The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10:02 a.m. and read the prayer.

**PETITION**

**Narré Warren North Road**

Hon. C. J. HOGG (Melbourne North) presented a petition from certain citizens of Victoria requesting that the government immediately release funding to upgrade Narré Warren North Road between the Princes Highway and Narré Warren North to improve safety for all users.

(683 signatures)

Laid on table.

**ENVIRONMENT AND NATURAL RESOURCES COMMITTEE**

**Problems caused by native birds**

Hon. B. T. PULLEN (Melbourne) presented report on problems caused by long-billed corellas, sulphur-crested cockatoos and galahs, together with appendices and minutes of evidence.

Hon. B. T. PULLEN (Melbourne) (By leave) - Initially the Environment and Natural Resources Committee was sceptical of the reference in that it is not an issue that is at the mainstream of environmental concerns. However, during the period of the review the committee came to appreciate that many country people and farmers in particular perceived it as a very serious problem. There were regular and strong attendances at the hearings we held.

The report warrants close reading by honourable members, particularly those who represent country electorates. It should be made clear that eventually the committee did reach a consensus. Without attempting to encapsulate the detail of the report in a few words I simply state that the consensus was that the basic lessons learnt through Landcare were perceived as the best approach that could be adopted by the committee. That approach reinforced the cooperative actions of land-holders supported in a partnership arrangement by a government that would provide resources and the appropriate research. That in fact was the central idea that allowed the committee to coalesce and produce a report that we hope will make some difference on this issue and will assist farmers and land-holders in Victoria who face this problem.

This was not perceived as a problem of great economic significance to the state, but it was the understanding and consensus of the committee that the problem could be of considerable importance to individual farmers in particular zones who because of circumstances could be severely affected economically. As I said, the report is based on the lessons that had been learnt by farmers in the Landcare program where proper economic and environmental support is provided. I recommend the report to all members of the house.

Laid on table.

Ordered that report and appendices be printed.

**PAPERS**

Laid on table by Clerk:

- Ararat and District Hospital — Report, 1994-95 (two papers).
- Bacchus Marsh and Melton Memorial Hospital — Report, 1994-95.
- Dunmuckle Health Service — Report, 1994-95.
- Edenhope and District Memorial Hospital — Report, 1994-95.
- Myrtleford District War Memorial Hospital — Report, 1994-95.
- Seymour District Memorial Hospital — Report, 1994-95.
- Stawell District Hospital — Report, 1994-95 (two papers).
- Willaura and District Hospital — Report, 1994-95 (two papers).
BUSINESS OF THE HOUSE

Postponement

Hon. C. J. HOGG (Melbourne North) — By leave, I move:

That general business, notices of motion 1 to 7, be postponed.

The PRESIDENT — Order! It is appropriate at this time to remind the house of standing order no. 72 relating to the proposal put by the Deputy Leader of the Opposition. It says:

Motions shall take precedence of orders of the day, except on days fixed for the consideration of government business, and shall, unless postponed, be moved in the order in which they stand on the notice paper.

That is to preserve the rights of individual members of the house. The proposal moved by Mrs Hogg is a by-leave motion, so that any member who has a motion on the notice paper prior to the one that is proposed to be moved by the opposition can object and refuse leave. I believe this mechanism should be noted by the house as it preserves the rights of individual members but at the same time it enables the house to move expeditiously to the matter the house wishes to discuss.

Hon. M. A. BIRRELL (Minister for Conservation and Environment) (By leave) — The government supports the by-leave motion of Mrs Hogg, but wants to make it clear on behalf of government members — and, I suspect, on behalf of all members in their capacity as members with rights in this house — that this motion is being accepted for the first time ever on the basis of the convenience of the operations of the chamber. Under this, all of the prior motions on the notice paper will, by leave, be deferred so that the motion which is sought to be debated by the opposition can proceed.

This is normally done by each individual member choosing to adjourn debate on the motion, but we accept this timesaving mechanism. However, it should not be seen as a precedent on all future occasions and it should not be seen as a diminution of the rights of individual members to have the opportunity to move motions listed in their names.

The rights that have been bestowed for opposition business on Wednesday were extended by the Kennett government. We do not see this by leave motion as being a restriction of rights of all members, but we believe it is proper to facilitate it in this manner on this occasion.

Motion agreed to.

MINISTER FOR ROADS AND PORTS

Hon. T. C. THEOPHANOUS (Jika Jika) — I move:

That this house condemns the Minister for Roads and Ports for misleading the house and the people of Victoria by:

(a) indicating to the house on 25 October 1995 that the government had no intention of closing Batman Avenue when, on 20 October 1995, he had signed an agreement between the government and Transurban which states 'Batman Avenue closed west of Morell Bridge';

(b) indicating to the house on 31 October 1995 in relation to the relocation of Victoria Dock required under the City Link project that ‘it is the government’s intention that whenever possible this relocation be funded by the private sector’, when the Premier indicated on the same day that the cost of port changes will all be borne by the government;

(c) commenting to the press on 2 November 1995 that Stonnington council supported the changes to Toorak Road as part of the City Link, when the council indicated the following day that it had not been consulted despite several requests; and

(d) indicating to the house on 31 May 1995 that the government would not bear any of the commercial risk associated with City Link, whereas the contract signed between Transurban and the government on 20 October 1995 shows that much of the risk will be borne by the government and the government will be liable for compensation in a range of circumstances.

The Minister for Roads and Ports has misled the house and the Victorian people. Day after day we have seen him treat this house with utter contempt. He will not answer questions and he makes statements that are patently untrue.

Honourable members interjecting.

The PRESIDENT — Order! The house will be better served if my colleagues on my right desist from interjecting and allow the Leader of the Opposition to develop his speech. If all members of the house cooperate we will have a sensible debate.
Hon. T. C. THEOPHANOUS — This minister will not answer questions honestly. He continues to obfuscate every question that is asked by the opposition. He is able to find the resources to answer the dorothea dixers but he is unable to answer in an appropriate way questions put to him by the opposition.

He has misled the house on a number of occasions, as he has misled the Victorian people. It is not just the opposition that is saying this. The Age and other newspapers take seriously the issue of questions asked in the house being answered.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — You might not take them seriously but the Age takes them seriously. In the Age editorial on 4 November —

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — You had to get the Age editorial against you, but you still will not answer questions! The editorial states:

Question time in Parliament —

Honourable members interjecting.

The PRESIDENT — Order! We can continue these proceedings only if Hansard can hear what is going on. I can hardly hear the Leader of the Opposition and Hansard would find it difficult. I ask the house to allow the Leader of the Opposition time to develop his case.

Hon. D. R. White — Are you going to make up your mind whether you are going to bring them to order or not? You are not having any impact on them at all!

Hon. B. T. Pullen — And you know it!

Hon. W. A. N. Hartigan — You are the greatest offender in the house, White!

Hon. D. R. White — What are you saying?

Hon. W. A. N. Hartigan — You are the greatest abuser in the house!

The PRESIDENT — Order! Mr Hartigan!

Hon. T. C. THEOPHANOUS — The Age pointed to the fact that too often question time in Parliament is hampered by obfuscation by ministers. It said the basic convention is that questions must be answered and they must be answered honestly. It went on to say:

The Treasurer, Mr Stockdale and the minister for roads, Mr Baxter, stand accused of not honouring this basic premise.

How did we reach the point where editorials in the newspapers are saying that this government is misleading the Victorian people?

The motion before the house is about facts! It is about whether the minister actually said things that were later shown to be untrue. If the minister did say those things and if they were later shown to be untrue — to be false — the minister has misled the house. It was the minister's responsibility — if that is the case — to make a statement to the house at the earliest possible time and to say that he had misled the house either inadvertently or for some other reason, but the minister took no such action. It was the opposition that identified the errors made by the minister, who then reluctantly had to tell the truth, but he did not apologise to the house.

The opposition believes the minister not only made statements that were later proved to be patently untrue but also knew those statements were untrue when he made them. That is what the opposition claims because the minister has not provided any reasonable explanation for the untrue statements he made in this house. They were unequivocal statements. The minister has mishandled his portfolio. He is a joke, and he is utterly without credibility. He is a minister who has sold out Victoria.

The minister on a number of occasions pretended to the house and to the people of Victoria that he was tough. He said the government was not going to accept any of the risk involved in the City Link development. That was the image he was trying to project. Instead, it was all built on a pack of lies, because Victorians were sold out in the end. The minister told the house on a number of occasions that he, as minister, was not prepared to accept any of the risk and that under no circumstances would the government accept the risk. This minister, who decided in the end that the government was prepared to invest $250 million in the project, agreed that the government would accept the responsibility of shifting the docks at a cost of $200 million. He agreed also to limit public transport in the future as part of the City Link proposal and to close or narrow
some roads because he wanted a funnel of traffic into the city. He agreed to a whole range of conditions in the contract so that the risk was shifted from Transurban to the government. That is what happened in the end.

We now know why you agreed to this, Minister: it is part of the way this government does business and part of the way you do business, Minister. It does not matter whether we are talking about the little deal you did with Julian Beale or about why you sold out on City Link. Now we have found out that, coincidentally, Transurban is going to sponsor the grand prix. What the people and the opposition want to know is when the minister started talking about this.

Hon. D. R. White interjected.

Hon. T. C. THEOPHANOUS — It is patently obvious.

Honourable members interjecting.

The PRESIDENT — Order! The house must decide whether it wishes to debate this issue. It cannot do so with the cacophony that has been going on.

Hon. T. C. THEOPHANOUS — It is patently obvious to anyone — it is certainly obvious to the people — that discussions about the sponsoring of the grand prix took place prior to the contract being signed. There is absolutely no doubt about that. Those discussions with Transurban about the sponsoring of the grand prix took place before the contract was signed, which means this government was bought. Once again it was bought, and it continues to be bought. No-one in Victoria today would believe those discussions did not take place before the contract was signed.

Hon. D. R. White interjected.

Hon. W. R. Baxter — On a point of order, Mr President, I find the remark of the Leader of the Opposition that I have been bought by Transurban highly offensive, and I ask that he withdraw it. The reference to Julian Beale, a man to whom I do not think I have spoken in my life, is offensive. I ask that the remarks be withdrawn.

The PRESIDENT — Order! The remarks are objectively offensive. The general statement made earlier that the government has been bought does not fall into that category, but referring to the minister in that way is clearly objectively offensive. I ask Mr Theophanous to withdraw.

Hon. T. C. THEOPHANOUS — I withdraw. Let me continue. On 25 October —

Hon. W. A. N. Hartigan interjected.

Hon. T. C. THEOPHANOUS — On 25 October —

Hon. W. A. N. Hartigan interjected.

Hon. W. A. N. Hartigan interjected.

The PRESIDENT — Order! Everybody should quieten down. Mr Hartigan is not being helped by Mr White.

Hon. T. C. THEOPHANOUS — On 25 October the Minister for Roads and Ports said in this house in response to questioning from the opposition:

There is no intention of closing Batman Avenue.

That particular statement managed to get the minister on the front page of the Age, with the heading 'Ministers misled on link'. On that day, in response to questioning, the minister had made the unequivocal statement that there was no intention of closing Batman Avenue. Just to reinforce that point I will continue to quote him:

... some temporary disruption to Batman Avenue will occur because you cannot have a project as large as this without some disruption.

He made the unequivocal statement that there was no intention of closing Batman Avenue and at the same time said there would be some temporary disruption. It was a deliberate statement. He said
that 'some temporary disruption to Batman Avenue' would occur because you cannot have a project as large as this without some disruption. That unequivocal statement appears on page 321 of Hansard of 25 October. However, we found out that only five days before, on 20 October, the minister had actually signed the document. His signature appears on the front page of the Age, and the article states:

On Friday 20 October, Mr Baxter initialled a one-page document detailing traffic management measures agreed between the government and the Transurban consortium.

The third measure states: 'Batman Avenue closed west of Morell Bridge'.

One has to understand what that means because there are few explanations of it. One possibility is that the minister signed a document he had not read. I understand that the minister can be busy; I understand that ministers sign documents and quite often they might not have fully read those documents. But in this instance we are talking about the signing of a document about traffic management measures for City Link. We are not talking about signing 100 letters where you might not have read one of the letters fully; we are talking about the biggest decision this minister will ever make in his whole life. We are talking about something that will affect Victorians for 34 years.

If this minister is seriously saying that he had before him a document which outlined the traffic measures and that he did not read that document but signed it anyway, he should resign for being incompetent because he is not doing his job. That is one possible explanation. The only other conceivable explanation, short of him not knowing he signed the document, is that he did not tell the truth. That is the only other explanation.

The opposition looks forward to the minister's explanation on how he was so incompetent that he signed the most important document he will ever sign and had forgotten about it five days later. That is one explanation. The second explanation is that he came into this house and misled it by saying something that was patently and obviously untrue. This minister has to explain, and he has not. If he cannot explain he should resign in keeping with proper principles of good government.

The opposition does not expect an explanation from this government because it has absolutely no notion of proper propriety and no notion of good government. There is no doubt that there is no other explanation short of those two possibilities. The minister has to explain why he told this house something that was obviously untrue but which he still said.

Honourable members interjecting.

The PRESIDENT — Order! I ask Mr Hartigan and Mr Davidson to stop their conversation across the chamber and to allow Mr Theophanous to continue. Mr Davidson is not helping his leader by responding to Mr Hartigan; he is only encouraging him.

Hon. T. C. THEOPHANOUS — What action did this minister take? He was asked about the matter again by the opposition on 1 November. He could have made an explanation at that time, but, did he come clean on 1 November? No, he didn't. At page 31 of Daily Hansard for 1 November he described his reasoning as:

There was considerable disturbance in the house at the time.

That is the best this minister can come up with. How does one square that away against the fact that not only was it an equivocal statement but that he went on to give an explanation to Miss Gould about how there might be temporary disruptions but that temporary disruptions did not mean closures? How does one explain that in the context of saying there will be disruption? That is not a satisfactory explanation for what took place; it simply shows that this minister is running scared on this issue. What does all this mean?

Honourable members interjecting.

Hon. Bill Forwood — It's your motion!

Hon. T. C. THEOPHANOUS — Does it mean it is appropriate?

Honourable members interjecting.

Hon. Bill Forwood — If you don't know, we don't know!

Hon. T. C. THEOPHANOUS — You're a total idiot! It means that this government believes it is appropriate to tell lies. That is what it means!
Hon. R. I. Knowles — That is what the federal government believes!

Hon. T. C. THEOPHANOUS — This government thinks it is appropriate to tell lies. That is what this government believes because it is difficult for anyone to put any other explanation on this particular occurrence than the one I have given.

I shall go to the second point of the motion that concerns the statements made by the minister on the relocation of Victoria Dock. The minister was asked on 31 October about the cost of relocating the dock and whether taxpayers would pay. As usual, the question had to be asked of this minister again during the adjournment debate because he didn’t answer it the first time. That has become a pattern in this house: any question you want to ask Mr Baxter you put to him during question time; if you don’t get an answer you then ask it again during the adjournment debate.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — The inane comment from the government side is, ‘Why do you persist’? It shows what this government is about — total arrogance. The opposition persists because it matters for the people of Victoria. It matters to them that they will be paying tolls; it matters to them that they will be in a contract that goes for 34 years. It might not matter to you, Mr Hartigan, but it matters to the people of Victoria.

Honourable members interjecting.

The PRESIDENT — Order! I ask the house settle down, take a deep breath and allow Mr Theophanous to continue.

Hon. T. C. THEOPHANOUS — At page 57 of Daily Hansard dated 31 October the minister says:

... it is the government’s intention that wherever possible, this relocation be funded by the private sector —

referring to the relocation of the dock.

On the same day the Premier said that the port charges would be borne by the government, but the minister said that the cost of the relocation would be funded by the private sector. How can the people of Victoria have any confidence in the government and in a minister who says that the private sector will pay?

Honourable members interjecting.

The PRESIDENT — Order! Mr Hartigan and Miss Gould are not helping, and I suggest that they be silent.

Hon. T. C. THEOPHANOUS — The Minister for Roads and Ports told this house that the private sector would pay for the relocation of the docks, and in the other place the Premier said that all of the costs would be borne by the government. It is typical of the way this government operates: members have absolutely no idea of what they are doing and they cannot be trusted in relation to these proposals. The Premier is saying one thing while the minister in this place is saying something completely different.

What the people of Victoria want to know is who is to pay, the private sector or the government, for the relocation of the docks and how much that relocation will cost. The opposition has indicated that it could be as much as $200 million, which the minister tried to say was untrue until it emerged that it was the port authority that came up with the figure. The opposition was not making it up; it was the authority that came up with that figure.

Then the minister said that the authority had probably overstated the figure — again this pattern of trying to mislead people and Parliament about what is going on. It is probably the case that neither the Premier nor the minister is telling the truth about the full costs of the relocation of the docks.

Honourable members interjecting.

The PRESIDENT — Order! Mr Forwood and Mr Davidson should cease their conversation across the chamber and allow Mr Theophanous to continue with his contribution to the debate.

Hon. T. C. THEOPHANOUS — As to the real cost of the relocation, as reported at page 2 of Hansard on 31 October, the minister says:

... it is believed the relocation of the port facilities can be achieved at a much lower figure than that —

referring to the figure which the opposition had put up —

particularly taking into account the value of the land that is being released to Docklands.

What does that mean? It is clear that the government is again involved in some kind of shonky deal
whereby some of the Crown land that is currently available around the Docklands area will be made available to a developer who will undertake to shift the docks to a new area. Why should the land around the area of the docks have any bearing whatsoever on Docklands?

Hon. W. R. Baxter — Absolutely not — that is not what it says.

Hon. T. C. THEOPHANOUS — I ask the minister what he means by his statement:

... particularly taking into account the value of the land that is being released to Docklands.

Why should that have an effect on the cost of shifting the docks from their current location? There is only one explanation: that some of the land will be made available to the developer free of charge or at a lower rate in order to reduce the costs. It is clear that the costing undertaken by the port authority is of the order of $150 million to $200 million. You cannot get that cost down unless you give something back to the private sector as a freebie. The minister is very good at doing that, and that is what he has in mind.

Not only are the docks at issue; there is also the matter that the shifting of the docks would result in substantial disruption to that area. The government has been put on notice by the shipping industry that it will be seeking compensation in relation to the new arrangements. The suggested compensation is $30 000 per day while the construction of City Link and the docks is taking place. Not only are we talking about the cost of relocation; we are also talking about the cost of compensation to the shipping industry as a result of what this minister has agreed to in the City Link proposal.

The people of Victoria will lose on all counts: they will lose in relation to paying the tolls and because of the shifting of the docks. As a result shipping will be disrupted and the Victorian economy will be disrupted. The Victorian people will lose on all counts because the shipping industry will claim $30 000 per day because of these changes. For how long we do not know because the shifting of the docks could take more than two years. The Victorian economy and the people of Victoria will have to compensate for it.

Not only are we saying that, but the Australian Chamber of Shipping has made the same comments, as has the President of the Australian Peak Shippers Association, Mr Beaufort, who said that:

... the government had ignored the port issue in considering the road project.

The port relocation will be a disaster. The minister said in the house that the private sector would be paying, but now we find that not only is the government paying but it will be paying compensation at the same time. The Premier said in another place that the government would bear all the costs, but the whole thing is being fudged. It is another example of the government not coming clean.

On the subject of Stonnington City Council, Mr Baxter is quoted in the Age of 2 November 1995 as saying — —

Hon. W. R. Baxter — Except that it is not in quotes.

Hon. T. C. THEOPHANOUS — Are you denying it, minister? The minister is quoted as saying that shopowners and the council supported the change. That is typical of the way the minister operates. Rather than saying honestly, 'Yes, I did say that', he says, 'It is not a direct quote', trying to give the house the impression that perhaps he did not say that. The honest thing to do would be to say 'Yes, I said that'.

Hon. W. R. Baxter — Wait until you get the explanation.

Hon. T. C. THEOPHANOUS — We cannot wait for the explanation from the minister. The fact is that Minister Baxter said that, and there is no reason for him to suggest at this point in the debate that perhaps he did not say that.

What did Stonnington City Council have to say? It responded angrily to the news that clearways would be removed from Toorak Road, saying that Toorak Road would become unbearably congested. An article in the Age of 3 November states:

The council's Director of Planning and Environment, Mr Stephen Wright, said the council had not been consulted on the traffic changes despite asking several times to be included in the process.

The council is saying it was not even consulted on the issue, yet the minister is saying the council supports the changes. Where does the minister get
his information from? How does he make those things up? He might be enthusiastic about selling his proposals, but that is no licence to lie. We have another example of the way in which the truth is very much misused by the government.

That picture is reinforced in the comments of the chief executive, Mr Maddock, reported in the local press. He is described as being fairly surprised to see council representatives quoted as supporting the proposal. He is reported in the Malvern-Prahran Leader of 8 November as stating:

We certainly don't agree with the decision, and there certainly hasn't been enough consultation for us to form an opinion yet.

The chief executive says the council was not consulted and does not support the changes, yet the minister says the council supports the changes. Again the minister has been caught out. The minister assumed the council would automatically support the proposal on the narrow basis that somehow it would mean that less traffic would flow through Toorak Road during peak hours and therefore people could park, which would be helpful to local traders.

The council looks at such changes on a much broader basis, and it does not have the same view. It has had to consider a number of other issues, such as the level of congestion of the available lane. Firstly, the council concluded that that congestion would increase. Secondly, it was concerned about the effect of the change on other roads that fall within the municipality. If people cannot use Toorak Road, they will find an alternative.

The council made its opinion clear in the Malvern-Prahran Leader. Mr Maddock said he was concerned that clearways would remain on High Street and Malvern Road. If Toorak Road is blocked off, traffic volume on Malvern Road and High Street will increase. Toorak Road will become more congested because one lane will not be able to cater for the amount of traffic using it. Again the minister has been caught out.

I refer to the final paragraph of the motion. I quote what the minister said on 31 May 1995, as reported on page 992 of Hansard:

The risk remains with the consortium because it builds, owns and operates the road and it takes the risks. If it does not get the expected usage, it is on its head.

That is a pretty unequivocal statement. That is further reinforced on page 994 where the minister states:

Commercial risk will be the responsibility of the successful consortium.

On the same page the minister says:

... the firm Victorian government position that risks should be allocated to the parties best able to manage them. I say again: it rests with the consortium, not with the government.

There could not be a much more categorical statement than that. Most reasonable people would interpret the minister as saying the government will not accept the risk. Even as late as 10 October the minister said in the house in response to a matter raised on the adjournment by Mr White, as reported at page 143 of Hansard:

... he will observe that it does nothing more than restate the long-held position of the government that the City Link project is to be a build-own-operate-transfer (BOOT) project and that, if City Link is to be a BOOT project in its truest form, the government cannot accept any commercial risk that ought properly to reside with the sponsoring consortium — —

Hon. Bill Forwood — You don’t understand what that means. You show your ignorance.

Hon. T. C. THEOPHANOUS — Why don’t you listen? You might learn something. Two days later, the Treasurer, Mr Stockdale, said to the Parliament that it was slightly cheaper for the public if the government bore the risks associated with future legislative changes. He is quoted in the Age of 13 October — not Hansard — as stating:

There are certain risks associated with this project which appropriately rest with the government on behalf of the people of Victoria.

So, by 13 October the Treasurer, Mr Stockdale, started to hedge his bets, saying some of the risk ought to reside with one side and not the other. He told the Public Accounts and Estimates Committee similar things, such as, ‘Certain risks should rest with the state’. He started to talk about the notion of sharing the risk. The government came from an unequivocal position of saying all the risk should rest with the consortium and moved to the Treasurer starting to talk about sharing the risk. He did so
deliberately because he knew the government would have to take a substantial amount of risk.

In fact, as the contract reveals, so much of the risk has been taken up by the government that there is hardly any risk whatsoever left for the consortium. A commercial risk entails the possibility that in the future action might be taken in the private sector or by the government, or natural events might occur that will have an impact on the project. If every developer was able to have all those risks removed, as the government has done in this instance for Transurban, everything might as well have a government guarantee. All the risk has been removed.

Let us examine some of the risks that have been removed. Very little commercial risk remains that cars will not use the City Link route because motorists will have no choice; roads are being closed and narrowed, and so the commercial risk is very low that the City Link will not be used.

In normal circumstances there would always be a commercial risk of a competitor coming in. That is not outside the ambit of a commercial risk. The government has removed the possibility that at some stage a rapid rail link might be developed between Tullamarine and the city. This is no longer a commercial risk. There is absolutely no justification for that removal because it is in direct opposition to the principles of competition in the Hilder report, which the government has agreed to, and it is in direct opposition to the notion of accepting commercial risk. It is against all those principles because it has precluded a competitor from coming along in the future and competing for the business of transporting people from Tullamarine to the city on a rapid rail link.

Hon. W. R. Baxter — No, we haven't.

Hon. T. C. THEOPHANOUS — You have precluded them, unless you are prepared to pay compensation.

Hon. W. R. Baxter — Now you are qualifying that definitive statement. You said we are precluding them, and now you are qualifying it.

Hon. T. C. THEOPHANOUS — The minister says they are not precluded so long as compensation is paid.

Hon. W. R. Baxter — That is not what I said. Get it right!

Hon. T. C. THEOPHANOUS — That is what the contract says, doesn't it, Minister? The contract says compensation will be paid.

Hon. W. R. Baxter — It does not say that.

Hon. T. C. THEOPHANOUS — It says that if a link is built that has a material adverse effect, compensation will be paid.

