINSKI (Melbourne West) presented report of Community Development Committee on needs of families for early childhood services in health, welfare and education, together with appendices, minority report, extracts from proceedings and minutes of evidence.
Laid on table.

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

ROAD SAFETY COMMITTEE

Revision of speed limits

Hon. E. G. STONEY (Central Highlands) presented report of Road Safety Committee on revision of speed limits in Victoria, together with appendices and minutes of evidence.

Laid on table.

Ordered that reports and appendices be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 3

Hon. B. A. E. SKEEGGS (Templestowe) presented Alert Digest No. 3 of 1995, together with an appendix, submission and response to submission.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:


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

Alexandra Planning Scheme — Amendment L33.
Bacchus Marsh Planning Scheme — Amendment L43 Part 1.
Berwick Planning Scheme — Amendment L73.
Box Hill Planning Scheme — Amendment L27.
Cranbourne Planning Scheme — Amendments L106, L110 and L117.
Doncaster and Templestowe Planning Scheme — Amendment L73 Part 1.

Hawthorn Planning Scheme — Amendment L31.
Knox Planning Scheme — Amendments L82 and L85.
Kyabram Planning Scheme — Amendment L16 Part 1.
Melbourne Planning Scheme — Amendment L128 Part 2.
Mildura Planning Scheme — Amendment L47.
Moorabbin Planning Scheme — Amendment L48.
Pakenham Planning Scheme — Amendment L94.
Phillip Island Planning Scheme — Amendment L62.
Prahran Planning Scheme — Amendment L59.
Ringwood Planning Scheme — Amendment L28 Part 2.
Romsey Planning Scheme — Amendments L36 and L37.
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Sunshine Planning Scheme — Amendment L82.
Warracknabeal Planning Scheme — Amendment L7.
Werribee Planning Scheme — Amendment L66.
Wonthaggi Planning Scheme — Amendment L15.

Statutory Rules under the following Acts of Parliament:

Children and Young Persons Act 1989 — No. 32.
Criminal Injuries Compensation Act 1983 — No. 33.
Fisheries Act 1968 — No. 37.
Subordinate Legislation Act 1994 — Ministers’ exception certificates under section 8(4) in relation to the following Statutory Rules:

Tuesday, 11 April 1995
COURTS (GENERAL AMENDMENT) BILL

Debate resumed from 21 March; motion of Hon. HADDON STOREY (Minister for Tertiary Education and Training).

Hon. B. T. PULLEN (Melbourne) — The opposition supports the Courts (General Amendment) Bill. The bill strengthens the cross-vesting arrangements which commenced in 1987 and which allow for a matter to be dealt with by either a federal court or the appropriate state court, depending on the most effective way to deal with the matter. That will help a number of people because litigation of any kind can be expensive. The time taken in determining which jurisdiction should handle a matter can be costly for those involved and does not lead to its early resolution.

Although the system has worked reasonably well since its introduction the opposition believes the amendments in the bill are good because they strengthen the opportunities for cross-vesting and for the number of occasions on which it can occur. It does that in a number of ways.

Firstly, in relation to transfers of proceedings from the Supreme Court, the bill provides that transfers will occur unless special circumstances are raised to justify determination by the Supreme Court. As indicated in the second-reading speech, that is a stricter test than that which currently applies.

Secondly, as well as being more definite in providing for the transfer of proceedings where appropriate, the bill extends the coverage of the Jurisdiction of Courts (Cross-vesting) Act by substituting new section 6(2)(b), which deals with step-parent adoptions in federal matters.

Thirdly, the bill enables the Australian Capital Territory to participate in the cross-vesting scheme. Originally the system operated by way of legislation being passed federally and then mirror legislation being passed in each of the participating states.

Other provisions deal with the manner in which judges can be appointed. In particular, the bill permits the appointment to the Supreme and County courts of reserve judges of judges who are older than 70 years but younger than 75 years. I do not think there is anything wrong with that and it may make available the experience of senior judges who have had special experience and can make a contribution. However, it should not be seen as an excuse for not providing an adequate number of judges to service the courts.

We know that the County Court now has a considerable backlog of accident compensation — Workcover — cases. The Attorney-General has admitted that there is a backlog in the order of 14 to 18 months, and many people believe it is even greater. That situation was not assisted by the sacking of the Accident Compensation Tribunal judges, which threw work on to the County Court. The opposition will not accept the appointment of reserve judges as a substitute for the appointment of a sufficient and proper number of judges to service the County Court and reduce the backlog.
The bill also empowers the Magistrates, County and Supreme courts to waive in whole or in part the requirement of parties to pay fees where it is believed such payment will cause financial hardship. This is a good measure which provides welcome flexibility in the court system where there is a clear case of hardship. Although the sums involved are not large when compared with standard legal fees, payments can be $450 or more, and they add up.

The bill also raises the retirement age of magistrates from 65 years to 70 years to bring them into line with judges.

The main subject matter of the bill has resulted from agreement by the Standing Committee of Attorneys-General and is not controversial. It is considered to be a positive move. The opposition supports the amending bill.

The DEPUTY PRESIDENT — Order! I am of the view that the second and third readings of this bill require to be passed by an absolute majority. In order that I may ascertain whether the bill has the support of an absolute majority, I direct that the bells be rung.

Bells rung.

Members having assembled in chamber:

The DEPUTY PRESIDENT — Order! In order that I may ascertain whether the required majority has been obtained I ask members in favour of the question to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Third reading

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — By leave, I move:

That this bill be now read a third time.

In doing so, I thank Mr Pullen for his contribution and for his support of the bill.

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

JUDICIAL REMUNERATION TRIBUNAL BILL

Second reading

Debate resumed from 21 March; motion of Hon. HADDON STOREY (Minister for Tertiary Education and Training).

Hon. B. T. PULLEN (Melbourne) — The bill establishes a Judicial Remuneration Tribunal to deal with conditions and salaries of Victorian judges. The minister's second-reading speech makes two points about judicial independence — firstly, security of tenure, and secondly, the provision of salaries not by the government of the day but by Parliament — which are components of the preservation of the independence of the judicial system. Obviously it is of crucial importance that the appointment of judges should be seen to be free from political interference and favour. It is also important that the decisions made by those charged with that responsibility are not subject to pressure being brought to bear by the threat of their removal from office. They need genuine security. It is also important that their salaries are protected and that they are immune from other forms of pressure on their livelihood.

The opposition does not agree with the bill. It believes the existing system, as evidenced by the thrust of the Courts (General Amendment) Bill which has just been passed by this house, is toward greater cooperation and integration between the state and federal court systems, but this bill moves in the opposite direction. It has not been made clear to the opposition why the government is moving in this direction and why it wants to opt out of the national system of setting judges' conditions and salaries when amendments were agreed on between the states and the commonwealth to provide for cross-vesting and a system of cooperation and efficiency between the courts. It is moving to set up an independent system dealing with the remuneration of judges.

Suspicions have been raised because of the lack of adequate explanation about the motives of the government, and these have been fuelled by the fact that this is an exercise that is not without cost. Setting up such a tribunal will be costly. Salaries and expenses will be involved, yet in many other areas the government has been extremely keen on cost
cutting and reducing tribunals and bodies of various kinds, which it has claimed were moves towards efficiency. However, others have seen these actions as an example of the government removing the opportunities for people to be involved in decision making. We have a number of examples in which the government has moved against appointments of a statutory nature where the holders of those positions appeared to challenge, or the government believed they were challenging, its role or authority.

We have seen examples of the sacking of the Accident Compensation Tribunal judges, the removal of the Commissioner for Equal Opportunity and a number of other incidents where the government has moved to reduce the standing of statutory positions when it appeared to believe that the people in those positions could place limitations on the government's powers and provide opportunities for people to have independent hearings, at least to the point of reference. In some cases when a decision from an independent area has been made against the government, the government has appealed against it or has made systematic efforts to overturn that decision — for example, as in the case of the closure of the Northland Secondary College. The government has not been comfortable with the setting up of separate tribunals, yet against the trend to a more integrated system between the federal and state systems we now see it moving to set up a separate Judicial Remuneration Tribunal.

What is the government's agenda? Many people see it as yet another step, albeit not necessarily a great one, because it does not affect the security of tenure and the appointment of judges, but it does create a suspicion of a reduction in the independence of judges in the setting of their salaries. Those on the tribunal will be appointed by the Governor in Council. It is clear that the government will be able to chose people who are appointed to the tribunal.

The Minister's second-reading speech attempts to justify the measure on the basis that there are factors that are germane to Victoria to be taken into account in terms of the assessment of appropriate remuneration, but it claims that the assessment for appropriate remuneration is independent of the executive arm of government. The effect of this measure is to bring this area closer to the executive arm of the Victorian government rather than providing a situation where the salaries of judges would flow on from those in the national sphere and would be applicable in other states generally.

For those reasons the opposition does not believe the government has made an adequate case for the establishment of this tribunal. It does not believe it is necessary or that there is a great call for a change in the current system. No evidence has been presented about what is wrong with the current system. No examples have been given and no inquiry has been held, yet we are presented with a bill that provides for an increase in expenditure against a trend in which the state government has been shown to be extremely mean and stingy, particularly in areas that affect community services. Against that trend this bill sets up what could be an expensive tribunal for no clear purpose, not as a result of a demand by the judges or anyone else for a tribunal of this nature, and for those reasons the opposition will oppose the bill.

Hon. JEAN McLEAN (Melbourne West) — The opposition does not support the bill because it believes it is unnecessary and has the potential to erode even further the independence of the judiciary and the principle of the separation of powers. It is difficult to reconcile the intention of the bill with the need to uphold that principle.

The Judicial Remuneration Tribunal Bill allows the Attorney-General to make judgments about tribunal matters, including remuneration. The bill ensures that the Attorney-General, on the recommendation of the tribunal, will be able to accept or reject recommended levels of remuneration.

In 1987 the then opposition supported the current system of determining the remuneration of the judiciary in Victoria, which is based on increases in salaries and allowances granted to federal judges by the federal Remuneration Tribunal. The system was considered by both sides of Parliament as reasonable. The then member for Doncaster, Mr Williams, and the then leader of the National Party, Mr Ross-Edwards, wanted the coverage of the Judicial Salaries Bill extended to include members of Parliament.

Contrary to the current government's pledge during the last election campaign that it would reduce the number of tribunals, the Judicial Remuneration Tribunal Bill ensures there will be yet another one. Regardless of whether its members are part time or full time, there is nothing in the second-reading speech that seeks to justify the bill. There has been no call from the judiciary saying that the current scheme is unworkable. There has been no statement of dissatisfaction with the current system. It is very worrying, therefore, that the government constantly
wants more direct control and power, whether the
Attorney-General admits it or not.

The bill is viewed by people on this side of the house
and many in the general community as just another
attack on the judicial system in this state. It follows
on from the abolition of the Accident Compensation
Tribunal, the abolition of the Law Reform
Commission, the removal of the Equal Opportunity
Commissioner, the attempt to remove the senior
magistrate of the Children's Court and the battle
that led to the resignation of the DPP, which we
have heard a lot about recently.

Mr Dato Param Cumaraswamy, the United Nations
special rapporteur on the independence of the
judiciary, was reported in the Age of 29 March as
saying that Australia is no longer a model for Asian
countries when it comes to the preservation of the
independence of the judiciary. He went on to say
that the independence of the judiciary is under
serious threat in Victoria.

Mr Justice Michael Kirby, the President of the Court
of Appeal in New South Wales and one of the most
eminent judges in Australia and overseas, has been
critical of the interference by this government in the
judicial system. He has accused the government of
having breached legal conventions that are
fundamental to the proper working of society. He is
reported in today's Age as having said that:

... the International Commission of Judges and
Lawyers, based in Geneva, had included Australia as a
country that had failed to respect judicial and legal
professional independence.

Although the Attorney-General, predictably of
course, dismissed the statement by Mr Justice
Michael Kirby as ridiculous and far fetched, he is not
alone in his criticism. As well as the UN the Law
Council of Australia has condemned the ongoing
attacks by this government on judicial and
quasi-judicial positions in this state.

The Attorney-General is on record as saying that
tribunals will examine the Victorian system, the
courts' productivity and whether Victorian courts
are handing out the justice the community expects.
This will determine the remuneration of judges and
magistrates. It could be a rather subjective exercise,
especially as in most cases the community is in
receipt of only highly emotive reports in the
newspapers of a few of the most dramatic cases that
come before the courts.

The independence of members of the judiciary in
their decision-making ensures that all sides get a fair
hearing and that when calls for longer sentences and
capital punishment are made they are tempered by
judges making decisions free from government
pressure and interference at that time. The
horrifying spectacle of American legislators
bolstering their law and order policies by bringing in
the 'three strikes and you're out' concept has
highlighted the dangers of government interference
in the law. Recently under Californian law a judge
was obliged to impose a sentence of 25 years to life
on a man who was found guilty of stealing a slice of
pizza from some children. The judge was forced to
do so because of a populist approach to the law.

The actions of this government in claiming the right
to decide judges' remuneration, demanding longer
and more punitive sentences and then setting up
private gaols, are all of deep concern to people on
this side of the house.

Perhaps the Attorney-General woke up one night
and realised the state did not have control of the
judges' wages and this bill is her attempt to do so. I
oppose the bill.

Hon. J. V. C. GUEST (Monash) — I have not had
the opportunity of considering the no doubt
considered words of Mr Pullen and Mrs McLean in
detail but I have read what other spokespersons for
the opposition in the other place have said on the
Judicial Remuneration Tribunal Bill.

The DEPUTY PRESIDENT — Order! You cannot
refer to them.

Hon. J. V. C. GUEST — There are all sorts of
reasons why I would not dream of referring to them,
other than by the reference I have already made. I
understand that the opposition has sounded an
appropriately solemn note in matters to do with
judges by advertising to constitutional principle as
well as to expediency. I understand that they say the
proposed legislation has something to do with the
extremely important principle of judicial
independence. It is partly because the opposition has
raised this matter before that I have been asked to
come up from a meeting on a legal subject to say
something as the person who chaired the bills
committee that processed this bill. Although my
speaking on the bill shows the respect we accord
members of the opposition in at least attempting or
purporting to raise matters of constitutional
principle, we think they ought actually to
understand those principles and ought to know the facts.

The opposition has, for example, suggested that this government does not understand or does not value the one element of the separation of powers that is indeed a part of our constitutional convention and practice — that is, the independence of the judiciary. They rely usually on the abolition of the Accident Compensation Tribunal, whose members were in one context described as judges. No principles in legislative matters can ever be absolute. To say it is a breach, and a breach which matters, of the principle of judicial independence is a bit like trying to maintain in the 1990s the absolute and fervent support for things like the freedom of publication that might have been appropriate in the 1960s.

The opposition would remember that in the 1960s the residue of puritanism in the community forbade the publication of all sorts of matters that would now be regarded as innocent entertainment. There was even some difficulty in discussing matters which, if not necessarily of the greatest public importance, at least had importance for some people. When the issue of freedom of speech or of adults to read what they liked was argued then it was always in absolute terms.

In the 1990s we know full well that a lot of qualifications must be put upon those absolutes. When we advocate free speech, we know and take account of the fact that child pornography is a real danger, particularly to children. We know that violence against women and, in fact, violence generally should be attended to in qualification of absolute freedom. I make the analogy with judicial independence where you cannot have absolute principles any more than in any other legislative field. Judicial independence in its fullest and most necessary sense survives and will survive in this community and will prosper because of the culture of the whole community, the political community and, in particular, the government members of the day and every day.

I point out to the opposition which has removed its last legally qualified person from the front bench and from its shadow attorney-generalship that there are about 10 legally qualified persons on the government side, most of whom have actually practised law and therefore most of whom have had reason in their daily practice to treasure the traditions of the law which underlie judicial independence.

The meeting I just chaired includes five Liberal and five National Party lawyers — people who have been practising lawyers. They are the guarantee that even the niceties, not just the broad principles, and the details of legislation needed to uphold these constitutional principles will and have been observed.

To follow the line of the President of the New South Wales Court of Appeal is ridiculous and futile and shows only the slightest acquaintance with the principles involved. He is a learned and honourable gentleman who tries to insist on absolute rules. He even wants to treat the former Accident Compensation Tribunal as the kind of court that has to be preserved in order to preserve judicial independence. What absolute rubbish!

We know it is the Supreme Court and other courts of general jurisdiction that determine the liberties of the individual and the security of our persons and our property; they are the courts that must be upheld in their independence against the state.

I make the point that in its collateral but still important attack on the government's introducing the bill, the opposition is fundamentally misguided. The real reason for the bill is to manage our own affairs in this state. What is more, we should ensure that we have the best possible judiciary. If we are not in a position to meet the market to ensure that there are sufficient attractions to the best or most appropriate lawyers to accept appointment to each of the courts referred to in the bill, we are not taking seriously our responsibility for the soundness and independence of the judiciary.

Furthermore, I wonder whether the opposition would seriously suggest that the federal government is now to be given any credit or credence for its way of dealing with industrial relations matters or remuneration. Are we simply to tag on to the end of commonwealth arrangements — for anything — but particularly for important elements in the foundations of our constitution?

This legislation is not only completely secure against insinuations of improper motive or lack of respect for the judiciary by the opposition, it is highly justifiable in both pragmatic and principled terms. In case anybody would be so snide as to suggest it, I simply add that I have no conflict of interest in this matter. If ever there were a judicial appointment which I might be minded to accept or anyone to offer I note that I am well short of 60 and that the sensible provisions of the bill to allow persons aged
more than 60 to accept appointment and be able to earn an appropriate pension are hardly likely to affect me.