Hon. W. R. Baxter — Now you are qualifying it even further.

Hon. T. C. THEOPHANOUS — From the point of view of Transurban, it obviously removes a commercial risk.

Hon. W. R. Baxter — Rubbish!

Hon. T. C. THEOPHANOUS — It just shows how incompetent and ridiculous this minister is to keep insisting that this is not a normal commercial risk. It shows he has no understanding whatsoever of what a commercial risk means.

This contract even removes such things as Aboriginal claims to native title. Isn't that a normal commercial risk that BHP or any other private company would have to bear? The government knows it is a normal commercial risk and yet this was agreed to. The contract also removes the risk of any loss of revenue as a result of industrial action. Isn't that a commercial risk? How many companies would like to be in the position of not having to bear the commercial risk of industrial action or of being able to be compensated for it? Isn't that a commercial risk?

I shall give another example. We now know that if an incident occurs on the tollway — for instance, if an electric pole falls over and disrupts traffic and the privatised electricity company has to make repairs but does not do so in an appropriate time frame — compensation is payable. If there is disruption to the tollway as a result of something that any privatised electricity company does, who gets sued? In normal commercial circumstances, the privatised electricity company would be the one to get sued and the owners of the tollway would do the suing. In other words, under normal circumstances Transurban would sue the privatised company for failure to diligently make the necessary repairs. That is the normal commercial arrangement and that is what happens in the commercial world. However, in this situation the government would compensate Transurban.
Hon. W. R. Baxter — And sue the privatised company. Go on, tell the other side of it. You accuse me of telling only half the story; you tell the story properly.

Hon. T. C. THEOPHANOUS — Let's get it straight: it may or may or may not sue the privatised company, and it may or may or may not get compensation. So, who would be bearing the risk in that litigation? It would not be Transurban; the state of Victoria would bear the risk, and yet it is a normal commercial risk.

At every turn in the contract risk is allocated to the state. The state is made responsible for a whole range of events, whether it be action taken by the federal government — the removal of this risk was initially ruled out — or action taken by a future Labor government in building a rapid rail link or upgrading public transport. Whichever way you look at it, you get the same pattern of risk removal.

Today in the hearing of the Public Accounts and Estimates Committee the Minister for Public Transport said that under the agreement he could still build a normal rail link to Tullamarine. He said he had no plans to do so and did not think he would be doing it in the next 5, 10 or 15 years, but that under the contract he had the right to do it.

When the minister was asked about whether he could carry any freight he told the Public Accounts and Estimates Committee that he didn't think freight would be necessary to Tullamarine. What is the reason freight might not be included as part of a rail link to Tullamarine? It is because this contract says it would constitute a material adverse effect and compensation would have to be paid. Those are the lengths to which the government has gone in this contract to remove the risk from the contractor and impose all the risk on to the people of Victoria.

The federal government is now examining the agreement to see whether it complies with competition policy. One aspect of commercial risk is the importance of competition being part of that commercial risk. If there is no competition it is hard to classify it as a commercial project, and on that basis Transurban may not even get the $600 million tax break it is applying for. The question of commercial risk is a crucial one.

Hon. W. R. Baxter — And you don't want to get it!

Hon. T. C. THEOPHANOUS — We don't want your project. We are not interested in tolls. We don't want these tolls and we are not interested in them.

The minister should be condemned by this government. On every count referred to in the motion we find that the minister should stand condemned. We find that he did not tell the truth to the house on 25 October about Batman Avenue: at that time he knew that Batman Avenue would be closed because he had signed off on that on 20 October. He deliberately misled the house.

The minister said it was the government's intention that the relocation of the docks would be funded by the private sector, yet we discover that not only will the relocation be funded by the government but the minister is also considering the question of compensation to the shipping industry on the non-availability of that facility during the construction phase. We also find that this minister did not tell the truth about the Stonnington City Council supporting his changes. He was caught out yet again.

Finally, over a substantial period in this house the minister continued to say that the risk would be borne by the developers. On some occasions he used the words 'commercial risk', on other occasions he didn't bother to put in the word 'commercial' but said that the risk would be borne by the consortium. In the end we found that that did not occur because a substantial part of the risk, both commercial and non-commercial, has been taken up by the government to the extent that it is doubtful that the project fits under the Hilmer guidelines on competition policy.

This house should condemn the minister for his actions in misleading the house and the Victorian government. In addition, at the earliest possible opportunity the minister should resign.

Hon. W. R. BAXTER (Minister for Roads and Ports) — The motion before the house is a very serious one and I take it particularly seriously because it is directed at me and I value my reputation highly. I have been surprised at the lack of evidence, fresh evidence in particular, that the Leader of the Opposition has educed this morning to support his grab bag of accusations.

I have been particularly disappointed in the way the Leader of the Opposition has presented his case because he has accused me of misleading the house, he has accused me of obfuscating, he has accused me
of not telling the whole story. All that we have seen this morning is a classic case of the pot calling the kettle black. Throughout his speech today the Leader of the Opposition attempted to convey impressions to the house and give members an understanding which is completely untrue.

Let me give one graphic and topical example of the sponsorship of the grand prix. The Leader of the Opposition said he had absolutely no doubt that discussions took place prior to 20 October, when the concession deed was signed, on the sponsorship of the grand prix by Transurban. He conveyed in his comments the impression that there were discussions involving me, the Melbourne City Link Authority and Transurban. That is what he wanted the house to believe. That is the impression he tried to convey to the house — that somehow or other he had absolutely no doubt that I was involved in those discussions.

Honourable members interjecting.

Hon. W. R. BAXTER — Now, in typical fashion, Mr Theophanous is backing away from his comments; he is qualifying them. But when he set out this morning he attempted to mislead every government member of the house that I had been involved in discussions with Transurban and that the sponsorship arrangement was part of the deal.

Honourable members interjecting.

Hon. W. R. BAXTER — He didn’t produce any evidence. He misled the house. It was the pot calling the kettle black. I totally reject any suggestion that discussions on the Transurban sponsorship took place with me and the Melbourne City Link Authority. That is just one example of Mr Theophanous’s attempts to mislead the house. What a day of all days to be alleging — —

Hon. T. C. Theophanous — On a point of order, Mr President, the minister indicated that I had misled the house about the statements that he attributes to me, but in fact I did not say in my comments — and he knows that I did not say it — or indicate who may have had discussions on the matter now before the house. I didn’t say anything. I find it extraordinary that the minister could accuse me of misleading the house when I did not make the statement.

The President — Order! That is not a point of order, and the honourable member knows it is not a point of order.

Hon. W. R. BAXTER — It confirms the precise case that I was putting. The Leader of the Opposition attempted this morning to paint a picture, to convey an impression, to give members an understanding because it suited his argument, but when challenged he has to qualify it and admit that he doesn’t have any evidence of that because he knows it is simply not true.

I am amazed that on this day of all days he has accused me of lying when the results of the Western Australian royal commission actually demonstrate and prove that a senior minister of the Keating cabinet has lied — and that seems to be supported by Messrs Keating, Brereton and others as being an acceptable form of behaviour. I say it is a form of behaviour which is utterly rejected by me and by this government.

Before I turn to the four aspects of the motion let me recapitulate this project somewhat and take account of the sheer hypocrisy and humbug that have been demonstrated by the opposition today and over the last year or so on this project. It is widely known that this project was initiated by the Labor Party when it was in government. It was supported by Mr White, who is still a member of this house, and Mr Best will provide a whole range of quotes and statements by Mr White supporting the project when he was in government. It was supported by the Honourable Jim Kennan on various occasions and, what’s more, it was supported by the former Premier of this state, the Honourable Joan Kirner.

Hon. B. N. Atkinson — And Mr White!

Hon. W. R. BAXTER — Yes, on many occasions by Mr White. There are plenty of documents in which former Premier Kirner referred to the benefits the project would bring to the city of Melbourne because of the improvement in residential amenity that would be derived from it. She went on to say that it was an appropriate project to be paid for by the users paying tolls and that it would deliver extraordinary benefits to the people of Victoria.

The project was instigated by the former government and it went ahead and advertised for expressions of interest. It selected bidders, and I shall remind the house about them. Information Bulletin No. 2, of September 1992, when the Labor Party was in government — God save us from that happening again! — sets out the five companies that expressed interest. They are Chart Roads, the Link Road consortium, Neville Ford and Associates, Transurban and Yarra Link Roads. The former
government evaluated those expressions of interest and decided on the two that should put in bids — Chart Roads and Transurban. That was supported by the coalition.

However, following the election when government changed hands and the process moved forward on every possible occasion the Labor Party has tried to sabotage the project. The Leader of the Opposition in another place has been heard on radio and through other media — wherever he can find the opportunity — attempting to undermine the project and mislead the public. I shall give some examples.

Last week on radio the Leader of the Opposition, Mr Brumby, said the bill provided for the extension of tolls to other roads, but it patently does not. If he read the bill properly and understood it properly —

Hon. R. M. Hallam — Or bothered to ask!

Hon. W. R. BAXTER — Yes, Mr Hallam — he would know that is not true. Recently, he said on regional radio that every country person coming into Melbourne would pay a toll. That is patently untrue. It is not physically possible, and yet the Leader of the Opposition in another place has made that unequivocal statement.

Today — on this of all days — Mr Theophanous has talked about lies and lying! The Leader of the Opposition in another place has said that the 3-cent fuel levy could be used to build the project when he knows that the skimpy proposal he put forward in Melbourne Access 2000 could not achieve that. However, he is prepared to say it, which is effectively suggesting that a toll will be paid by all Victorian motorists whether they use the project or not. That is the standard set by the Leader of the Opposition.

The opposition has made no genuine attempt to understand the legislation or even to acknowledge that the government is going to great lengths to protect the interests of Victorian taxpayers. The Labor Party is doing that because it is basing the proposals on the abysmal standards it set while in government. I suggest that the opposition look at the Alcoa contract, which has generated a contingent liability that now, unfortunately, has crystallised to the tune of between $100 million and $200 million a year, all because of the abysmal standards set by the Honourable David White when he was a minister in the former government.

The opposition has not recognised that virtually every financial journalist of any stature in this nation — not only in this state — has acknowledged that the deal the Victorian government has secured with Transurban sets a new benchmark in the protection of the interests of Victorian taxpayers. The opposition should have regard to an article by David Walker in the Age of 25 October in which he said:

... the City Link has redefined private sector road deals in this country ... City Link has firmly established the principle that private road-builders must bear the onus of proof in any claims they make on government ... The Kennett government has very smartly asserted what the New South Wales government did not: it wants to remain innocent until proven guilty.

He acknowledges that a new benchmark has been set and that the former benchmark — the M2 in New South Wales — has been shown to be deficient compared with what has been secured on this occasion. Not only have financial journalists said that; leading bankers who are not connected with the project and other senior businessmen have also acknowledged that this deal sets a new benchmark in Australia and probably world wide. Is there any acknowledgment by the opposition of the protection of the interests of Victorian taxpayers? No. There has been an attempt to sabotage the project and to deny the people of Melbourne and Victoria the benefits the project will deliver. At every turn the opposition has put the project at risk. It has stymied it, created innuendo and disturbed the public by feeding the people a line, false as it may be.

Hon. D. R. White interjected.

Hon. W. R. BAXTER — That is the way you are behaving just because you are in opposition, but when you were in government you thought it was a good idea! Just because an election intervened and you are now on the other side of the house you oppose the project, despite how hypocritical and stupid it makes you look. That is the situation the Labor Party is now in. It looks stupid and hypocritical because it supported the project when in government but after the election, because it was no longer in government, it rejected it.

Hon. D. R. White interjected.

Hon. W. R. BAXTER — I will test the genuineness of the opposition when it comes to understanding the project.
Hon. T. C. Theophanous — What about answering the accusations?

Hon. D. R. White interjected.

The PRESIDENT — Order! Mr White can contribute to the debate. I think he is the next speaker.

Hon. D. R. White — No.

The PRESIDENT — Order! If not, we will get to hear from him, and I suggest he wait until then.

Hon. W. R. BAXTER — I shall examine how genuine the opposition has been in coming to grips with the detail and the complexity of the project.

No-one denies that the project is complex and that such a project has never been done before in Victoria. It is the largest project in the nation and clearly it is breaking new ground. There are matters contained in it that will take some getting to grips with. The opposition requested a briefing, to which I readily agreed, despite my unhappy experiences as a shadow minister when in opposition. When I sought briefings from the former government they were either denied or were so cursory they were hardly worth having. But that is not the way I operate. I wanted to ensure that the opposition was given a good and proper opportunity. I took the request to be for a genuine briefing and I set it for 8.30 a.m. last Friday. My doubts about the bona fides of the request being for a genuine briefing were turned up — a notch or two when I saw the comments about the briefing made by the honourable member for Sunshine in another place. He said:

... if you wanted to know something about anything, or you wanted to know the real guts about anything, you wouldn't necessarily treat a government briefing as a high priority, whether it was our government — referring to the Labor Party when in government and thereby admitting that the briefings it gave the then opposition were a sham —

the previous government, or your government — the existing government. Now, you'd have to be ... a bit of a slow learner to think that was all that important ...

A senior member of the opposition is saying that briefings are a waste of time. With those comments he is imposing his own low standards on another government. They are not the standards of this government; we go out of our way to assist members of Parliament from whatever side of the house they might come.

What happened at the briefing at 8.30 a.m. last Friday? It must be a bit early in the morning for some members of the opposition because they were late getting there, but I was prepared to put up with that. I expected a battalion of ALP shadow ministers to come along. Certainly I expected the shadow Minister for Roads and Ports to come along, but was he in attendance? No. I thought the honourable member for Williamstown in another place, who seems to have a fair bit to say about transport and at one stage seemed to be taking over from the shadow Minister for Public Transport, would be there, but he was not in attendance.

I thought the honourable member for Pascoe Vale might attend, as he has been very vocal in this area, but no. I thought the shadow minister handling the bill in this house might be at the briefing, but he was not in attendance. Who was there? The shadow Minister for Public Transport, none other than the well-known Nunawading Kid, Mr Batchelor. He came along with a battalion of advisers — four of them. I do not know where they all came from. Some I have seen around Parliament; some I have never seen before.

I proceeded. I had allocated an hour for the briefing.

Hon. T. C. Theophanous — You can't deal with the substance in that time.

Hon. W. R. BAXTER — I agree with that. The honourable member for Thomastown, the shadow Minister for Public Transport, tabled a document setting out 75 issues. I do not have a complaint about that, either. We embarked on the briefing with the public servants in attendance and proceeded to go up every blind alley and on every excursion one could possibly imagine, so that at the end of the hour and a quarter, when my time had expired, we had got to question no. 2.

Clearly it was not a genuine attempt on the part of the opposition to understand the workings and complexities of the bill; it was simply an attempt to go up every alley imaginable. Nevertheless, I took it that we should continue at another briefing, which I set for 4.45 p.m. until 7.00 p.m. on Monday. That was obviously too much because the attendance dropped off. Only three turned up on Monday: Mr Batchelor and two of his hangers-on. Anyway, we continued until 7.15 p.m. — more than 4 hours of attempting to brief the opposition on the bill when it
was making no genuine attempt whatsoever to understand it. It simply wanted to pursue some of its own pet ideas. However, I am prepared to do that sort of thing as a responsible minister of this government.

I should like to relate this bit to the house because I thought it was interesting. At one stage there was a bit of a debate about a briefing the Melbourne City Link Authority had given the opposition back in August, before the contract was signed. There was some dispute about whether the authority had responded further in writing on some of the issues, to which I replied that I had instructed the authority not to respond further in writing because I was not going to have public servants subjected to the sort of innuendo they had been subjected to by Mr Batchelor. Following that briefing he had gone out to the media, deliberately misconstrued what he had been told and attempted to quote from purported minutes — I suppose to give some imprimatur or status to what were only notes taken by his hangers-on.

I accused Mr Batchelor of deliberately misconstruing what he had been told and misleading the public. I stand by that allegation, and Mr Batchelor could not look me in the eye when I made it because he knew it to be true. This opposition is not interested in genuine explanations and information; it is interested only in sabotaging a project which it initiated but which now, because it is in opposition, it does not want, for its own reasons, to proceed.

Hon. R. M. Hallam — Initiated and torpedoed.

Hon. W. R. Baxter — That is a good word, Mr Hallam. Let me turn to the four parts of the motion before the house. In respect of the first part, I believe I dealt with that issue on 31 October, in answering a question from Mr Skeggs. I specifically directed Miss Gould's attention to the information I was giving. I followed it up during the adjournment debate the next day when I apologised to her for unintentionally misleading her.

Hon. D. R. White — You did mislead the house?

Hon. W. R. Baxter — The report of my answer in Hansard of 25 October was certainly capable of giving Miss Gould the wrong impression. I took the first opportunity — —

Hon. D. R. White — You did not!
The decision to have a mid-level bridge as part of the City Link project was considered at great length by the government, the port authority, the Docklands Authority, the City Link authority and me. There is no doubt that a mid-level bridge would vastly improve the functionality of the City Link project because it means trucks in particular — bearing in mind it is right in the centre of the industrial precinct — can access the ports. Trucks can negotiate a mid-level bridge; it is less costly than a high-level bridge. What would have been the impact of a high-level bridge in terms of the vista of the CBD? It would have been very intrusive.

The development of Docklands was supported by the Labor Party when it was in government because it represented one of the great potentials for this city to continue to expand on its world reputation for livability, which will be vastly enhanced by the dimensions of these structures.

What the mid-level bridge does — as acknowledged by the Premier, me, and everybody — is to bring forward the movement from down river. There is no question that the facilities of Victoria Dock were reaching the end of their life. Although they probably still had a significant number of years to go, the bridge brings that forward. Ten berths will be rendered redundant by the construction of the bridge, but it is not necessary, and no-one can contend it is necessary, to build ten new berths. Because of better technology and so on trade can be accommodated by four or five new berths, and I refer Mr Theophanous to various reports which indicate that is so. As the VZM land use report indicates, it is clear that the docks were being underutilised. I refer to Appleton Dock and Webb Dock in particular, but there are other sites as well.

When dealing with the relocation of the docks and how it might be financed I shall turn to the government's documents. Prior to the election the government released its ports policy. I commend it to Mr Theophanous because he is now groaning; he obviously hasn't read it!

Hon. T. C. Theophanous interjected.

Hon. W. R. BAXTER — Yes, I am putting it in context for you, Mr Theophanous.

Hon. D. R. White interjected.

Hon. W. R. BAXTER — No, Mr White, in fact I released it at Deakin University on 25 September 1992, which was well before the election! That policy clearly stated that an incoming coalition government would foster and advocate private sector investment on the wharves; that for too long there had been pre-emptive investment by public instrumentalities, port authorities and others.

Hon. T. C. Theophanous interjected.

Hon. W. R. BAXTER — It is interesting that you do not like what you are hearing so you are trying to send the debate off onto some other tangent. That policy was predicated on private sector investment in the ports. The private sector would make investments where it deemed such investments to be commercially desirable and viable and not when some bureaucrat at some port authority believed investment should be made from the public purse. There is nothing new about that at all.

I will now move on to the document released on 10 January, which was the culmination of a very extensive consultation process by this government on port reform. If Mr Theophanous had read that document he would not have made the inane interjection he made a while ago; he would at least understand. That document talks about the establishment of the Melbourne Port Corporation to act as a landlord authority to the port of Melbourne. It repeats that the investment in the port will be by the private sector and whenever possible. They are the words I used and they are the words that Mr Theophanous quotes me as saying in his motion; he has got that bit correct — that is, whenever possible the investment will be funded by the private sector.

What has the government done about putting that policy in place? I refer Mr Theophanous to an advertisement placed in the Age on 30 September. It ran in the Australian on the same day and the Financial Review on 3 October, a couple of days later. The advertisement is headed, 'State Government of Victoria, Port Investment Opportunities, Expressions of Interest', and says:

The government of Victoria is committed to a program of reform to improve the performance of Victoria's ports. Key port reform objectives are to:

- increase port efficiency and to improve services;
- reduce port costs to cargo importers and exporters;
- and
- to achieve a reasonable return to Victorian taxpayers.
Government policy supports private sector investment to achieve competitive efficient and effective port operations.

Consequently, the Port of Melbourne Authority is seeking expressions of interest from suitably qualified companies (or consortia) to lease, develop, and operate port facilities in the port of Melbourne.

It then goes on to talk about how they are to be lodged and so on. Here is the government completing the very policy I advised the house about, to which Mr Theophanous now takes some exception. What was the result of that advertisement? Some 39 expressions of interest were received from 35 companies. Why has it been done?

Hon. D. R. White interjected.

Hon. W. R. BAXTER — It is absolutely related to it Mr White! I will read out a bit more seeing that you didn’t read the ad either. It says:

Expressions of interest may include proposals to handle cars, timber, steel, paper and other trades currently using the Docklands area.

It is a pity Mr White didn’t read it.

Proposals related to any other trades or port activities are also sought.

It goes on to say:

Sites are available for lease throughout the port downstream of the new western link bridge.

As I said, it is a pity the opposition did not read the advertisement. It continues:

Proposals may also be put forward for the excavation, construction and lease of new berths at Webb Dock and Appleton Dock —

the very places the opposition is talking about — —

Hon. D. R. White interjected.

Hon. W. R. BAXTER — Obviously it is not enough for you, but it is for everybody else. What has been the result of that advertisement? As I have said, 39 expressions of interest were received from 35 companies. Those expressions of interest are currently being evaluated by the Port of Melbourne Authority. It has just appointed a new chief executive officer. I have also just appointed from the Department of Transport an officer to take charge of the relocation of the port facilities to ensure it is done in a timely and efficient manner. The ultimate outcomes of the expressions of interest need to be evaluated. Some of the proposals will presumably be moved forward, but it is premature to know.

Hon. D. R. White — You’re somewhere up the Moonee Ponds Creek — you’ve lost your way.

The PRESIDENT — Order! Mr White can decide whether he wants to give his speech now or later. He is listed for later so I suggest that he desist and allow the minister to continue.

Hon. W. R. BAXTER — It is typical of Mr White: when he is bereft of argument he throws abuse. He is not interested in the answer because it does not suit him.

The expressions of interest are being evaluated. I am confident some will move forward and the berth reconstructions will be funded and operated by the private sector. But the time lines the construction of the bridge impose on the port relocation are such that I have instructed the Port of Melbourne Authority to proceed with preliminary plans and any EES process that should be undertaken. That is happening, but any contracts entered into are to be so drawn that they can be taken over by the private sector when this process is completed.

The government is aware of the importance of the port of Melbourne to the economy of Victoria. It is Australia’s largest container port and it underwrites 29 per cent of the gross state product. The government will not do anything to jeopardise the port of Melbourne. There is absolutely no inconsistency with what I said on 31 October, 1 November or today, nor did Mr Theophanous demonstrate such inconsistency. He directed the attention of the house to another example of where he wants to mislead and convey impressions that are not true. He alleges that the Premier made certain comments in the other place on 31 October. Under standing orders I cannot comment about what is said in another place, save and except to say that if Mr Theophanous had been honest with this house he would also have referred to the remarks the Premier made the following day, on 1 November. I totally reject the allegations he made; they were selectively based, and a fair reading of the documentation will completely reject his aspersions.

I turn to part (c) of the motion with regard to Toorak Road. There is no doubt that I am on the public
record as saying that Toorak Road should be, can be, and, I believe, will be in the future one of the premier shopping areas of the City of Melbourne.

Hon. D. R. White — Not at the moment.

Hon. W. R. BAXTER — No, it is not, but it certainly could be enhanced. It is a very popular precinct at the moment but it could be better. The Age interviewed me in the precincts of this building about the traffic management measures which were of particular concern that day. Clearly I talked about Toorak Road and other roads. It was also interesting that upon challenge Mr Theophanous admitted that the quote from the Age on which he was relying was not an actual quote at all. He had to concede that when challenged, but in his usual style he tried to convey the impression that it was a direct quote. It was not, but the conversation with the journalist in question certainly took place.

During the course of that conversation I referred to various submissions I had received from a number of councils about traffic management measures on roads in relation to the City Link project. I was certainly referring to, among other things that were not specifically mentioned in that particular conversation, a submission from the City of Melbourne which dealt with Alexandra Avenue and Boundary Road, two of the other roads in this package to which Mr Theophanous referred today.

The City of Moreland also dealt with a number of roads in the Moreland area. I do not deny that there was a discussion. I was alluding to the fact that I had received submissions from councils which supported the removal of clearways from certain roads. Of course shopkeepers support the removal of clearways. Hardly a month goes by when I do not have a deputation from one group or another wanting a clearway removed. Mr Theophanous did not contest that part of the article. He clearly accepts there is no difficulty with that part of it.

With regard to the City of Stonnington in particular, it was interesting to have regard to an interview that took place at 3AW with Caroline Wilson and Greg Maddock, the Chief Executive Officer of the City of Stonnington, on 9 November. When asked about the discussions with the state government on this issue Mr Maddock said:

Yeah, I mean, I think, I think the clearway has been an issue that we’ve discussed a number of times.

He was then asked:

Yeah, I mean, do you think that enough consultation has been made?

Mr Maddock replied:

Well, as I said, I mean this issue’s been around for probably 10 years. I mean, if you talk to the traders they’ve got concerns up there about parking in the area. If you talk to people trying to catch the no. 8 tram you’ll get a different story. Then you’ll get a story about High Street and Malvern Road and how it will affect them. I mean, it’s how we manage the whole transport system rather than just Toorak Road.

That is absolutely true. The City of Stonnington is currently in consultation with Vicroads on a number of traffic management measures in that particular locality. The interviewer then asked:

Greg, so am I right in saying that perhaps Bill Baxter, perhaps the government has jumped the gun a bit in saying you support this?

Mr Maddock replied:

Well, I think it’s Vicroads more than Bill. I think Vicroads had a couple of talks to us. We’re talking about clearways in Burke Road at the moment, which is another story in the paper this week.

So it goes on. The reference in the Age about the City of Stonnington I shall leave in the hands of the capable journalist to make a connection such as that, but the matter is not capable of having put on it the construction that Mr Theophanous has put on it, because I was talking generally. There is plenty of evidence that negotiations, consultations and discussions were going on with the City of Stonnington.

I shall not go through the many quotes, but clearly if Mr Theophanous were to read again the quotes that he attributed to Mr Wright of the City of Stonnington he would see why — —

Hon. T. C. Theophanous — What about Mr Maddock?

Hon. W. R. BAXTER — I have just dealt with him. What Mr Stephan Wright was saying was that the City of Stonnington was in consultation on a whole range of clearway proposals and that he, Mr Wright, would have some difficulty in comparing the Burke Road and Toorak Road clearways in terms of traffic management. I do not deny that: it is an
issue that must be addressed, and I agree with Mr Wright on that issue.

I met with representatives of Stonnington council in this building earlier this year for a general discussion of a range of issues, including the City Link proposal.

The final matter raised by the Leader of the Opposition is probably the most important issue because the others are simply an attempt to construct a scenario that does not stand up to close scrutiny. I have demonstrated that. The final paragraph concerns the issue of risk. I particularly draw the attention of the house to the wording of Mr Theophanous’s motion:

... indicating to the House on 31 May 1995 that the government would not bear any of the commercial risk associated with City Link ...

The operative words are 'commercial risk'. I have been at pains throughout the negotiation process to ensure that the reality is that the government and taxpayers of Victoria will not have visited upon them commercial risk and that that remains with Transurban, where it properly should. I have drawn from the experience of the M2 freeway in New South Wales to ensure Victoria gets a better deal than the New South Wales government achieved. There is no doubt whatsoever that every commentator with any understanding at all has acknowledged that that has been the outcome. Proper commercial risk, as defined by anyone with any understanding of financial realities — unfortunately, Mr Theophanous does not have that understanding — is borne by the constructor and concession holder, not the government.

To put the position beyond doubt, I have prepared some words that explain it clearly, and I would like to put them on the record. As I indicated to the house on 31 May, the government will not bear any of the commercial risk associated with the City Link. The City Link contract confirms that a new benchmark has been reached in shifting risk to the private sector for a major infrastructure project. Again I emphasise that commentators of any substance have always acknowledged that fact.

All commercial risks have been allocated to Transurban, including design, financing, operations, traffic management, revenue collection, construction, completion, tax payment, contamination, pollution and technology and technical obsolescence. Risk allocation for the project has been on the basis that the party that controls the risk bears the risk.

Here we are moving away from the definition of commercial risk; we are talking about risk generally. I remind Mr Theophanous that his motion refers to commercial risk. My comments to the house refer to commercial risk, but in the interests of fullness of information I will now move on to other classes of risk and explain to Mr Theophanous the arrangements, since he did not come to the briefing to find that out.

The state accepts the responsibility of impeding or negatively affecting the project, for example, through changes in state law. Bearing in mind the way the opposition has endeavoured to torpedo the project, it could well be that in the unfortunate circumstance for all Victorians that Labor were returned to government it would go out of its way in some act of bad faith to torpedo the project. That would not be in the interests of Victorians and they would not see that as fair play. However, it is a risk that is managed by the government of the day; it is not a risk that Transurban in any way can control or administer. It is a risk of the government of the day. Every fair-minded person would believe that any government that attempts to undermine a business in Victoria deserves the most serious censure.

Transurban will be redressed for the effect of that event, including a government financial contribution as a last-resort method of redress. Even in the case of a future Labor government acting in bad faith, the onus of proof rests with Transurban. Again it is a tightly drawn agreement from the point of view of taxpayers.

Certain other events that are outside the control of both parties, for example, an unforeseen event such as an earthquake, that would cause damage to the link are dealt with as follows. Transurban may be able to manage the asset through increasing the concession period and/or increasing tolls, but the onus of proof still rests with Transurban. We have not had an earthquake in Melbourne yet, but perhaps we will and again the onus of proof would be with Transurban.

In any situation where part of the link is damaged it must be repaired by Transurban. If not, the concession may be terminated and in certain limited circumstances the damaged part may be returned to the state, but there is no further responsibility to Transurban whatsoever. Overall, Transurban accepts the risk of constructing the link in a timely
manner — as well it should and must — and operating the link to freeway standards that will allow continuous, uninterrupted use by the public.

It is worth noting that in comparison with the New South Wales M2 project, which I have rightly referred to on a number of occasions, where significant risk was left with the government for a range of events, the City Link contract ensures the Victorian government can take over the project and recover substantial liquidated damages if Transurban's construction schedule falls short of an agreed timetable and specified quality. That agreement sets a new benchmark in Australia, far better than that set for the New South Wales M2 project. The agreement protects at every turn the interests of taxpayers in the state.

Just as I have rejected the other three paragraphs, I reject entirely paragraph (d) of the motion because it is the most important part of the motion. It again demonstrates the honourable member's total lack of comprehension of the project and, failing that, his absolute obsession with torpedoing the project.

Hon. D. R. White — You haven't negotiated with Transurban; you have jumped into bed with it! We always see that when we see the National Party in action.

Hon. W. R. BAXTER — Mr White so often resorts to personal abuse when his arguments are found deficient. He has to refer to the party I represent and imply some ill deed on its part. It is typical of the arguments he advances.

Hon. D. R. White — Ron Walker and the National Party — a recipe for corruption!

Hon. W. R. BAXTER — When in trouble with his arguments, Mr White resorts to the gutter every time.

In closing I refer again to the comments of the honourable member for Sunshine in the other place, Mr Baker, who seems to have some ideas on the project. Maybe he has let the cat out of the bag. We have heard how wonderful the Melbourne Access 2000 concept of the Labor Party is, although we know it has a $1 billion hole and it is a half-baked scheme. In view of the figures I referred to on 9 November when talking about the tunnel, Mr Baker said:

... they will accept paying the toll for something like the Domain Tunnel where it's a one-off, and we couldn't afford to have it otherwise.

Mr Baker let the cat out of the bag. Even under the opposition's Melbourne Access 2000 plan — the one the opposition's shadow minister wants to dump in the bin — there is a secret agenda in support of tolls. The honourable member for Sunshine acknowledges that Victoria will not get the Domain Tunnel unless it is a toll road. Let the opposition answer that.

I reject the motion. I accept it as a serious motion; I accept that if ministers act appropriately they deserve censure. However, I reject any notion that Mr Theophanous has made out a case to answer.

Hon. PAT POWER (Jika jika) — I certainly support the motion moved by my colleague Mr Theophanous. I listened very closely to the minister's contribution and I think the Hansard record and the assessment of that record will show that the minister has done nothing to comfort Victorians who believe the opposition's motion is quite reasonable.

It is not possible for any member in this chamber to dispute that the City Link project is a contentious issue in the community. That was reflected in the past week or so when one of the major daily newspapers — I forget which — indicated there was quite possibly an intention by people to shift their votes as a consequence of their perception of the City Link. I have no doubt that yesterday's news and the carriage of that news in today's newspapers about Transurban's involvement in the grand prix will add further to the concern of Victorians about the City Link and the way the government is conducting itself in these sorts of ventures.

I well remember the circumstances that led to the downfall of 27 years of Liberal government. As somebody who was then involved in working for the Australian Labor Party in a marginal seat, I know that it was the land deals, and more importantly the community's perceptions about those land deals, that contributed very significantly to the voting patterns at that election, and it was part of the reason why the Cain government was able to come to power.

I do not have the slightest doubt that, by the time the election comes, issues surrounding City Link, such as Transurban's sponsorship of the grand prix, and the way the government is managing these major projects will be of similar proportions to the issues in the early 1980s. In that sense, I do not have any difficulty in supporting the motion and, in particular, the four categories of concern listed in it.
The Minister for Roads and Ports took a long time to get to the meat of the motion and in his preamble talked about a grab bag of accusations. There certainly are some accusations in the four categories of the motion, but I think it is a bit arrogant and dismissive of the concern that exists in the general community to describe them as a grab bag of accusations. People in the community are very concerned about any road closures that might be part of the City Link project. To describe that concern as part of a grab bag of accusations is dismissive of the concerns that people have, particularly those who are fearful of experiencing increasing traffic density as a consequence of the City Link. It is also most unwise to dismiss the concerns relating to the Stonnington council—I shall come to it later—as part of a grab bag of accusations.

The minister also attempted to get around any concern the opposition had expressed about sponsorship of the grand prix by saying that because he was not personally involved in any discussions, that prevented the opposition from making a claim that the government had been involved in discussions. It is quite clear that there is concern about the way the government has dealt with sponsorship of the grand prix.

The DEPUTY PRESIDENT—Order! As I read the motion before the house, there is nothing in it about the grand prix. I understand Mr Power is referring to some comments made by the minister, which I understand may have been made in answer to some other comments. However, I suspect that issue has been dealt with, and Mr Power should now deal with the motion.

Hon. PAT POWER—You are certainly correct. Mr Deputy President; I am now responding to issues the minister raised in what I am sure he would agree was a significant preamble to his contribution to the debate.

The minister also commented on statements about tolls by the Leader of the Opposition in another place and suggested the leader's proposal that the 3-cent-a-litre petrol levy ought to be applied to this project was somehow irresponsible. The fact is that the minister was simply being duplicitous because the 3-cent levy will be applied to the Eastern Freeway. The Leader of the Opposition is prepared to apply the 3-cent petrol levy to a number of major projects, whereas this minister and the government are prepared to apply the levy only to the projects they believe are appropriate.

The minister argued that tolls are appropriate on the City Link because motorists other than Victorians will be using the roads and therefore the use of a petrol levy would be discriminatory and unjust. But the same argument could also apply to the Eastern Freeway. I suspect that many Victorians will never use the Eastern Freeway, yet the government and the minister are quite prepared to make them party to the funding of it through the 3-cent levy.

The first part of the motion states:

That this house condemns the Minister for Roads and Ports for misleading the house and the people of Victoria by—

(a) indicating to the house on 25 October 1995 that the government had no intention of closing Batman Avenue, when, on 20 October 1995, he had signed an agreement between the government and Transurban which states "Batman Avenue closed west of Morell Bridge".

My colleague Mr Theophanous quite ably put forward why that is the leading edge of our motion. I listened carefully to the way the minister responded to that accusation and I was interested in two of his comments. The minister said he had taken the first opportunity to correct any misunderstanding that might have existed.

Although I am relatively new to this chamber I suspect that waiting until an adjournment issue at the close—

Hon. W. R. Baxter—No, I did it at question time; as soon as the day started.

Hon. PAT POWER—The minister is now confirming that he did not correct it at the earliest opportunity but that he waited until question time and responded to a dorothy dixer. I understand that, historically, if a minister suspects that he or she has misled the house the matter is treated very seriously. Rather than the matter being addressed at question
time it should be addressed as a result of a formal request by the minister to the Speaker or the President to provide a personal explanation, and for that explanation to be regarded as holding that particular status. It is not appropriate for the minister to say he took the very first opportunity to respond or that he treated the matter in the way that such an issue would normally be treated.

The minister also said he had apologised to the house. I am sure that is what *Hansard* will indicate the minister said. I can find no record in *Hansard* of the minister apologising to the house. Honourable members will recall that Miss Gould raised this issue with the minister during the adjournment on 1 November, as reported at page 67 of *Daily Hansard*. The minister’s response is reported on pages 68 and 69 of the same *Daily Hansard*:

If I unintentionally misled Miss Gould on Wednesday night because of the phraseology I used, I certainly apologise.

For the minister to say in today’s debate, a debate on a motion that condemns him for misleading the house, that the adjournment response directed to Miss Gould represents an apology to the house is drawing a very long bow. Our motion does not say that this house condemns the Minister for Roads and Ports for misleading Miss Gould. It says that this house condemns the Minister for Roads and Ports for misleading the house. The *Hansard* record to which I have just referred clearly conveys an apology which is predicated on Miss Gould’s having misunderstood the minister’s phraseology. There is no attempt by the minister to accept any responsibility on his part or to provide an apology that, in any sense of the word, could be seen as an apology to the house.

Again it parallels his attempt to suggest that he corrected the matter at the first opportunity. My understanding is that if a minister believes he or she has misled the house and there is a need to apologise to the house, it is done in a formal, clear and proper way. It is drawing a very long bow for the minister to suggest that apologising to a member, while implying that she may have misunderstood his phraseology, is in any sense an apology to the house.

Paragraph (b) of the motion contains a very important section because it has to do with transparency and the public’s right to information. Paragraph (b) states that the minister should be condemned for misleading the house and the people of Victoria by:

indicating to the house on 31 October 1995, in relation to the relocation of Victoria Dock required under the City Link project, that ‘it is the government’s intention that wherever possible this relocation be funded by the private sector ...

On the same day the Premier indicated that the cost of port relocation charges will be borne by the government.

I again refer to the considered response of the minister just a few moments ago following Mr Theophanous's contribution. I could not find any words in the minister’s speech which clarified in any sense who is paying for the relocation of Victoria Dock. There is still no clarification from the minister as to whether he or the Premier is speaking truthfully about the relocation of Victoria Dock and the associated costs.

Honourable members interjecting.

Hon. PAT POWER — At the commencement of my contribution I said I was concerned about the shortcomings in the minister’s response. I have not the slightest doubt that today’s *Hansard* will be analysed by a whole range of people to establish whether the minister responded satisfactorily to our motion. The minister said nothing about who is to pay for the relocation of the Victoria Dock. He did not clarify whether he or the Premier is speaking truthfully.

It is a serious public management issue and it is the sort of behaviour and lack of full information that has caused the community to develop suspicions about a white-shoe government.

Subparagraph (c) is important to me because it refers to local government:

(c) commenting to the press on 2 November 1995 that Stonnington council supported the changes to Toorak Road as part of the City Link, when the council indicated the following day that it had not been consulted despite several requests ...
Hon. R. I. Knowles — It was a direct quote.

Hon. PAT POWER — Today, 15 November, Victoria has 78 new municipalities, 75 of which operate as local branches of the Kennett coalition government, and Stonnington is one of those. There is no elected representation on Stonnington council. The commissioners are political appointees.

Honourable members interjecting.

Hon. PAT POWER — By interjection Mr Hartigan asked whether I was saying that they cannot be trusted. I do not say that, but certainly ratepayers and residents are saying that the commissioners cannot be trusted because they do not represent the wishes and aspirations of ratepayers and residents and they are political appointees of the Kennett coalition government. The Minister for Roads and Ports, also by interjection, said I was being offensive to Greg Maddock.

Hon. W. R. Baxter — It sounds very much like that.

Hon. PAT POWER — No, I believe it was the minister who was being offensive by putting words into his mouth. Stonnington council has three commissioners, all of whom are political appointees. I assume that it is they who determine the position of the municipality and not the chief executive officer. If that is not so, the Minister for Local Government might wish to take the opportunity to clarify it.

The motion moved by Mr Theophanous says the Minister for Roads and Ports commented in the press that Stonnington council supported the changes to Toorak Road and that Stonnington council indicated on the following day that it had not been consulted despite several requests. The motion is either right or wrong in the eyes of the minister, but the minister did not answer any of the issues in subparagraph (c). He related some experiences he had with the Melbourne and Moreland councils, where the issues are very different from those associated with Toorak Road. The minister also suggested that by virtue of the 3AW transcript he could somehow be excused from giving the press the impression that Stonnington council supported the changes to Toorak Road when not one piece of evidence substantiated that.

The motion was not moved lightly. I have not the slightest doubt that issues such as City Link or Transurban sponsoring the grand prix will cause increasing concern in the community. Last week an analysis in one of the daily newspapers showed that City Link and the toll issue are affecting voters’ intentions. That is something we will hear more about.

I support the motion, and I argue that at least regarding subparagraphs (a), (b) and (c) — which are the ones I have concentrated on — the minister has not satisfied the house that the accusations made by the opposition are not well founded.

Hon. B. N. ATKINSON (Koonung) — Often there are classic moments during debates in this place, and we saw one today when Mr Theophanous was making his presentation to the house. He looked at his notes and with some degree of despair said, ‘What does it all mean?’. He was at a loss to explain to himself, his comrades or the house what it all meant.

Hon. W. A. N. Hartigan interjected.

Hon. B. N. ATKINSON — It was a rhetorical question, and it was a lesson we as politicians should take note of: do not ask rhetorical questions because they inevitably come back. That was certainly the case this morning when Mr Theophanous asked a rhetorical question. Sadly, it summed up his entire presentation to the house because it showed the absurdity of what the opposition presented.

Hon. Andrew Brideson — Again.

Hon. B. N. ATKINSON — I must agree with you, Mr Brideson. In some ways the debate has been unfortunate, not only because of the matters canvassed — the minister addressed the relevance to the debate of a number of them this morning — but also because they have already been covered in questions and answers in adjournment debates and questions without notice and in explanations to Parliament. The minister’s attempts to assist the opposition to gain some understanding of the project have been more than satisfactory.

It is interesting that the debate has prematurely introduced into the house matters regarding legislation for the project, which we will be considering during the next few days and which goes into a number of details. The opposition shows some enthusiasm for details when it comes to debate; it is a pity it does not show similar enthusiasm and interest in researching information and by taking up opportunities to be briefed on the
MINISTER FOR ROADS AND PORTS

Wednesday, 15 November 1995

facts of what the project means. Nothing has come out of the debate today. The opposition did not take up the opportunity to research the matter.

Hon. B. E. Davidson interjected.

Hon. B. N. ATKINSON — It is probably a darn sight better than anything you have ever contributed to this house. It is a great pity you lost your position as party spokesman. I do not think I have heard from you since then.

The PRESIDENT — Order! On the motion before the house.

Hon. B. N. ATKINSON — With pleasure, Mr President. In the next few days debate in this house on the details of the bill will cover a number of the issues raised by Mr Theophanous and, to a lesser extent, by Mr Power. He very appropriately confined his remarks more closely to the motion, but the points he made did little to advance the motion before the house.

Other government members and I believe the minister has gone out of his way to answer the opposition's questions, bearing in mind the constraints created by the fact that many of the issues canvassed by the opposition over some months, not just on the dates mentioned in the motion, are subject, as it well knows, to negotiation, legal agreements, commercial confidentiality and further consultation with interested parties and parties with a real interest in the success of the project because they recognise its importance to Melbourne and Victoria.

The opposition has tried to pursue matters in a way that suggests the minister has not been candid and has not sought to provide information the opposition believes is important. We argue that the opposition has missed the big picture and failed to understand the project. That would be true to track form, but the opposition has also ignored the fact that the minister has done his level best to assist it by answering questions within the constraints of the negotiations, which, as the opposition knows, were not completed until the past fortnight or three weeks.

The minister has been cognisant of the rules of the Parliament when answering questions. In the one area where he was in error in his comments he corrected himself very quickly; he had his words in Hansard corrected by a government member again raising the issue after it had originally been raised by Miss Gould. The minister went out of his way in that answer to the government member to tell Miss Gould that the answer was a correction of the previous comments he had made in answer to her. He drew to the attention of the house and Miss Gould the fact that he was correcting some statements he had made — —

Hon. Andrew Brideson — He apologised.

Hon. B. N. ATKINSON — He certainly did. It was not suggested that he had misled the house. The minister made it clear that his earlier comments to the house could be misinterpreted. Because he wanted to make sure the house was fully informed he brought the issue to the attention of the house.

This motion follows months of carping, whingeing and complaining from the opposition. It has made contradictory comments about the entire project. The grab-a-headline people are involved in this process, which has been about trying to generate media interest, presumably to buoy up the party faithful. The opposition has failed to understand the opportunities the government has created with this project and the vision shown by the Premier, the Minister for Roads and Ports and the entire government in looking for 21st-century solutions to the needs of Victoria rather than simply tackling the project piecemeal as Labor governments have done in the past.

In the past the ALP strongly opposed freeways, and I can understand that to some extent. Some of its members have had a naive devotion to public transport without recognising that personal mobility is important to people. Although the use of the system may well change in the future, personal mobility will always be important, unless things become like Star Trek and one can simply say, 'Beam me up, Scotty'. The Labor Party recognised that there was no point in building freeways that were roads to nowhere. It had a valid point in saying, 'If we keep on constructing these roads we are clogging different parts of Melbourne'. That has serious social and economic ramifications for this city.

But the ALP failed to grasp the need for a comprehensive approach that addresses the needs of Melbourne and Victoria. That is what City Link is all about and what the minister has championed. It is a major project of significant economic importance to this state well beyond the initial construction costs of $1.7 billion and the 4000 jobs involved. It is important for the revitalisation of the central business district and the upgrading of our port system, which has been criticised by the federal
government, economists and all those involved in freight movement and international trade. The one area of micro-economic reform that really has not been tackled seriously is port reform. That is something the government is about to do. In fact, it is what this issue is all about. In those terms this project certainly has great importance to the state.

We have had from the opposition a grab-a-headline approach. Various speakers for the opposition have said the project is off and that the government has failed; then they have said the project is on and that the government has failed; then they have said the whole project will go broke because nobody will use it; and they have followed that by saying it will cost too much so everybody will have to use it. One day a press release says one thing and the next day another release says the opposite, and all the comments are on opposition letterheads.

Why is the opposition unable to take a consistent position on this project and the whole issue of the management of traffic and transport needs in Melbourne? The opposition has made an untrue and fairly serious claim that tolls might be extended to existing roads. That has been refuted directly by the Premier.

A press release dated 1 August from the Office of the Minister for Roads and Ports states:

Yesterday opposition spokesman, Mr Bracks, warned that the government would have to bail out Transurban shareholders — presumably because the project would fail — today the other opposition transport spokesman, Peter Batchelor, said the project was a licence to print money.

The opposition cannot have it both ways, but in every instance when discussing the City Link project it has tried to have it both ways. This is a major project, one that shows that the government has 21st-century vision. The minister and the government are addressing the road and infrastructure needs of this state well into the future. We are not talking about today's needs or the way Toorak Road, Batman Avenue or Boundary Road function at the moment; we are talking about the way they will function in the future and the system of traffic movement in Victoria well into the future. We are talking about freight movement into the future; we are talking about the economic life of this state into the future; we are talking about the jobs that this state might create, maintain and sustain into the future.

We are talking about a government that has some vision of the future; a government that recognises there is a need to put together a comprehensive solution to the needs of this state. It is not a government that simply takes decisions in the same piecemeal way used by the Labor government in the past.

City Link will underpin the economic development of this city. It will contribute significantly to many urban renewal projects within this city and it will enhance the residential amenities for many people who live in the inner-suburban area in particular. It will certainly ensure that the freight movement within this state, both through port and airport facilities will be enhanced and upgraded, as will domestic and international airport facilities for travellers to other states and cities.

City Link will also support the revitalisation of the central business district. It is a project that has been tackled with private-risk capital. The government thinks it is a good thing because right around the world governments involved with infrastructure projects are increasingly looking to the private investment sector to make them work not only because of their required expertise in constructing projects but, more importantly, their ability to manage them efficiently and to provide the maximum benefit to the users of those facilities — that is, the taxpayer, who recognises that those projects are best achieved through private companies.

Just as importantly one might also say that there were few options for this project. However, the needs are there. Victorian motorists, particularly freight transport operators, are confronting those needs every day in the form of blocked traffic, lost time, lost money and uneconomic performances when compared to their competitors in other states or other nations because we simply do not have solutions to solve the traffic problems.

Already Victorian motorists are facing those losses and know that they are real; they know those things need to be addressed. The federal government has been happily running around taking money from this state in particular and other states. In the past three years the increases in fuel excises taken out of this state from Victorian motorists has amounted to $840 million — in other words, some $840 million has been taken out of this state in fuel excise
increases, and that is not the base increase in that period.

Hon. W. A. N. Hartigan — How much did the state get back?

Hon. B. N. ATKINSON — This state did not get back one single cent. The money went towards propping up the maladministration of the federal government. It went towards the federal government’s attempt to balance its budget in other areas, which has not been achieved either.

Hon. W. A. N. Hartigan interjected.

Hon. B. N. ATKINSON — It failed on that count as well! The point is that the federal government has taken all of that money from the Victorian motorist and the freight operators and so forth and not one cent has come back.

This project recognises the needs, and the option of government funding was just never available. The opportunity for an increase in the levy charge by the state to address this sort of project and this sort of comprehensive solution was simply not on. It could not be sustained so far as motorists and direct costs to businesses are concerned.

Funds cannot be taken from the federal government because it is simply continuing to drain funds from Victorian motorists and freight operators. It has not returned money for the development of road projects within this state nor indeed for other infrastructure projects. Therefore in many ways this project had to be developed as a BOOT scheme. As I said in my earlier remarks, given the success of BOOT schemes, that was appropriate, but it is even more appropriate given the private sector’s success in managing schemes and infrastructure facilities for the benefit of the people.

The criticisms that have been put forward today and in the past by the opposition have included the road network modifications, the fact that public transport options for the future have been compromised and the problem with the relocation of port facilities. They are not valid criticisms that can be brought into this debate because the port facilities are in need of an upgrade at any rate. They have to be upgraded; it is not exclusive to this particular proposal.