At any rate they are sensible provisions which should enable the government to secure the services of some of the excellent practicing lawyers, close to or already more than 60 years of age, and who would give first-class service. In particular, although many leaders of the bar are not tempted to accept appointment to the Supreme Court or even the Federal or High courts they might, in their 60s, consider appointment to the Court of Appeal that is now being created. For those reasons, I support the bill.

Hon. D. A. NARDELLA (Melbourne North) — I have heard it all! When Mr Guest says to this house that the independence of the judiciary is guaranteed by the Liberal lawyers — and that is what he has said in the last 10 minutes — I have heard it all.

Hon. Haddon Storey — And the National Party!

Hon. D. A. NARDELLA — Thank you, Mr Minister. The National Party and Liberal Party lawyers will protect the rights of Victorians within this state. What a load of rubbish!

I have heard lots of rubbish from both sides of this house but that tops the lot. There is no concern by the government — and this bill demonstrates it — for the independence of the judiciary or the legal system that we hold dear within our democracy.

Mr Guest has not a clue what it is all about. Where was he and the government when the judicially independent Accident Compensation Tribunal judges were sacked? That is what this bill hinges on. Where was he? Where were his five Liberal Party lawyers and five National Party lawyers who are protecting the independence of the judiciary? They certainly had no influence in maintaining the independence of the judiciary when that occurred. Where were the 10 bastions of democracy when we saw the sacking of other judicially independent appointments within this state, such as that of Moira Rayner? They were nowhere to be seen and nowhere to be heard.

The former Director of Public Prosecutions, Mr Bongiorno, was hounded from office. Where were Mr Guest and the others from the Liberal and National parties who are supposedly protecting the independent judicial process? They were nowhere to be seen! They can have as many lawyers as they want on the benches opposite, but that does not guarantee an independent judicial process. This government has demonstrated time and time again that it does not care about or understand the democratic principles which we rely on for our wellbeing and which society depends on to function properly. I am concerned that this bill continues along that path.

Honourable members will recall the Bjelke Petersen government's forays into the workings of the Queensland judiciary. In the same way, the bill continues this government's attempts to manipulate and control independent judges. I do not say that lightly. When you are dealing with the salaries of judges and if you have the power to determine their terms and conditions, you can have an undue influence on what occurs.

The members of the tribunal set up by the bill will be appointed by the Governor in Council — in other words, they will be government appointments. The federal system operates independently of the state processes that will determine the terms, conditions and salaries of Victorian judges, so there can be no undue influence on the judiciary in that regard. That would be a much safer and more worthwhile position for the government to adopt. The opposition would like to see safeguards being put in place rather than the government's appointing people and determining their salaries and conditions.

It gets worse, because the body can make recommendations only. The next step in the political process of attacking judicial independence depends on whether the Attorney-General adopts the recommendations. Depending on whom she is having a battle with at the time, she can give the thumbs up or the thumbs down to recommendations on the wages and conditions paid to judges.

Certain people, including members of the government, may say that that is a bit far-fetched, that it could never happen in Victoria. They may say we have other independent processes and other safeguards — and after all, we have five Liberal Party and five National Party lawyers who will protect the rights of individuals! But I do not believe them. If that were the case they would be here today speaking out against this bill, and they would have spoken out against other government attacks on judicial independence.

I have no confidence in the government or the Attorney-General or the others who are charged
with safeguarding the judicial independence of the good citizens of Victoria because they have not demonstrated in any way, shape or form that they understand what the doctrine of the separation of powers is all about. They do not understand the concept. They may have studied it while they were in law school, but they have shown that they do not understand in any real sense what it is all about and how important it is in protecting the rights of Victorians. The government is continuing down that dangerous path, and this bill is part of the process. Other appointments to the judiciary have been questionable, which last night's *Four Corners* program demonstrated.

The bill should not be supported. I do not trust the government to protect me, my family or my community because it has not demonstrated any commitment to protecting the rights of individuals. This legislation is not part of a positive process, which is why we on this side of the house strenuously oppose it. The bill should not be implemented. Appropriate mechanisms currently exist under the federal system, which is totally independent and ensures the Kennett government cannot put its fingers in the pie and appoint its own people.

The opposition cannot support the process proposed by the government for the same reasons that it has not supported the appointment of local government commissioners. Liberal and National Party people have been appointed to more than 50 per cent of councils as a pay-off for services rendered. Through Governor in Council appointments, the bill will allow similar things to occur - and I have no confidence in the government's refusing to use the powers in this legislation to do just that. I am not only talking about the $60 000 or $80 000 that each commissioner is paid each year, because their contracts have just been extended. The opposition has real concerns about this legislation, and for those reasons I oppose the bill. I urge other honourable members to do the same.

The DEPUTY PRESIDENT — Order! I am of the opinion that the second reading of this bill is required to be passed by an absolute majority.

House divided on motion:

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Motion agreed to by absolute majority.

Ordered to be committed next day.

STATUTE LAW REVISION BILL

Second reading

Debate resumed from 21 March; motion of Hon. HADDON STOREY (Minister for Tertiary Education and Training).

Hon. B. T. PULLEN (Melbourne) — The opposition supports the Statute Law Revision Bill. I suppose you could call it a housekeeping bill: it has been the task of the Scrutiny of Acts and Regulations Committee which, as the committee's report notes and as is noted in the second-reading speech, has been greatly assisted by parliamentary counsel.

The purpose of their work has been to sift through legislation which is now so redundant and pointless that it does not carry out any function or have any purpose for the benefit of the people of Victoria. However, because the legislation remains on the statute books, from time to time as a matter of a process people are required to check it, investigate it and link it with other legislation in case some obscure connection or difficulty might arise, so it adds to the workload without any value adding to the overall result.
We are really dealing with the removal of the accumulation of legislation over time. It has been necessary for the Scrutiny of Acts and Regulations Committee to be assisted by parliamentary counsel to check that it is not inadvertently proposed to remove some act that still has a purpose or implication or useful parts.

I note that the author of the explanatory memorandum of the bill has pointed out some examples of the kind of legislation that is being repealed, like the very important Powder Magazines Act 1896 and the rather valuable Anglo-Persian Oil Company's Act 1920, not forgetting the Colonial Ammunition Company Limited Act 1897. I feel reassured by the work of the diligent Scrutiny of Acts and Regulations Committee and comforted that Victoria will not suffer from the removal of these acts and that we can all sleep peacefully knowing that the committee has done its work well.

Similarly, we feel that the Pacific Cable Authorisation Act 1900 and the South Africa Contingents Pensions Act 1905 have been examined and justly repealed.

It was a very short second-reading speech. The bill itself consumes a number of pages because of the schedules of the repealed acts: approximately 630 acts have been identified. Those honourable members who are taking part in the debate are taking on trust the assurance that their colleagues and parliamentary counsel have carried out their work diligently, because there is no way that any honourable member could have examined every aspect of the bill. We hope the appropriate work has been done. We also hope we are not inadvertently repealing beneficial legislation but passing a bill that will enhance the effective administration of the state. The opposition supports the bill.

Hon. B. A. E. SKEEGGS (Templestowe) — The Statute Law Revision Bill is one of the most important pieces of legislation to be introduced into this house. It effectively repeals hundreds of acts of Parliament, removes unproclaimed provisions and points to other important measures that will consolidate the statute book by clearing away legislation that is no longer relevant. It will lead to a much better set of statutes not only for the legal profession but also for those who wish to have easier access to acts of Parliament.

The bill gives effect to the recommendations made by the Scrutiny of Acts and Regulations Committee in its first report on redundant and unclear legislation, which was tabled in November 1994. I serve as the chairman of the subcommittee charged with identifying redundant acts. I pay tribute to the Redundant Legislation Subcommittee of the Scrutiny of Acts and Regulations Committee, especially those who served and continue to serve on it. They include the Chairman of the Scrutiny of Acts and Regulations Committee, the honourable member for Doncaster in the other place, as well as the honourable members for Coburg, Werribee and Sandringham in the other place and others who have contributed to the work of the subcommittee.

I also pay particular tribute to Ms Rowena Armstrong, the Chief Parliamentary Counsel, who attended most of the subcommittee meetings. She was of great assistance in identifying spent acts. The Chief Parliamentary Counsel and her staff worked assiduously with the subcommittee in identifying in the vicinity of 700 spent acts and provisions, which the bill will remove from the statute books.

Many old acts of Parliament are no longer relevant. Some are archaic and, when one looks back on them, out of date. The Partially Blinded Soldiers Fund Act has been on the statute books since 1943. The Centenary Celebrations Act was passed in 1933 and the War Contributions Act was passed in 1916. They obviously have to be removed from the statute book. The subcommittee also identified other acts such as the Farmers Relief Act, which dates back to 1932. Although all those acts were important at the time, they are no longer relevant in 1995.

The South Africa Contingents Pensions Act of 1905 is still on the statute book and is obviously overdue for repeal. Among the others are the Pacific Cable Authorisation Act of 1900, which was simply enabling legislation, and a 1955 act relating to the Melbourne Olympic Games, which brought such joy to our city in 1956. The games have long finished, so the provisions of that act are no longer necessary. As I said, the bill removes hundreds of spent acts from the statute book, some of which bring back great memories for Melbourne, Victoria and Australia. At the time they were seen as essential acts of Parliament that gave effect to measures pertinent to particular events or emergencies. I pay tribute to those who took part in the introduction of such legislation, but we now recognise that it is time to repeal those acts.

In May 1994 Governor in Council made an order in council giving the Scrutiny of Acts and Regulations Committee a reference to review redundant legislation. The principal task of the committee was
to review unclear, redundant and ambiguous legislative instruments and acts of Parliament, and a subcommittee was duly formed for the purpose. The report of the committee states that the overall aim of the subcommittee is to ensure that the Victorian statute book is clear and relevant and accords with the needs of the community. The report presented to Parliament pointed out that it is the first step of many in the subcommittee’s journey to reach that goal.

The subcommittee worked extremely hard to achieve that outcome. It received a number of submissions and was delighted by the response from members of the community. It is fully aware of the extent of the responsibility it has been given to carry out this huge revision of the statute books. The last such revision was carried out in 1981 by the former Statute Law Revision Committee, on which I had the honour to serve during my term as a member of the other place between 1973 and 1982. The Deputy President was also a member of that committee. At that time we identified about 200 spent acts of Parliament, which were subsequently removed from the statute books.

This is a much bigger exercise because it embraces a review of all legislation from the turn of the century until 1989-90. The subcommittee will continue its work by further examining all the acts applying to various government departments. Evidence is currently being taken from officers of those departments. The result will probably entail nothing like the extent of the number of spent acts that have been reported on this time, but the extent of the review means there will be an ongoing revision of all legislative instruments in line with the reference given to the subcommittee by the Governor in Council.

That will result in a constant review process, which will ensure the statutes are as clear, unambiguous and consolidated as possible.

I commend the work of the committee and pay tribute to the professional staff who backed it up — in particular, Ms Dominique Saunders, a legal officer attached to the committee. The staff of the Scrutiny of Acts and Regulations Committee do a great job. The Senior Legal Officer, Helen Mason, the Assistant Executive Officer, Helen Roberts, the Research Officer, Tanya Coleman, and the Office Manager, Richard Kings make up a small but dedicated team of experts. In this case the bulk of the work in servicing the subcommittee was done by Dominique Saunders, to whom we owe a debt of gratitude.

The subcommittee is also grateful for the keen interest shown in its work and the invaluable support provided by the Chief Parliamentary Counsel. Without support such as that a bill as extensive, as far reaching and as significant for the statutes of Victoria as this would not have been possible. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — By leave, I move:

That this bill be now read a third time.

I thank honourable members for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

NATIONAL ENVIRONMENT PROTECTION COUNCIL (VICTORIA) BILL

Second reading

Debate resumed from 21 March; motion of Hon. M. A. BIRRELL (Minister for Conservation and Environment).

The DEPUTY PRESIDENT — Order! Mr President has given permission for officers of the Environment Protection Authority to take photographs of the minister during the course of the debate.

Hon. B. T. PULLEN (Melbourne) — The bill is a sensible measure and I am pleased to say at the outset that the opposition supports it. The bill will develop a more uniform and cooperative approach to environmental matters in Australia through the establishment of a National Environment Protection Council, which will comprise a commonwealth minister, who will be appointed by the Prime Minister and who will be the chair, and ministers from each state or territory nominated by the Premier or first minister of each state or territory.
The opposition presumes the nominated ministers will be those with responsibility for environmental protection.

The scheme is based on the intergovernmental agreement on the environment of May 1992 and the legislative scheme agreed to by all states and territories except Western Australia at a meeting of the Council of Australian Governments in 1994. We hope Western Australia will follow suit at some stage.

Two things stand out as desirable outcomes of the passage of the bill. The first is the introduction of a system under which all Australian people enjoy equivalent protection from air, water, soil and noise pollution, regardless of where they live, and which does away with the current anomalies in environmental protection.

Secondly, the opposition hopes that the decisions made at the practical operational level in the community, particularly in the business community, are not distorted by variations in the participating jurisdictions concerning the adoption and implementation of major environmental protection measures. We also hope that markets are not fragmented by the same variations. In the first place — I suppose it is also the worst case — we hope that does not happen so that we can avoid an almost reverse-bidding situation in which, in order to attract a particular industry that it sees as being beneficial to its economic development or to employment, a state or territory lowers its standards rather than competing on a truly competitive process based on that state or territory’s natural advantages. I think we would all agree on that.

In addition to the ministerial council, a committee made up of appropriate commonwealth and state officers will include the interesting and welcome addition of a local government representative. There will be fairly broad representation at the officer level, and the committee will service the council of ministers and provide a flow of work to it. The bill also empowers the council of ministers to establish any other committees it considers necessary for its work.

The opposition has no problem with supporting the legislation. The bill is the result of a reasonable process and I sincerely believe it will be useful. The bill also allows individual states to apply more stringent standards than the national benchmark. In that sense it does not penalise a state which is prepared to lead and which believes it is necessary to act in advance of the decision-making processes of the national body. The decisions of the national body will require the agreement of two-thirds of the representatives on the council regardless of whether all members are present.

In order to get agreement at a uniform level to begin with, it may be necessary to take a lowest common denominator approach. However, that does not necessarily mean that the states will be dragged back to that level. If an individual state already has an established philosophy or has developed a situation under which it is operating to certain standards, it will be able to stand out and continue to operate to those standards.

It is also hinted in the minister's second-reading speech that to some extent the measure is similar to other measures already operating in Victoria. It suggests that the Victorian Environment Protection Authority is playing a positive role in the development of the structure. I agree with that opinion.

The EPA has an excellent track record and has played a constructive and thoughtful role in bringing other states and organisations together in the interests of taking a truly national approach to a number of issues.

Unfortunately, times are changing and, although the opposition does not argue against the importance of this measure, it is clear from recent events that the EPA's future as a leading agency is in doubt despite the attempts by the minister to patch over the situation during recent weeks. It is clear a degree of anxiety has arisen within the EPA. It is no longer a happy organisation because there is considerable concern about whether it will be able to maintain the impetus that it has shown over the years as a leader in many of these areas, with a strong reputation in the national context for leadership and innovation.

I have said 'patch over' because I believe there is no other way to say it. The minister has not protected the authority. There has been an attempt to confuse and move away from the concerns of the EPA, which have been documented and have been available almost generally. I have a memorandum dated 17 February from the chairman, Mr Brian Robinson, to all staff. It makes it abundantly clear that the EPA is in a state of stress or crisis about meeting its objectives. Under the subject heading 'Work force management' the chairman stated:
You will all be aware that public service appropriations via the budget process have been declining for some years and like other parts of the public sector EPA has reduced its work force through attrition and the limited use of VDPs. To reduce the impact of this EPA has sought funds from elsewhere and has reorganised work assignments so that salaries could be legitimately supplemented from other sources. This has become increasingly difficult and we need to take action to place the organisation on a more sustainable footing.

Those are strong words! It is suggesting that if nothing is done the organisation will not be sustainable. The chairman's memorandum continues:

Our current salary budget provided by Parliament is $10.2 million and we already know that next year's appropriation will be less than this. Our projected budget for 1995-96 needed to cover current staffing levels is $11.2 million. This shortfall cannot be sustained and we need to put a strategy in place to deal with it. The longer we leave corrective action the more severe that action will have to be.

The chairman indicated that assistance would be gained by not filling vacancies and by pressing ahead with the EPA's commercial activities. He also indicated that these actions would not be enough and that the EPA would need to adopt a more flexible approach to resourcing core functions, including outsourcing, where it is cost effective. He further stated:

Outsourcing opportunities that could involve EPA staff are being investigated.

Brian Robinson is an experienced public servant who has enjoyed the support of all parties and from time to time the minister and I have put on record our regard for his capabilities. A memorandum of this kind from the chairman to all staff is very serious. He is a man who is aware of the repercussions of writing in such a vein and the effect it will have in the morale of his staff, many of whom have served for a long period and who have themselves received much recognition within the professional and academic field as well as in the community where they do work of a more direct and grassroots nature. The chairman indicated that there would have to be reductions and said:

This will be a very critical time for the organisation and for everyone in it. The sooner we can complete the initial process the sooner we can restore some degree of certainty. I expect the process to be finished by the end of March.

He said, and we all agree, that the EPA is important to the state. He also said:

It needs to remain current and effective. This means that change is inevitable but it is important that change remains in the hands of the organisation and is not dictated to it. The process we are embarking on here is our best chance of achieving that and remaining a viable organisation.

It is a serious memorandum but it has not been responded to satisfactorily in the sense that when questioned in this house or publicly the minister has tended to give the impression of business as usual, saying 'What are we all worried about? Nothing particular is going on here. There is no stress and there is not a state of concern. Those who are worried about whether they are going to have a viable environmental watchdog should not be worried'. That is totally unsatisfactory from a minister, who is charged with acting without fear or favour as the Minister for Conservation and Environment not to be pressured or dictated to by the Treasurer or by an illogical agenda, but to be steadfast and honest in defending an important authority.