As I said, the federal government stands condemned given the fact that micro-economic reform of the country’s port facilities has not occurred. That is the one thing that really holds back most Australian businesses in their prospects of exporting overseas. It has been a major constraint on the country’s economic performance; it is holding back that whole process of micro-economic reform the federal government is pursuing in parts of its agenda. Most states recognise that that is crucial not only to future employment but also to the future health of the Australian economy and individual state’s economies.

Public transport options are not compromised by the City Link bill. That measure will be debated in the next few days but they are not compromised. The road network modifications the opposition was critical of will be properly taken in context only when there is a total system to address the total problem. Therefore, putting in extra roads and extra facilities in one place means you can return some amenities to residents in another area. It is a matter of returning vitality to a shopping precinct in one area because you are improving traffic flows in another. That is extremely important.

It has been suggested by the opposition that its questions on aspects of the Melbourne City Link Bill, which is still to come before the house, have remained unanswered by the minister. Yet opposition members have been given answers time and time again and they have chosen to ignore those answers or have chosen to change or manipulate the context of those answers. They have taken a word out here and there because that word did not suit or they have used a different word suggesting that the minister or the Premier in another place used it.

Opposition members have usually referred to media interviews quoting them second hand and saying the process has been compromised.

This government has been consistent in its approach to the proposal and in its presentation of the facts put before this house and the public. It has been a very open process that has sought to include members of the opposition. The government has extended to them a level of courtesy in the briefing of the bill that was not accorded to the coalition when it was in opposition. The government sought to get some factual information into the opposition’s views and the sort of information it was putting out to the public, but that courtesy was disregarded.

Earlier Mr Theophanous claimed that the Premier said no cost was to be borne by this government for the project. The Premier has never said that. The Premier has said there is no risk associated with it. There is the manipulation. The opposition has taken out the word ‘risk’ because it does not suit it and
used the word ‘cost’, which has an entirely different meaning. It is not what the Premier said and it is crucial to paragraph (d) of today’s motion. It simply does not stand up, and it falls on that point alone.

The government has always supported, discussed and documented this project in the public and in the Parliament. It has said right from day one that the public would not bear a risk. The government was prepared to support the project and was prepared to put funds towards the project in specified areas that have formed part of the agreement which will come before the house in the legislation. However, the fact is that the risk is not there. They are two entirely different words, but opposition members fail to comprehend that fact.

I point out that none of the points in the motion has been sustained. However, one of the interesting things is to compare this entire project with what Labor put up in Melbourne Access 2000, a project that was underfunded by more than $1 billion. One of the members of the task force that developed that project — the spokesman in this area, Mr Hamilton — said in the Age, ‘Well, it shouldn’t really be seen as policy because it doesn’t stack up as policy. It ought to be seen as a discussion paper’. It should be seen as a discussion paper, not a policy! He was then the Labor Party’s spokesman on the matter, although he seems to have been usurped by everybody who has tried to get ahead and grab a headline to make a name for himself or herself. He has been completely sidelined, as Mr Davidson was. There was a $1 billion shortfall in the funding of the opposition’s Access 2000 project — the difference between the reality and what they put out in documentation.

Debate interrupted pursuant to sessional orders.

Sitting suspended 1.00 p.m. until 2.03 p.m.

MARCUS OLDHAM COLLEGE BILL (No. 2)

Second reading

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

That this bill be now read a second time.

The purpose of this bill is to facilitate the transition of Marcus Oldham College from its current status under the administrators of a trust to that of a company limited by guarantee. This transition has been requested by the college with the support of the trustees and is consistent with the legal arrangements under which a number of colleges and other tertiary education providers operate throughout Australia.

Marcus Oldham College commenced operations in 1961 on a site in Geelong with funds set aside in the estate of the late Marcus Oldham. The college is a private provider of tertiary education programs in agriculture and currently has enrolments of approximately 150 students in farm management and related areas of study. These programs are a valuable component of the provision of agricultural education in Victoria, and the government is pleased to assist the college in making a transition which it believes will significantly strengthen its capacity to provide these programs for young people in Victoria.

Throughout its history the college has operated with the guidance of the council established by the trustees of the will of Marcus Oldham. While this arrangement has been harmonious and productive, it is not considered to be the most effective way for the long-term development and expansion of the college. With the agreement of the current council and trustees a company to be known as Marcus Oldham College has been established.

This bill makes the company the legal successor to the existing unincorporated college and transfers the property, students and staff to the new entity in the same way as was done in recent tertiary education mergers and amalgamations.

MAJOR PROVISIONS OF THE BILL

Part 1 of the bill establishes its purpose to provide for the transfer of property and operations to the newly established company and to cancel the trust. Provision is made for commencement, and necessary definitions are provided.

Part 2 of the bill transfers the assets and liabilities of the existing college, including land owned by the college, cancels the trust and provides for the transfer of gifts to the college and for the transfer of staff and students to the new institution.

The bill will significantly strengthen the capacity of Marcus Oldham College to offer programs in agriculture for the benefit of students and the agricultural industry in Victoria.

I commend the bill to the house.
Debate adjourned on motion of Hon. D. E. HENSHAW (Geelong).

Debate adjourned until later this day.

GAS INDUSTRY (EXTENSION OF SUPPLY) BILL

Second reading

Hon. R. M. HALLAM (Minister for Finance) — I move:

That this bill be now read a second time.

This bill forms part of the government’s commitment to provide the widest practicable extension of natural gas reticulation across the state and its commitment to create a less restrictive and more competitive economic environment for Victoria. The bill will encourage competition in the offering of gas connections to areas in regional Victoria that are presently unserviced by natural gas.

The major purpose of the bill is to amend the Gas Industry Act 1994 to allow Gascor to charge a negotiated tariff in new declared areas of supply. Declared areas will also be open to rival suppliers, and the bill will enable Gascor to compete on equal terms against these other suppliers who are not restricted under the act in the tariffs they can charge to provide gas to unreticulated areas. It is the government’s intention that this new provision will apply to extensions of natural gas to regional parts of Victoria. It is not intended to apply to areas contiguous to those presently serviced, as these areas will normally be serviced under ongoing Gascor programs.

Victoria has a higher penetration of gas usage, other than as a fuel for electricity, than any other state in Australia. Approximately 89 per cent of Victorian households have access to gas and some 73 per cent are actually connected to the reticulation system. The corporatisation of the Gas and Fuel Corporation of Victoria has achieved significant improvements in performance. The Gas and Fuel Corporation has been split into a separate pipeline company, the Gas Transmission Corporation, and a distribution and marketing arm, Gascor, trading as Gas and Fuel. Both have been given charters which are designed to lower costs and facilitate a profitable expansion of sales.

Two factors have impeded the further extension of the gas system. The first is the single price prevailing throughout the state for all domestic gas users, and the second is a legislative monopoly which, except under very specific circumstances, prevents any supplier other than Gascor/Gas and Fuel from providing the service. The present gas reticulation system cannot be augmented profitably, simply because those communities not currently serviced are either too remote from existing pipes or are too sparsely populated to justify the expense of connection and supply at the prevailing statewide domestic price.

As a result, a number of communities in rural Victoria have had little prospect of gaining access to natural gas, which is often the preferred form of power for activities like cooking and central heating. For many consumers, denial of reticulated natural gas means the only alternative to electricity is LPG, which is significantly dearer than natural gas. In addition, the inability of many rural industries to access natural gas means reliance on dearer or less flexible fuels. This disadvantages the competitiveness of remotely located industries. It may deter some industries from locating in rural areas. The upshot means less activity and fewer jobs in country Victoria.

For service businesses such as cafes and hotels the lack of reticulated natural gas also means reliance on higher cost fuels. Many such businesses in country towns are focused on tourism. In these and other cases, the necessity to use higher cost fuels denies businesses precious dollars in forgone profits.

The new policy on gas extensions will alleviate all these disadvantages. It is designed to operate in such a way that existing serviced areas are quarantined from any price effect. Non-uniform tariffs will be available only for the extension of gas to areas which have been declared. Active support within the local community will be necessary for an area to be declared.

So as to ensure that consumers and rival suppliers have access to adequate information, the government will require that the tariff be itemised to show the cost of supply at the statewide domestic tariff and the premium. This premium will reflect the costs of providing the additional infrastructure and will be spread across all customers: domestic, commercial and industrial.

Several communities in Victoria have indicated through their representatives their wish to be connected to natural gas and to meet the cost of the supply on a competitive commercial basis. In some
of these areas Gascor and other suppliers have been actively researching markets and are seeking the business.

The bill will mean cheaper energy to many rural areas around Victoria. The provision of natural gas can breathe new economic life into areas where communities are disadvantaged by higher priced energy. The bill is an important further step along the path of gas reform in Victoria and in the provision of competitively priced energy to rural communities.

I commend the bill to the house.

Debate adjourned on motion of Hon. D. R. WHITE (Doutta Galla).

Debate adjourned until later this day.

WATER (FURTHER AMENDMENT) BILL

Second reading

For Hon. M. A. BIRRELL (Minister for Conservation and Environment), Hon. R. I. Knowles (Minister for Housing) — I move:

That this bill now be read a second time.

The proposed bill is a small collection of amendments following up earlier reforms and policy announcements, in particular the July transfer of headworks responsibilities to Goulburn-Murray Water and other rural authorities.

PRICE SETTING BY WATER SERVICE COMMITTEES

The bill will allow prices and tariffs to be set by water authority advisory committees in the context of the Minister for Natural Resources still having the overriding power not to accept those prices.

Scope to delegate price setting will enable greater customer involvement in the management of irrigation distribution networks. Any delegation is subject to conditions set by the delegating authority, so a committee will have to exercise price-setting powers within a financial framework established by the water authority. Pricing setting by water authority advisory committees is in line with the government's October 1993 policy document Reforming Victoria's Water Industry. It is also consistent with the position of the Council of Australian Governments on the devolution of operational responsibility for irrigation schemes.

The old irrigator advisory committees of the Rural Water Commission have evolved over recent years into properly elected water service committees which have significant influence over maintenance programs, operating practices and pricing. The proposed legislation is designed to facilitate the eventual further evolution of these committees into more autonomous customer groups.

SUSTAINABLE RESOURCE MANAGEMENT

The bill also amends the Water Act to clarify that groundwater management plans can be used to ensure the long-term sustainability of groundwater resources. The act at present provides that the object of a groundwater management plan is to make sure that groundwater resources are managed in an equitable manner. However there may well be other objectives in developing a plan.

In Western Port a prime concern in the management of ground water is to stop the intrusion of seawater. In the Shepparton area a groundwater management plan is being used to stop the destructive effect of saline groundwater. In the Latrobe Valley a prime concern is to manage land subsidence caused by dewatering coal mines. This amendment will clarify that groundwater management plans can be used to deal with these and other problems which may threaten the resource.

SALE OF SURPLUS WATER IN GOVERNMENT-OWNED STORAGES

The development of bulk water entitlements has confirmed that in some storages previously managed by the Rural Water Corporation there are unallocated parcels of water which are not needed to meet the rights of users.

In Merrimu Dam there is a parcel of water of about 2500 megalitres a year which is not needed to meet the primary rights of users. The same situation may arise with other dams formerly held by the Rural Water Corporation, like Blue Rock. The bill clarifies that the minister may sell such unallocated water.

AUTHORITIES POWER TO SELL WATER PERMANENTLY TO IRRIGATORS

The bill will allow authorities to transfer their unused bulk entitlements to irrigators permanently. The authority concerned must first demonstrate to
the minister that the water is surplus to its obligations to supply water. At present authorities can only make such transfers on a temporary basis.

OTHER ITEMS

There are also some minor items in the bill which include an amendment to clarify the ministers power to appoint a resource manager under a bulk entitlement order. The bill also widens existing provisions of the Water Act so that bulk entitlements can be granted to water in the works of an operating licensee under the Water Industry Act 1994.

The licence provision of the act will also be broadened so that a licence to take and use water can be issued in relation to the works of any authority as well as to the works of the holder of an operating licence under the Water Industry Act.

Neither of these provisions has the effect of allowing a bulk entitlement or licence to be issued which would erode any entitlement to water held by an authority or operating licensee. The water provided under the new entitlement would need to be brought from elsewhere or to be identified by the authority or the operating licensee as surplus water which it is willing to sell.

I commend the bill to the house.

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

Debate adjourned until next day.

STATE TAXATION (FURTHER AMENDMENT) BILL

Second reading

Hon. R. M. HALLAM (Minister for Finance) — I move:

That this bill be now read a second time.

The purpose of this bill is to make numerous technical amendments to various state revenue acts. The bill introduces further amendments to the Business Franchise (Tobacco) Act 1974 to improve the administration and enforcement of the act. In the last two parliamentary sittings the government has introduced legislative amendments to address weaknesses in this legislation, which have allowed licence fee avoidance schemes to flourish in Victoria. These schemes were causing considerable loss to Victoria’s revenue and greatly damaged the competitive position of those participants in the market who complied with the spirit as well as the letter of the law.

The government has moved to restrict the illegitimate activities of the perpetrators of the schemes and provide for a more orderly marketplace in the industry with legislative amendments, particularly in the last sitting. In my speech to this house upon the second reading of the Business Franchise (Tobacco) (Amendment) Bill on 24 May 1995, I foreshadowed that further amendments would be introduced in the spring sitting to enhance existing enforcement provisions. These current amendments will further improve the operation of the licensing requirements upon wholesalers and compliance powers. We must accept the fact that the tobacco industry has attracted unscrupulous participants who have enjoyed substantial profits from avoidance activities. It would be naive to expect that these persons would not persist in exploiting other loopholes if any become apparent. Further amendments may be required in the future to deal with unforeseen avoidance schemes.

This bill enhances the amendments to the act in the last sitting, primarily through the imposition of certain obligations on persons who transport large quantities of tobacco products. The amendments will require that all persons who transport more than 3500 cigarettes or 5 kilograms of tobacco products keep records containing particulars of sale and transport of the products. These records must be produced at the request of an authorised inspector with penalties applicable to any person who cannot produce these records or whose records are false or misleading. Where those records are false or misleading, the vehicle in which the tobacco is being transported may be driven to a police station, where the tobacco can be unloaded and seized. These measures supplement amendments introduced in the autumn sitting and are designed to increase compliance with the act.

The transportation provisions allow seizure of tobacco in certain circumstances, as do other sections of the act. This bill will oblige authorised officers, in all cases of seizure, to give a written notice to the people from whom the tobacco is being seized informing those people of their rights in relation to the seized tobacco, and what they must do in order to prevent the tobacco products being forfeited to the Crown. The obligation to issue a notice also arises where petroleum products are seized.
A deficiency in the seizure provisions is also addressed by the bill. Currently section 14(2)(ba) of the act allows an authorised officer to seize products, books, records, documents and accounts without any specific power for those records and documents to be retained by the commissioner for the purposes of copying or taking extracts. The inability to take records away for inspection or to take copies of them as required is administratively cumbersome and hinders the effectiveness of the seizure provisions. Proposed section 14(6) gives the commissioner this power, without ignoring ordinary business considerations, so that a person entitled to inspect the records and documents can do so at any reasonable time while they are in the commissioner's custody. These transport and seizure provisions are substantially similar to provisions which already exist in the corresponding act in New South Wales, the Business Franchise Licences (Tobacco) Act 1987.

In conjunction with the transportation provisions, the bill provides for an improved and streamlined process for dealing with forfeiture of tobacco or petroleum products which have been seized. Previously, the forfeiture of seized products depended on the commissioner being satisfied by a statutory declaration that the person from whom the products were seized had applied for a licence under the business franchise acts or was going to apply within three months, or that the products were to be sold interstate. If the commissioner was not satisfied, the products were forfeited to the Crown three months after taking of possession and the forfeiture was notified in the Government Gazette. The compulsory licensing scheme for tobacco wholesaling has led to a need to change the forfeiture process. Under proposed section 15B, the person from whom tobacco or petroleum products are seized has 30 days to demonstrate to the commissioner that the products were owned by a licence-holder or were going interstate for sale. Where transportation of tobacco is involved, the person may also show that the tobacco was en route to a tobacco licence-holder. Failing these requirements, the products are forfeited and the commissioner can dispose of them as he or she sees fit.

The government does not lightly embrace increased regulation of business. However, this bill has the support of the tobacco industry and will further restrict present avoidance activities through closer scrutiny of transportation of large quantities of tobacco. These amendments supplement the new licensing regime and that is further evidence of the government's ongoing commitment to thwart the activities of unscrupulous traders whose behaviour is damaging to the industry as a whole.

The secrecy provision in the Business Franchise (Tobacco) Act 1974 has also been further amended to allow the commissioner to divulge information to officers of the Australian Customs Service. This will improve the ability of the commissioner to cooperate with customs to combat international franchise fee avoidance schemes.

The bill amends the Financial Institutions Duty Act 1982 to rationalise the financial institutions duty payable by brokers. Because of the nature of their business and the complexity of the legislation, it has been difficult for brokers to ascertain their liability to financial institutions duty. Technical faults in the legislation have made it impossible to secure consistent payment of financial institutions duty, resulting in compliance problems for brokers. This bill introduces amendments that will address that problem by replacing the current regime by imposing financial institutions duty upon brokers' receipts. These receipts will be calculated in accordance with the return which the brokers are required to make to the Australian Securities Exchange, thereby minimising any additional administrative burden. These amendments are a practical example of the government's commitment to securing compliance with a taxing act in consultation with the industry affected and reducing red tape wherever possible. These amendments are also consistent with New South Wales legislation which commenced on 1 January 1995.

An amendment to the Financial Institutions Duty Act 1982 to deal with an anomaly in the treatment of receipts in the nature of a short-term dealing is introduced by this bill. Section 11A provides an exemption from duty for term deposits reinvested with a financial institution at the expiration of the term. This bill proposes to give section 11A its intended effect to ensure that it does not apply to term deposit reinvestments where the reinvested amount was a short-term dealing. Another minor technical defect in the Financial Institutions Duty Act is remedied by this bill.

The bill also removes the potential for an anomalous outcome regarding past collections of financial institutions duty following a recent amendment to the act. Since the act commenced, duty has been collected upon credits to bank accounts held in Victoria which were deposited by the account holder outside Victoria. While these amounts were paid in good faith on what was the generally accepted
intention of the act, more recently doubt has been cast as to whether duty was payable upon these receipts. An amendment to the act which took effect on 21 August 1995 ensured that these receipts were dutiable. This bill now deems any duty paid in respect of these credits before 21 August 1995 to have been validly paid under the act.

The bill makes a number of technical amendments to the Land Tax Act 1958 to streamline and modernise administration of the act. This bill deems a land value for the purposes of special land tax based on the unimproved value for general land tax purposes rather than requiring a special valuation to be undertaken at the time of levying the special land tax. This amendment simplifies the administration of the Land Tax Act.

An amendment which enables the Commissioner of State Revenue to delegate to all relevant employees under the Land Tax Act ensures the practical operation of the act and takes account of changes that the government has introduced to the staffing of the public sector.

A potential anomaly addressed by this bill is the provision of the Land Tax Act which provides that lands held by a mortgagee in possession will be taxed as if they were still held by a mortgagor for three years after the mortgagee takes possession. An ambiguity in the present provision suggests that the provision could be applied to assess land where a mortgagee is in possession as if the land were held by the mortgagor for as long as possession by the mortgagee continues. This bill amends the provision to give the act its intended effect.

The bill also introduces an anti-avoidance provision to limit the ability to apportion land tax between the lessor and lessee where a landlord is disadvantaged by the terms of a lease. Section 42 of the Land Tax Act was intended to cover old-style long-term leases where a peppercorn rent is being received for valuable central business district property. Today virtually all modern leases impose rental at market rates, and therefore section 42 should not have wide application. This bill limits the application of section 42 to leases entered into before 30 December 1978. The bill will also impose additional tax at the rate of 20 per cent per annum where an amended assessment has increased the amount of land tax payable and the tax remains unpaid for more than 14 days after it becomes due and payable.

In the budget the Treasurer announced a modification to the capping arrangements by which land tax is capped to a maximum increase or decrease of 40 per cent from the tax that would have been payable on the same landholdings in 1993. This bill fulfils the government's commitment to remove the lower cap and thereby reduce the burden of tax upon those landowners whose holdings have fallen in value in recent years.

This bill also amends the Pay-roll Tax Act 1971 to impose payroll tax on accrued leave paid on termination of employment. Payroll tax is levied in respect of accrued leave payments in Western Australia, South Australia, the ACT and New South Wales, and this amendment will make Victoria's legislation consistent with those jurisdictions. However this amendment will levy payroll tax only on leave which accrues after 1 January 1996 and which is paid on the termination of employment. Additionally, the bill repeals section 9A(1D) of the Pay-roll Tax Act 1971 to remove an anomaly in the grouping provisions which prevents businesses owned by the same person from being grouped with other businesses in which that person has a controlling interest.

The bill also makes various amendments to the Stamps Act 1958. The bill creates a new scheme for imposing stamp duty on the principal trade of stockbrokers and futures members. Brokers will no longer enjoy the 10-day duty-free period in respect of the sale and purchase of marketable securities which they buy or sell on their own account. Brokers will be required to pay stamp duty at a concessional rate on trade on their own account where that trade is completed within three months. For example, if a broker purchases securities on his or her own account, stamp duty will be paid at the concessional rate if they are on-sold within three months. These amendments will have a positive effect on the trade in securities by assisting Victorian brokers to deal in larger parcels of securities trade with institutional investors. The amendments reflect recent amendments made to the stamp duty legislation in New South Wales.

The Stamps (Further Amendment) Act 1995 reduced the rates of stamp duty payable on marketable securities to follow the reduction in rates in Queensland. On 29 May 1995 the Treasurer announced that Victoria would insert additional provisions to ensure that in the future transactions in shares in Victorian companies or in units in Victorian unit trusts would pay the equivalent of Victorian stamp duty. This bill fulfils that commitment by introducing amendments to protect Victorian revenue from further reductions in the rate
of stamp duty on the transfer of marketable securities in other jurisdictions. A new subdivision is inserted into the Stamps Act 1958 which imposes Victorian duty on sales or purchases of marketable securities (in Victorian companies or unit trusts) where the order was lodged with a broker in a jurisdiction which has either no duty or a lower rate of duty on the transfer of marketable securities.

The bill also remedies minor defects and makes a minor technical amendment to the provisions related to betting books and betting tickets in the Stamps Act 1958. The bill makes minor amendments to the Probate Duty Act 1962 and the Gift Duty Act 1971 as a consequence of the Probate (Taxation Appeals) Regulations 1985 and the Gift Duty (Taxation Appeals) Regulations 1985 sunsetting at the end of this year. The amendments provide that the prescribed time within which the Administrative Appeals Tribunal may reopen a matter and review an assessment is within six weeks after the date on which it confirmed the assessment.

I commend the bill to the house.

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

Debate adjourned until next day.

JOINT SITTING OF PARLIAMENT
Monash University

The PRESIDENT — Order! I have received two 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 Monash University council following the expiry of the terms of the Honourables James Vincent Chester Guest, MLC, Peter Ronald Hall, MLC, and Dr Gerard Marshall Vaughan, MP, on 10 December 1995.

Three members to the Royal Melbourne Institute of Technology council following the expiry of the terms of the Honourables Gerald Barry Ashman, MLC, David Mylor Evans, MLC, and Ms Sherryl Maree Garbutt, MP, on 31 December 1995.

I have received the following message from the Assembly:

The Legislative Assembly acquaint the Legislative Council that they have agreed to the following resolution:

That this house meet the Legislative Council for the purpose of sitting and voting together to choose members of the Parliament of Victoria to be recommended for appointment to the council of the Monash University and the council of the Royal Melbourne Institute of Technology, and that the time and place for such meeting be the Legislative Assembly chamber on Tuesday, 21 November 1995, at 6.15 p.m.

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

That this house meet the Legislative Assembly for the purpose of sitting and voting together to recommend members for appointment to the councils of Monash University and the Royal Melbourne Institute of Technology and, as proposed by the Assembly, the place and time for such meeting be the Legislative Assembly chamber on Tuesday, 21 November 1995, at 6.15 p.m.

Motion agreed to.

Ordered that message be sent to Assembly acquainting them with resolution.

QUESTIONS WITHOUT NOTICE

City Link: traffic management

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Roads and Ports to his repeated statements that the agreed traffic measures in the City Link contract are designed to improve the residential amenity of the streets and has nothing to do with forcing cars onto the City Link tollways, and I ask: if that is the case why is Transurban entitled to claim compensation under the contract if any of those traffic measures are removed or not implemented?

Hon. W. R. BAXTER (Minister for Roads and Ports) — The concession deed includes rights and responsibilities imposed on both sides under the contract. Clearly, if a provision of any contract is broken by one party the other party has a right of action.
Baw Baw: service improvements

Hon. P. R. DAVIS (Gippsland) — Will the Minister for Local Government advise the house of any new service improvement initiatives in the Shire of Baw Baw?

Hon. R. M. HALLAM (Minister for Local Government) — I am pleased to advise the house that last week I had the good fortune to attend a dual opening ceremony in the Shire of Baw Baw. The first part of my duties was to open a brand new customer service centre in Warragul. It is a very modern facility and one which is welcomed by the ratepayers in that municipality. I generally acknowledge the innovation and congratulate the commissioners on the new facility.

I was particularly pleased to be involved in the second part of the ceremony, which was the launch of a mobile service caravan. An initiative of the council, the caravan is designed to take municipal services to the more remote communities of the new municipality. It is a very worthwhile initiative which will provide hitherto unknown levels of services to those communities. There will be a significant improvement in the service levels available to residents of those remote townships, which traditionally have had restricted access to council services. Again I commend the council for its initiative.

I pay special tribute to the work undertaken by the manager of contract administration of the Baw Baw shire, Mr Gary Gaffney, who was very proud to demonstrate to me and to those who accompanied me last week a new software package he developed which supports the CCT process from the initial specifications through to the evaluation of the tenders. At each stage of the process the available data is logged, and that in itself triggers the necessary forms, letters and in many cases the advertisements that are required.

The system has also incorporated what we would all recognise to be the very best of practices in the tendering process. For instance, it facilitates the development of appropriate selection criteria and the weightings given to specific aspects of the tenders and that is made known to all the tenderers in advance.

Perhaps the centrepiece of the administration module that was so proudly unveiled last week is the quarterly review of each contract, and that is upgraded and made known when the next tender is let. I suggest what the Shire of Baw Baw has achieved, particularly under the direction of its contract manager, Gary Gaffney, is a very good example of compulsory competitive tendering for local government and for managers across the public sector generally. I commend to other councils and to all members of the house the work undertaken in Baw Baw.

City Link: stapled securities

Hon. D. R. WHITE (Doutta Galla) — Under the City Link proposals there will be a trust, Transurban City Link Unit Trust, and a company, Transurban City Link Ltd, which will necessitate the introduction of stapled securities. I ask the Minister for Roads and Ports the purpose of stapled securities and how they operate.

Hon. W. R. BAXTER (Minister for Roads and Ports) — I have absolutely no qualms or hesitation in saying to Mr White that stapled securities are a very complex issue which I am not able to answer verbally at question time today. I will provide a response to him.

TAFE colleges: commonwealth funding

Hon. K. M. SMITH (South Eastern) — Will the Minister for Tertiary Education and Training inform the house of the accuracy or otherwise of reports last week that the commonwealth government would cut TAFE growth funding to Victoria because of alleged broken promises by the Victorian government? What does it all mean?

Hon. HADDON STOREY (Minister for Tertiary Education and Training) — Well might Mr Smith ask what it all means when referring to statements made by the federal education minister. Indeed, what does it all mean?

In the week leading up to the ministerial conference last Friday concerning ANTA, a spokesperson for the Honourable Ross Free, the federal Minister for Schools, Vocational Education and Training, made an allegation that there had been a drop in the number of students being processed by TAFE colleges in Australia between 1993 and 1994, that that was a dreadful thing in view of the fact that the commonwealth contributed to the growth funds, that it would put in jeopardy growth funds for the states and that the matter would definitely be raised at the ministerial conference the following week.
Whoever read the chart that the federal minister's spokesperson was referring to obviously does not understand charts. The actual chart setting out the figures for 1992, 1993 and 1994 had dotted lines between 1993 and 1994. When you look at the bottom of the chart you find that the dotted line represents a new series. In other words, you cannot compare the figures between 1993 and 1994 because they were calculated on a different basis. When you actually compare the figures on a proper basis what you find is — in Victoria at any rate — that the number of students actually increased, and so did the number of student contact hours. It was an empty threat because you do not judge this matter by the number of places but by the number of student contact hours. In any event, the matter was not even raised by the Honourable Ross Free at the ministerial meeting — no doubt because he was told that they had got it wrong.

In the day or two leading up to the meeting the federal Minister for Employment, Education and Training, Simon Crean, made a statement in which he claimed that Victoria was going to lose something like 3000 student places because TAFE moneys would be withheld because Victoria was not maintaining its effort. Again the federal government was not prepared to acknowledge that we have an efficient TAFE system in Victoria, that excellent productivity improvements have been made and that at all times we have maintained our effort. We have increased the number of student contact hours, which is a tribute to the way the TAFE system is operating in Victoria.

At the ministerial meeting on Friday it was agreed that Victoria had satisfied the requirements and maintained its effort for 1995 and that it would satisfy the requirements for the maintenance of effort in 1996, and growth funds were made available. As a result of the meeting in 1996 Victoria will receive commonwealth funding of $193 million to expand its vocational education and training system. That includes growth funds of $17.4 million, which will provide for 11 000 new places in Victorian TAFE institutes. That is an acknowledgment of the real efficiency improvements that have been made in the Victorian TAFE system during recent years, and it means we will continue — as we have done in the past three years — to deliver quality TAFE training and to increase the number of students, and that is a tribute to our TAFE colleges. I congratulate them on the effort they have made.

Yarra Ranges: services

Hon. PAT POWER (Jika Jika) — In the context of his frequent claims that services would not fall as a result of forced changes to local government, is the Minister for Local Government aware that the Yarra Ranges council has recently resolved to abolish voucher and discount cards for council services, including tips and swimming pools? Given the minister's undertaking that there would be no reduction in service, what action will he take to ensure that ratepayers and residents in the Yarra Ranges Shire Council area will continue to receive the services to which they now have access?

Hon. R. M. HALLAM (Minister for Local Government) — I give a commitment to Mr Power that I will look carefully at what he has brought to the house to satisfy myself as to the level of services provided in that municipality, and I shall give Mr Power an informed response.

Roads: maintenance contracts

Hon. B. W. BISHOP (North Western) — As part of Victoria's ongoing roadworks program I am aware that Vicroads has successfully contracted out maintenance of the Sunraysia Highway and has achieved considerable savings in the process. Will the Minister for Roads and Ports advise the house whether similar contract arrangements are being extended to other parts of the state?

Hon. W. R. BAXTER (Minister for Roads and Ports) — Mr Bishop is correct in his comments about the Sunraysia Highway in the province he represents. It was one of the first stretches of roadway and main roads Vicroads contracted out to the private sector rather than having the respective municipalities carry out the maintenance. The successful tenderer, Robert Portbury Constructions Pty Ltd, has performed well, and Mr Bishop's constituents are much pleased with the standard of maintenance on that highway.

Mr Bishop asked whether Vicroads will extend the procedure to other areas. Yes, it certainly will. I alert the house to the fact that a contract let recently in the south-west of the state includes maintenance of large sections of the Great Ocean Road and, for example, the Otway Lighthouse Road. Again the successful tenderer was Robert Portbury Constructions Pty Ltd at a cost of $1.1 million. Five tenders were lodged, including one from the reconstructed municipality that had previously done the work. It was open to
the municipality to do that under the CCT proposal, which is a worthy proposal indeed.

The distinction I make on this occasion is that the municipality tender price was $2.7 million, more than twice the amount of the Portbury tender. That indicates that in the past it has been an expensive operation to have the municipality carry out the road maintenance on behalf of VicRoads without market testing, if these figures are anything to go by. Exposing the municipality to competition has resulted in considerable savings, and those savings can be applied to building further roads.

Yarra: commissioner’s statement

Hon. PAT POWER (Jika Jika) — Can the Minister for Local Government confirm what the former Mayor of Sandringham, former Cr Carmen Watson, told a public gathering in Sandringham:

We had hoped for so much from amalgamation ... it is dreadful to see the services we fought for over 25 years being undermined.

If the minister is not aware of former Cr Watson’s comments, will he undertake to establish whether they were made, given that Ms Watson was appointed by the government as a commissioner of the City of Yarra?

The PRESIDENT — Order! I am not sure that whether a person made a statement at a public meeting is a matter of government administration.

Hon. R. M. HALLAM (Minister for Local Government) — I do not intend to make any comment on the veracity of the quotation Mr Power offers me.

Aged care: capital works

Hon. G. R. CRAIGE (Central Highlands) — Will the Minister for Aged Care advise the house of recent funding initiatives for capital works improvements to aged care facilities across Victoria?

Hon. R. I. KNOWLES (Minister for Aged Care) — I am pleased to advise the house that we have finalised the funding under strategy C of the aged care capital works program, which will cover upgrades at 11 hospitals — in particular the nursing home services in those hospitals around the state — to provide an opportunity for the hospitals to meet the Commonwealth government’s outcome standards. Skipton and District Memorial Hospital has received $60 000; Western Highlands Health Service has received $150 000; Edenhope and District Memorial Hospital, $150 000; Kaniva District Hospital, $260 000; Maryborough District Health Service, $160 000; Boort District Hospital, $250 000; Cobram District Hospital, $400 000; Wangaratta District Base Hospital, $89 000; West Gippsland Hospital and Cooinda Lodge Nursing Home, $300 000; Bethlehem Nursing Home, $150 000; and the Mount Eliza Centre, $200 000.

That funding, which totals more than $2 million, again reinforces the government’s commitment to maintaining high quality nursing home services where it is crucial that the services remain in the public sector, particularly as many of them are vital to the viability of health services in smaller rural communities.

Local government: compulsory competitive tendering

Hon. D. E. HENSHAW (Geelong) — The local government industry has never understood why the government included allocations for depreciation in legislation for assessing the required levels for compulsory competitive tendering. Has the Minister for Local Government received formal representations on this matter from the industry? If so, will he advise the house whether any action is proposed relating to the inclusion of depreciation allocations in compulsory competitive tendering calculations?

Hon. R. M. HALLAM (Minister for Local Government) — I begin by saying that the model to be applied to competitive tendering was developed in consultation with the local government industry that included all the peak organisations. It is pertinent to observe that at that time nobody canvassed the exclusion of depreciation on assets. I do not think anybody saw it coming, with one exception. That happened to be the minister. I remember saying —

Hon. Pat Power — Don’t tell me you got rolled.

Hon. R. M. HALLAM — Not at all. I said to the industry at the time that I thought a 50 per cent ultimate target for competitive tendering was very brave and that when the pressure came on under the reform agenda it was likely that councils would delete their non-core activities, in which case the 50 per cent high-jump bar would be even higher than it appeared at first glance. I made that comment to the industry at the time, and I make the
point now to Mr Henshaw that nobody talked about depreciation until after the event. As soon as it was raised I said to the person who raised it — it has been raised many times, so you are two years behind the event. Mr Henshaw — that I was not prepared to allow the concept of CCT to be put at risk by the treatment of depreciation.

It is worth noting that I have taken the unorthodox stand of going against my profession. I went to the Public Sector Accounting Standards Board and complained about the application of depreciation in this context, and I did not get a very good hearing at the professional level.

Hon. T. C. Theophanous — Why not just make a decision?

Hon. R. M. HALLAM — I will let that go through to the keeper. I have made it very clear that the application of depreciation on assets will not be allowed to put at risk the most important aspect of our reform agenda — namely, compulsory competitive tendering. I give that commitment now, as I have done on many occasions.

Bicycle paths

Hon. G. H. COX (Nunawading) — Taking into consideration the popular use of bicycle paths, will the Minister for Conservation and Environment advise the house what steps are being taken by the government to further enhance Melbourne’s bicycle path network?

Hon. M. A. BIRRELL (Minister for Conservation and Environment) — I thank Mr Cox for his question and his long support for bicycle paths in Melbourne. I am pleased formally to advise the house that Melbourne’s two most popular bicycle paths — the main Yarra trail and the Gardiner’s Creek path — have now been linked, filling a gap that had been in the system since the 1960s. A unique bridge suspended below the South Eastern Freeway and costing approximately $3.7 million has been constructed for cycling and pedestrian use.

The Minister for Roads and Ports and I had great pleasure in opening that bicycle and pedestrian path recently. It means that we truly have the world’s best bicycle path system. You can now ride from the Dandenong Ranges into the city on uninterrupted, off-road bike paths.

This key project will further enhance Melbourne’s reputation as a bike-friendly city, providing new opportunities for the thousands of cyclists who travel these routes each week for commuting or recreational purposes.

The new track will eliminate on-road travel between the two paths, cutting travel time and vastly improving safety for bike riders, who will no longer need to mix it with traffic on Glenferrie Road and other local streets in Richmond and Hawthorn.

This is Melbourne’s newest Yarra crossing for pedestrians since the completion of the Southbank footbridge, which has contributed to the success of riverside developments in the city.

It is important that we fill these longstanding missing links in the bike path network. While they cost a very large amount of money they add to the many significant achievements of the Kennett government in this field.

The bridge has been carefully designed to maintain the natural beauty of the river environment, and I encourage non-sedentary members of the house to walk along the new link or ride a bike along the new bridge.

This was a joint project involving Vicroads and Melbourne Parks and Waterways, and it is pleasing to see them working together so well. More importantly, this project has been overwhelmingly supported by bike riders. Mr Baxter and I have been overwhelmed with letters of thanks and support. We have been pulled up in the street by people wanting to thank us for what the government has done. Mr Baxter is used to that sort of thing!

It is pleasing for all of us to see the popular support for this link, and I hope people from both the Hawthorn side and the Richmond side enjoy it and see how it has added to the great bike network of this state.

FISHERIES BILL

Second reading

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

That this bill be now read a second time.

In moving the second reading of the Fisheries Bill in March this year the Minister for Natural Resources
outlined the need to reform Victorian fisheries legislation to provide a contemporary framework for the sustainable management of commercial fishing, recreational fishing and the aquaculture industry.

The main objectives of the bill are to facilitate the sustainable use of Victoria’s aquatic biological resources and to provide for greater involvement of commercial, recreational and other users in the management of fisheries. The bill will facilitate micro-economic reform, leading to an efficient fishing industry.

The objectives are to be achieved through strengthened co-management arrangements and the development within those arrangements of strategic fishery management plans. These will provide the framework for reform and revitalisation of Victorian fisheries. They will guide regulations, declarations and notices which, in turn, set the context for the issue of licences and permits to undertake fishing and related activities.

In August last year a discussion paper on the legislative proposals was widely circulated for public review and the submissions on that paper were taken into account in drafting the bill. Following the introduction of the bill in March fishing and conservation interests have sought certain modifications to the bill. These relate mainly to more detailed provisions for co-management by all stakeholders and increased certainty for all current holders of commercial fishing licences during the changeover to the new legislation and in the licensing arrangements under the new act.

The government has responded positively to a number of these proposals so that the intent is outlined in more detail within the legislation itself. At the same time we have ensured that the legislation will improve our capacity to manage the fisheries in a sustainable manner by allowing their management to respond to changing circumstances and knowledge.

Since March modifications to the legislation have been discussed in detail with representatives of the Victorian Fishing Industry Federation, the Victorian recreational fishing peak body, the Australian Finance Conference, the aquaculture industry and conservation organisations. The government is grateful to those people for the considerable amount of time and effort they have devoted to this process. In addition, a series of 10 regional public meetings and 4 meetings with Aboriginal communities have been conducted. As a result, there has been significant change in some of the detailed provisions of the bill. The government is therefore introducing a clean bill instead of house amendments. I shall now outline the main changes incorporated in the revised bill.

The bill now makes explicit provision for the new co-management arrangements, including the establishment of a Fisheries Co-management Council and fishery committees. These will comprise people appointed for their experience and knowledge in matters relevant to the management of fisheries. The members of the council are to have between them experience and knowledge in commercial fishing, fish processing, fish marketing, recreational fishing, traditional fishing uses, aquaculture, conservation and fisheries science.

The government intends to appoint a selection panel to recommend membership of the council. In addition, the bill provides that the minister must consult recognised peak bodies before recommending to the Governor in Council appointments to the Fisheries Co-management Council.

The bill provides for the recognition by the minister of peak bodies representing commercial fishing interests, recreational fishing interests, conservation interests and aquaculture interests. Financial support for the commercial, recreational and aquacultural peak bodies can be provided through grants made from levies applying to the relevant class of fishing licences.

The involvement of the co-management bodies in the preparation of fishery management plans has been greatly strengthened. The Fisheries Co-management Council will oversee the preparation of management plans and the fishery committees will advise the council on the preparation of the management plans for the fisheries. Guidelines will be issued by the minister specifying, for particular fisheries, any matters that must specifically be addressed in a management plan as well as the procedure and time frame for preparation and consultation. The mandatory scope of management plans has been extended to include the resources needed to implement the plans as well as the identification of critical components of the ecosystem and key ecological, social and economic factors relevant to the management of the fishery.

The bill now provides increased certainty to assist and encourage long-term investment and involvement in the fishing industry. In particular,
the bill now defines in further detail the main characteristics of an access licence, which will secure for the holder the right to take fish from a specific fishery, and a commercial fishing licence, which will certify that the holder has the necessary skills to be in charge of a fishing operation. Access licences will normally be transferable.

The revised bill provides for the possible extension of angling licences to marine waters. Such an extension would require the approval of the Governor in Council. This could be given only after the minister has received and endorsed a report from the Fisheries Co-management Council on a program for the introduction of such licences and the proposed expenditure of the resulting licence fee revenue. Before endorsing the report the minister must consult with the Premier and Treasurer. Marine angling licences are supported by the Victorian recreational fishing peak body, the Victorian Fishing Industry Federation, and most Victorian angling clubs. The bill provides for the Governor in Council to exempt specified classes of persons from the need to hold particular licences.

On advice from the Australian Finance Conference and Australian Bankers Association further security has been provided to prescribed financial interests through improved notification procedures for transfers of licences. In addition provision is made for prescribed financial interests to recover their equity in a boat which has been forfeited to the Crown.

Further attention has been given to the transitional provisions to ensure that in the process of moving from the current licensing system to the new system current licence holders retain equivalent entitlements. The Australian Taxation Office has confirmed that if the original licence was acquired by the taxpayer before 20 September 1985, the replacement licence or licences will also be taken to have been acquired before that date and there will be no capital gains tax liability on subsequent disposal. Where the original licence was acquired by the taxpayer on or after 20 September 1985, the replacement of that licence with a fresh licence or licences as proposed in the bill has no capital gains tax consequences. However, a capital gain or loss may result on subsequent disposal. The bill also retains the existing fee formula, as set out in section 15(1)(d) of the Fisheries Act 1968, payable for an access licence for abalone.

All the changes I have outlined now provide a bill that gives the fishing industry greater assurance that the new arrangements will allow for more confident investment without disadvantage to current licence-holders. The bill heralds a new era in the sustainable management of Victoria's fisheries. It will ensure that stakeholders are involved in setting strategic directions and ensuring that appropriate action is being taken. It will provide greater flexibility for investors in the fishing industry as well as the operators. It will enhance the welfare of fishers and the long-term viability of this important industry.

I make the following statement under section 85(5) of the Constitution Act 1975 of the reasons why clause 144 of the bill alters or varies section 85 of that act. Clause 144 provides that it is intended to alter or vary section 85 of the Constitution Act 1975 to the extent necessary to prevent the Supreme Court entertaining actions for compensation by the Crown to any person for any loss or damage as a result of the enactment of this act and the repeal of the Fisheries Act 1968. The reason for preventing the Supreme Court from entertaining such actions is as follows. The Crown intends to reform the law relating to fisheries to achieve the objectives set out in clause 3 of the bill. These reforms are in the long-term interest of the people of Victoria, but some individuals may claim that certain of their interests or rights are affected in the short term. Actions for compensation based on these claims could delay or prevent urgent and necessary reforms that are intended to benefit the community as a whole, including the commercial fishing and aquaculture industries.

To further assist the effective issue of licences, the bill now provides for the continuation of both the Commercial Fisheries Licensing Panel to provide
DOMESTIC BUILDING CONTRACTS AND TRIBUNAL BILL

Wednesday, 15 November 1995

recommendations on the issue of licences for commercial fishing and the Licensing Appeals Tribunal to review decisions by the Secretary to the Department of Conservation and Natural Resources relating to the renewal, transfer, variation and cancellation of licences.

I commend the bill to the house.

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

Debate adjourned until next day.

DOMESTIC BUILDING CONTRACTS AND TRIBUNAL BILL

Second reading

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

That this bill be now read a second time.

This bill contains a package of unprecedented reforms to the home building and renovation industry in Victoria which will be of significant assistance to home owners and builders alike. The current House Contracts Guarantee Act 1987 is outmoded and inefficient and has not kept pace with recommendations for change in this industry.

The bill currently before the house is the result of extensive industry and community consultation, and a detailed consideration of interstate domestic building systems, as well as reports by the Trade Practices Commission (Home Building — consumer problems and solutions, November 1993) and the Public Accounts and Estimates Committee of this Parliament (eighth report to Parliament ‘Housing Guarantee Fund Limited’, September 1994).

The government believes the system to be introduced in Victoria will be the best in Australia as we are in the fortunate position of learning from the experiences of others and are able to make use of valuable recommendations made to us by those with whom we have consulted as well as the recommendations in the reports of the Public Accounts and Estimates Committee and Trade Practices Commission.

At present the Housing Guarantee Fund Ltd is the approved guarantor for the purposes of the House Contracts Guarantee act 1987. This means that HGF is currently the sole body to provide recompense to building owners whose houses are built or renovated in a defective fashion or not completed. HGF also currently registers domestic builders and through its appeals committee it has the final say in the assessment of consumer claims.

Many consumers have complained that HGF is bureaucratic and too slow to make decisions, that it is pro-builder and on a more philosophical level, that there is an inherent conflict of interest in its multiple roles. At the same time some builders have also found HGF slow in its decision-making processes and have expressed concerns as to the qualifications of HGF inspectors and their ability to assess damages and facilitate dispute resolution.

Whatever the merits of these often-made assertions against HGF by builders and home owners, the government is confident that both parties will benefit from greater private enterprise competition, the efficiencies of scale inherent in joining similar bureaucratic functions, and the establishment of an independent dispute resolution body.

The reforms contained in this bill constitute a comprehensive and integrated package comprising: firstly, a domestic building disputes tribunal, providing a means by which builder and consumer disputes can be expeditiously and inexpensively handled at any stage of the building process or after; secondly, registration under the HGF scheme will be replaced by an extension of the building act 1993 to cover domestic builders; thirdly, the insurance cover for building owners will be privatised; and finally, domestic building contracts will be required to contain certain minimum terms and conditions and statutory warranties.

The bill proposes the establishment of a Domestic Building Tribunal to resolve all domestic building disputes. The tribunal will be attached to the Department of Justice so that it can benefit from the support structure and expertise provided to a range of tribunals already attached to the department, for example, the administrative appeals, small claims and residential tenancies tribunals.

The tribunal will be non-legalistic and will deal with matters quickly and at minimal cost. A hearing of a domestic building dispute will be by a single legally qualified person who will be able to call such expert evidence and assistance as is necessary in the interests of justice. The tribunal will have a wide discretion in the awarding of costs so that the concept of fairness is clearly adhered to. Legal representation will be permissible with the consent of all parties before the tribunal, or where directed
by the tribunal due to the nature of the issues being considered. The tribunal is to be established as a single point for the resolution of all domestic building disputes and courts will be required to refer matters brought before them to the tribunal for consideration unless the parties to the dispute explicitly request that the matter be dealt with by the courts.

One of the prime advantages of the tribunal over the current system will be its ability to resolve mid-contractual disputes — that is, those disputes which arise before the completion of the building contract. This will be achieved by either party to a dispute being able to call on an independent inspector appointed by the Building Control Commission to look at the works and make a finding as to whether they conform with the agreed plans and specifications. Alternatively, either party can bring an action before the tribunal, including in the case of the owner a stop-work action to prevent further aggravation of the problem being experienced.

It is proposed that the registration of domestic builders will be conducted under the Building Act 1993, and therefore linked with the registration of commercial builders and other building practitioners. Not only will this be a simpler system for builders who operate in both the commercial and domestic arenas, but efficiencies of scale will result from all licences being issued from the one organisation.

The Domestic Building Tribunal will be able to refer issues which arise in hearings before it and which may have a disciplinary aspect to the Building Practitioners Board for consideration and appropriate action. This will ensure that the performance of domestic builders will be independently assessed to determine their suitability to remain registered. It will also ensure that the livelihoods of good builders who have difficult clients are not threatened by arbitrary action against them.

At present, HGF issues a seven-year guarantee with a maximum cover of $40 000 warranty over the domestic building works of registered builders. HGF is the sole supplier of such guarantees and as such the community does not receive the benefits that free and open competition can bring. The bill therefore proposes that a range of insurance options will be open to the builder, which will be supplied by private insurance companies. The insurance will be able to vary from a warranty system similar to that operating now to an insurance scheme similar to that endorsed by the Housing Industry Association in South Australia, Tasmania and the Australian Capital Territory, to a professional indemnity-style scheme. All these schemes may differ in details such as how they are paid for, but all will be clearly expressed to be in favour of the owner, and be extended from the currently available system in the following ways.

Firstly, a minimum amount of $100 000 insurance will now be required. Secondly, ambiguities and inconsistencies in the current coverage will be removed — that is, in the case of new home construction, everything from the house itself to paving, driveways, fences and swimming pools will be covered if included as part of the initial contract. For renovations or the building of structures such as granny flats, the work will be covered if it exceeds $5000 in value, combines multiple trades and requires the issue of a building permit. By these means previous controversy over coverage of buildings such as granny flats will be avoided. Granny flats are currently covered only where they are fully self-contained.

While the number of different insurance schemes offered might not be extensive initially, the government is confident that more insurers will be attracted to this area, thereby creating even greater competition as cross-border markets are developed. To this end it is proposed that Victoria and New South Wales develop schemes sufficiently similar so that the same insurers can operate in both markets with minimal if any differences in the products offered.

One of the key areas which has caused difficulty in the domestic building industry to date is the owner’s ability to understand the domestic building contract. Sometimes this problem has been compounded by a minority of unscrupulous builders who deliberately underquote and do not reveal inevitable additional costs to the homeowner until the work on the contract has commenced.