The picture becomes more serious because apart from this memorandum that went out to all staff there was a memorandum from the chairman to the managers of 27 February which states:

You will recall that at the post-PEM managers' meeting we agreed on a process for resource allocation to deliver our outcomes within our budget.

He outlined a process to do that and said:

The executive has also considered a number of organisational changes most of which have been previously canvassed and believe that these should be considered in this exercise so that they can be properly assessed in context. These include:

- setting up profit centres to operate commercially for the VTS and part of air studies;
- identifying service agency opportunities as per government policy;
- transferring enforcement staff from VTS to OPS and non-policy waste management functions from waste management policy to OPS;
defining all policy functions as discrete projects and allocating staff accordingly with a small policy coordinating function looking after policy intelligence, briefings, national issues etc; establishing two metro regions rather than three.

In addition it was agreed that functional reviews of the directors and their staff and of chemicals management and environmental chemicals should be carried out.

The memo also states:

Please refer to the attachment for notional allocations of staff numbers.

And further down:

Managers in these areas will need to cooperate in developing proposed staffing profiles.

The staffing numbers are fairly explicit. They have headings that correspond approximately with the headings that are repeated in the appendices to the annual reports. They are basically the regions, air studies, catchment and marine, VTS, environmental chemistry, et cetera. Although some are grouped together, actual numbers are allocated to each and the aggregate is 237.

To put that in context, I have examined the published Environment Protection Authority annual reports from June 1990 onwards. The staffing numbers are: 299 as at 30 June 1990 and 301 as at 30 June 1991. The average for 1991-92 is reported in the annual reports as 330 and it was 346 as at 30 June 1992. The average for 1992-93 was 316. The 30 June 1993 figure was 294. The figure as at 30 June 1994 was 311 — the chairman in his memo says it was 312, so they are basically the same. The notional figure for the core number for the authority, or the figure as established from the attachment to the memo of 27 February 1995, is 237. Anything beyond that is dependent upon measures that may be introduced under the terms the chairman has indicated in his memos to the staff and the managers. But it is not clear whether anything like the resources that the authority has enjoyed can be achieved.

The tone of the memos, the concern expressed and the stress being experienced by many people associated with the EPA indicates that the situation is serious and that there is considerable tension associated with deciding how the EPA will cope with all this. Other issues relate to outsourcing, privatising or changing functions. There is a not-so-subtle degrading of the position in terms of whether the changes are being made entirely in the public interest and who the client might be. Although it is possible to set contracts and certain jobs can be contracted out, as we know from what has happened in other areas, a lot depends on the education of the community and the officers involved. It is not just the discrete function that is affected by outsourcing. People have to tender and compete with people from outside the area for the jobs they formerly did as a matter of course.

One of the processes that has already surfaced as having problems is the monitoring of air quality. We already see the effect of the pressure on the EPA. It is having to examine whether it can achieve the necessary tasks on a reduced budget or whether it has to give up some tasks to enable it to take on new tasks.

Hon. M. A. Birrell — The chairman has said it is not budget driven.

Hon. B. T. PULLEN — That is not the view of many of the people involved or what is being expressed in the papers. The minister should come clean and say exactly what is happening. It is clear that concerns are developing about air quality. Some areas warrant extra effort, such as the measurement and monitoring of ozone. Evidence exists of the health implications of increases in ground-level ozone. There is considerable and quite widespread concern about the impact of particles less than 10 microns in size and the implications for respiratory and other health problems.

The current system is such that it does not satisfactorily pick up the problems either in helping to guide by way of policy formulation or — even if there were regulations — in establishing policy and policing breaches. Instead of that being developed on top of the existing system, to meet the challenge the EPA has to reduce its functions and must compromise the established network of the overall monitoring of ambient air quality to find the funds to meet new challenges. That is an entirely unsatisfactory situation for the long-term watchdog and environment protection role of the EPA in respect of the quality of the Melbourne air shed and the protection of the health of the people.

The same document contains a proposal to close some country centres. In Geelong, it is proposed to reduce the two stations to one. The station in the Latrobe Valley might be contracted out to the power-generating authority. All these things would
be unheard of unless there were budgetary pressures and restrictions on the EPA doing its job. There is an absence of commitment from the minister, a failure to win the necessary resources and a failure to convince his colleagues that these tasks are of sufficient importance to the community that we should not compromise what is now being done well to take on undoubtedly important tasks in the future.

In concluding this section of my remarks, I do not argue with the EPA examining areas where new priorities have to be set. However, it is clear that many of the responsible people in the EPA are finding it difficult to understand why that must be done at the expense of both proper professional and scientific practices and the established networks.

I return to the point I was making: if the change is purposeful and warranted, it is the responsibility of the minister to show that and to take responsibility for managing the process with the general community, particularly with people concerned about environmental protection. He must convince the community it is not a cost-cutting exercise but in fact an exercise based on merit rather than compromise.

The minister has not done that. He has hidden behind the chairman and sent him out on a hose-down mission. He got him out of his bed on a Sunday morning and on to the radio. He had the chairman virtually contradicting himself in the attitude he portrayed to the media compared with the clear tenor of the very serious memos and information available to the staff of the EPA and to anyone who has contact with EPA staff. Members on both sides of the house would agree that the EPA has a very good track record as a professional and competent organisation that has served Victoria well over a considerable period.

We are happy to support the national direction because of the framework it provides. We are unhappy that, instead of being the leader in contributing to a national setting, Victoria is in danger of having a second-class Environment Protection Authority. Other states are in a development mode and appear to have more political support for the development of appropriate environment protection authorities than Victoria currently enjoys. With those brief words, the opposition supports the bill.

Hon. R. J. H. WELLS (Eumemmerring) — As every speaker in both houses has said, the bill is a most welcome initiative. It is also part of a national initiative, instigated in the first instance by the federal government, to set in place legislation, and this legislation is complementary to that.

I wish to outline the bill’s major features, to make the rest of my speech explicable and then to say something further about some of the reasons why the bill is so welcome, as well as something about the current situation in Victoria, which is far from satisfactory in terms of the effects of commonwealth activities on environmental standards in Victoria.

This National Environment Protection Council (Victoria) Bill represents Victoria’s commitment to developing a truly cooperative, national approach to environment protection. The bill is the first step in fulfilling Victoria’s commitment under the intergovernmental agreement on the environment to establish and participate in a scheme of complementary and uniform legislation with other states, territories and the commonwealth to establish national environment protection measures.

This of course is a radical development. For the first time in the history of this nation there is a move to bring under some sensible, cooperative control an area of land, of world dimensions — some 7.5 million square kilometres. That is no easy or minor challenge and of course it will certainly take time, but at least a start has been made.

The bill consists of two parts. The first is the establishment of the National Environment Protection Council and the processes by which it will make national environment protection measures. I do not intend to refer further to those procedural matters. The second is the amendment of the Environment Protection Act to allow agreed national environment protection measures to be adopted as law in Victoria. Again, it is not my intention to canvass those matters as I believe they are non-controversial and do not need to be considered with the other matters I wish to consider tonight.

The intergovernmental agreement on the environment was signed by all Australia’s first ministers in 1992. This, I believe, was an epochal achievement. It was a response to an era of growing uncertainty about the role of various governments in the environment arena, characterised by the increasing and unpredictable entry of the commonwealth into approvals for major resource-based projects.
The agreement sets out the roles and responsibilities of each level of government, outlines a common set of principles of environmental policy and establishes mechanisms to reduce disputes, duplication and uncertainty, and the commonwealth is to be commended for being willing to undertake this step. Had it chosen not to do so it could have held up the total process of national organisation of environmental matters. As has been said by others, the various cases that preceded this step had led to disunity and a degree of disorganisation in Australia when the commonwealth, through various channels and tribunals, imposed its will on a particular state area with regard to matters involving the environment.

That was felt very much by Victoria because clearly, as I think both sides of the house have agreed tonight, Victoria has led the way in this nation for the last quarter of a century, following the pioneering effort of the Bolte Liberal government in 1970 — 25 years ago — in passing the Environment Protection Act.

We have continued to support a truly federal, cooperative approach that builds on our 24 years of experience. Much has been done in Victoria which is of use elsewhere in this nation and, indeed, beyond our national shores.

Those familiar with the successful Victorian environment protection system will observe, interestingly and not coincidentally, many similarities between the form and development of national environment protection measures and the Victorian state environment protection policy system. In February 1994 the Council of Australian Governments reiterated its support for the intergovernmental agreement on the environment and its timely implementation.

It is a timely introduction, but one of the real concerns is the time it may take to implement many of the provisions already existing even in this first commonwealth act.

The national environment protection measures aim to achieve a number of things. They want to give all Australians wherever they live the benefit of equivalent environment protection. They aim to ensure that business decisions are not distorted and markets are not fragmented by variations in major environment protection measures between Australian jurisdictions.

The National Environment Protection Council will consist of state, territory and commonwealth ministers sitting as equal partners with the role of establishing national environment protection measures. The council is empowered to make measures to control ambient air and water quality, assessment of site contamination, environmental impacts associated with hazardous waste, the re-use and recycling of used materials and noise where variations in measures would have an adverse effect on national markets.

In accordance with a memorandum of understanding the council will work with the National Road Transport Commission to establish measures for motor vehicle emissions. I will return to some of those matters in a moment but I wish to point out that an important measure will be the development of an extensive public process which guarantees the involvement of key stakeholders and interest groups. Even before a measure is drafted, the intention to make a measure must be advertised.

As well as extensive scientific analysis, information on potential economic and social impacts of policy options and assessment of differential regional impacts will be collected and analysed during the development of measures and published as an impact statement for public comment.

In deciding on a measure the council must consider the impact statement, public submissions and advice from expert committees. Decisions by the council will be made by a two-thirds majority.

Another important part of the council’s mandate is that the bill requires that national environment protection members report annually on their achievement of national environment protection measures. In turn the council is required to report annually to all parliaments on its activities and its assessment of the implementation and effectiveness of national measures in participating jurisdictions. The annual report process will make council members accountable to the Australian community for their environmental performance.

That process is important because the nature of the subjects to be dealt with by the council is enormously complex and I do not for a moment think that agreement will be easy and rapid between the various governments of Australia in deciding upon some of these measures, if for no reason other than the fact that there is such a variation, geographically, communally and environmentally between the different parts of Australia.
It is obvious and natural that various governments will come to consider a particular issue from perhaps different viewpoints and it will certainly take some time to resolve these approaches, if they are to be resolved.

The various state and territory governments will be responsible for implementing the decisions to which they are party, which provides some potential for a variation in rates of progress. So far as I can see, that cannot be controlled by the council itself other than through the publishing process through which each and every government must report to its people each year.

It is very important that the reports are prepared thoroughly and taken very seriously — and I am not suggesting that they will not be. The reports could provide a very good mechanism to enable those groups interested in our environment to become better informed than they are about what is happening in our states and in our nation.

Particular groups in the community have put enormous energy into battles to achieve environmental goals, some of which they have lost. Valid though their views may be and often have been, it will now be possible for them to achieve results while expending much less effort. As a consequence, their efforts will be more productive.

Along with every other speaker, I am greatly encouraged by the bill and its federal companion legislation, for which I indicate my full support. However, it is not the job of members of this Parliament to accept in a forelock-tugging fashion whatever the commonwealth offers. It does not damage goodwill between governments if a member of this place points out his concerns about federal legislation while commenting on some aspects of the situation we face in Victoria, which I propose to do.

In September 1993 the commonwealth decided to submit all commonwealth departments, agencies and statutory authorities to the operation of state environment protection laws provided those laws contained agreed natural environment protection measures. But, this meant that the commonwealth government and its agencies were still not required to comply with any state environment protection laws that did not include national environment protection measures, which is important.

The current ambit of the proposed legislation at both federal and state levels is specific. I would not say it is narrow; but it is not broad enough unless one uses the defence that it deals with things that are more amenable to start with. Nevertheless, given that it may take some years to bring these matters under effective managerial control, one wonders how much longer it will take to deal with other important matters that are not covered by the legislation.

One illustration of the potential difficulties involved in reaching agreement concerns a letter the Prime Minister wrote to the Premier of Victoria in October 1993 confirming and elaborating on his position, referring among other things to the federal government’s proposals to make its activities subject to state environmental supervision. He said the commonwealth agreed to do that:

... with the exception of those activities which, in the national interest, must be excluded from the obligation to comply with NEPM measures.

It is a question not of national defence but of national interest, a very much broader concept. The Premier of Victoria rightly wrote back to the Prime Minister, agreeing to his proposal with the exception of the reference to exemptions for activities that were in the national interest. He said:

You suggest that certain commonwealth activities be exempted from the obligation to comply with NEPM measures in the national interest. The Victorian government cannot agree to this unspecified category of exemptions, believing that exemptions should only be sought in the most extreme cases such as military operations during an act of war. In all other circumstances the same laws and standards should apply to commonwealth activities as apply to any other business operating in a jurisdiction.

There is abundant support and evidence to back up the policy adopted by the Premier of Victoria. I quote from page 169 of the intergovernmental agreement on the environment:

Although the commonwealth’s agreement to comply with state environment protection laws through NEPMs is a significant improvement on the previous situation of reliance on unenforceable policy commitments, it is still a sub-optimal solution for a number of reasons.

I shall list a few of them:

A NEPM may constitute a goal, guideline, protocol or standard. As such, NEPMs may in effect be no more than statements of policy that fall short of mandatory
standards applicable to the rest of society under state legislation.

The categories of environmental matters listed in the IGAE as being within the power of NEPC to establish NEPMs are limited and do not cover all areas of environmental concern. For example, emissions to land are not included: a commonwealth agency subject to a NEPM in relation to the aquatic environment may evade the need to comply with state environment protection laws by redirecting waste streams to land disposal, potentially causing different environmental problems that would remain outside the control of the EPA. As the NEPM on noise would apply only where variations in measures would have an adverse effect on national markets, goods and services, unlike current EPA controls it would not cover all cases of problematic noise emissions, including those of particular concern to the public such as nuisance noise and background traffic noise adjacent to main roads.

Large areas of Victorian life, land and commercial activity are under the control of the federal government and beyond the control of the Victorian government. So far as I am aware, following prior and informal negotiations there had been negligible variations to that, so the move to formalise negotiating and policy establishment processes is more than welcome. I continue:

NEPMs relate to ambient air and water quality and not to the quality of emissions from specific sources. This potentially makes it extremely difficult and maybe impossible for emissions from commonwealth agencies to be subjected to EPA controls. It would also make it impossible for the EPA to effectively control the ambient levels if there are uncontrolled emissions entering the environment.

Draft commonwealth legislation concerning the application of NEPMs to the commonwealth and its agencies has not yet been prepared. Such legislation may not meet state objectives and may include exemptions, such as those referred to in the Prime Minister's letter, that are not acceptable to the states.

One matter of real concern is the likelihood that it will take a significant period of time before the commonwealth legislation referred to above is drafted and enacted and before the measures themselves are prepared, subject to the necessary impact statements. On that point I refer to the work of the Environment and Natural Resources Committee, which I will turn to in a moment. The process of formulating those measures is likely to be very lengthy. That is not my opinion; it is the opinion of a committee of this Parliament.

The intergovernmental agreement on the environment makes no provision for interim measures to accommodate unforeseen circumstances, which may include the need to control newly developed chemical or genetically engineered life forms. That may present an immediate problem given the emergence of new information about the effects of current chemical and other technical processes, and I will refer to one of those.

Problems of that nature may require the immediate implementation of the sorts of nationwide controls which exist in state legislation but which have not been enacted at the commonwealth level. It is therefore worthwhile to suggest that the authority may establish, implement and enforce interim or emergency measures for a period not exceeding two years if there is good reason to believe there is a need to control any chemical, organism, process or other factor for the protection of the environment and human well-being within a time frame shorter than that within which the normal process for the development and establishment of national environment protection measures would permit.

Parliament recently authorised the Environment and Natural Resources Committee to conduct a fairly complex inquiry into the environmental impact of commonwealth activities and places in Victoria. The report was brought down in November 1994 after some difficulties regarding the gathering of information. Nevertheless the committee found a lot of information that illustrates the significant need for more effective cooperation between the commonwealth and the Victorian governments in subjecting commonwealth activities and places to the standards of environmental control that we Victorians demand for the rest of our state's activities.

The report lists a number of major case studies which I will mention only by name that are relevant to the matter now before us: case study one, Australian Defence Industries Ltd — development of Footscray and Maribyrnong sites; case study two, Federal Airports Corporation — which is quite a remarkable study if you get into it and find the potential effects of commonwealth control upon surrounding areas of state control; case study three, Australian Maritime Safety Authority — disposal of lightstations — a matter which to date has been handled with extreme insensitivity by the
commonwealth because in theory it does one thing and in practice it does another; case study four, telecommunications — which I will come back to; and case study five, control of ballast water, a matter which should have been dealt with years ago and which we are now pursuing at state and federal levels, almost after the cat has got out of the bag.

It is very late in the day and I suspect a lot cannot now be done to redress the costs of the past which will continue to affect the future. I hope we can do something to prevent those costs mounting due to the effects of new decisions emerging in the future. Case study six is the Department of Defence — selected issues.

There is a whole range of issues there, and I will choose just one issue to illustrate briefly the sorts of problems that currently exist that I hope will be addressed by better commonwealth-state cooperation.

It is case study four — telecommunications — in chapter 8.2 headed 'Immunity of Telecommunications Carriers from State Environment and Planning Laws'. Section 51(v) of the constitution provides the commonwealth with the power to make laws concerning telecommunications. Under those laws it can authorise and has authorised three firms to build towers for transmission of telecommunications data such as from the use of mobile telephones. These can be and have been constructed under commonwealth law, which enables private organisations to enter upon land and construct towers without almost any supervision through state law or local government law.