It is acknowledged that the industry associations have taken the responsible attitude of producing standard contracts for use by their members, and that plain English contracts which are more comprehensible to the owner are becoming more common. However, the government still believes that the contracts could do more to clarify the rights of the building owner, the average Victorian family.
The current act prescribes certain minimum terms and conditions in domestic building contracts. The current bill builds upon these by concentrating on areas which have historically been the cause of considerable dispute — for example, work undertaken to be able to make a proper costing for a contract before it is signed and variations to the contract.

The bill also incorporates a number of statutory warranties into every building contract for the protection of the homeowner. The warranties cover such matters as warranting that the building is being built in accordance with the plans and specifications, that it is fit for the purpose which was indicated to the builder, and that it is built of new materials unless otherwise specified. The bill prohibits compulsory arbitration clauses. It is the government’s belief that far from being a quick and cost-effective means of resolving building disputes, as was intended, arbitration has often become overly legalistic, time consuming and expensive. Arbitration will only be permissible where both parties to a contract have explicitly evidenced a desire to follow this sort of dispute resolution. Arbitration will not be able to appear as a standard term in general domestic building contracts.

SECTION 85 STATEMENT

It is the intention of sections 57 and 134 to alter or vary section 85 of the Constitution Act 1975. I therefore make the following statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section.

Section 57 relates to a person commencing an action in the Magistrates, County or Supreme courts where this matter arises wholly or predominantly from a domestic building dispute. In such cases the court must dismiss the action if a party to the action requests this, the matter could be heard by the tribunal and the court has not heard oral evidence in relation to the dispute. The provision does not relate to matters dismissed by the tribunal under section 97. Any party to the dismissed court action may apply to the tribunal for an order in relation to the domestic building dispute. Section 134 expressly states the intention to alter or vary section 85 of the Constitution Act 1975.

The public policy rationale for this proposal is the intention to provide a single, inexpensive, time-efficient and expert forum for the resolution of domestic building disputes. Domestic building disputes are a special category of dispute where timeliness of resolution is critical and where less formal proceedings are more likely to reach the heart of the matter than the full panoply of the law. Therefore a party to the dispute should be able to have the option of taking advantage of the benefits offered by the tribunal if a matter is brought before the courts for resolution.

The government believes this significant set of proposals sets forth a new and fairer relationship between builders and homeowners. The proposals are built on the concepts of equity and simplicity. Bureaucratisation is minimised and processes have been made as speedy and cost efficient as possible. I am confident that the proposals will greatly benefit the domestic building industry in this state.

I commend the bill to the house.

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

Debate adjourned until next day.

LAND REVOCATIONS (AND OTHER MATTERS) BILL

Second reading

For Hon. M. A. BIRRELL (Minister for Conservation and Environment), Hon. R. I. Knowles (Minister for Housing) — I move:

That this bill be now read a second time.

The bill provides for:

- revocation of the permanent reservations of lands described in the schedules to the bill and to make 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;

- amendment of the Kew and Heidelberg Lands Act 1933 to modernise the membership structure of the Yarra Bend Park Trust, allow the trust to market its services on a limited basis and add land to the Yarra Bend Park;

- amendment of the Ballarat (Sovereign Hill) Land Act 1970 and repeal of the Ballarat (Sovereign Hill) Land Act 1973 to enable a Crown grant to be made over a portion of the land and to revise the
management and leasing arrangements over the remainder of the land.

I turn now to the particular parts of the bill.

PART 1 PRELIMINARY

Clauses 1 and 2 of the bill set out the purposes of the bill and provide for commencement of its various provisions.

PART 2 REVOCATIONS OF RESERVATIONS

Clause 3 of the bill deals with an area of 128 hectares adjacent to the Don River approximately 5 kilometres north of Launching Place. The land known as Glen Ewart was purchased by the then Victorian Conservation Trust (now the Trust for Nature (Victoria)) in 1974 with funds provided by the state government, with the intention that it be used for environmental education. In 1980 financial considerations and the proximity of other sites available for environmental education led the trust to determine to dispose of the property. The land was subsequently surrendered to the Crown.

The land now poses a significant management problem. Both the Department of Conservation and Natural Resources and the trust consider that the land no longer has sufficient conservation or community values to warrant its retention in public ownership and that it could be disposed of with appropriate covenants. The Land Conservation Council, in its 1994 final recommendations for Melbourne study area 2, reported that the area received very little visitor use, agreed that its retention in public ownership was no longer required and recommended the land be sold or exchanged. The department is currently considering the transfer of Glen Ewart to the trust in exchange for land of higher conservation value that would be more appropriately managed by the department.

Prior to the land being sold or exchanged, it will be assessed to determine the existence of any cultural or heritage values. Should any such values be identified covenants can be effected for their protection, together with covenants to protect the land’s remaining conservation values.

Clause 4 deals with land at Myersiong. A fire station was originally established on the reserve in 1953 and was relocated within the reserve to its current position on the corner of Shuter and Short streets in 1985. The government and the Country Fire Authority have been undertaking a program to facilitate the sale of surplus Crown land sites to the authority. This land has been declared surplus to the government’s requirements and the authority has indicated a desire to purchase. The bill provides for the revocation of the reservation to facilitate the sale of the land.

Clause 5 deals with an area of land in Havelock Street, Beaufort, occupied by the Country Fire Authority’s Beaufort brigade, a use that has continued since the land was first permanently reserved for fire brigade purposes in 1912. The land has now been declared surplus to the government’s needs. The CFA has no objection to the permanent reservation being revoked and has expressed interest in purchasing the land. The bill provides for the revocation of the reservation to facilitate the sale of the land.

Clause 6 deals with an area of 26 square metres of land which formed part of the Phillips Gardens in Maryborough. Excision of the land from the reserve is required to formalise the construction of a roundabout and associated pedestrian access works at the corner of Inkerman and Napier streets. No major tree plantings within the gardens were affected by the works.

Clause 7 deals with an area of land in Murray Street, Colac, which was used by the former Shire of Otway for its municipal offices. Following local government reforms the Shire of Colac-Otway has ceased to operate from the site and has negotiated with the Gordon Technical College to establish an adult training centre on the property. The land has been declared surplus to government requirements and the Department of the Treasury and Finance is negotiating terms of sale for the site with the shire. The bill provides for the revocation of the reservation to facilitate the sale of the land.

Clauses 8 and 13 of the bill deal with the Fairfield Hospital site, which covers an area of 17.02 hectares of Crown land near the Yarra River at Fairfield. The Minister for Health announced on 28 March 1995 that the Fairfield Hospital and neighbouring Fairlea Female Prison sites had been chosen as the location for a new forensic psychiatry unit. The Department of Health and Community Services plans to construct a purpose-built forensic hospital, which will remedy the critical problems of inadequate security and poor function experienced in existing facilities. When operating, it will provide employment for an additional 60 to 80 staff.
The permanent reservation and the Crown grants need to be revoked to enable the construction of the new forensic psychiatry unit. This area will be permanently reserved for health and social welfare purposes to allow for all future intended uses of the site.

Clause 9 of the bill deals with land occupying an area of 5365 square metres on Black Swamp Road, Warrenheip. The former Shire of Bungaree used the land for its municipal offices and depot. The Shire of Moorabool is considering its future needs for the site and is currently negotiating to purchase the land. The area has been declared surplus to the government's requirements and revocation of the permanent reservation is required to facilitate disposal of the site.

Clause 10 of the bill deals with an area of 61 square metres at the rear of Broadbeach Crescent, Jan Juc. The land forms part of an extensive stretch of coastal Crown land that was permanently reserved for public purposes in 1880, then more recently permanently reserved for the protection of the coastline in 1981.

Excision of this tiny portion of the reserve is necessary to enable an exchange of land with the owners of adjoining lot 5, whose house marginally encroaches onto the reserve. The house was built in its present location in 1985 within the fence line of the property. Surveying has revealed that a small portion of the house encroaches onto the coastal reserve. Following excision of this small area of land from the reserve, it will be exchanged for a similar area of lot 5. The current owners of lot 5 will meet all costs associated with the exchange and will be required to fence on the correct boundary.

Clause 11 of the bill deals with an area of 1.337 hectares which forms part of the Toolangi Potato Research Farm. The land comprises three separate, but adjoining, residential allotments. Each is substantially cleared and contains a house and out-buildings. The houses have been identified as not required to occupy and available for sale. The bill provides for the revocation of the reservation to facilitate the sale of the land.

Clauses 12 and 14 of the bill contain provisions which detail the consequences of revocation and provide for the Registrar-General and the Registrar of Titles to make the necessary amendments to titles.

PART 3 YARRA BEND PARK

Yarra Bend Park in its present form was created by the Kew and Heidelberg Lands Act 1933. Management of Yarra Bend Park is vested in the Yarra Bend Park Trust, a body corporate. The trust maintains the grounds of the park, operates the public golf course and manages leases for the boathouse, the reception centre and the golf clubhouse.

The act currently prescribes that the trust consist of two councillors each from the cities of Darebin, Boroondara and Yarra and six other persons appointed by the Governor in Council. All trustees are appointed for life, except the councillors who cease to be trustees once they are no longer councillors. The present trust is too large and the lifetime appointment of non-councillor members is inappropriate. It is proposed that a future trust consist of a councillor from each of the three cities and four others with suitable skills and expertise. The period of appointment would be for up to three years.

The opportunity has been taken to update the general provisions relating to the appointment of trustees and the operation and decision making of the trust in line with modern management requirements. The activities of the trust are currently confined to Yarra Bend Park. The trust has received requests from time to time from other bodies to manage neighbouring parkland and conservation areas. It is proposed to allow the trust to provide limited specialist advice and services on the management and maintenance of public lands, gardens and recreational areas outside the park.

An area of 1.283 hectares, which forms part of the land permanently reserved for the infectious diseases hospital at Fairfield, has been fenced out of the area currently occupied by the hospital and is effectively part of the Yarra Bend Park. The land will be formally added to the park and placed under the control of the trust.

The act currently requires the participating councils to contribute an amount of not less than £600 per annum to be spent on maintenance and improvements to the park. Each council contributes over $30 000 per annum and the funding provisions of the act have been updated accordingly.
PART 4 SOVEREIGN HILL

Sovereign Hill Historical Park is situated on Crown land permanently reserved for that purpose pursuant to the Ballarat (Sovereign Hill) Land Acts 1970 and 1973. This bill amends the 1970 Act and repeals the 1973 Act to enable a Crown grant to be made over a portion of the land and to revise the management and leasing arrangements over the remainder of the land. Additional land will come under the act.

Provision is made for a Crown grant to issue over parcels of land to the Ballarat Historical Park Association which operates the outdoor museum, Eureka sound and light show and the gold museum. The grant will comprises land owned by the association to be surrendered to the Crown together with land currently occupied by the association fronting the Midland Highway.

The bill provides for leases to be issued direct by the Crown rather than by the City of Ballarat as committee of management as is currently the case. It is considered that this arrangement more accurately reflects the statewide significance of Sovereign Hill, but I would like to take this opportunity to thank the City of Ballarat for its contribution to the success of Sovereign Hill, which has become one of Victoria’s most important tourist destinations.

The bill provides for 1.6 hectares of the barbecue and lookout area off Magpie Street, which is currently part of the land leased to the association, to be excluded from any future leases. This land will be reserved for public purposes and placed under the control of the City of Ballarat as committee of management.

The bill provides for the substitution of sections 3, 4 and 5 of the Ballarat (Sovereign Hill) Land Act 1970 to provide for the new land tenure, leasing and management arrangements and consequential amendments.

The bill also provides for the association to submit annual financial and operating reports and to notify of any actions in respect of land granted to the association. These measures are considered necessary to ensure effective monitoring of the operation of what is an important asset for Victoria.

I commend the bill to the house.

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

Debate adjourned until next day.

MISCELLANEOUS ACTS (OMNIBUS AMENDMENTS) BILL

Second reading

Hon. R. M. HALLAM (Minister for Finance) — I move:

That this bill be now read a second time.

The purpose of the bill is to make technical amendments to several acts and to repeal the Exhibition Act 1957, the Livery and Agistment Act 1958 and the Management and Budget Act 1983.

In particular, the bill provides for the following.

REPEALS

Exhibition Act 1957

The Exhibition Act 1957 is to be repealed and the Exhibition Trustees established under that act will be dissolved. The reason for repealing this act is that the museum of Victoria will be co-located with the Royal Exhibition Building (that is, minus annexes) on the current exhibition land as part of the government’s Agenda 21 program. The council of the museum of Victoria will have ownership of the total exhibition land. Amendments to the Museums Act 1983 and the Melbourne Exhibition Centre Act 1994 are made in this bill to give effect to these proposed changes.

On behalf of the government I would like to take this opportunity to thank the outgoing trustees and the director and staff of the Exhibition Trustees for the professional manner in which the Royal Exhibition Building has been managed. The restoration program undertaken by the trustees in recent years has been quite magnificent and the legacy of this work is a most worthy historical landmark to be appreciated by present and future generations of Victorians and visitors to Melbourne.

Livery and Agistment Act 1958

The Livery and Agistment Act 1958 is also to be repealed. This act had its origins in the last century’s horse and carriage days but is now outmoded and is rarely used by the industry which it was introduced to assist and protect. Following an extensive review by the Department of Agriculture, Energy and Minerals, which included consultation with key
industry groups, it has been agreed that participants in agistment arrangements would be better served by entering into formal agistment agreements that set out the responsibilities of the agistor and the agistee, provide protection to both parties and ensure that animals in agistment receive adequate care.

To encourage the wider use of formal agreements, the department will work with key industry groups to develop and promote agistment guidelines which, although not mandatory, clearly set out what needs to be considered in agreements to ensure the interests of all parties are protected. The plan to develop guidelines has the support of industry and is in line with the government’s support for greater industry self-regulation where it is appropriate.

Management and Budget Act 1983

The Management and Budget Act 1983 is to be repealed as it is redundant. Reforms introduced by the Public Sector Management Act 1992 and the Financial Management Act 1994 have replaced the provisions of this act.

The bill also makes a number of consequential and technical amendments to other acts as a result of the repeal of the Management and Budget Act.

AMENDMENTS

Museums Act 1983 and the Melbourne Exhibition Centre Act 1994

The bill extends the powers of the council of the museum of Victoria (the council) and the Melbourne Exhibition Centre Trust (the trust) to enter into an agreement in respect of the Royal Exhibition Building and adjacent areas to permit the trust to conduct the Royal Exhibition Building as an exhibition and event venue for up to five years. The agreement between the council and the trust, which does not need to be provided for in this bill, will be in the nature of a lease. The agreement will terminate approximately six months prior to completion of construction of the museum to enable the council to undertake necessary works so that the council’s operations in the Royal Exhibition Building may commence concurrently with the commissioning of the museum.

To enable the council and the trust to carry out their respective activities on the exhibition land, the acts of each need to be amended accordingly.

The Museums Act 1983 will be amended to:

vest the exhibition land in the council;

provide for its permanent reservation for exhibition and museum purposes;

allow for the continued use of the Royal Exhibition Building for activities which have traditionally been held there;

enable a public car park to be operated from 1996 until the new museum is completed — scheduled for 2000; and

enable the council to continue to conduct these activities in addition to its normal museum functions after construction of the new museum is completed.

The museum is being designed to allow for activities involving the use of the museum building and land and the adjacent parkland. The bill will empower the council to undertake such activities, although use of the adjacent parkland by the council — for short-term purposes associated with current exhibitions only — will remain subject to agreement with the managers of the parkland.

The Melbourne Exhibition Centre Act 1994 will be amended to include in the definition of the Melbourne Exhibition Centre land a parcel of land under the West Gate Freeway flyover required for the purposes of the centre.

Business Names Act 1962

The Business Names Act 1962 is to be amended to ensure and enhance its practical operation. The evidentiary provisions will be amended to assist in the enforcement of registration of registrable business names. Persons who display an unregistered name at their business premises, or in a directory such as the Yellow Pages, are deemed to be carrying on business under that name unless proof to the contrary is provided.

The current provisions relating to lodgment of documents and issuing of certificates do not recognise modern technology. The amendments will permit the registry to accept facsimiles and will facilitate a system of computer-generated signatures on all certificates issued by the commissioner. These amendments once again demonstrate this government’s commitment to encouraging and supporting the small business sector of Victoria.
Public Holidays Act 1993 and Shop Trading Act 1987

The bill amends the Public Holidays Act 1993 and the Shop Trading Act 1987 to provide for the reconstituted metropolitan municipal councils and to make further provision for public holidays and shop trading hours.

The Public Holidays Act is amended to provide added flexibility with respect to the public holiday substitution provisions. In future a full-day public holiday may be substituted for two public half-day holidays, and two public half-day holidays may be substituted for a full-day public holiday. Currently the act provides only for the substitution of a full-day public holiday for another full day, or a public half-day holiday for another half-day.

The notification provisions for the substitution of a public holiday by a non-metropolitan council are also amended to ensure there is at least a one-month notification period in all cases. Because of the recent local government restructures the metropolitan municipal councils in the schedule to the Public Holidays Act are substituted with the reconstituted metropolitan municipal councils. This will ensure that these councils continue to observe the Melbourne Cup Day public holiday. It should be noted that an order in council under section 3 of the Public Holidays Act to declare metropolitan municipal districts has been made as an interim measure to ensure observance this year.

The bill will make consequential amendments to the Shop Trading Act to simplify the procedure which provides that the day appointed as a public holiday by the Greater Geelong City Council under the act is to be a shop closing day in that city. As a result of the amendments to the public holiday substitution provisions, the bill will amend the Shop Trading Act to take account of these changes so as to continue the consistency for the observance of substituted public holidays and shop closing days.

The bill will also ensure that certain shops maintain their present trading hours so that they are not disadvantaged by the change in the metropolitan area. Shops in former metropolitan areas that are included in new non-metropolitan areas will be deemed to be in the new metropolitan areas for the purposes of the Saturday afternoon and Sunday trading provisions of the Shop Trading Act.


The bill amends both the Borrowing and Investment Powers Act 1987 and the Treasury Corporation of Victoria Act 1992 to provide the state and its authorities with broader powers to manage the state's assets and liabilities, both actual and prospective, from the risk that arises from movements in a range of financial and commodity markets.

The Borrowing and Investment Powers Act has always permitted authorities to hedge their debt portfolios against movements in currency and interest rates and has permitted authorities to hedge their investment portfolios against movements in financial markets. The growth and increasing sophistication in financial markets, which has resulted in increased volatility, has led the state to review the powers that authorities and the state have to manage their exposure to movements in financial and commodity markets.

The amendments to the Borrowing and Investment Powers Act have been undertaken in the context of the work by the Department of the Treasury and Finance to review the prudential controls over the use of financial arrangements or derivatives in the public sector and the establishment of prudential frameworks to manage risks facing the state's major financial institutions.

The prudential frameworks now in place, the decision to centralise the activities of the trading authorities that use financial arrangements with the Treasury Corporation of Victoria, and the restriction in the Borrowing and Investment Powers Act preventing authorities from entering into financial arrangements to speculate provide a strong framework for managing the risks associated with the uncontrolled and improper use of financial arrangements or derivatives.

The bill will also operate to extend the Borrowing and Investment Powers Act to the Transport Accident Commission, the Victorian Workcover Authority and the Parliamentary Contributory Superannuation Fund and to consolidate a number of the financial accommodation powers contained in the act.

In addition, the bill amends:

- the delegation provisions contained in the Construction Industry Long Service Leave Act.
1983 and the Victorian Funds Management Corporation Act 1994; and

the Treasury Corporation of Victoria Act, enabling the debt and financial arrangement of all participating authorities to be centralised with the Treasury Corporation of Victoria. The Treasury Corporation of Victoria Act currently contains provisions which enable the Governor in Council to approve orders in council centralising debt and financial arrangements of the major public sector authorities with the Treasury Corporation of Victoria. The bill will enable the debt and financial arrangements of any participating authority approved by the Treasurer to be centralised under these provisions.

Financial Management Act 1994

The original section 6 of the Financial Management Act 1994 is reinstated by this bill. That section enabled the Minister for Finance to declare a financial year end other than 30 June for a public body. The section was amended to enable the minister to determine a financial year for the first and final year of a public body's existence. However, the amendment inadvertently removed the minister's discretion to determine a financial year for the intervening years. The bill corrects this oversight.

Use of this reinstated section will occur only in limited cases where the operations of a public body make a financial year ending other than 30 June more appropriate. An example of this is a university or a TAFE college, the operations of which are based around the academic year.

Corporations (Victoria) Act 1990

The bill will wind up the Companies Liquidation Account, which was established under the Corporations (Victoria) Act 1990. Unclaimed moneys were required to be paid into the Companies Liquidation Account for three months prior to being transferred to the consolidated fund. Crediting the moneys to a trust account prior to transferring them to the consolidated fund adds no value but incurs monthly administrative accounting costs. Accordingly, the bill repeals this unnecessary process.

Sport and Recreation Act 1972

The bill will amend the Sport and Recreation Act 1972 to abolish the two sport and recreation advisory councils reporting to the minister. The bill also repeals spent provisions of the act and repeals the power to make regulations.

The act currently provides for two statutory councils, the State Sports Council and the Community Recreation Council. It has become apparent, however, that this two-council structure is not the most effective means of providing integrated and comprehensive advice to the minister. The boundaries between sport and recreation have become less clearly defined. Issues concerning the planning and delivery of sports facilities, programs and services need also to be considered from the perspective of the less structured recreation needs of the community.

At an agency level, Sport and Recreation Victoria has recently restructured to achieve an integrated approach to its work, and it is equally important that ministerial advisory councils reflect this perspective.

This bill therefore abolishes both the State Sports Council and the Community Recreation Council. In so doing it paves the way for future advisory council appointments to be made on a non-statutory basis according to the nature and level of advice required by the minister, rather than to fulfill fixed representative quotas and maintain outdated distinctions as currently prescribed by statute. No provision is therefore made in the bill for replacement of these advisory bodies. The Minister for Sport, Recreation and Racing will, however, be appointing an advisory group in the near future.

Civil Aviation (Carriers' Liability) Act 1961

The bill will amend the Civil Aviation (Carriers' Liability) Act 1961 to improve compensation for passengers involved in air accidents. The bill will mirror for intrastate aviation changes being made at the commonwealth level for interstate aviation.

Under current arrangements it is possible that consumers may receive no compensation if a carrier does not have sufficient funds or assets to meet its liabilities in circumstances where an insurer might seek to declare a policy void when, for example, the operator has been negligent. The implementation of mandatory insurance by the bill will minimise the likelihood of such occurrences.

The proposed changes represent an important part of the commonwealth government's response to the Monarch Airlines crash. That response, announced in October 1994, included increases in passenger carriers' liability limits to $500 000 per passenger as
well as the introduction of mandatory insurance. The new liability limit took effect in October 1994.

Implementation of mandatory insurance is an important complement to the increase in carriers' liability limits. Mandatory insurance provisions greatly reduce the scope for insurers to avoid paying compensation in respect of passengers who are killed or injured. The protection afforded to passengers by this proposal is not something that they can choose to purchase in the market or not. The likelihood of an insurance policy being avoided due to a breach of its terms by the operator is not a matter on which the public would be informed.

The bill will introduce mandatory insurance provisions which will impose substantial but justified responsibilities on operators. The net financial effect should be negligible because most operators will already have appropriate levels of insurance.

The proposal has support in principle from the major airline operators, the Regional Airlines Association of Australia, the General Aviation Association of Australia, and the aviation underwriting industry.


The bill makes a number of amendments to the provisions relating to blood alcohol matters contained in the Road Safety Act 1986. To ensure a consistent approach, virtually identical provisions in the Marine Act 1988 and Transport Act 1983 are similarly amended.

The prime amendment ensures the integrity of the use of certificate evidence in proving the blood alcohol level of an accused person from breath samples and for proving other matters. The amendment firmly establishes that the certificate issued by a breathalyser device is the same certificate able to be used by the prosecution for the purposes of section 58 of the Road Safety Act and in the corresponding provisions in the other acts. The bill also makes miscellaneous amendments relating to proof of service on accused persons of a copy of a certificate arising out of blood tests for alcohol level and establishing that a certificate under section 58(2)(f) and in the corresponding provisions in the other acts is proof of another identical certificate having been given to an accused person as soon as practicable after a sample of breath was analysed.

Other minor machinery amendments are also made to the acts.

Honourable members will recall the far-reaching reforms which were made to the towing industry by the Transport (Tow Truck Reform) Act 1995. That act introduced three categories of tow-truck licence — accident towing licence, heavy accident towing licence and trade towing licence.

The act also introduced a requirement that a person may not travel in an accident or heavy accident tow truck without being the holder of an accident towing driver authority. The driver or passenger in a vehicle damaged in an accident is exempted from this requirement if the person's vehicle is being towed from an accident scene.

The reason behind the introduction of driver authorities was to rid the industry of standover men, since authority holders must meet stringent character qualifications before being eligible to hold an authority. There is no requirement for drivers or passengers in trade tow trucks to hold authorities.

Implementation of the reforms has revealed two areas where the legislation requires minor amendment. Accident tow trucks from time to time undertake breakdown tows and, applying the law strictly, drivers and passengers in disabled vehicles cannot be carried in accident tow trucks performing those types of tows. This is undesirable and the amendment proposed will alleviate the problem.

Another minor amendment will give the tow-truck directorate the discretion to issue driver authorities to persons who do not hold full driver licences. For example, young persons who are members of licence holders' families and who wish to pursue a career in the family business will be able to drive accident tow trucks as part of their career development.

The bill will also amend the Transport Act 1983 to abolish the Melbourne underground rail loop levy. The levy was introduced by the Melbourne Underground Rail Loop Act 1970. This act established the Melbourne Underground Rail Loop Authority with responsibility for planning and constructing the rail loop and for the raising of the finance required for the project. Construction of the loop was funded by borrowings, through the issuing of government-guaranteed MURLA inscribed stock. Total borrowings were some $650 million, of which some $445 million was still outstanding as at 30 June 1994.
The then government decided that the annual interest payments on the stock and repayments of principal should be jointly funded by the state, Melbourne City Council (MCC) and the Melbourne and Metropolitan Board of Works through the MURLA levy. Interest payments on the stock and repayments of principal commenced in 1971-72 and have been made annually ever since.

The Water Industry Act 1994 contained amendments to the Transport Act which cease the Melbourne Water contributions after 1994-95. This bill will repeal those sections of the Transport Act which continue to apply the levy to the MCC. In effect the ratepayers of the MCC pay a special rate levy to contribute to the debt repayments. In line with the government's objective of reducing the operating costs of businesses and encouraging investment in the Melbourne central business district, the government will abolish this requirement effective from the 1995-96 financial year onwards.

Evidence Act 1958

Part VI of the Evidence Act 1958 regulates the recording of evidence in court proceedings and creates a licensing regime for court reporters. The requirement that court reporters in Victoria must be licensed is neither in line with interstate practices nor does it conform with the government's objective of regulatory reform. The current licensing scheme prevents interstate reporters from working in Victoria and prevents the market from responding to fluctuating demands.

The bill abolishes the licensing requirement for court reporters, and removes the power of the Governor in Council to regulate the fees of private sector court reporters. However, adequate standards will be maintained through the introduction of internal administrative procedures of the Department of Justice.

Interpretation of Legislation Act 1984

Where an act has been amended, section 21A of the Interpretation of Legislation Act 1984 provides for the reprinting by the government printer of that act as amended. Such reprints have until now not been admissible in evidence, and in the event of a dispute as to the text of an act as in force at any time, parties to an action have been required to refer to the original act together with any subsequent amending acts. The bill provides for the admissibility in evidence of reprints of acts before all courts and persons acting judicially within Victoria. This will give the public access to a coherent statement of the law that is authorised and admissible in evidence. Similar provision is made in relation to statutory rules.

Extractive Industries (Lysterfield) Act 1986

This bill will amend the Extractive Industries (Lysterfield) Act 1986 to enable part of the quarry site at Lysterfield to be used for water supply purposes. The bill is necessary to enable Crown consent to be given for the sublease of land by Boral Resources (Vic) Pty Ltd to South Eastern Water for a water tank and associated pipelines to service nearby land subdivisions at Rowville.

The tank was constructed earlier this year, without consent, following negotiations between Melbourne Water (subsequently South Eastern Water), Boral Resources and AMEX Corporation, a land developer. The water tank services not only the AMEX Corporation subdivision but other subdivisions at Rowville. Numbers of allotments on the subdivisions have already been sold to builders and home buyers.

The bill will put to rights a difficult legal situation which arose for all of the parties involved, including land purchasers, as a result of local negotiation to resolve a water supply issue.

I commend the bill to the house.

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

Debate adjourned until next day.

RACING (AMENDMENT) BILL

Second reading


Hon. D. R. WHITE (Doutta Galla) — Our understanding of the legislation is that it changes the legislative framework for the greyhound racing industry. I am also informed that the greyhound racing industry directly or indirectly employs 2500 people and may contribute as much as $50 million a year to the Victorian economy.

In the past we have been informed, and we accept, that the legislation was inadequate because it did not allow for appropriate penalties for attempts to
falsely register greyhound litters. In other words, there was an ability for those with malevolent intent to falsify the register of litters and to profit accordingly. We have also been informed that the existing legislation was inadequate because it did not provide proper protection and cover for DNA testing.

In order to have a credible greyhound racing industry for those interested in that form of activity, it is necessary that it operates in a way that cannot be misused and that profits cannot be made in unacceptable ways. It is for those reasons that the opposition does not oppose the measure.

Hon. R. A. BEST (North Western) — I thank the opposition for its support of the bill. I shall make a contribution to the debate because I support the racing industry as a whole throughout Victoria. I am particularly aware of the significant role the greyhound racing industry plays in the Bendigo area where I live. My next-door neighbour at Sedgwick is Brian Rogan and his family not only breed greyhound pups but also race greyhounds most successfully.

Out of some 3500 registered greyhounds approximately 1000 are registered in Bendigo, which makes it a significant industry in the area. We have some extremely successful trainers who have had Australian Cup winners such as Eaglehawk Star. The trainers include Sid Hall, Alan Ingliss, Robyn and Noel Massena, Wendy Ryan and Barry Hiscock, whom I know through my football days at Sandhurst.

The greyhound racing sector makes a significant contribution to the Victorian racing industry. It holds 752 greyhound meetings each year and there are approximately 5800 trainers, owners and breeders. Greyhound racing contributes about 9 per cent to the overall turnover of the TAB.

The greyhound industry has some colourful stories to tell about dogs with potential and dogs that are not trying as hard as they should based on their ability. I would not like to cast aspersions on people in the industry, but it has provided some humorous anecdotes about which dogs were goers and which dogs were whoa-ers!

It is that type of behaviour that the Greyhound Racing Control Board set out to control to ensure that people who punt on greyhounds can do so with the utmost confidence. The board is to be congratulated because it has put in place controls and measures that have seen the industry grow in respectability. It is to be congratulated on the innovative way it has gone about its business of maximising the greyhound industry's exposure to the punting dollar.

It gives me pleasure to support the bill. I congratulate all those who have worked diligently to bring about reforms because it is important that the industry has credibility so that people are not afraid to invest in it. The bill deals with the breeding and registration of greyhounds to ensure that someone who is considering investing in a greyhound or a greyhound syndicate can do so knowing that the lineage is accurate.

Many stories about breeding have circulated within the greyhound racing industry, such as the example of a brindle bitch mated with a black dog to produce a white pup. There is no possible way that certain coloured pups will be produced from the breeding of certain types of colouring of the parent dog and bitch. That sort of anecdotal evidence has brought the industry into question at times.

The bill will ensure that that sort of practice does not continue. The industry can go forward with people who want to invest in or back a particular greyhound having confidence that they are investing in or backing a dog that has been correctly registered. I thank the opposition for its support of the bill and have pleasure in adding my support to it.

Hon. B. A. E. SKEEGGS (Templestowe) — The Racing (Amendment) Bill is primarily directed at improving the control of and the division of responsibilities within the greyhound racing industry in Victoria. Greyhound racing is one of three codes important to the racing industry as a whole, and it is responsible for 9 per cent of the TAB turnover. The industry is in a healthy position generally, despite a reduction of 2 per cent in betting compared with the previous year. That would largely be due to rising competition in gaming and wagering in hotels, clubs and the casino.

The bill deals with the regulation of greyhound breeding. That matter has in recent years not been administered by the Greyhound Racing Control Board (GRCB) but by the National Coursing Association. Registration has been conducted by the association since 1873 and is currently monitored by the Greyhound Racing Control Board.

Clause 5 amends section 75 of the act to give the Greyhound Racing Control Board the new function
RACING (AMENDMENT) BILL

Wednesday, 15 November 1995

COUNCIL

551

of regulating the registration and breeding of greyhounds. The regulation of the registration process is important, and the change will give much strength to the overall supervision of the breeding of racing greyhounds and the responsibility of registering studmasters in the breeding industry of the greyhound racing world.

The National Coursing Association will continue to register greyhounds in accordance with the rules of the Greyhound Racing Control Board. The bill enables the association to impose and amend conditions for registration. It is important that the association should now have the added protection of the weight of the controlling body, the Greyhound Racing Control Board.

The National Coursing Association has recognised that its powers to deal with breeders and studmasters and to enforce the DNA requirements needed in modern racing were somewhat limited. It is important that DNA administration be established, entrenched and enforced within the rules of the racing codes because it will ensure probity of bloodlines and the practices of the greyhound breeding industry. That is to be welcomed.

The legislation introduces a 14-day limit for the lodgment of appeals with the Racing Appeals Tribunal. The directors may still use discretion in granting leave to appeal against the 14-day period if the appellant furnishes adequate reasons for leave. That added provision will be welcomed by the industry. There is also a contempt provision for inappropriate behaviour. It is important for the tribunal to have the added power of contempt provisions to mete out justice as required from time to time.

Clause 11 will enable remuneration, travelling and other allowances to be paid to members of the Greyhound Racing Control Board, the Harness Racing Board and its panel of assessors, the Racing Appeals Tribunal and the Bookmakers and Bookmakers Clerks Registration Committee, which is a useful provision.

The annual report of the Greyhound Racing Control Board shows it had a net profit of $3.57 million for an 11-month period. The period was 11 months because of the alteration in the period for reporting to 30 June 1995. That amount includes a net profit of $1.27 million in the distribution reserve fund, including abnormal income of $2.05 million largely derived from a one-off payment of $1.75 million that resulted from the privatisation of the former Totalizator Agency Board. That has been an important windfall for each of the three racing codes. It has enabled them to increase the prize money for many races and to improve some of the administrative facilities important to each code.

It has enabled the Greyhound Racing Control Board to provide each of the clubs with a share of an additional $1.07 million, which is more than their usual distribution derived from income from betting, primarily from Racing Products Victoria Pty Ltd and Victoria Racing Pty Ltd, which distribute income earned by Tabcorp Holdings Ltd to each of the racing codes. The Greyhound Racing Control Board has welcomed that windfall.

I must say that the GRCB, although small, is one of the most successful and efficient boards in racing administration in Victoria. It is chaired by Mr Bill Collins, a former colleague of mine in race casting and a famous name in his own right, who is doing a fine job. Other members include Mr D. G. Mann, who is the deputy chairman, Mr Ken Carr, who is the executive director, and Mr R. M. Nestor. They are to be congratulated on their excellent work. Not only are they effectively controlling the administrative process and overview of the greyhound racing industry but they also have responsibility for ensuring that the greyhound racing clubs are functioning effectively.

The Greyhound Racing Control Board has responsibility for 15 registered greyhound clubs, 2 metropolitan tracks and 13 country clubs and, as we heard before, some 752 greyhound race meetings are conducted each year, earning about 9 per cent of overall wagering on racing. There has been growth over the years. Some 5800 trainers, owners and breeders and 3710 registered greyhounds now participate in the industry, an increase of 4.2 per cent over the previous year. That shows that interest in the sport of greyhound racing continues to grow.

It is not only a sport but also very much an industry, and the Greyhound Racing Control Board is to be congratulated on its good work and the cooperation and support it has received from the National Coursing Association, particularly having regard to the association's historical place in the industry and the great work it did before there was a board. It has worked very well with the new board in recent years and obviously cooperation will be strengthened by this legislation, which will give more teeth to the work of the Greyhound Racing Control Board, particularly in the registration of greyhounds and
the appeals and disciplinary processes. I commend the bill to the house.

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 the three honourable members who have contributed to the debate and supported the legislation.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

DANGEROUS GOODS (AMENDMENT) BILL

Second reading

Debate resumed from 25 October; motion of Hon. R. M. HALLAM (Minister for Finance).

Hon. PAT POWER (Jika Jika) — I am happy to indicate that the opposition supports the Dangerous Goods (Amendment) Bill. Yesterday when Mr Ashman presented the report of the Economic Development Committee he referred to Mr Davis and me working together; today there will be another opportunity for the house to see how well my colleague Mr Davis and I work together.

Yesterday we debated a piece of legislation in respect to road transport. I indicated that that was a small but nonetheless important piece of legislation and this bill fits into the same category. The Dangerous Goods Act 1985 had two main objects: firstly, the promotion of safety of persons and property in the total manufacture, storage, transfer, transport, sale, purchase and use of dangerous goods and the import of explosives; and, secondly, to ensure that adequate precautions are taken to prevent fires, explosions and escapes of dangerous goods.

The bill amends the act to ensure that Victoria's dangerous goods legislation can continue to be implemented and administered effectively. In respect of the transport of dangerous goods, I do not think any reasonable people in the community would not welcome the ongoing management of an issue, which if not addressed in this progressive and responsible way can cause many problems in the community. Unless the Parliament is seen to be addressing these sorts of issues many people in the community may well develop a perception that these issues are not being managed as they should be.

The bill provides a new definition of dangerous goods, which has two parts. The main part is the adoption of the definition of dangerous goods from the Australian code for the transport of dangerous goods by road or rail. Again, the adoption of national standards is something we should all welcome.

As honourable members would know, the transport code is a nationally recognised document based on recommendations prepared by a United Nations committee. The adoption of the transport code's definition of dangerous goods will ensure that Victoria's definition of dangerous goods will become more nationally and internationally uniform. That is especially important when we acknowledge that the nationally based document is prepared on recommendations established by a United Nations committee.

The current transport code adequately defines dangerous goods for transport purposes but it does not completely cover dangerous goods for non-transport activities such as storage and handing. Perhaps in the eyes of the community there is a perception that those two issues — the storage and the handling of dangerous goods — are not necessarily given the attention that they deserve.

Although I do not necessarily agree with that view, the Parliament is showing its capacity to the community by paying attention to those issues so it can demonstrate that it does have an ongoing and progressive concern. It is a concern not just about dangerous goods when they are transported but also about the way they are stored and handled. Those people who work in such circumstances, or, more importantly, those who might live within the general vicinity of such a storage place, can rest assured that the Parliament is continuing to pay attention to the standards in this matter.
Explosives and combustible liquids are included in the supplementary part of the definition of dangerous goods. The bill provides for the Governor in Council to make orders to exempt specific dangerous goods from the operation of any or all of the dangerous goods acts and regulations. It also provides for the Governor in Council to make orders to declare substances and articles to be dangerous goods.

I shall not go into any further technical detail with this piece of legislation except to say that the opposition supports the Dangerous Goods (Amendment) Bill and believes it will make a substantial contribution to the safe handling of such materials.

Hon. P. R. DAVIS (Gippsland) — I am pleased to have an opportunity to be able to join with Mr Power in some of his positive and constructive comments in the Parliament, just as we have been able to assist one another in the workings of the Economic Development Committee. I am sure it is surprising to some that we have such a constructive relationship!

The Dangerous Goods (Amendment) Bill is small but significant and is aimed at improving the operation of the principal act. It introduces important safety features for industry, employees and the community. The bill attempts to deal with three areas: the definition of dangerous goods; directions issued by inspectors; and codes of practice.

Before commenting upon those matters I shall briefly refer to the Auditor-General’s special report no. 33 entitled, ‘Handle with Care Dangerous Goods Management’ dated May 1995. Paragraph 1.1.3 says:

Audit analysis ... suggests that the high levels of non-compliance ... have ... been reduced.

But, more significantly the Auditor-General says in paragraph 1.1.6:

Inspections are primarily focused on those operators advising the regulatory agencies of their dangerous goods activities. This results in the illogical situation where operators who meet these basic requirements are far more likely to be the subject of routine scrutiny than those failing to meet their legislative obligation.

I refer to that point essentially to highlight the need for us to continually monitor the impact of the regulatory regime applicable to industry from the point of view of effective compliance. In the past we have far too often relied on policing and compliance arrangements to ensure proper, safe work practices, whether it be the handling of dangerous goods or dealing with the basics of occupational health and safety procedures. An attempt to educate the managers in industry and to rely on initiatives in the workplace would achieve far more than simply monitoring those who are at the leading edge of the implementation of a safe industrial culture.

When dealing with regulating safety issues there is a fundamental need to recognise that behaviour is strongly influenced by workplace culture. As part of a needs-driven environment, industry sectors have developed safe work programs. I refer particularly to the hydrocarbon industry generally, which includes both the production and processing of oil and gas, as well as the more refined chemical processing industry. Because of the dangerous nature of the materials being handled there is a minute-by-minute need to adhere to safe working practices.

By and large the storage of hydrocarbons and the handling of those substances within the workplace is done with high risk awareness. That is an industry with which I have a particular personal familiarity. I believe it is at the leading edge of that cultural imperative to which I refer.

However, at the other end of the scale another industry with which I have personal familiarity is agriculture, where there is poor safety awareness and expertise because many workers in the agricultural industries are working in isolation, as the owner-operators and employees. They do not regard the issues of workplace hazards seriously and, regrettably, for that reason agriculture in Australia has the highest workplace death rate per capita in the world.

The only thing that will change this view is not specific regulation but an emphasis on cultural change, education, changing the perception of risk and ensuring that people are aware not only of the consequences of workplace hazards to themselves but also of the impact they have on families when injury or death occurs. While I encourage redirecting efforts to raise awareness and education in the work force generally rather than policing, I realise that there is clearly a need for a level of compliance enforcement and intervention.

The bill contains a redefinition of dangerous goods in terms of the reference in the Australian transport code to the transport of dangerous goods by road or
rail. The provisions will give effect to a greater national uniformity. The new definition also includes explosives and combustible materials. However, necessary flexibility is provided in the bill through a provision for the Governor in Council to provide special exemptions and/or declarations. In other words, if the national code does not cover a particular hazardous material it is possible for action to be taken by the Victorian government, initially unilaterally, but in the case of a declaration of a substance or article the minister must attempt inclusion in the transport code: that is, take it to the national ministerial council and have a negotiated outcome to include the declared hazardous substance in the code.

With regard to directions to remedy contraventions of the act, the bill contains an appropriate appeals process. It is important to retain the rights of the industry operators.

With respect to the major change to the implementation of the Dangerous Goods Act, the introduction of codes of practice is a clear feature because the government's objective is not to cause the codes of practice to become a minimum standard by which tribunals judge compliance in a prescriptive way. We have seen that apply in many other circumstances where a Magistrates Court may refer to a code of practice and take it as the baseline.

In introducing codes of practice in this bill it is an intention to provide common technical guidance material on how to demonstrate an alternative compliance. It is important for Parliament to recognise that there will always be innovative industry operators who may find alternative mechanisms for achieving the intention of the code without the literal interpretation which is sometimes resorted to.

I have pleasure in supporting this small but significant bill. I believe it will provide another advance in workplace and community safety. I congratulate the opposition for supporting the government's initiative.

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 and Mr Davis for their support of the bill, particularly the reference by Mr Davis to occupational health and safety problems in the farming community, a matter that must be highlighted from time to time.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

VOCATIONAL EDUCATION AND TRAINING (AMENDMENT) BILL

Second reading

Debate resumed from 1 November; motion of Hon. HADDON STOREY (Minister for Tertiary Education and Training).

Hon. C. J. HOGG (Melbourne North) — This bill is another example of the government outsourcing as many government responsibilities and activities as possible. It raises some serious questions about the supervision of and support for apprenticeships in this state. Thus while at first glance it might not seem to be a significant piece of legislation, it is significant for a number of reasons.

One should look first at the content. Firstly, there is the magnitude of unemployment in this country, a level about which we should never be complacent. We should do all we can to redress that issue.

It was pleasing to hear the federal Minister for Education, Employment and Training, Simon Crean, spell out a plan last week that will see young people in their last year of school working for two days a week at the appropriate rate of pay, thus beginning their working life with all that that implies in terms of training, discipline and attitudinal change, and doing all that while finishing school. Working Nation, the federal government's response to Australia's unemployment situation, has been a huge boost for young people and for some older people. Unfortunately in Victoria we are not doing as well with traineeships, an important plank in Working Nation, as some of the other states.

In 1994 the commonwealth, through the Australian National Training Authority (ANTA), gave the
VOCA TIONAL EDUCATION AND TRAINING (AMENDMENT) BILL

Wednesday, 15 November 1995

COUNCIL

states a total of $43.9 million for off-the-job training in 1994-95 and $33.5 million in 1995. In 1994 the commonwealth gave Victoria enough money to meet the off-the-job training costs of 4500 trainees, but Victoria regrettably only achieved 2600 trainee commencements, a terrible figure when one considers the unemployment rates in so many parts of Victoria, particularly the north west of Melbourne in the suburbs I represent.

Simon Crean’s initiatives announced last week should be of real assistance but — —

Hon. Haddon Storey — Can you explain how it would work?

Hon. C. J. HOGG — I will try. Simon Crean’s initiatives announced last week should be of real assistance, but more understandings must be reached between schools, TAFE, employers and probably group training companies. Through a good piece of work by Ms Angeline Christie, who worked with me through the Victorian parliamentary internship program, it was found that TAFE colleges now take a myriad of initiatives to enable particularly young people to know about their services. There are open days, TAFE forums, TAFE speakers available to schools and organised tours so that students can experience first hand the facilities TAFE colleges offer. Buses are often arranged by TAFE colleges to make tour participation as simple as possible for schools and students.

Additionally, TAFE colleges have increased the advertising of their colleges and courses. Public transport, railway stations, bus terminals, television and radio commercials, newspaper advertisements and even the back of milk cartons have been used to sell the idea of TAFE to students across Victoria. Ms Christie’s finding was as follows:

Access to information regarding TAFE colleges and often private training providers is there, and it is there in abundance. There appears no reason on the bases of access as to why students are not receiving the message about TAFE being a viable option. Information regarding TAFE colleges around Victoria is not only more accessible today than ever before, but it is also of a very high standard of availability as well as utility.

However, Ms Christie found in interviews with students and staff at secondary schools that there still exists a fundamental problem with the perception of TAFE. She wrote:

It was not only the students which identified this obstacle but the school community itself, including the teaching staff, principals and parents.

The initial hypothesis with which Ms Christie began the project — namely, that students were not viewing TAFE or other vocational training as a viable option due to poor or limited information — turned out to be wrong. She wrote:

Rather it became apparent that until vocational training is recognised and valued within more school communities, there will be no significant change to the numbers taking part in vocational training through choice.

Unfortunately the challenge to turn more students to vocational training as their first option will not be achieved through the production of more glossy pamphlets. There is a more fundamental problem within many of our school communities to push their students — well suited or not — towards universities.

As a result of this endorsement towards universities, many if not most of the students had not even considered TAFE as an option.

That is a sobering conclusion. TAFE colleges now try to sell their courses well, both here and overseas, but too many schools are still not getting the message about TAFE and training.

Ten or perhaps even five years ago I would have said TAFE was largely a male dominated and oriented domain, an uncomfortable place for female students, but that too has changed with a vengeance. As Mr Storey well knows, every single award at the Victorian training awards night held about a month ago was won by a woman — that is, four out of four awards. A female won in every category — a most impressive achievement. It was impressive for TAFE, too, where much of that training has been carried out.

TAFE has made itself very relevant. The federal government has put many resources into training. There is an abundance of private provision of training, yet Victoria lags behind in the taking up of traineeships.

A moment ago Mr Storey asked me whether I could explain how Simon Crean’s scheme, entailing two days on-the-job training for end-of-school students, would work. I certainly cannot speak on behalf of Simon Crean but, listening on radio to the reaction of a number of teachers last Thursday and Friday
morning, it seemed that his scheme has been initially welcomed by schools. Schools realise that within every secondary college some young people will not go on to university, are not interested in university and would prefer to have left school earlier but realise there is not much point in leaving school at 15 years because that would not lead to a job. Many of those young people would dearly love to be doing some work if they possibly could.

I heard Mr Crean say that it had been his job to persuade employers to participate in the scheme. If teachers were enthusiastic, and I have heard the enthusiasm of individual teachers as well teacher organisations, and if the federal government were prepared to explain and perhaps subsidise employers — I am not certain how that part of it works but somehow the federal government could enthuse employers about the scheme — it would not be impossible for schools to make that a viable proposition. The minister will no doubt tell me at some stage in debate that that goes on in a number of our schools at present. It does in the north-western suburbs, where a number of students participate in work experience in some aspect of a job, perhaps for one day a week. That experience is recognised and accredited towards their studies for the school certificate. That happens all the time.

Every member in the house would see it as a good thing that the barriers are being broken down and that students have greater flexibility in following the pathway they wish to pursue. In the past there was no such pathway. Only 20 years ago if a young person decided to start at a TAFE college and then decided two or three years on that he or she should have gone to a high school, it was difficult to get back to high school, and vice versa. It is not like that any longer. Clearly, the pathways are open.

The federal minister is talking about a formalisation of what is already taking place in a number of schools. It is a working over of one of the recommendations of the Carmichael report that schools, training and the resources of TAFE be brought closer together. I emphasise that I am not speaking for the federal minister, but that is my understanding of the way the scheme might work. It could work if the schools and staff are enthusiastic about that kind of scheme. When that happens at a school, as Mr Hall would know, very positive things begin to happen.

Historically, the apprentice system has been strong in Germany and Austria. In the March 1994 edition of The Journal of Industrial Relations, Howard Gospel says the following of apprenticeships:

... apprenticeship is defined as a method of employment and on-the-job training that involves a set of reciprocal rights and duties between an employer and a trainee (usually a young person): the employer agrees to teach (or cause to be taught) a range of skills usually of a broad, occupational nature; in return the apprentice agrees to work for an extended period of time at a training wage, which is relatively low compared to the skilled worker rate but which normally rises on an annual basis until the period of the apprenticeship is completed. For most of this century on-the-job training has been complemented by off-the-job training. There is usually a contract between the employer and the apprentice and this may be in the form of a legal indenture, a formal agreement, or an informal understanding. At the end of the period the apprentice usually obtains some sort of accredited certificate of completion ...

In Australia apprenticeship training traditionally has been the main formal method of skill formation for manual workers. In the past the worker either did an apprenticeship or received little formal training. Non-apprenticed workers acquired whatever skills they needed more or less informally on the job.