It has happened very quickly: commercial needs have dictated that that be so; nevertheless, it has meant that state and local opinion has not been considered. The commonwealth act makes it necessary for such activities to be subject to international laws, with which Australia agrees, but not to state or local laws. That is a subject which I believe has certainly not yet reached its maturity and about which I think we will hear more in Victoria. It is a very good illustration of how, had this proposed legislation been in force much earlier, it might have been possible to handle the matter in a much better way.

I mention one other recommendation among 60-odd from the Environment and Natural Resources Committee report — recommendation 56, which states:

That any exemptions from state environment protection laws in commonwealth legislation implementing national environment protection measures, or in the national environment protection measures themselves, be restricted to national security, national emergencies, cases where commonwealth legislation is more protective of the environment and involves better consultative processes than state legislation, and where there is an overwhelming case on practical grounds for a uniform national approach that is embodied in commonwealth legislation rather than to broad categories such as 'national interest'.

I finish on this point: as the previous speaker pointed out, it is possible for a state to enact and operate higher standards of environmental protection within its state boundaries that applies only to non-commonwealth controlled areas.

The current situation with the commonwealth's attitude of a dragnet or overall approach of excluding anything which is, as it sees it, not in the national interest, is far too broad, far too general and could in fact make it possible for this legislation to be virtually ineffective. There are significant areas of the legislation initiated by the commonwealth government, to which the states will be subject if they agree, that mean that in the final analysis the commonwealth could still for years delay coming to the party by delaying the implementation of measures that need to be implemented.

The time factor is very important. Modern technology is so powerful that even in the course of a year real harm can be done to the lives of Australians or to their homeland. I really hope the provision for annual reporting will be the stimulus and the mechanism to help us all overcome the deficiencies inherent in the commonwealth legislation.

On that note, I wish the legislation well. Despite the comments of the previous speaker about the current position of the Victorian Environment Protection Authority I really do not think its capacity can be eroded significantly in a couple of years since the former government was in office: I am satisfied that it has not been so eroded. Victoria is very well poised to help lead what is at last a far-sighted national concept for environmental management and control in Australia; it also affects us in the sense of competition between the states. Victoria will not lose out by embracing this legislation and attempting to make it the best in the world.
Hon. D. M. Evans (North Eastern) — I also support the bill before the house. It is a very interesting piece of legislation because it deals with what has been an area of vexed legal control between the commonwealth and state governments. The legislation is groundbreaking and of great importance indeed.

As previous speakers have already commented, it will establish the National Environment Protection Council, the membership of which is set out in clause 9, and will also allow the Victorian legislation to be adapted so that it conforms with the requirements of this legislation.

It is very important that one looks at clause 9 and the membership of the council, which comprises a minister of the commonwealth who is nominated by the Prime Minister; a minister of each participating state who is nominated by the Premier of the state concerned; and a minister of each participating territory who is nominated by the chief minister of the territory concerned. It can be clearly seen that the majority of members are those representing the state and territory governments.

There is also a clearly established requirement that if goals or guidelines or other provisions made under this legislation are to be disallowed, a two-thirds majority is required. So effectively in this case — which, very importantly, will also set a precedent — the state governments are in control and can exert real influence on the commonwealth government as a result of the provision.

Although national environment protection measures can be imposed on commonwealth organisations as well as within the states, there is some limit to the areas that can be controlled. For example, controls can be imposed on ambient air and water quality and on-site contamination, which is a very interesting one, particularly going by the recent report to which Dr Wells referred of the Environment and Natural Resources Committee inquiry into the relationship between commonwealth organisations, commonwealth legislation and the provisions in both the planning and environmental areas in Victoria.

One of the issues the Environment and Natural Resources Committee examined was the Williamstown rifle range, which was owned by a commonwealth instrumentality and sold for subdivision at a significant price. When it was subdivided the planning people and the Environment Protection Authority examined the site. As one might expect, given that it had been a rifle range for many years, there was significant contamination on the site caused by the lead from the bullets that had been fired by successive generations.

The site itself was not pure and pristine. Because it was not suitable for a building development, a major clean-up was required. I believe there is significant doubt that some areas will be suitable in either the short term or the long term for the purposes for which the former rifle range was sold. If it had been a private site or a site under the control of the state government, the sale could not have proceeded without a significant effort being made to ensure it was safe for the purpose for which it was sold. However, the commonwealth did not have to accept responsibility for the clean-up, which any other organisation or business would have had to accept.

The commonwealth was able to rely on that section of the constitution which exempts commonwealth instrumentalities, particularly those that have or have had defence capacities or responsibilities, and was able to say it did not have to comply.

Any site contamination that involves any national environment protection methods will have to be dealt with under state government legislation. As Dr Wells and Mr Pullen have said, Victoria has some of the most stringent and advanced environment protection legislation in the nation. When the legislation is in place, an event such as that which occurred at the Williamstown rifle range will be a thing of the past, which everyone will welcome.

Under the measure hazardous wastes will be brought under the control of both state and federal legislation. A consistent pattern is emerging in this area. Some 12 or 13 years ago a commonwealth committee of inquiry carried out a major investigation into the storage, control and disposal of hazardous wastes in Australia. The committee made stringent criticisms of a number of sites in Victoria.

I recall in the early 1980s moving a notice of motion to discuss that very issue and the way in which the Victorian government should seek to deal with those criticisms. The debate was constructive and useful. Members on both sides of the house researched and investigated all the issues involved. I am sure that as a result both sides had a better understanding of the problem. Nevertheless, the Victorian Environment Protection Act cannot apply to a commonwealth
instrumentality in charge of or generating hazardous wastes in Victoria unless the bill is passed.

I move to the important issues of the re-use and recycling of materials. That has become a matter of significant public concern since the 1970s not only because of the mountains of rubbish that have been and are being created by our modern and affluent society but also because of the waste of resources that is occurring and the energy that is required to replace those resources with new materials, which in turn has an effect on the environment. Additional pressure is being put on our forests as a result of our failure to adequately re-use paper. All members of Parliament and the community now regard the re-using and recycling of used materials as having a high priority. The bill will mean the commonwealth and state governments will adopt a consistent approach to the problem.

Noise is interesting because it includes such issues as aircraft noise close to airports. My daughter lives near the third runway in Sydney. I admit that on the odd occasion she has been out waving a placard, even though you could not imagine a member of the Evans family doing that! The commonwealth government will not be required to abide by state noise or other pollution legislation until the bill is passed. Another area of concern is motor vehicle emissions. Although there are standards for motor vehicle emissions at both the commonwealth and state levels, their coordination will provide significant advantages.

I said the Environment and Natural Resources Committee had inquired into the operation of commonwealth places and the commonwealth's ability under the constitution to avoid complying with state planning and environment legislation. That concerns many people, but it will be brought into line by the bill.

During the inquiry the committee was impressed by the lack of complementary or similar legislation in the commonwealth sphere. From time to time the commonwealth government makes many statements but does not give them legislative backing or provide the resources to ensure they are complied with. Nevertheless, the commonwealth does not rely on statute law to the same extent as the state government.

To a significant degree, the commonwealth exerts its power and influences its own organisations through ministerial statements. On one or two occasions the committee was informed by nothing more than press statements by the relevant minister. In addition, it appeared that the commonwealth lacked the necessary resources to ensure its environmental requirements were complied with. From the commonwealth's point of view, the agreements provided for under the legislation will be of advantage because they will ensure compliance with regulations and so on and will obviate the need for a dual bureaucracy.

It would be fair to say that in my view and in the view of many others the worst thing would be to have the commonwealth and state governments trying to deal with the same problems without properly coordinating their efforts. We see that in areas for which the state government should have the main if not sole responsibility but into which commonwealth governments of both persuasions have intruded from time to time. Education is one of the clearest examples. There will be increased cooperation in the environmental sphere, for which the bill should be praised.

The legislation is clear on the procedures that should be adopted prior to the adoption of the measures outlined. For example, the drawing up and publishing of impact statements for public comment must be advertised. When the National Environment Council is deciding on a measure it must take into account the impact statement as well as public submissions and advice from expert committees. As I indicated earlier, council issues must be decided by a two-thirds majority, and they will be binding on both parties. The agreement gives the states a clear opportunity to take a leading role in dealing with these issues on a nationwide basis.

Issues that must be considered include the fact that local government may nominate a member of the council, who will attend and be heard at committee meetings; but the legislation does not provide for a vote in those circumstances. The bill recognises the importance of the third tier of government. I am sure that in other states, as in Victoria, responsibility for issues such as noise, planning, the disposal of garbage and rubbish, recycling and so on are borne in large measure by local government.

If there are to be additional restrictions or conditions placed on the operation of garbage tips or the disposal of hazardous waste, it would appear reasonable that the arm of government that will have primary responsibility for dealing with these matters should also have the opportunity to have its voice heard, if not be given a vote. One can see why there could be real concerns if giving a vote to local
government meant it could have as much influence as a state minister.

Currently there are no restrictions on many commonwealth government operations. That stems from the constitution, which gives the commonwealth the powers it needs in case of emergency — for example, during the Second World War. As a consequence, for good and proper reasons the commonwealth is not subject to any planning or other restrictions that may be imposed by state governments. It is a fast-tracking device to ensure that the bureaucracy does not have control over issues which are important in times of war or emergency but during which times of peace do not have the same degree of urgency.

As a result of the extension of that power, land such as the land at the Williamstown Rifle Range, which had been the property of the commonwealth government, was sold under conditions less stringent than those the states would normally have imposed on private individuals or private businesses. The committee was told that the commonwealth government was well aware of that fact but was able to gain a significant commercial advantage by avoiding being put in the position of having to abide by the normal disciplines. As a result it was in a better competitive position whenever land was sold, and it was certainly in a better competitive position as regards commercial operations. One person told me that this provision could allow a business that operated on a commonwealth property — say, Tullamarine airport — to avoid state franchise fees or licence fees on liquor or cigarettes and a wide range of other products. It has never come to that. The person who spoke to me said it would not surprise him if one day someone decided to test that possibility. As a result, the person or business would have the same degree of urgency.

I understand the legislation will create a precedent allowing the introduction of further legislation to ensure that untoward, unexpected and unplanned effects such as those will not take place. To not do so in our view would again be a very disadvantageous position for state governments and would not be in the best interests of the community or of businesses.

The bill also provides that the National Environment Protection Council must report annually to all parliaments on its activities, which allows an opportunity, if necessary, for debate to take place on the issues. Matters contained in any proposed legislation and any actions of the council can be examined by Parliament. The scrutiny inherent in such an examination is important in providing the public with information that engenders the public responsiveness and public pressure that lead to good and proper administration.

The issues of noise and visual pollution are also of current interest. For example, I have often listened to radio broadcasts and read press statements concerning the proliferation of towers built by Telecom, Optus and other telecommunications providers to service the mobile phone network. Many of us now carry mobile phones not as a status symbol but as a useful work tool.

Hon. D. A. Nardella — They are status symbols!

Hon. D. M. Evans — I certainly use the one I carry around in my car as a tool. The towers are stark in appearance: they ruin the countryside and they are a cause of concern among people. Yet if pressure is applied, the towers of different providers can not only be combined to reduce the impact on the local community but can also be disguised in innovative ways. One company in South Australia when faced with public concern did a deal with a local church and incorporated its tower into a large cross that became part of the church. Nearby, another company decided to build a tower that looked very much like a windmill. The decoration did not impede the effectiveness of the tower but made it more acceptable to local people.

However, without the sort of pressure that can now be brought to bear many organisations are inclined to ignore public opinion in the race to set up new communications technology. They do not have to abide by local planning laws or pay heed to environmental issues and therefore say to the local community, 'You can object all you like; we are going to put it there anyway. Be damned! There is nothing to stop us doing what we want to do'.

I am not sure whether the legislation covers the Telecom or other towers.

Hon. M. A. Birrell — It is a step in the right direction.

Hon. D. M. Evans — As the minister says, it is a clear step in the right direction which, for the benefit
of all citizens, I hope the commonwealth and the states will follow.

The key issue is that we are not at war at this time so there is no requirement for a total lack of compliance with acceptable and accepted environmental planning standards by a commonwealth instrumentality or a business operating under commonwealth legislation or under the aegis of the commonwealth. I am sure Dr Wells referred to the fact that commonwealth instrumentalities do not always show the same lack of responsiveness to communities that those in charge of telecommunications have demonstrated in recent times.

Australian Defence Industries is shifting from Maribyrnong to a site in the electorate of Benalla, just alongside my province of North Eastern. It has been most responsible in the way it is cleaning up the old site where munitions were manufactured for many years in Maribyrnong. The site has yielded a large variety of metals, which has been a significant commercial operation in its own right. I understand it is a profitable yield. When the site is fully decontaminated it will be a valuable asset, but the company was not required to decontaminate it. Australian Defence Industries has behaved commendably, responsibly and in a community-minded way and it has gained a little profit as a result of that operation.

Of course, lighthouses can be sold by the commonwealth government to the state governments. Although this legislation does not deal specifically with lighthouses, nevertheless the current state planning laws, if they could be extended in the way this legislation provides for extension — I hope no one will say anything about me being irrelevant —

Hon. D. A. Nardella — No, we would never accuse you of that.

Hon. D. M. Evans — The procedure could provide the facility to deal much more responsibly and maturely with the future of many lighthouses around the Victorian coast without the soft-shoe shuffle of money being passed from Canberra to Melbourne, with more benefit to Canberra than to the state government.

I believe it was worthwhile to make those few comments about the legislation. In supporting the bill I reiterate that the key issue is the good and cooperative approach that has been developed between the commonwealth and state governments. I am sure the approach that has been made will be of benefit to both, and it is a sign of the greater maturity of the state and commonwealth governments that this matter has been resolved in a sensible and mature fashion. I congratulate the minister —

Hon. D. A. Nardella — Now you are off the bill!

Hon. D. M. Evans — On the manner in which he has conducted negotiations that led to this important and interesting legislation. I hope it is not the last bill of its kind. I am sure it will not be, and I am sure it will mark the maturing of the relationship between the commonwealth and state governments. In that sense I have much pleasure supporting the bill.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank Dr Wells and Mr Evans for their contributions and I note the comments made by Mr Pullen. I thank Mr Pullen for indicating the support of the opposition for the bill. It is an important and historic moment when this proposal enjoys bipartisan support. As Mr Evans said, it is an historic achievement that we have reached federal-state agreement, but the heart of the success of the bill is the proposal, which is a cooperative one, that involves an agreed national forum and agreed national standards. The key word is ‘agreed’. It is not imposed by any one jurisdiction. There is a sharing of responsibility and as a result we have a unique sharing of the ownership of this proposal.

I am delighted that Victoria has taken the lead not only in establishing its part in the equation but also by being the first jurisdiction to establish the framework for delivering the outcomes of this reform, and in that sense we have gone the extra mile. That is the measure of the way we do things in this state.

There will be consultation on all the measures that come out of this proposal involving the public, and any proposal from the measure will require a
two-thirds majority to be accepted. That is a good model for cooperation in the future.

Mr Pullen remarked in passing about the resourcing of the EPA. It is a strong organisation. It is a body I respected when I was in opposition and it is one I greatly respect now I am in government. I have indicated the high regard I have for its chairman, and that is unaltered. I believe it is the best EPA in Australia and it is one of the leaders in the world. It is properly resourced and will be properly resourced in the future. It has done an outstanding job, and its budget next year will be similar to that of this year. It is getting on with its work.

The bill also takes up some opportunities for the state government to reclaim some of its rights against federal authorities which are able to act with immunity from the law. All other citizens, governments and private corporations are subject to the laws of the state, but for some historic reasons some federal bodies like Telecom, or some newly created corporations like Optus, and authorities such as the defence department are exempt from state environmental law. It is a classic anachronism which has evolved out of the rules that were appropriate at the time of Federation but are totally out of touch in the 1990s. The bill is the start of a process of correcting that legislative anomaly and it is hoped in a short time the federal authorities will be subject to the same laws as every other individual or corporation is.

This bill does not go far enough because the federal government would not go further, but it does make the first substantive steps since Federation because the federal government has accepted that its bodies should be subject to standard environmental laws. I am proud to be associated with the proposal, and particularly proud to be associated with a proposal that goes so far to enable Victoria to implement agreed national standards for the first time in history.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

JOINT SITTING OF PARLIAMENT

La Trobe University

Victoria University of Technology

University of Ballarat

The ACTING PRESIDENT (Hon. P. R. Hall) — Order! I have to advise that Mr President has received letters from the Minister for Tertiary Education and Training seeking a joint sitting for the purpose of making the following appointments:

three members to the La Trobe University Council following the expiry of the terms of the Honourable Ronald Alexander Best, MLC, and the Honourable Theo Theophanous, MLC, on 18 December 1994 and the Honourable Ronald James Herbert Wells, MLC, on 7 May 1995; three members to the Victoria University of Technology Council following the expiry of the terms of George Ian Davis, Esquire, MP, the Honourable David Mylor Evans, MLC, and the Honourable Licia Kokocinski, MLC, on 31 December 1994; one member to replace Bruce Allan Mildenhall, Esquire, MP, on the University of Ballarat Council.

I have received the following message from the Legislative Assembly:

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution:

That this house meet the Legislative Assembly for the purpose of sitting and voting together to recommend members for the appointment to the councils of the La Trobe University, Victoria University of Technology and University of Ballarat and, as proposed by the Assembly, the place and time of such meeting shall be the Legislative Assembly chamber on Wednesday, 12 April 1995, at 6.00 p.m. with which they desire the concurrence of the Legislative Council.

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

That this house meet the Legislative Council for the purpose of sitting and voting together to choose members of Parliament to be recommended for appointment to the councils of the La Trobe University, the Victoria University of Technology and the University of Ballarat and I propose that the time and place of such meeting shall be the Legislative Assembly chamber on Wednesday, 12 April 1995, at 6.00 p.m. with which they desire the concurrence of the Legislative Council.

Motion agreed to.
Ordered that message be sent to Assembly acquainting them with resolution.

LAND (REVOCATION OF RESERVATIONS) BILL

Second reading

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

That this bill be now read a second time.

The bill provides for the revocation of the permanent reservations of land described in the schedules to the bill and makes other related provisions. The bill removes these reservations either to facilitate sale of lands or because the purpose of the reservation is no longer appropriate for the existing or proposed use of the land. I turn now to the particular parts of the bill.

Clauses 1 and 2 of the bill set out the purposes of the bill and provide for commencement of its various provisions. Clause 3 of the bill deals with an area of land at Maryborough reserved as a public park in 1863 under the control of the City of Maryborough by virtue of a Crown grant. Maryborough Golf Club occupies an area of approximately 50 hectares at this location, 16.4 hectares of which is freehold land and the remainder Crown land.

Maryborough Golf Club has occupied the land for approximately 85 years and has expressed interest in acquiring the Crown land portion of the golf course. The bill provides for the revocation of the permanent reservation to facilitate the sale of the land.

The City of Maryborough, now Central Goldfields Shire, supports the application by the golf club and has agreed to the surrender of the Crown grant, revocation of the public park reservation and sale of the land provided its use as a public golf course continues. The sale will be subject to a section 173 agreement under the Planning and Environment Act 1987, restricting use of the land to golf club purposes and controlling land use.

Clause 4 deals with an area of land located to the north of Ballarat. The land is part of the Ballarat General Cemetery. This land was permanently reserved as a site for a cemetery in 1879 and a Crown grant issued to the Ballarat General Cemetery Trust.

The Roads Corporation, as part of its upgrade of roads associated with the Western Freeway (Ballarat Bypass), required a small area of 572.8 square metres of the cemetery reserve to accommodate a roundabout as part of a new intersection at this location. The land to be excised has not been used for burial purposes.

Recent investigations have revealed that following the Department of Health and Community Services and the Ballarat General Cemetery Trust agreeing to the excision, the roundabout was constructed in 1993. The bill revokes the permanent reservation and the Crown grant in order to legitimise its use by the Roads Corporation.

Hon. B. T. Pullen — It is a change from the second-reading speech in the other house.

Hon. M. A. BIRRELL — It is. The Minister for Natural Resources made an explanation about the change.

Clause 5 deals with an area of land located in Bendigo which was permanently reserved for market purposes in 1878, 1889 and 1890. The area has been reduced by a number of excisions and now covers approximately 8 hectares.

The land is controlled by the City of Greater Bendigo by virtue of a Crown grant. The grant contains conditions that restrict the use of the land to the purpose of the reservation and prohibit the sale of the land unless authorised by a law enacted after the date of the grant. The land remains in use as stockyards.

The land has been assessed as surplus to government requirements. The bill revokes the permanent reservations and the Crown grant to enable the site to be sold to the City of Greater Bendigo for future redevelopment.

The remaining provisions of the bill are provisions which are generally applicable to land bills of this type and which detail the consequences of revocation, provide for the Registrar-General and the Registrar of Titles to make necessary amendments to titles and provide that no compensation is payable in respect of the revocations and other matters dealt with in the bill.

I make the following statement under section 85(5) of the Constitution Act 1975 of the reasons why clause 9 of the bill alters or varies section 85 of that act. Clause 9 of the bill provides that it is intended to...
alter or vary the Constitution Act 1975 to the extent necessary to prevent the Supreme Court from awarding compensation in respect of anything done under or arising out of the bill.

The reason for preventing the Supreme Court from awarding compensation is as follows: to enable the Crown to change the status of reserved land, it is necessary to ensure that the land is no longer subject to any interests and rights arising out of the former use. The existence of these interests and rights, and claims for compensation based on them or on the former use of the land, could delay or prevent a change in the use or status of the land that is for the benefit of the community as a whole. To facilitate future use of some of the land to which this bill applies it is also necessary to revoke or excise from several Crown grants.

I commend the bill to the house.

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

Debate adjourned until next day.

DENTAL TECHNICIANS (AMENDMENT) BILL

Second reading

For Hon. R.I. KNOWLES (Minister for Housing), Hon. W. R. Baxter (Minister for Roads and Ports) — I move:

That this bill be now read a second time.

This bill is about false teeth — or, more correctly, who can lawfully deal directly with the Victorian public to make and fit dentures.

False teeth have been made since antiquity but it is only since the founding of dental science in the 18th century that dentures have come into common use. Early dentures were poorly made, usually ill fitting and very uncomfortable. By contrast, modern dentures are constructed with a high degree of accuracy and most use the capillary action of water, rather than wires or braces, to hold them in position.

The making and particularly the fitting of dentures requires a great deal of skill, and it is essential that those dealing directly with the public are both competent and have the requisite education and clinical experience to ensure that patients receive a high standard of oral health care.

In Victoria dentists are authorised by law to construct or adjust artificial teeth or examine the artificial teeth of a person for any purpose. The role of a dental technician is essentially to make up or repair dentures in accordance with the written prescription or under the supervision of a dentist. Dental technicians have no rights to deal directly with patients.

However, advanced dental technicians — that is, dental technicians who have undertaken an additional recognised course of training — do have the right to deal directly with the public in making and fitting full, but it must be emphasised not partial, dentures. Over the years advanced dental technicians have sought an extension of their clinical role to include the making and fitting of partial dentures. It has been argued that such a change would expand the available options for dental health care and assist in containing the cost of dentures in this state.

On the other hand, it has been suggested that the training of advanced dental technicians, particularly dental technicians who qualified under the grandfather provisions of the Dental Technicians Act 1972, is not of a sufficient standard to qualify advanced dental technicians to undertake this type of work.

Honourable members may recall that an earlier Labor Party bill attempted to resolve this dilemma by requiring advanced dental technicians to undertake a prescribed course before being authorised to make and fit partial dentures direct to the public. At the time no transitional course existed, and in the opinion of the government it was not in the public interest for the bureaucracy to determine whether or not some course yet to be developed was adequate for the purpose.

The major difference between this bill and the legislation introduced by the former administration is that it actually nominates the Partial Denture Bridging Course for Advanced Dental Technicians at the Royal Melbourne Institute of Technology as being the prerequisite qualification.

Even if the situation should change in the future, the bill will require that, before recommending any additional or substitute course, the Advanced Dental Technicians Qualifications Board must ensure that the course has been endorsed by the head of the School of Dental Science of the University of Melbourne.
The bill will further safeguard patients by requiring that a patient seeking partial dentures from an advanced dental technician must also have a current certificate of oral health signed by a dentist. This will further ensure that, in promoting the accessibility of dental services in this state, the legislation will not compromise Victoria’s high standards of dental health care.

I mention to the house that, as well as broadening the role of advanced dental technicians, the opportunity of the bill is being taken to make some machinery improvements and some technical changes to the Dental Technicians Act. These are described in more detail in the notes attached to the bill.

This legislation is an important initiative designed to provide the public with the maximum choice in seeking dental health care without the inherent deficiencies of the legislation introduced by the previous government.

I have pleasure in commending the bill to the house.

Debate adjourned on motion of Hon. C. J. HOGG (Melbourne North).

Debate adjourned until next day.

Sitting suspended 6.12 p.m. until 8.03 p.m.

TRANSPORT (TOW TRUCK REFORM) BILL

Second reading

Debate resumed from 22 March; motion of Hon. W. R. BAXTER (Minister for Roads and Ports).

Hon. PAT POWER (jika jika) — The opposition opposes the bill and therefore I move the following reasoned amendment:

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 —

(a) a public consultative process is in place to consider — (i) criteria designating controlled areas; (ii) guidelines for defining future needs for the allocation of additional licences; and (iii) details of the demerit point system;

(b) specific guarantees enabling the one or two licensed two-truck operators to stay in business are made; and

(c) an audit system to monitor industry performance is in place.’

Much of the theme of the opposition’s remarks were put on the record when the mutual recognition legislation was debated in this and the other house, creating what we believed to be deregulation of the tow-truck industry. At that time the opposition said deregulation would not work, and it believes it has not. In part that is the reason for the government’s revisiting this matter. Not enough of these issues have been met and hence our reasoned amendment which essentially calls for further work to be done and further clarification to be provided before we debate the bill.

Essentially our concern is that the bill does not address clearly enough the community expectation that drivers of tow trucks should be fit and proper people, in the normal community definition of that term. We argue that too many Victorians have had experiences during traffic accidents of being subjected to pressure, harassment and aggression by tow-truck drivers wanting to win work.

We said that at the time of the debate on the mutual recognition bill and we believe that problem still exists. My colleague Mr Davidson is reported in Hansard of 25 November 1993 as having said:

The opposition is concerned that the legislation will take us back to the bad old days when some of the tow-truck drivers employed bullying, stand over tactics ... They put people’s lives at risk by speeding and creating traffic hazards to get to an accident first in order to pick up the lucrative towing contracts. The opposition is worried about that because it does not want to see a return to the bad old days.

At page 1307 of Hansard, on the same date, Mr Ashman is reported as having said:

Concern has been expressed that the removal of the drivers certificates from driving school instructors and tow-truck operators, in particular, will result in a reduction in standards. That view is not supported.

He went on to say:

The removal of drivers certificates from tow-truck drivers will not return us to the bad old days.
On 24 May I raised with the minister on the adjournment debate an issue about tow-truck operators in my electorate. I put this question to the minister:

It is the view of Kiwi Autos that driver certification contributed to ensuring that suitable people were employed and that appropriate standards were applied to those who drove the tow trucks.

The minister responded to my adjournment issue by saying:

I do not want to convey the impression that I want to move away from tow-truck operators and owners being responsible for the behaviour of their employees.

At that time the opposition was saying quite clearly that it ought to be the responsibility of the government to require minimum standards in respect of the behaviour of tow-truck drivers travelling to the scene of accidents and being allocated work. In response to that adjournment matter, the minister said quite clearly that the government's view was that it ought to be the responsibility of owners.

The opposition argues that it was correct at that time, it is correct now and that the government bill clearly has not worked.

There has been a great deal of community debate about the operation of the tow-truck and vehicle repair industries, especially smash repairers and panel beaters and the impact of those two on the premiums Victorians pay when insuring their vehicles. The Age in particular has conducted a series of investigative reports on the matter. On 7 August 1994 the Age reported that since the removal of controls arising from mutual recognition, anyone with a drivers licence has been able to drive a tow truck without any training. The article quoted the instance of one tow-truck driver who, although he was on bail following criminal charges and was reporting daily to police, was still able to drive a tow truck as a consequence of the legislative circumstances created by the government.

The Age also reported insiders as saying that violence erupts because of the competitiveness of the tow-truck and smash repair industries and that some drivers are earning up to $2000 a week. I understand that tow-truck drivers say the risk of incurring $300 fines is minimal because there are not enough Vicroads or police enforcement officers.

I also understand that Mr Michael Kay, the AAMI's chairman of corporate affairs, has also expressed concern that tow-truck drivers have been receiving from panel shops secret commissions of up to 10 per cent of the repair costs of any damaged vehicles they deliver. That indicates the complexity of the matters relating to motor vehicle accidents.

It is not a question of deregulating the tow-truck industry or, as the minister told me earlier, of saying that tow-truck operators are responsible for the standards and the behaviour of their drivers. As Mr Mier says, there has been clear evidence on this for many, many years. There are complicated but nonetheless obvious connections between tow-truck operators, smash repairers and insurers. We need to address each and every one of those issues rather than turning our backs on them by saying that tow-truck companies are responsible for controlling their drivers. It is not good enough for this government to introduce legislation that enables a person who is on bail after being charged with a criminal offence and who has to report to police each day to drive a tow truck. Every member of this chamber would agree that such a person is not fit to drive a tow truck or to arrive at the scene of an accident where fatalities may have occurred and where people are almost always upset and traumatised.

On 26 December last year the Age reported that the Australian Taxation Office was aware of fraud in the smash repair industry, which the taxation office estimated to be worth up to $60 million a year, an enormous amount of black money. That ought to encourage the government to address the tow-truck, smash repair and insurance industries in a wholesome way rather than turning its back and suggesting that tow-truck operators regulate the behaviour and standards of their drivers.

As a consequence of the work it has done on fraud the Australian Taxation Office estimates that about $130 is added to each insurance premium that each Victorian motor vehicle owner pays each year. About one-third of that $130 can be attributed to the real cost of the black market fraud.

The same Age article also said that the government's scrapping of tow-truck driver certificates last year had led to the return of a criminal element. That, says the Age, came from conversations with tow-truck operators and police. The Age made that observation as a consequence not of having talked to people on this side of the house but of having talked
It is just not possible to come to any other conclusion than that they do have to flout the law, not just on the basis of the information that comes from personal experience or from the investigative work of journalists at the Age, but from an examination of those cash-flow figures. How can a tow-truck operator service the outlay of some $85 000 or $100 000 for a licence without flouting the law?

Further information about this confusing mix of issues comes from quotations that are often given for smash repair work. I am sure that all members of this house have had experience — not necessarily in relation to vehicles that they were driving at the time — of the different quotes that you can get. I suspect that if each of us went out to two or three smash repairers and asked for quotes on the basis of the jobs being private for which we would pay cash, we would find an alarming difference between those quotes and the quotes that we would be given if we said we were claiming the jobs through insurance. I suspect also that if there were a thorough audit of those two situations, private quotes as distinct from insurance quotes, we might find that insurance quotes can be as much as 50 per cent higher than quotes given to private individuals.

We all know the sort of instance where a quote refers to three coats of paint being applied to a completed vehicle when a close examination indicates that probably only one coat of paint was applied.

If you go further into this examination of quotes I believe you can build up statistics to show quite clearly that there is a direct relationship between high quotes and vehicles that are delivered to panel shops by tow trucks.

During the debate on the mutual recognition legislation we said that it amounted to deregulation of the tow-truck industry and that the government was wrong in saying that the issue could be pushed back into the hands of tow-truck owners and operators. As I said before, I gave an example of tow-truck operators in my electorate who did not support the government’s decision and who said that the decision to deregulate would cause problems and that the regulation of the tow-truck industry meant that standards of behaviour and propriety could be ensured.

I turn to some of the problems that the opposition sees in the Transport (Tow Truck Reform) Bill. Earlier in my contribution I mentioned that there was little point in having regulations and legislation
if there were not sufficient personnel to police those laws and regulations. We argue that there are not sufficient Vicroads officers, and there are almost certainly not sufficient police officers to enforce those laws and regulations.

As I indicated before, if you speak to tow-truck drivers you will see that they have little concern about the threat of a $300 fine for infringing a law or a regulation because it is their experience that on a cold, wet night or day it is highly unlikely that Vicroads officers or police will be about to either rule on an infringement or to institute legal proceedings.

At this point I do not want to take up time by commenting on the degree to which downsizing in Vicroads has led to the shortage of these very talented and experienced officers. I think one of the problems with downsizing is that the work force members who are most skilled and valuable are too often those people who leave: downsizing leads to a deskilling of the work force. A clear example of that is policing in Vicroads.

We believe the legislation before us also does not address the almost comical situation that where on the open market tow-truck licences can be sold for between $85 000 and $100 000, in the official paperwork those licences will induce on average a cash flow of only some $7600. The reality is that by failing to address that aspect the government is essentially turning its back on and allowing the black market money that exists within the industry.

Hon. B. W. Mier interjected.

Hon. PAT POWER — How can an outlay of $85 000 to $100 000 be serviced in these circumstances and on the basis of this information if it is not for black money; if it is not, as Mr Mier says, tax avoidance?

The opposition also argues that the legislation fails to address the issue of oversupply: it fails to touch on the issue that there are almost certainly too many tow trucks and repair businesses in the community to support the industry at a sustainable level.

We are also concerned about consultation. We understand that there are rumours that regions like the Mornington Peninsula and the Geelong regions support those regions becoming controlled areas.

Will the infrastructure allow them to be in controlled areas and to deliver appropriate levels of service or will we see an extension of the fraud and rorting that already exists in other areas?

The allocation system is a further problem. We do not believe the current legislation addresses the way the allocation system is working. If it is working, why is it that often more than one tow truck arrives at an accident scene? Is it not true that under the allocation system an authorised driver must produce his authority not only at the accident scene but also at the destination point? There would be less confusion at traffic accidents if the allocation system were working properly.

I also refer to the oversupply of licences, to which I referred earlier. The opposition argues that the legislation does nothing to establish how many tow trucks a modern community requires. How many licences should be issued and should those licences be issued by tender or by a fixed sale price?

The opposition opposes the legislation and argues for the reasoned amendment because it believes the bill will not bring order to the tow-truck industry, address the oversupply in the smash repair business, reduce repair costs and lower insurance premiums. If the government is fair dinkum about wanting to bring order to the tow truck industry, it must accept that industry’s strong connection with the smash repair business and the insurance industry. The government should develop a package that will reduce as much as possible the additional $130 that each Victorian car owner has to pay as part of his or her insurance premium to subsidise the very questionable activities that are almost certainly occurring in the community.

The opposition argues that more work is required. Insurance companies, smash repairers, tow-truck operators, Vicroads personnel, police and the general community should all be involved in addressing this complicated issue. We do not want to boast about the fact that our comments on the Mutual Recognition (Victoria) Bill as recorded in Hansard have come home to roost. Nevertheless, the comments of Mr Davidson and others at that time have proved to be correct. Mr Davidson’s comments have been ratified by investigative journalists from the Age and by senior personnel from insurance companies such as AAMI.
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The government failed to take our advice at that time. But on behalf of the community we encourage the government to accept our advice on this occasion. I repeat: it is not a question of the opposition wanting to stand in the way of the reform of the tow-truck industry, the smash repair industry or the car insurance industry. To the contrary, we believe the legislation would be improved if the government agreed to our reasoned amendment, which says that until:

(a) a public consultative process is in place to consider — (i) criteria designating controlled areas; (ii) guidelines for defining future needs for the allocation of additional licences; and (iii) details of the demerit point system

the bill should be withdrawn. We believe we had the arguments then and we believe we have the arguments now. The government should accept the reasoned amendment, which would enable the legislation to be improved by the process we have outlined.

Hon. G. B. ASHMAN (Boronia) — I have listened intently to Mr Power’s contribution on the bill. I believe he has put forward a compelling argument for allowing the legislation to proceed. He has outlined what he sees as some of the difficulties with licences and accident allocations. I believe there are difficulties with much of what he put forward. Further, I believe the bill addresses many of the issues to which he alluded.

In arguing for the reasoned amendment he suggests we should delay making any progress. He says we should sit on our hands for another six months and await the outcome of further consultation and discussions with a number of groups in the hope that yet another talkfest will come up with procedures that will address the licensing and allocation problems he believes the current system has.

The bill provides for a trade towing licence, an accident towing licence and a heavy accident tow-truck towing licence and makes it quite clear what is required to obtain those licences. All honourable members would acknowledge that the original legislation was deficient in many ways, was not working and needed review. The proposed legislation addresses many of the problems raised by the opposition and, importantly, problems that have also been raised with the government by participants in the industry — tow-truck operators, panel operators, the RACV and the organisations that represent the players in the industry.

The bill sets out clear procedures for the issuing of an accident driver towing authority. It also prevents any person who has been convicted of a level 1 offence and a number of level 2 offences from obtaining an accident towing licence. Some of the examples Mr Power gave us are clearly covered by that licensing requirement, which is very similar to that which applies to taxi drivers, so providing a level of consistency across the professional driver industries.

The rules concerning applications for licences are the same for both corporations and the directors of those corporations to ensure that an inappropriate person cannot be a director of a company that owns and operates a tow truck. It is appropriate that the bill provides that all such directors must pass a test of probity. There is a safeguard in the system: if any person feels he or she has been unfairly dealt with there is an appeal process through the AAT. I am sure honourable members will welcome that provision.

The allocation centre will continue to operate. There is a provision for the piggybacking of tow-truck licences. It is obvious to us all that licences have a high value. It is also apparent that a large number of tow trucks have been sitting on blocks. Although those tow trucks are registered and able to take their entitlements through the allocation system, they do not turn a wheel. The government is providing for the consolidation and piggybacking of licences with the transfer of entitlements to one truck. The measure makes sense and should reduce the cost of operation of a number of operators.

The legislation also increases penalties for unauthorised tows. The government is putting in place a system of allocation numbers to try to identify unauthorised tows. The numbering system will flow through the repairers to the insurance industry. Repairers will have an obligation to check with the accident allocation centre that a vehicle that has arrived in his or her workshop has the appropriate allocation number. If there is no allocation number on the vehicle there is provision for the issuing of a supplementary allocation number, which will automatically trigger an investigation by the Vicroads inspectors or other appropriate authority.

The penalty proposed of 50 penalty units or $5000 per offence will have a significant impact. Although the government acknowledges that large sums of money are moving around in the industry and clearly commissions have been paid by panel shops,
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not many panel shops in this state could afford to cop a $50000 penalty — it would do some damage to their bottom line and they would very smartly comply with the requirements. That would also create a trail of prosecution back to the tow-truck operators, to both the driver and owner of the vehicle.

The proposed demerit points system provides for the suspension of the tow-truck licence and of the towing driver authority on the accumulation of the prescribed number of points. It is suggested at this stage that there be a stepped system under which the drivers and owners would get a significant warning and subsequent offences would lead to the suspension of the licence of the vehicle. If, as has been stated by Mr Power, the vehicles cost more than $100 000 there will not be an operator who will be prepared to allow his or her $100 000 investment to sit idle. Some rigour will be applied by owners of the vehicles in disciplining their operators to ensure that the vehicle is on the road and capable of earning money.

The driver authority will also apply to any other person who is travelling in the vehicle. Any person who is travelling in a vehicle as a jockey, as has been common practice over the years, will be required to meet exactly the same requirements as the person who is driving the vehicle. That is particularly important because we all understand that people involved in accidents are usually quite emotional, disturbed and shaken. The last thing they need is to be pressured into signing with a particular tow-truck operator or a particular panel shop. The government has made provision in the bill for a cooling-off period so that if a motorist signs with a particular panel shop he or she has 48 hours to reconsider, in the calm of the following day, the decision to authorise that panel shop to carry out the work. That will ease the pressure on all involved at the scene of an accident. As I have indicated, a driver authority must be held by all persons who attend the scene of an accident in a tow truck.

The bill facilitates the transfer of licences and as the industry goes through its restructuring it is probable that there will be a number of applications for transfers.

The arguments put by opposition members so far support the bill. The proposed reasoned amendment is a delaying of action. There is no question that there will be further consultation. Already widespread consultation has taken place on this legislation. Given the nature of the industry honourable members would understand that it is difficult to get universal agreement across the industry. There are vested interests involved. Some would prefer to have the dog-eat-dog approach and not to have the industry structured in such a way that it provides customer service. Some in the industry see an accident as an opportunity for them to cream off as much as they can from vehicle owners and the insurance industry. There will be ongoing auditing of and referencing with the industry on the effectiveness of the legislation.

The bill also provides for the extension of the allocation zone. A deliberate decision has been made to give the minister the authority to regulate to extend the allocation zone. It is equally proper to say now that any extension to the allocation zone will occur only after consultation with the industry and following an examination of the equity in any proposed extension of the system.

As I have indicated, I believe the opposition has made a strong case for the legislation to proceed post haste. I commend the bill to the house.

Hon. B. E. DAVIDSON (Chelsea) — There is an old saying, 'None so blind as those who will not see'. I do not put the government into that category but I say it is a little slow focusing. The opposition warned the government when it introduced the Transport (Amendment) Bill (No. 2) that there would be serious consequences as a result of some of the provisions contained in that bill. We said we had some concerns about some of those amendments, and now the bill seeks to correct some of the aspects that we warned about.

I do not believe opposition members were the only ones to realise there would be problems: I believe many members of the government would have been well aware of the problems that lay in wait as a result of that legislation. I am sure the honourable member for Frankston East, Mr McLellan, who had been a tow-truck driver, would have been well aware of the problems that would ensue as a result of the legislation. I wonder whether these members spoke up in the party room and warned the government that there would be problems. I wonder why the government did not listen to those in its own party who would obviously know better. However, it did not do so and it is a matter of record that the legislation passed through Parliament and must now be amended.

Mr Ashman was right in so far as the opposition made a case that probably did not oppose the bill,
but it is interesting that at long last the legislation will be put right. The opposition is concerned that we should not revisit the vexed question of tow-truck industry reform in a few years time. With the best will in the world — and I say the government probably has the best will in the world — it has probably not gone far enough. I understand that the government has not consulted with the industry representative, the Victorian Automobile Chamber of Commerce, on the final draft of the bill. I have been told that is the case.

Hon. W. R. Baxter — Rubbish!

Hon. B. E. DAVIDSON — This bill could wind up being not entirely another quick fix but a medium-term fix to a problem. We do not want another bill in a few years time that attempts to fix up yet another muck-up in the industry!

I shall not reiterate the matters that were raised by Mr Power about the obvious rorts emanating from repair shops and how this affects our insurance bills. I shall not talk about those people who pay backhandersto the tow-truck operators and who skim on jobs that come into their yards; nor shall I reiterate the obvious lack of viability in the tow-truck industry. I simply remind the government about a couple of matters that were put during the debate on the Transport (Amendment) Bill (No. 2) because this was the result of mutual recognition legislation.

It was put to us that it is absurd that a person who is qualified in another state should not be equally qualified in Victoria to drive a tow truck. The same attitude was taken to driving instructors. We have a situation at the sharp end that people who teach others to drive need no qualifications other than the fact they hold driving licences. They can instruct people how to drive a car. If there is a wrong way to start things off this is it!

Although mutual recognition legislation is a pretty good idea and in the main it may have worked well, we must be ever vigilant to ensure that it does not become legislation of the lowest common denominator: that the lowest standards in any of the states or territories are good enough for Victoria because we will sacrifice our standards on the altar of mutual recognition. That is what is happening here.

To remind the minister and government members I refer to page 1305 of Hansard on Thursday, 25 November 1993 when I said:

The opposition is concerned that the legislation will take us back to the bad old days when some of the tow-truck drivers employed bullying, standover tactics on victims. They put people's lives at risk by speeding and creating traffic hazards to get to an accident first in order to pick up the lucrative towing contracts. The opposition is worried about that because it does not want to see a return to the bad old days.

I did not go on about it because I thought it was enough to make that point. It was interesting to note that Mr Ashman saw fit to comment on my remarks, and on the same day, as recorded on page 1307 of Hansard, he said:

Concern has been expressed that the removal of the drivers certificates from driving school instructors and tow-truck operators in particular will result in a reduction in standards. That view is not supported. One would look to the industry associations and the industry itself to demand that they maintain their standards. It is the responsibility of employers to maintain the standards of their employees. In many instances in the past employers have abrogated their responsibility in respect of the qualifications of their employees and relied heavily on drivers certificates. The removal of drivers certificates means that tow-truck operators and driving school owners will become more accountable for the standards and qualifications of their employees.

The removal of drivers certificates from tow-truck drivers will not return us to the bad old days. The accident allocation system is one means of policing the activities of tow trucks at the scene of accidents. Many accidents are attended by police, and I am sure the police will not allow the practices of the past to return. Indeed, the tow-truck operator of today is far more professional in his approach to the industry than was the case 20 years ago;

Those words now sound hollow! At least Mr Ashman has had a wry grin about his remarks.

Hon. W. R. Baxter — He is reflecting on what a good speech he made.

Hon. B. E. DAVIDSON — I note that he is indeed blushing and just so you will not feel left out, Mr Minister, I could quote some of your pearls of wisdom.

Now we are going to try to correct the mistakes of the past. For that the government should be congratulated because the mistakes certainly need to be corrected. We have moved the reasoned
transports (Tow Truck Reform) Bill

Hon. B. W. Bishop (North Western) — With much pleasure I support the Transport (Tow Truck Reform) Bill. As a member of the bill committee that processed the bill, I found it an interesting time. The committee went through a long and wide consultative process across all sectors of the industry. Before I make any comments on that, I will respond to some of the comments made by Mr Power and Mr Davidson. Like my colleague Mr Ashman, I listened intently to what Mr Power said. In general he did not appear to be against the bill; like my colleague, I believe he presented a compelling argument in support of the bill. I was interested to note his comments that any reform should be industry driven. In fact the consultative process that the committee and the minister went through was very wide. I suggest it included all sectors of the industry and I suggest it was a good consultative process.

The reasoned amendment appears to be putting off action on the issue and fiddling around while Rome continues to burn. It is interesting to note that in his comments Mr Davidson supported the bill. I note also that both speakers from the other side of the house seem a bit bemused by the Mutual Recognition (Victoria) Act rather than concentrating on the bill before the house.

I refer to the interesting time the committee had in considering the bill. It was particularly interesting to have the honourable member for Frankston East from the other place who provided the committee with some good hands-on advice from his wide practical experience in the tow-truck industry. I can recall people, but particularly him, talking during the committee process about people carrying shotguns and that worried me considerably until we questioned him about this. He was not referring to a weapon, but to someone big and very strong and, as the honourable member from the other place put it, could go well in a blue and look after his back. Members of the committee heard of tow-truck operators working in the past while intoxicated. Obviously the drink-driving laws have taken care of that problem. We heard also during that consultative process of tow trucks being run off the road or being set on fire and of people being beaten. They were great stories but in fact it was a sad state of affairs for the industry.

We heard of spotters and trucks racing to the accident scene. We heard of violence and threats being made at the accident scene and also of drivers winning a tow and perhaps getting a kickback from a panel shop if they delivered a vehicle to a particular panel shop. Later I will make this point again, but I make it now so it is very clear: it must not be assumed that what I have described is what the whole industry is like. Anyone who spent any time looking at the tow-truck industry would know that. However, the activities of that small undesirable section need to be addressed for the sake of the industry at large and for our motoring public.

The bill is a good measure as it reflects community concern. Despite Victoria's good record in improving our road toll statistics and decreasing our accident road trauma, there is a need in this state to ensure that the correct checks and balances are applied to what is an essential service industry to our community. There is no doubt that Victoria's good record has generated a shrinking market for the work of tow-truck operators and that has also generated intense competition. That is probably a good thing on its own but it is not a good thing if it is linked to violence and undesirable practices in the tow-truck industry, right through to the panel shop.

Many of those who have arrived at or been involved in road accidents will acknowledge that at that time people are most vulnerable. There is no doubt that anyone involved in a road accident is upset. As was mentioned by the previous speakers, unfortunately there is a fair chance that someone involved will be injured or, at worst, there could be a fatality.
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Members of our community are vulnerable in such circumstances and they want the protection that Parliament can give them. They deserve a system in which they are treated well, professionally and compassionately, if the particular incident calls for that, and one in which they are not ripped off as a vehicle moves through the accident, tow and repair stream.

Again I make it plain that not all players in the industry are bad. However, it takes only one apple to spoil the whole barrel and, due to the unfair gains that can be won by the undesirable acts of some people, we need to take some swift action to ensure that our communities are protected from the undesirable activities that lower the standards of a necessary service industry in the state.

My colleagues who have spoken before me have competently explained the technical details of the separate categories of licences for accident, heavy accident tow truck, and trade towing. The new licensing provisions will eliminate the nonsense of operators having tow trucks on blocks and the trucks never being used other than simply to distort the owners’ ability to unfairly gain a market-share advantage.

One of the key elements of the bill provides that when an allocation is made in a central area a number is attached to that allocation and must follow the vehicle right through the system to prevent unauthorised interference with the vehicle. This will relieve many doubts that people have when they commit a vehicle to the process of accident, tow and repair.

Heavy penalties that will apply unless the protective process is adhered to will again focus industry attention on the need to clean up the undesirable actions of what I repeat is only a small sector of the industry.

Although the demerit point system is innovative it is not without precedent because obviously it occurs with drivers licences.

The bill will mean that more efficiency is injected into the accident-tow-repair chain of events. This fact must be recognised by the insurance industry, which is a major player in the process. The insurance industry will have the challenge of returning those savings through reduced insurance premiums to the community.

I now move to the clauses concerning country Victoria, which is the area I represent. Proposed section 183A provides the mechanism to put in place controlled areas where none exist at present. During the consultative process of the bill I was approached by a leading tow-truck owner and smash repairer in the north-west who strongly believed the bill should contain an option so that controlled areas could be created in new areas that demonstrated a need for them. Another new innovation in the country is that we have the ability to trade tow by trailer to allow disabled vehicles to be transported by trailer to their place of repair or be transported by trailer into a controlled area or provincial city for repair.

The previous gentleman I mentioned, Mr Terry Wright, who has a large business in the Mildura area covering all sectors of the industry and who is also national president of the Auto Parts Recyclers Association of Australia raised concerns that trade towing by trailer may challenge the viability of some of our small town tow-truck businesses.

However, to his credit he raised those concerns not because his business may suffer but because it was of concern to other sectors of the industry. If his concerns become reality, his business would probably gain, so he is really supporting the industry in general.

The committee and the minister have considered this issue carefully with advice from many sectors of the industry. On balance, it will provide a more cost-effective service to country areas and will improve the safety and wellbeing of motorists who may be stranded in isolated areas and who will be able to call up a well-equipped trailer combination to quickly and efficiently transport their disabled vehicle to the repairer.

Mr Wright and the VACC raised the issue of the suitability of trailer type to ensure that no further damage occurs to the vehicle if it is put on a trailer and towed to the repair site. They also raised the important issue of the safety of those particular trailers. The committee appreciates their practical and sensible contributions and will ensure that the regulations concerning trailer standard and safety are fully addressed.

I commend all those who united to produce a good bill. It is one the industry and the community we represent will welcome. It will certainly be beneficial to the industry — be it tow-truck operators, repairers, the insurance companies or, most importantly, our motorists. They will see the
financial benefit resulting from injecting efficiency measures into an important service industry and putting some practical, sensible control into what, without doubt, is only a small section of undesirable people who, by their equally undesirable actions, give a bad name to the solid core of reputable people involved in this essential and important service industry. I commend the bill to the house.

**Hon. W. R. BAXTER** (Minister for Roads and Ports) — I wish to respond to some of the remarks made by Mr Power when he moved the reasoned amendment, and also to the support given to it by Mr Davidson.

I concur with my colleagues Mr Ashman and Mr Bishop that in listening to the contributions from two members of the opposition one gains the clear impression that they were speaking in support of the bill and certainly their hearts were not in the reasoned amendment because neither of them even mentioned parts (b) and (c) of it — we received no explanation about them at all.

But firstly let me dispose of the furphy pedalled by Mr Davidson that there has been no consultation on the bill. He had the gall to say that I have not consulted with the VACC on the final draft of the bill. I happen to have with me a letter signed by Mr R. J. Davison, Executive Director of the VACC dated 30 March 1995. Bearing in mind that the bill was introduced in another place weeks before and had been introduced in this place prior to 31 March, the letter says, among other things:

> We reiterate our concerns, expressed at the meeting of 17 March —

after the final bill was out in the public arena —

that the introduction of trailer towing, for commercial purposes in country areas, will lead to a reduction in accident attending tow trucks...

This was an issue not mentioned by the opposition at all. It was a legitimate concern of the VACC about which I consulted it; yet Mr Davidson states that we did not consult the VACC on the final terms of the bill. I had discussions on the telephone with representatives of the VACC only in the last day or so — —

**Hon. B. E. Davidson** — It is a long time after the bill was introduced in the other place, Minister.

**Hon. W. R. BAXTER** — You alleged we had not consulted at all. I am saying we had ongoing consultation right up to the last few hours. I also draw Mr Davidson's attention to a letter from the RACV dated 21 March 1995 which states:

> Dear Minister,

I write to congratulate you on the introduction of the Transport (Tow Truck Reform) Bill, which will lead to greater efficiency, cost savings and additional protection for motorists.

The RACV with a membership of 1.5 million members —

some of whom probably vote for the opposition —

and as one of the largest users of commercial trade towing providing members with 150 000 tows each year at a cost of around $7.5 million, we were appreciative of the opportunity to have input into the bill's contents.

Again this is clear evidence of consultation. I also advise Mr Davidson that there was extensive consultation with the tow-truck industry before the bill was even in its draft form by way of newsletters and questionnaires. I also consulted with the insurance companies, and in particular with AAMI, the Commercial Union Assurance Company and the RACV. I consulted with the Heavy Towing Tow Truck Operators of Victoria and in particular with Mrs Ruth Sampson. I also consulted Mr and Mrs Kerry Revell of Swanpool, who operate a heavy towing operation and also a prospective tow-truck operator at Wunghnu. I consulted with Mr and Mrs Murdoch, who are tow-truck operators and panel shop owners in Geelong with a particular concern. However, there was not one mention by the opposition of those concerns. Nevertheless, I had a meeting with those people in my office.

I have been out to inspect the Accident Towing Allocation Centre and I invite opposition members to state whether they have visited the centre, because I suggest that they have not. They have no idea about how the accident allocation system works in practical terms. That was clear from the remarks made by Mr Power, who attempted to weave into this mystery about driving certificates the fact that tow-truck licences are worth thousands of dollars.
when, on the accident allocations, they would generate only $7400 in income a year.

In the typical fashion of the Labor Party and following on from the way it wrecked the economy of this state when it was in government, opposition members showed that they simply do not understand business at all. Mr Power completely overlooks the fact that one of the biggest incomes from a tow truck is not from accident towing but from trade towing. That is what trucks are doing every day of the week.

Mr Power completely overlooked that; he did not put that into his equation. He did not demonstrate to the house that that is one of the ongoing day-to-day business activities of a tow-truck operator. As I said, he completely overlooked it, either through ignorance or because he was trying to mislead the house. He talked about driver certificates and their being abolished by the mutual recognition legislation and how, to use his words, 'harassment and aggression has broken out'.

Hon. B. W. Mier — You’re a bum!

The PRESIDENT — Order! Mr Mier is not helping this debate. He is out of his seat. I invite him to resume his seat or leave the chamber. Mr Davidson, who was speaking not on that occasion but before, has made his contribution. I suggest he waits until we move on.

Hon. W. R. BAXTER — Mr Power talked about the harassment and aggression that had suddenly broken out as a result of the abolition of DCs under the Mutual Recognition (Victoria) Act. I point out that that is a commonwealth act which was introduced by a party of the same political persuasion as his own — and which has been taken up in some respects by this government.

Mr Power did not produce any evidence of the outbreak of harassment and aggression other than to allude to articles in the Age by people he referred to as investigative journalists. It might have been useful if he had produced the article and we could have examined whether it had much substance. There is a lot of hearsay out there to that effect. People have been peddling stories such as those, but precious little evidence has been produced. The police have not suggested there has been a sudden outbreak of aggression and harassment.

In any event, the government took the view that driver certificates were an inappropriate device because they gave tow-truck owners some sort of comfort and some form of defence. An owner was therefore able to say, 'This cove has a DC issued by Vicroads so I can hire him as a tow-truck driver. I do not have to be responsible for his behaviour. Vicroads have given him a DC'.

We all know what it was like under the last government. The standing joke was that if you had been released from Coburg college and had got a DC from Vicroads to drive a taxi or a tow truck, you were on the cat's back! That is what DCs were worth. Anyone who doubts it should have regard to the report on driver certificates by the parliamentary committee chaired by the Honourable Ken Smith. I happen to have some of that committee's observations on DCs, but I will not bore the house with them because they are well known.

This government is putting in place an accident towing driver authority, which will ensure that drivers are properly educated about their responsibilities and duties and that tow-truck owners and operators are responsible for ensuring they employ suitable and competent drivers. It will be a far better, far tighter and far more reliable system than the driver certificate system ever was.

Mr Power says drivers are not worried about $300 fines, claiming that they will pay them anyway. I invite him to look at the penalties in this legislation. He alleged that tow trucks turn up at accidents willy-nilly, but he did not produce any evidence. I am not saying it does not happen on occasions — perhaps it does — but Mr Power should have regard to proposed section 183B, which is headed 'Offence to attend accident without authorisation':

1. A tow truck driver may not, without having obtained authorisation from, and been given a job number by, an allocation centre —

   a. attend an accident scene within a controlled area; or

   b. tow or attempt to tow a damaged vehicle from such an accident scene.

Penalty: 50 penalty units.

A fine of $5000! So much for Mr Power's $300 fines. The point was well made by Mr Ashman: which business can afford to be copping fines of that magnitude? The answer is none. The bill will go a long way towards ensuring that the towing industry is properly run and administered and that any people who are unfortunate enough to be involved in accidents will at least have some assurance that they will not be ill treated or subjected to the sort of
coercion and harassment Mr Power alleges is occurring.

Let me finally refer to the reasoned amendment, which both opposition speakers spoke so little about. It refers to:

(a) a public consultative process is in place to consider — (i) criteria designating controlled areas

The bill does not create any new controlled areas; it simply provides a head of power for their creation. If Mr Power wants it, there is ample evidence available to ensure the issue is considered further before any controlled areas are established because the bill certainly does not call for their establishment at any particular time. The reasoned amendment continues:

... (ii) guidelines for defining future needs for the allocation of additional licences ...

If you bear in mind that Mr Power went to great lengths to demonstrate to the house that there are already too many licences, I do not think even he is contemplating an influx of new licences in the marketplace; so there is certainly plenty of time to do that as well. The amendment continues:

... (iii) details of the demerit point system ...

I should have thought the bill spells them out very clearly. I do not see why we should delay the passing of the bill just to consider the demerit point system if by so doing the harassment and aggression that Mr Power says is out in the marketplace is allowed continue. I turn to paragraph (b) of the reasoned amendment, which was not mentioned by either speaker. It refers to:

(b) specific guarantees enabling the one or two licensed tow-truck operators to stay in business are made ...

I will read that again because I do not know what it means. It refers to:

(b) specific guarantees enabling the one or two licensed tow-truck operators to stay in business are made ...

It is nonsensical! I do not have a clue about what it means, and it was not referred to in any detail by either speaker. To continue:

(c) an audit system to monitor industry performance is in place.

Again, that was not referred to by either speaker. I do not disagree with an audit system being in place. Of course, there will be one. The bill will establish a towing directorate that will be similar to the Victorian Taxi Directorate, which I think even the opposition admits has done extremely well in cleaning up the taxi industry, giving us an industry of which we can all be proud. That tow-truck directorate will certainly have auditing and monitoring systems. I cannot accept that the opposition has made any sort of case for its reasoned amendment, and I believe the house should reject it.

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
Connard, Mr
Cox, Mr
Davis, Mr
de Fegely, Mr

Evans, Mr
Forwood, Mr
Guest, Mr
Hall, Mr
Hartigan, Mr (Teller)
Skeggs, Mr
Smith, Mr
Stoney, Mr
Storey, Mr
Strong, Mr (Teller)
Varty, Mrs
Wells, Dr
Wilding, Mrs

Noes, 11
Davidson, Mr
Gould, Miss
Henshaw, Mr (Teller)
Hogg, Mrs
Ives, Mr (Teller)
Kokocinski, Ms

Mier, Mr
Nardella, Mr
Power, Mr
Pullen, Mr
Theophanous, Mr

Pairs
Craig, Mr
Hallam, Mr
Knowles, Mr

Walpole, Mr
McLean, Mrs
White, Mr

Amendment negatived.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 agreed to.

Clause 2

Hon. W. R. BAXTER (Minister for Roads and Ports) — There are a number of technical
amendments to the bill which I would like the committee to give consideration to. I do not think I need make any further remarks other than those I have just made on the reasoned amendment. I am happy to go direct to clause 12.

Clause agreed to; clauses 3 to 11 agreed to.

Clause 12

Hon. W. R. BAXTER (Minister for Roads and Ports) — I move:

1. Clause 12, page 29, after line 27 insert —

   "; or

   (iii) in the case of a damaged vehicle that the holder of a heavy accident tow truck towing licence may tow, a heavy accident tow truck towing licence —".

This bill provides that it is a defence to a charge of failing to release a vehicle, or failing to ensure that other people at a place where the vehicle is release a vehicle if the person is owed money by the owner or the owner’s agent in respect of towing charges and if the person holds a tow-truck licence or an accident towing licence. This provision should also have referred to heavy accident tow-truck towing licences so as to be consistent and equitable. This proposed amendment corrects that anomaly.

Amendment agreed to; amended clause agreed to; clause 13 agreed to.

Amendment agreed to; amended clause agreed to; clause 13 agreed to.

Clause 14

Hon. W. R. BAXTER (Minister for Roads and Ports) — I move:

2. Clause 14, page 31, line 5, omit “(3)” and insert “(4)”.

3. Clause 14, page 31, line 10, omit “(1)” and insert “(2)”.

4. Clause 14, page 31, line 14, omit “(2)” and insert “(3)”.

5. Clause 14, page 31, line 18, omit “(3)” and insert “(4)”.

6. Clause 14, page 31, line 22, omit “(6)” and insert “(7)”.

The five amendments to clause 14 all correct incorrect numbering in the bill. I apologise that that was not picked up previously.

Amendments agreed to; amended clause agreed to; clause 15 agreed to.

Clause 16

Hon. W. R. BAXTER (Minister for Roads and Ports) — I move:

7. Clause 16, page 37, after line 24 insert —

   "; and

   (e) holds a full driver licence to drive a motor vehicle under the Road Safety Act 1986.”.

Amendment 7 deals with section 182B. Proposed section 182C(4)(a) requires a person who is the holder of an accident towing driver authority who ceases to hold a full driver licence to drive a motor vehicle under the Road Safety Act 1986 to return the authority to the licensing authority. There is no requirement under section 182B(1) for a person to hold a full driver licence to be granted an accident towing driver authority in the first instance. This amendment corrects that anomaly by requiring an applicant for an accident towing driver authority to hold a full driver licence to drive a motor vehicle under the Road Safety Act 1986.

I think it is a technical matter, but obviously you cannot have an authority if you are not the holder of a full licence. This simply makes that applicable.

Amendment agreed to.

Hon. W. R. BAXTER (Minister for Roads and Ports) — I move:

8. Clause 16, page 39, line 34, after “driver licence” insert “to drive a motor vehicle under the Road Safety Act 1986”.

Proposed sections 182(1) and (2) refer to a person’s driver licence, but do not specify under what act the licence is issued. To provide certainty, proposed section 182D(1) inserted by clause 16 is amended to refer to the Road Safety Act 1986. There is no need to amend subsection (2) in the same way, as the reference flows through.

Amendment agreed to; amended clause agreed to.

Clause 17

Hon. W. R. BAXTER (Minister for Roads and Ports) — I move:

9. Clause 17, line 7, omit “Roads Corporation” and insert “licensing authority”.

The bill as drafted refers to the Roads Corporation as the responsible body for declaring an area to be a controlled area. However, the bill proposes that in
all other respects the Secretary of Transport will be the licensing authority for the purposes of tow-truck licences and accident towing driver authorities. It is desirable to be consistent and therefore it is proposed that the section should refer to the licensing authority, not specifically to the Roads Corporation.

Amendment agreed to; amended clause agreed to; clause 18 agreed to.

Clause 19

Hon. W. R. BAXTER (Minister for Roads and Ports) — I move:

10. Clause 19, after line 33 insert —

"; and

(f) in relation to section 183A — the Secretary.".

This is a consequential amendment.

Amendment agreed to; amended clause agreed to; clauses 20 to 24 agreed to.

Reported to house with amendments.

Remaining stages

Passed remaining stages.

ROAD SAFETY (AMENDMENT) BILL

Second reading

Debate resumed from 22 March; motion of Hon. W. R. BAXTER (Minister for Roads and Ports).

Hon. PAT POWER (Jika Jika) — The opposition happily supports the Road Safety (Amendment) Bill which addresses some important loopholes. The bill continues the bipartisan support that has existed in Victoria for many years on lowering road tolls and maintaining our record of having the lowest road toll of any comparable region in the world.

The bill arises from a loophole in blood sampling provisions of the Road Safety Act. I take this opportunity to compliment the government on acting so quickly to address this loophole. It arose from the change of name that occurred with respect to hospital restructuring and referred specifically to hospitals designated as places where road accident victims can be taken for the purpose of blood alcohol testing. As members would know, these tests and associated records are vital in court cases where a driver is charged with exceeding the .05 blood alcohol limit. I understand that many people were affected by the loophole. Some 164 people who were tested had blood alcohol levels of more than .05; 127 exceeded .1; and 38 registered more than .2. They are large blood alcohol levels.

With regard to road safety in general and drink-driving in particular, I take the opportunity to express concern that the advertising budget of the Transport Accident Commission has been radically reduced. In 1993 it was $8.146 million but in 1994 it was reduced to $5.95 million. This has occurred at a time when Workcover’s advertising budget has increased from $4.2 million to $5.41 million. During the same period the government is spending some $2 million on propaganda relating to the sale of the SEC.

I argue that the TAC’s advertising budget should be returned to a proper level as soon as possible. I again compliment the government for acting so quickly to rectify this loophole.

Hon. K. M. SMITH (South Eastern) — I support the bill and congratulate Mr Power who is prepared to compliment the minister for introducing the bill.

We must also consider the great work done over a period by the TAC in graphically advertising the dangers of drink-driving. Mr Power said we should restore the amount of funding directed to that advertising. The TAC and the advertising agency involved do a wonderful job in making the citizens of Victoria realise that at any stage they or members of their families could be killed because of either a lack of concentration or overindulgence in alcohol by drivers. It is not always pleasant to look at some of those television advertisements but it is something we must face up to from time to time so that we really understand that road accidents have the potential to take away our loved ones and that overindulgence in alcohol may lead to the death of an innocent person.

Unfortunately many people in the legal profession are prepared to take advantage of loopholes that appear in laws. Lawyers in almost 167 cases, as is their prerogative, have allowed their clients to exploit a loophole caused by changes in the names of designated hospitals, the named hospitals at which blood alcohol readings may be taken. A large percentage of those clients, many of whom had blood alcohol readings of more than 0.1 per cent and a number of whom had readings of more than
0.2 per cent, which is about 20 glasses of alcohol in a short period, may get off scot-free, thinking they have been able to beat the system.

As a result of quick action by the minister, on which he should be congratulated, the government has introduced new wording that will refer to a designated place where a blood sample can be properly taken to be used in evidence against such people. The amendment also covers the Marine Act to ensure that people who drink to excess and then drive motor boats can be prosecuted.

It would be terrible to think that people were injured or killed because the government was negligent or slow in enacting legislation. The government has been prepared to make the necessary changes and to introduce legislation to close the loophole. As a responsible government we are prepared to take the tough decisions at the right time.

There is not much more I can say about the bill; it is a small bill that is intended to close a loophole. I am sure Mr Power and other opposition members are as happy as I am to support this important legislation that the minister has brought forward so quickly.

Hon. P. R. HALL (Gippsland) — It is shameful that people who have been rightly convicted of exceeding the 0.5 per cent blood alcohol limit have by various means been able to escape the appropriate penalties under the law. I have spoken in the debates on all previous bills that have come before this house that have addressed the problem of drink-driving, and tonight I wish to speak about the contribution alcohol makes to the incidence of road accidents.

Despite the fact that the road toll has been almost halved since 1989, alcohol continues to be one of the major causes of death and accidents on our roads. It is a serious problem that needs to be addressed.

Mr Power referred to a decrease in expenditure on advertising by the TAC. I am not sure whether that is the case but it should be put on the record that the TAC is a commercial organisation and the decisions taken by its board are the responsibilities of the board and not of the government. If there has been some reduction in expenditure on advertising that is a commercial decision taken by the board and has not been influenced by any direction from the government.

Even if there has been a reduction in expenditure on advertising, the TAC is still actively involved in implementing measures to try to address the problem of excessive consumption of alcohol by drivers and its effect on road accidents. The last annual report presented to Parliament by the TAC reveals that in the past 12 months the commission has embarked on several initiatives in relation to the problem. It has commissioned a new breath analysis instrument for use by the Victoria Police Force and has purchased 150 of those instruments at a cost of $2.3 million. It has provided funding to the police force to enable it to increase the level of random breath testing in country areas — another important initiative. I know that the TAC is actively involved in funding some of the booze buses that move around Victoria.

It has always intrigued me that low-alcohol beers and wines are still being resisted by many consumers of alcohol products. The February 1995 report of the Liquor Licensing Commission indicates that only 22 per cent of the total volume of beer purchased in Victoria is of the low-alcohol variety. It amazes me that more than ¾ of the beer consumed in this state is full-strength beer. I think we should do more, and I hope manufacturers will do more, to encourage the consumption of low-alcohol beers.

As a person who enjoys a beer I make a habit of drinking light beer. I have acquired the taste for it and think it is a better drink. However, that is not the case with young people. Recently when about to order drinks for my son’s 21st birthday party I sought his advice on what ratio of full-strength beer to light beer I should purchase. I suggested that perhaps 50 per cent of each would be correct. He said, ‘Don’t be silly; all of my mates drink full-strength beer’. After the party I had much more light beer than full-strength beer left.

The report of the Liquor Licensing Commission indicates there has been an increase in the sales of packaged liquor as against direct sales from hotels, clubs and other licensed premises. Of the top 50 sellers of alcohol products, 27 now sell only packaged liquor. Supermarkets and designated sellers are well up on the list of premises that sell the most alcohol products. That is a positive indication because I suspect that the majority of beer purchased in a packaged form is for consumption in the home rather than at places from where people have to drive home.

The trend is there but manufacturers of alcohol products need to do more to encourage the consumption of low-alcohol beverages. I strongly support the bill. It is important that we as
parliamentarians do everything we can to ensure that the laws of this state operate as we intend them to operate. The bill will ensure that the loophole is closed.

Motion agreed to.

Read second time.

Third reading

Hon. W. R. BAXTER (Minister for Roads and Ports) — By leave, I move:

That this bill be now read a third time.

I thank Mr Power for his general remarks and Mr Smith and Mr Hall for their contributions.

I also take the opportunity to make a further observation. The honourable member for Warrnambool in another place referred me to a doctor in his constituency who had studied the bill and who raised a question that was to some extent the same as that raised by the AMA. I stress that the amendment does not change the effect of the existing law. Section 56 of the Road Safety Act requires a motor vehicle accident victim to allow a blood sample to be taken when he or she is taken to a place for treatment after the accident. If the place to which the victim is taken for treatment does not have the facilities or if a doctor is unable to take the sample as required, the section does not apply. It applies only when the victim is taken to a place that has both the equipment and a qualified person to take the sample.

The amendment will not turn every surgery and pharmacy into what are presently termed designated places just because accident victims may be taken there for initial treatment. Those establishments will not have the necessary equipment because the blood sample kits are put together specifically for the purpose of section 56. The amendment removes the need for what has become unnecessary prescription.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

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

That the house do now adjourn.

Agriculture: marketing

Hon. P. R. HALL (Gippsland) — I direct to the attention of the Minister for Roads and Ports, who is the representative in this place of the Minister for Agriculture, the marketing of agricultural products that are grown or processed in Victoria. I will return to my school days for a moment and take part in a bit of show and tell. At a recent Gippsland field day I picked up a plastic bag of potatoes that has a symbol that is currently being used by the Victorian government to promote Victoria. The packaging has the words 'Victorian produce — on the move' on it and carries captions such as 'Support Victorian growers — buy Victorian quality produce and 'If you don't buy Victorian, who will?'. The plastic package contained 5 kilograms of potatoes.

It occurred to me that this is a great way to promote or market Victorian-grown produce. I understand that the packers of this particular product, who live in Nar Nar Goon, which is just outside my electorate, sought permission from Agriculture Victoria to use the Victorian government symbol.

I thought it was a great idea. We have symbols to market Australian-made products, which I believe has had an enormous impact. It encourages people to buy these products, which in turn helps our balance of trade problems and increases the prosperity of Australian producers and manufacturers. It would be an excellent initiative if we could encourage the Victorian producers of not only agricultural products but manufactured goods to adopt an emblem that shows consumers they are products of Victoria. It would encourage people to buy Victorian agricultural products or manufactured goods.

I ask the minister to take up the matter with the Minister for Agriculture and ask him to put in place a strategy to encourage producers and processors of agricultural products to adopt a marketing emblem. I do not care what the emblem is, but it needs to be a symbol which identifies the fact that products are produced in this state and which encourages Victorians to buy home-grown products. We could start with an agricultural-related program which could be extended to include manufactured goods. I
ask the minister to take the suggestion to the
MINISTER for Agriculture and to encourage him to do
what he can to persuade Victorian producers to
adopt a Victorian-made and produced symbol.

**Workcover: student coverage**

Hon. C. J. HOGG (Melbourne North) — The
matter I direct to the attention of the Minister for
Tertiary Education and Training is serious because it
concerns students studying in institutions governed
by the Vocational Education and Training Act. They
are mostly TAFE students and others who are
studying with community providers and who must
have field placements as part of their courses. Under
the amendments made to the Vocational Education
and Training Act last year the host organisations
now have Workcover responsibility for any students
on field placements. This change has had a most
serious and I believe unforeseen consequence in that
an injury to a student that leads to a Workcover
claim may affect the host organisation's claim
history and therefore affect its Workcover levy.

This situation has brought about a very serious
result. In some areas there has been a great
reduction in placements, and in some cases no
placements have been offered at all. In courses
where field work is mandatory, such as social and
community studies, that could be disastrous for the
students concerned. I understand the matter could
be addressed by legislation next year. However, if
no interim solution is found the affected students
could suffer significant disruptions. For example,
those students on Austudy would not be eligible the
second time around because Austudy payments are
mostly TAFE students and others who are
studying with community providers and who must
have field placements as part of their courses. Under
the amendments made to the Vocational Education
and Training Act last year the host organisations
now have Workcover responsibility for any students
on field placements. This change has had a most
serious and I believe unforeseen consequence in that
an injury to a student that leads to a Workcover
claim may affect the host organisation's claim
history and therefore affect its Workcover levy.

I believe the minister has been thoroughly briefed on
the issue, so I ask what temporary measures he is
able to take. What is needed is something like a
cover note to reassure the host agencies that their
Workcover profiles will not be affected when they
accept students on field placements. Individual
courses, individual futures and the working lives of
young people are being affected, and I ask the
minister to outline to the house, if he is able, the
steps he proposes to take to redress what I am sure
is an unforeseen situation.

**Bunyip River**

Hon. R. S. IVES (Eumemmerring) — I direct to
the attention of the Minister for Conservation and
Environment, who is the representative in this place
of the Minister for Natural Resources, the fact that
the Bunyip River — or the main drain of the
Koo-Wee-Rup swamp, as it is known locally — and
the associated drainage works are in a sorry state of
disrepair and erosion. They are urgently in need of
maintenance.

The balance of the flow of water appears to have
been upset. In parts the river appears to flow too
sluggishly and in others it flows much too swiftly.
As a consequence, the banks are eroding
dangerously close to the roads. The danger is that
rich and irreplaceable farm land will be lost through
erosion, particularly in the straightened section of
the main drain between Iona and Cora Lynn. The
situation is unsatisfactory from the point of view of
both flood prevention and control and the possibility
of valuable potato, asparagus and other crops being
ruined.

The main reason for the potentially dangerous state
of affairs is the additional water being forced from
the Tarago River dam into the Bunyip River. This is
necessary because the water in the Tarago dam is
unfit to service local towns along the plain, and has
been recently discontinued, or to serve the
Mornington Peninsula, for which it was intended.

As a result, additional water is being allowed to flow
down the Tarago River into the Bunyip River. In
addition, water is being forcibly pumped from the
Tarago River into the Bunyip River, and the water
flow is being speeded up by the removal of
surrounding growth, particularly willow trees, from
the banks of the Tarago River and the Bunyip River
between the highway and the Cora Lynn church.

There appear to be two necessary solutions, the first
of which is to build a purification plant for the
Tarago reservoir water. That is estimated to cost
$10 million. The government hopes to reduce the
cost to $3 million by subsidising farmers planting
trees, controlling animal effluent and restricting the
activities of four-wheel-drive vehicles in the state
forest. To say the least this is laudable but it is a
long-term aim. The second solution is to adequately
fund the patchwork of authorities responsible for the
maintenance of the levies and drainage system of the
Koo-Wee-Rup swamp. The region has seen the
control of the drainage area pass from the
Koo-Wee-Rup swamp drainage authority to the
Dandenong Valley Authority to Melbourne Water
and then to Eastern Water. In the various
transformations a great deal of local knowledge and
competent staff have been lost forever.
In addition, the Shire of Cardinia, the Bunyip River Advisory Board and the catchment board are also involved.

I ask the minister as a matter of urgency, firstly, to consider a proposal for an adequate purification plant for the Tarago River and, secondly, to establish a coordinated and adequately funded plan to repair and maintain the drainage system of the Koo- wee-rup swamp. To date this promises to be a very wet winter and it may be that 1995 is the year when disaster will strike.

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**Murtoa stick shed**

**Hon. PAT POWER (Jika Jika)** — I seek the assistance of the Minister for Conservation and Environment on an issue which I am sure he is absolutely familiar with and which is no doubt at the front of his mind. During one of my recent country excursions it came to my notice that a particular matter is causing some concern not just to residents of Murtoa but also to people concerned about the heritage of Victorian sheds.

I understand the concern arose from a possibly scurrilous report in the *Weekly Times* that Murtoa's stick shed wheat storage facility is to be demolished. I suspect that that is not so but, as I said, it certainly has caused concern to people associated with organisations interested in historic buildings such as the stick shed. I ask the minister whether he is able to put to rest any notion that the stick shed may be set for demolition.

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**Biodegradable golf tees**

**Hon. K. M. SMITH (South Eastern)** — Following on from a question asked of my colleague the Minister for Roads and Ports on behalf of the Minister for Agriculture in the other place, I wish to raise a matter that was drawn to my attention earlier this evening. It follows on from Mr Hall’s representations for potato growers in the Gippsland area, and it will interest you, Mr President, as an avid and wonderful golfer.

I have a brand new line of golf tee called Bio-tee. This is not a free advertisement for the Bio-tee, although they are distributed by Dennis Jaffe. When you put an ordinary golf tee into the ground and hit it, you lose your tee. The Bio-tee does not just sit there on the ground until the machines go over it and break it up; it dissolves. After investigation I found out it is made out of potatoes from New South Wales. The matter should be brought to the attention of the Minister for Agriculture to add to the wonderful work being done by the minister and the potato industry in the Gippsland area. He should go into the depths of potato country in New South Wales and corner the market, because they would be wonderful for chip shots on the greens.

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**Port of Geelong: sale**

**Hon. T. C. THEOPHANOUS (Jika Jika)** — I raise with the Minister for Roads and Ports the question of where precisely the privatisation process for the port of Geelong is at the moment. I raise the matter because, as the minister would be aware, a leaked document called *Privatisation for Victoria's Ports* was made available to the opposition. It is a confidential document from the Office of State Owned Enterprises. Page 44 of that document states that based on EBIT, which is earnings before interest tax multiples, the float value for the port of Geelong could be between $29 million and $36 million. The concern I have is that although this confidential document, which was prepared by Macquarie Corporate for the Office of State Owned Enterprises, sets the value of the port of Geelong at between $29 million and $36 million, a very comprehensive report prepared by Price Waterhouse lists the value of the port at $69.3 million. The value is based on the same kind of figures that are used for the projected earnings before interest tax multiples, the float value for the port of Geelong could be between $29 million and $36 million.

The concern I have is that although this confidential document, which was prepared by Macquarie Corporate for the Office of State Owned Enterprises, sets the value of the port of Geelong at between $29 million and $36 million, a very comprehensive report prepared by Price Waterhouse lists the value of the port at $69.3 million. I have only volume 1 of the report. The value is based on the same kind of figures that are used for the projected earnings before interest tax. The report of Price Waterhouse also indicates that the book value of the port of Geelong is around $124 million and that the written
down current costs of the assets of the Port of Geelong Authority are in the vicinity of $147 million.

The report from the Office of State Owned Enterprises says that the range in which the government expects to sell the port of Geelong is between $29 million and $36 million. Will the minister inform the house precisely where the sale process is at the moment? Can we expect that a sale will be concluded, and will he be looking for a price as measured by the very reputable firm of Price Waterhouse in its comprehensive report or will he be looking for the price of between $29 million and $36 million suggested by the Office of State Owned Enterprises? In other words will he be going for $69 million or $124 million, or, more specifically, will he settle for $29 million or less? Will the minister inform the house at what stage the sale process is and whether it is likely to be concluded in the foreseeable future?

Responses

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — Mr Ives asked me to raise a matter regarding the Bunyip River with the Minister for Natural Resources. Along with him, I am looking forward to the reply.

Mr Power referred to the Murtoa stick shed, which is an extraordinary building. I saw it many moons ago and it has now been placed on the Historic Buildings Register. I heard the rumour that it was to be pulled down, but I did not know the matter had also appeared in the newspapers. Certainly demolition could not occur without the approval of the Historic Buildings Council or, at least, the Minister for Planning. I am not aware of any plans in that regard because the Minister for Planning was the person who listed it, and he is a fine man who preserves many buildings. Some people find him different, but I think he is one of our finest planning ministers.

Hon. Pat Power — Some people find him diffident!

Hon. M. A. BIRRELL — No, I wouldn't say diffident. There are many ways to describe Rob Maclellan but diffident is not one of them!

Hon. Pat Power — You obviously weren't there that night!

Hon. M. A. BIRRELL — Was he there? It is still standing, but I will find out exactly what is the situation. There are a number of ways of dealing with the problem but one involves how you maintain the building in the long run rather than the short run. One of the options is the Historic Buildings Council, which placed it on the register, finding the money to maintain it — that would be an interesting discipline for it, wouldn't it? I think that is being explored.

It certainly is an interesting building but it is one I do not think was built for the long run, and certainly it has not been maintained in a manner consistent with the long run. However, I am eager to pass on the honourable member's inquiry to the Minister for Planning for his reply.

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — Mrs Hogg raised an issue about students in the vocational education system who are required, in the course of their studies, to have practical placements in some of Victoria's workplaces. It flows on from legislation passed by Parliament last year. Indeed, the legislation was introduced originally by the previous government and was adopted by this government. It finally was passed last year so it is something that all parties agreed to. It is sensible that students have the opportunity of getting work experience in the course of their studies and it is necessary to deal with the issue of Workcover.

As Mrs Hogg pointed out there has been this rather strange situation where a number of employers in certain segments are not accepting the students because of their apprehensions about the consequences for their Workcover premiums.

I point out to the house that this is confined only to the social and community employer groups; it has not happened in any other industry. In every other industry employers have been happy to go on doing what has been the practice of many years, and that is to accept students in practical placement during their work experience, and rightly so because it is not just for the benefit of the students; it is also for the benefit of the whole industry involved that students have this aspect of their training so that when they finish their courses and receive their certification they have some understanding of the way in which industry operates.

I am somewhat concerned about the fact that this has happened in one particular industry. I do not know why employers of this industry have chosen to take a short-sighted view by refusing to accept students, which has not been the view taken by
employers in other industries. However, that appears to be the current situation.

It could be corrected by legislation and we will have to look into it, but obviously that cannot be done in time to do anything for this year's students, so we are exploring the options. The most likely option is to take out insurance cover which will provide protection against the eventuality of any of the students suffering injuries while they are in their practical placements.

That is done by schools that send students into the workplace, although this case is a bit different because students at schools go for only a day or two against what could be a longer period for the students in question. We are exploring that option with a view to reaching a satisfactory conclusion which will mean that the employers concerned will feel they are not risking any change in their Workcover premiums by taking in students because they will be covered by insurance policies.

This obviously requires negotiations with Treasury because it involves expense, and that is being done at the moment. I am sure we will find a solution to enable these students to continue with their courses, including the work experience component. In the meantime we will also examine what should be done by way of a long-term solution which will probably require legislation in the next session of Parliament.

Hon. W. R. BAXTER (Minister for Roads and Ports) — Mr Hall raised for the attention of the house an interesting innovation of a potato grower in Gippsland. Again it illustrates the marketing skills residing among Victorian producers. I commend that producer for his initiative and the fact that he has cottoned on to Victoria on the Move as an appropriate slogan which can assist him in his business.

He has added to the slogan by talking about Victorian Produce on the Move, and he is to be congratulated for that. I share Mr Hall's enthusiasm for promoting Victorian produce in manufactured goods, and I shall be pleased to pass on his remarks to the Minister for Agriculture. I will encourage my colleague to do what he can to make sure we have an appropriate symbol to assist in this regard.

Similarly Mr Smith directed the house's attention to another product that perhaps we could manufacture in Victoria out of locally grown potatoes. Not being one of the golfing fraternity I am unable to pass judgment on the particular product but I will certainly direct that opportunity to the attention of the Minister for Agriculture as well.

The Leader of the Opposition in this place, in a rambling contribution, appeared to be attempting to pre-empt the motion which he has on the agenda and which may arise later on, concerning the port of Geelong. I am a little mystified as to why he would attempt to commence debate on that motion during the adjournment debate because the house will recall that on the last day of meeting the Leader of the Opposition asked me a question without notice on that very subject and I answered him at that time.

As it happened I was appearing on ABC radio the same evening on a talk-back program and a number of calls came in for me to answer across the radio. I was in the studio at Lonsdale Street when I received a call over the radio from the Leader of the Opposition. One could almost hear, right around Victoria, other people who were actually interested in addressing a question to me, saying, 'What on earth is a politician doing getting on the radio to ask the minister a question when he is with him in Parliament every day? Why doesn't he ask him up there?'.

Hon. T. C. Theophanous — But you wouldn't answer it in here, either!

Hon. W. R. BAXTER — I find it quite demeaning that the Leader of the Opposition actually has to telephone me on a radio station. He asked me the identical question he asked in the house that day. And do you know what? I gave him the identical answer. I will give him the identical answer again tonight: I have not been furnished with a copy of the document he waves around that has been provided by the Office of State-Owned Enterprises and I do not know what status that particular document has. The government’s port reform process is being worked through and at this stage the government has certainly not established a fair and equitable sale price for the port of Geelong.

Motion agreed to.

House adjourned 10.30 p.m.