The history of apprenticeship in Australia goes back to the early colonial period when apprenticeship was introduced from Britain. Traditionally the apprenticeship was of the domiciliary kind, where the youth (invariably male) lived in with the master, who agreed to teach him the trade in return for productive labour, usually without the payment of a wage.

Mr Gospel continues:

By the mid-19th century, this form of apprenticeship had more or less died out and been replaced by the live-out apprenticeship with the payment of a wage. This reflected the growth of larger firms and a more arms-length relationship within the market.

Apprenticeship, which had its origins in the artisanal trades such as building, printing and boot and shoemaking, also spread to the newer metalworking industries of engineering and shipbuilding and, at the end of the 19th century, to the new plumbing and electrical trades. This expansion suggests that apprenticeship had much to commend it for the parties concerned. For employers, it performed a real economic function: given low apprentice wage rates and productive output, it was a cheap (and potentially profitable) method of training; given built-in incentives...
to complete the apprenticeship, it facilitated investment in workers who were potentially mobile; given the widespread coverage of the system in many trades, it meant that employers had some check on 'free riding'; and given notions of occupational standards, it provided a supply of labour with recognisable skills. Moreover, it was supported by the 19th-century craft unions, which saw it as a way of controlling entry into their trades and regulating other aspects of employment, although they were usually not strong enough to enforce apprentice rules unilaterally.

Interestingly, while the apprenticeship system has languished in other parts of the world, the advent of compulsory arbitration and awards in Australia has continued to meet the requirements of industry.

Mr Gospel continues:

The state also played an important role in two other respects. First, the largest employers were federal or state institutions such as the railways and public utilities. Enjoying monopolistic or oligopolistic positions and in a spirit of public service, these felt able and obliged to take on large numbers of apprentices and played an important part in apprenticeship training. Second, from the beginning of the 20th century a strong system of state technical colleges developed where trade courses were taught and which apprentices seem to have attended in relatively larger numbers than their counterparts in the United Kingdom and the United States. Attendance was written into awards, and this further supported apprenticeship training. To this day the state system of technical and further education is particularly prominent and plays a central part as a complement to apprenticeship training. That is a good record for apprenticeship in Australia.

In 1990 approximately 23 per cent of all employed 15 to 19-year-olds in Australia were doing apprenticeships. By international standards this rate is high and is surpassed only by those of Germany, Austria, Switzerland and Denmark. That is a good record because apprenticeship has to a large extent continued to meet the requirements of industry.

Institutional supports in the form of the award system and strong trade unions have also been of great significance. Indeed, through the accord, apprenticeships remain a part of restructured awards and agreements, and apprenticeship training is being reformed to allow for greater access and for multiskilling.

The background I have sketched out raises some questions in my mind about the bill, which in turn raises some questions about the supervision of and support for training in this state. As I have said, the bill is an example of the government's philosophy of outsourcing as much of government activity as possible. The bill amends the Vocational Education and Training Act 1990 to enable most of the functions relating to the management of apprenticeships and traineeships to be carried out by what are called approved training agents who will be appointed by the Governor in Council. As I understand it, these training agents will be selected through a tender process and will be appointed on a regional basis.

The bill sets out a process for reviewing decisions of the approved training agents and retains the central power for prosecution and supervisory purposes. As I understand it, this central unit will include declaration of apprenticeship and traineeship vocations; maintenance of apprenticeship records; and a register of qualifications.

The Office of Training and Further Education (OTFE) is responsible for the provision of vocational education and training in Victoria. This includes the administration of apprenticeships and trainees. It is their training that is regulated by the Vocational Education and Training Act 1990. The act requires that apprentices and trainees be employed under a contract of training or a training agreement for the duration of the vocational training program. All contracts and agreements are lodged with the OTFE for approval and administration. This contract administration function is performed with the aid of a computerised database and management system and the system is managed by the Training Operations Bureau.

OTFE also employs field officers, known as training development officers, who are located at TAFE colleges in the metropolitan area and in some country regions. Those officers facilitate vocational education and training by providing services to employers, TAFE colleges, trainees and apprentices and their parents and guardians.

Therefore, in one sense, the bill is relatively straightforward. It amends the Vocational Education and Training Act to enable the State Training Board to delegate certain powers to what are termed approved training agents and to outsource some of the training functions of the Training Operations Bureau and the training development officers.
The OTFE's objective is to establish a regionally based network of approved training agents. As I have said, these agents will be selected after tender and appointed by the Governor in Council. According to the project brief for the selection of the outsourcing consultant, OTFE envisages there will be 13 approved training agents, 4 in metropolitan areas and 9 in country regions.

Industry training companies, group training companies or TAFE colleges are likely to be training agents, but we seek confirmation from the minister that, as we were advised during our briefing, there would be no impediment to a union becoming an approved agent.

As I understand it, the functions to be outsourced are the registering of contracts of training and training agreements; the authority to issue certificates of completion for approved training programs; the authority to issue certificates to persons who have gained skills in a declared vocation other than through apprenticeship; the ability to approve employers to employ persons under a contract of training or a training agreement and approving the contracts of training entered into between employers and trainees; determining the exemptions, within OTFE guidelines, to the prescribed ratios of apprentices to trainees in declared vocations; the execution of contracts of training in specific circumstances, subject to OTFE guidelines; determining cancellation, suspension and variation to industrial contracts of training, within OTFE guidelines; first-line dispute resolution; and the provision of assistance and advice. I ask the minister to confirm in his response that these are the functions to be outsourced.

The consultant firm Coopers and Lybrand is handling the issues underlying the legislation. It is up to the consultant to resolve problems of privacy, confidentiality and conflict of interest, and to identify the performance specification and performance measurement for the approved training agents. It is also up to the consultant to identify the current service profiles of the training development officers and the Training Operations Bureau.

Clearly, the central issue in any outsourcing proposal is whether it is possible to specify in a contract the exact nature of the service required and whether or not, in the desire to get the cheapest output, the social outcome is compromised. We need to understand how the issues raised by this bill will be dealt with. As the opposition understands it, the consultants' work is still continuing and the six so-called outputs outlined in the project brief are still being worked on.

The following are the outputs to be provided. Output 1 is a service profile of the services provided by training development officers and the Training Operations Bureau. Output 2 is a paper setting out alternative methods of service delivery and recommending a preferred option. This paper would identify mechanisms for ensuring privacy, confidentiality and security of information; identify areas of possible conflict of interest that may be experienced by approved training agents, and a mechanism for their resolution; and mechanisms for the quality assurance function to be performed by OTFE.

Output 3 is a paper comparing the current model with the proposed model and establishing the case for the proposed model. Output 4 deals with the performance specifications and performance measures. Output 5 is the request for the proposal document and the contractor selection criteria. Output 6 is advice and guidance to the project managers. These, as we understand it, are the outputs that have yet to be provided. If that is so, and if work is still being continued, why has the bill been introduced now in what seems to be great haste?

Let us look, for instance, at the database, which raises issues of privacy. The database of apprentices, trainees and employers is the authoritative record of the completion of training. It is used by DEET in monitoring traineeships. It contains personal information and is a catalogue of employers engaged in training. It must be made clear what rules govern access to this database and what rules will apply in the future. This is a vital issue, as the approved training agents will be accessing the database. Further, we understand that large enterprises that undertake contract management for their own apprentices will also have access to it.

We would like to know how the database is to be used. What data will be able to be accessed? Will the training agents be able to use the database to generate lists of apprentices, trainees and employers for marketing purposes? Will the training agents be able to charge employers, apprentices or their parents for access to the database? In what sense will there continue to be a central database and how will it be managed?

I turn to the role of the training development officers. We would like to know what arrangements
are in place to support these people, many of whom will lose their jobs as a result of this measure. The number of training development officers has declined greatly over the last few years, which is incredible in a time of such emphasis on apprenticeships and training. We ask the minister what will happen to the existing officers and what plans the government has for their future.

We oppose the bill for two major reasons. The opposition believes it is being introduced with unseemly haste before the consultants' work has been finalised. We have fundamental concerns about the future of the existing training officers. We have concerns about access to the database, which I have outlined.

I ask the minister, if he can, to detail the arrangements for access with regard to privacy and confidentiality. We ask him to comment on the arrangements for monitoring an approved agent and individual agreements and to explain how concerns raised by a third party will be resolved. We also ask him to confirm that a union can be one of the approved training agents.

We have a deeply felt concern about many forms of outsourcing, a movement and philosophy that is now racing through all levels of government. In the context of the emphasis that we should be placing on apprenticeship and training initiatives, it is not time for this hasty move. For those reasons, the opposition opposes the bill.

Hon. P. R. HALL (Gippsland) — I have much pleasure in commenting on and supporting the Vocational Educational and Training (Amendment) Bill. I listened with interest to Mrs Hogg's contribution, and it appeared to me that the issues she raised were more by way of asking questions about the bill than anything else. Everyone has the legitimate right to ask those questions and seek responses as part of the debate, but it appeared to me that the main thrust of her contribution to the debate involved the seeking of information on issues.

I understand the opposition's philosophical argument about the outsourcing of functions previously undertaken by the public sector. I was interested in her opening comments on the TAFE system and on the work undertaken by a young female parliamentary intern who was with Mrs Hogg earlier this year. Mrs Hogg referred to the innovative marketing methods used by TAFE, and I can attest to those because I have observed TAFE use every opportunity to market its product. I agree with Mrs Hogg that it is an excellent product.

Mrs Hogg also said that the report on the internship program found that one of the fundamental problems was with students' perceptions of TAFE colleges and the educational opportunities available through the TAFE system. Again I agree that we need to work on improving students' perceptions of the legitimate and viable alternatives to higher education — that being vocational education through the TAFE system. I often think that if I had my time over again I would have been better off going through the TAFE system rather than the higher education system.

This government and the previous government have worked on ways to improve students' perceptions and knowledge of what is available through the TAFE system. When I went to school we had little knowledge of what programs were available in TAFE colleges. We have tried to address that by having a common entry system available to secondary students where they have an opportunity to look at a form which has both TAFE and higher education courses listed. If nothing else, it at least increases the knowledge and awareness of those courses which are listed side by side. It helps students to appreciate that there is some parity between the courses. I believe TAFE is an equal partner to higher education in most disciplines. It is interesting that more students participate in TAFE courses than in higher education courses in Victoria. I do not have the exact figures, but I have seen them and know it as a fact.

Another important issue raised by Mrs Hogg is that we need to explore further the pathways between secondary school and vocational education areas. I agree wholeheartedly with her on that point. One of the significant areas that has taken off is the dual-recognition programs that have been introduced at VCE level in secondary schools. Those programs have been run in conjunction with TAFE colleges. The accredited dual-recognition programs allow VCE students to get a credit towards a vocational course and a tertiary ranking and it contributes towards their VCE result. The dual-recognition programs allow students to take credits into vocational educational courses at TAFE colleges. That is one of the excellent initiatives the government has taken along the pathway of linking secondary education to vocational education and it is great to see more schools coming into the program.
Last week I attended the Box Hill College of TAFE where there was a ceremony involving eight or nine secondary colleges signing with the TAFE college to take on those dual-recognition programs. Next year the TAFE college expects to have 22 or 23 secondary colleges, not all of them in the Box Hill area. Westall and Bayside secondary colleges and a community provider will all be linked with Box Hill TAFE to allow students to participate in the dual-recognition programs. That is an important development in establishing successful pathways between secondary and vocational education.

I agree with Mrs Hogg and the young lady who was undertaking the parliamentary internship program that we need to continue working in those areas. We are making progress and students' perception and knowledge of vocational courses is increasing. However, more work needs to be done, and we will continue down that track.

Before commenting directly on the bill I will provide some background on apprenticeships in Victoria. As honourable members will be aware, and as the minister said in his second-reading speech, the apprenticeship system has been serving the state since the 1920s and it has served Victorians and our industries well over that period. I do not know how many people have undertaken apprenticeships over the years but currently 31,660 apprenticeship agreements are in place covering almost 100 declared vocational areas.

Some of the areas are agriculture, the automotive industry, building, the electrical industry, the food industry, furniture production, horticulture, the metal industry, printing and the fashion industry, as well as a whole range of other industries. Many diverse apprenticeships are available within those industries. There is not just one for agriculture or one for the automotive industry, because they specialise in different areas.

Members of the house probably all know people who have been apprentices and who have acquired their vocational skills through the apprenticeship program. My father was an apprenticed motor mechanic. He went through that system a good time ago. Over the years, many thousands of Victorians have been apprentices at one time or another.

What is an apprenticeship? It is a way to learn a trade and to be paid while learning. That is probably the best way for people to learn. Often formal education in schools and universities, which means sitting down all day in classrooms, is not conducive to learning. People learn more about life and acquire more skills when they actively combine practical experience with theory. That is what apprenticeship training does. The apprentice is contracted to one or more employers to learn a trade through on-the-job training with an off-the-job training component, usually at a TAFE college, although a range of private trainers now provide the opportunity to obtain off-the-job training as well.

Apprenticeships span probably a minimum of 2.5 to 4 years. That is the recognised period of apprenticeships, depending upon the vocational area. Once again as a result of the flexibility that has been introduced through competency-based training, the training period can be a shorter or longer period. If a person has acquired the skills quickly and has retained them, under a competency-based assessment the period of the apprenticeship can be reduced. Equally, if a person is taking more time that might be considered the average, by agreement the period can be lengthened so that the person is not disadvantaged and can still acquire the appropriate accreditation at the end of the training period.

Apprenticeships have been around for some time. They have survived through competition. Traineeships have been around for probably the past 10 to 15 years, but they are growing in importance. Traineeships offer an alternative opportunity of acquiring vocational education. They are not in direct opposition to apprenticeships because traineeships and apprenticeships concentrate on different vocational areas and there is not much overlap between the two.

How does a person become an apprentice? He or she does not apply to a college or to the State Training Board to obtain an apprenticeship or get into an apprentice course. Instead, the person must seek a place with an employer. We often see employers advertising for apprentices in a range of different areas and young men or women can apply for those positions.

Group training schemes were also mentioned by Mrs Hogg during her contribution to the debate. They are an important initiative to help young people find employment positions. Once again it is a collective organisation, and it puts young students into apprenticeship positions with employers, perhaps not for the whole period of three or four years but for a time when the employers have the work available. Many tradesmen who operate singly, such as builders, may not have work or may
not need apprentices for four years, but they may need apprentices for 6 or 12 months when there is a lot of work on. The beauty of a group training scheme is that it offers young people an opportunity to undertake apprenticeships in the building trade and work for 2, 3 or maybe 4 builders.

To seek an apprenticeship a young person is required to contact an employer and there is a three-month period in which no formal agreement is struck. That is the time when the young person works with a tradesperson to see whether they are suitable for each other. It is a little like a cooling-off period. After three months the employer is required to notify the Office of Training and Further Education that he or she is going to employ the person as an apprentice. Documents are lodged with the State Training Board and a program of formal off-the-job training is worked out. The apprentice continues through the appropriate course set up by the industry training board and the State Training Board until he or she completes the program.

Supervision through the training period is conducted by training development officers. They are qualified people in a variety of trades who keep an eye on the progress of the young people throughout the period of the apprenticeships. They make monitoring visits to employers and colleges, as well as investigating serious complaints about training issues.

That is what the bill is about. The bill is about the supervision of apprentices during their training, and it originated from a discussion paper put out in June by the Office of Training and Further Education. The paper was widely distributed to employer groups, TAFE colleges, union groups and anyone else who wanted a copy.

I shall refer to some issues canvassed in the discussion paper that are not significantly different from what is in the bill. The introduction to the discussion paper gives the background to what is proposed. It says:

The Victorian government and the Office of Training and Further Education (OTFE) are committed to the introduction of the Australian vocational training system (AVTS) from 1995 onwards. This entails an examination and reform of current training programs to incorporate them within the AVTS structure ...

Central to the proposed reforms is the move towards having industry assume a greater role in monitoring workplace training and the administration of training agreements ...

In accordance with the Victorian government policy, one of the goals of the Office of Training and Further Education is to outsource non-core administrative functions to suitably qualified bodies and to delegate authority to these bodies for performance of the function.

It is interesting to note that all the reform is evolving in line with an Australian vocational training system. The framework for that was agreed to at many different levels, including the federal government and the Australian Council of Trade Unions.

It is also worth while putting on the record what the widely canvassed discussion paper had to say about the outsourcing of administration. At page 19 it says:

Traditionally the administration of regulated training has been centrally focused through a central administration body (currently known as the Training Operations Bureau — TOB) and a group of field/inspectorial staff (training development officers — TDOs) who have at different times been located centrally or regionally ...

It is now proposed that the majority of the administrative functions related to apprenticeships and traineeships currently performed by TOB and the TDOs would be outsourced. To achieve this it is proposed to establish a regionally based network of approved training agents (ATAs) which is intended to commence operations early in 1996 ...

It then goes through the functions and powers of the training development officers, which include registering contracts of training and training agreements; authority to issue certificates of completion of approved training programs; authority to issue certificates to persons who have gained skills in a declared vocation, other than through apprenticeships; ability to approve employers to employ persons under a contract of training or training agreement; approving the contracts of training entered into between employers and trainees; determining exceptions, within OTFE guidelines, to the prescribed ratios of apprentices to trainees in declared vocations; execution of contracts of training in specific circumstances, subject to OTFE guidelines; determining cancellation, suspension and variation to individual contracts of training, within OTFE guidelines; providing first-line dispute
resolution assistance; and providing advice and information service to client groups.

They are just some examples of the functions of training development officers as they are now and as they will be when outsourced. I again emphasise that the words 'within OTFE guidelines' were mentioned three or four times in the specification of those functions.

Mrs Hogg expressed concern about privacy and control and ensuring that the system is properly monitored once it is outsourced. I direct her attention to the second-reading speech in which the minister outlines some of the safeguards which will be put into the system and which necessarily go with the reform that is being proposed:

The State Training Board will set parameters for, and continuously monitor the performance of, approved training agents.

An aggrieved person will be able to apply to the State Training Board for a review of an approved training agent's decision.

The minister mentioned the retention by the State Training Board of core regulatory functions such as quality control over the apprenticeship and traineeship systems; the declaration of apprenticeship and traineeship vocations, the form of contracts of training and the determination of approved training schemes for apprenticeships; the resolution of disputes between apprentices and employers where they cannot be resolved through conciliation processes; the maintenance of central apprenticeship records and register of qualifications; and prosecutions for breaches of the act.

Adequate safeguards or quality control mechanisms are in the legislation. Mrs Hogg has a right to ask the minister those questions but the government went through the legislation carefully and believes the quality control mechanisms retained by the State Training Board will address the major concerns she raised.

In closing I wish to mention the current situation in Victoria with training development officers and people employed by the training operations bureau. I understand 21 training development officers are currently employed by the training operations bureau — 12 public servants and 9 people on contract. As was pointed out in the minister's second-reading speech, it is important for people to be located in regional areas. The proposal is to have at least four venues in the metropolitan area where these officers will be located, while the others will be spread around country Victoria.

It is important that the training development officers have ready access to the places of employment of people undertaking apprenticeships. Given the safeguards outlined I do not think there is any logical reason for this function not to be outsourced. It certainly follows the direction of government departments in general, whether they be at the state or federal level, for more of the work of government to be outsourced. That is appropriate where adequate mechanisms are being put in, and I believe in this instance adequate control mechanisms rest with the State Training Board.

The number of training development officers is interesting; at the moment there are 21. I do not think there were more in the past, but I am not sure of the numbers. When there are 31 660 apprenticeships and 21 training development officers, it is obvious that the officers will not be visiting the employer or apprentice every day to find out how things are going. I understand in most instances the initial visit to the employer by the officer to assess the suitability of the employer's taking on an apprentice will be the last time the officer calls on the employer or apprentice unless there is a dispute or a request for a competency-based assessment during the apprenticeship. Although they play an important role the officers do not have a continuing monitoring role that involves checking up on things. However, it is important that they be there to address any problems that arise. As I said, the reforms in the bill, although small, are important to the overall training system and the reforms that have already been made in the system. The general reforms in the vocational area have the approval of state and federal ministers, employer groups and the union movement, certainly at the national level. There is strong support for this measure, which is an important step forward in the reform process in vocational education. It gives me great pleasure to commend the bill to the house.

Hon. LOUISE ASHER (Monash) — Given the thorough coverage of the bill by my colleague Mr Hall and by Mrs Hogg, I do not propose to go into a great deal of detail on its contents. However, I wish to make a couple of factual observations about what the government is proposing to outsource and why I think the nature of the opposition's attitude to the bill is somewhat misguided.
The Vocational Education and Training (Amendment) Bill will allow certain powers and functions of the State Training Board to be vested in and carried out by other bodies. That will be determined by tender and final appointment will be by the Governor in Council. In particular, the outsourcing mentioned in the bill relates to two functions now carried out by the State Training Board.

The first is that performed by training development officers. As Mr Hall explained, at the moment the State Training Board employs training development officers who ensure that apprentices have proper training facilities, monitor employers and colleges and investigate complaints in the apprenticeship training process. The government is proposing to outsource that particular function. The second function the bill proposes to outsource is that performed by the training operations bureau of the State Training Board, which is the central point at which contracts for apprentices are lodged. The bureau has special powers in the supervision and training of apprenticeships.

Quite simply, the bill is about those two functions; it is not about the whole State Training Board or the whole process or even apprenticeships per se. It is just those two functions relating to inspections by the State Training Board that the government is proposing to outsource.

The mechanism by which the government proposes to outsource is enabling the current powers of the State Training Board to be delegated to approved training agents. Those agents are people with expertise and an interest in training — for example, TAFE college councils, employer associations and group training companies. TAFE college councils are currently allowed delegations from the State Training Board but the bill will expand that power to allow other bodies with an interest in training to be involved in this process, so more people with expertise and interest may be involved than is currently the case.

As Mr Hall explained, a number of safeguards are built into the bill to ensure that the quality of the service remains high. There will be an initial tender process and extensive performance monitoring. Measures will be taken to avoid a conflict of interest such as with an employer group and there will be a review mechanism. A person who is aggrieved will be able to apply to the board for a review of an approved training agent’s decision. That review process is a fundamental and important part of the safety mechanisms instituted by the bill.

The bill does not alter any of the other functions of the State Training Board; it is a quite narrow bill. The opposition of the ALP and the Trades Hall Council to it is ideological. All the bill does is outsource the simply defined functions. It provides safeguards and an appeals mechanism, yet the Trades Hall Council and the ALP are objecting to this simple outsourcing of a particular function. It is not that the function will disappear; it is simply that people employed by the government will not necessarily be performing the function. In many cases those functions will be performed by someone with greater expertise.

Mrs Hogg referred to what she described as the unseemly haste with which the bill had been brought into this chamber. I disagree with that view. There has been an extensive process of consultation, as my colleague Mr Hall outlined. A discussion paper entitled Reform of Regulated Training Administration, dated June 1995, was produced and circulated in July of this year to approximately 300 groups. The point my colleague made was that the proposal is not new and has been on the table since June. I do not consider it hasty that the government acted on a proposal that has been in the pipeline — that is, on paper — and distributed to organisations since June. The recommendations could not have been clearer.

I shall refer to page 23 of the discussion paper, in particular to recommendations 8 and 9. Recommendation 8 states:

That approved training agents be established by way of legislative amendment.

Recommendation 9 states:

That appropriate training operations bureau and training development officer functions relating to administration of apprenticeships and traineeships be outsourced to approved training agents.

This is precisely what the bill does. A discussion paper was released by the government in June 1995 and forwarded to 300 groups — including the Trades Hall Council, trade unions, TAFE college councils, and employer organisations. I do not find that hasty; I find it efficient. Plenty of advance notice had been given but, more importantly, plenty of consultation has taken place, yet again.
The bill was such a non-issue for the Trades Hall Council that it did not even bother to get back to the department about the discussion paper. I have been advised by the Office of Training and Further Education that in July 1995 briefing sessions were held and that the Trades Hall Council did not even bother to attend. The department sent a reminder notice about this important bill, which the Trades Hall Council is still bleating about and the opposition is still opposing, but there was again no response.

It was only after the whole process, about which it was advised on more than one occasion, had been gone through that the Trades Hall Council actually came back to the government and said, 'Listen, we've got some objections'. Interestingly enough, now that John Halfpenny has moved on, the Trades Hall Council blamed him for the lack of response to the discussion paper and to the government's sweeping proposal on the outsourcing functions of the State Training Board. However, the government also notes that Leigh Hubbard did little in the consultation process.

I do not have a great deal of time for the objections raised at a very late stage by the other side of politics; that simply justifies my assertion that the opposition to the bill is purely and utterly ideological.

A significant point about the bill is that there has been extensive agreement about the training reform process between the federal and state ministers, employer organisations, the ACTU and a whole range of other groups. This is part of a national training reform agreement. As I understand it, it was made clear that the devolution of these particular functions addressed in the bill would be left to the discretion of the states. Again, it is a bit late for the Victorian ALP and the Trades Hall Council to come in at the very last moment of the whole process of national agreement saying, 'We don't like the concept of outsourcing these two very narrow functions'.

Hon. W. A. N. Hartigan — Or anything else!

Hon. LOUISE ASHER — They are consistent, Mr Hartigan. At least we can say that about them!

Hon. P. R. Hall interjected.

Hon. LOUISE ASHER — My colleague Mr Hall reminds me that they originally opposed privately provided training. At the secondary level there is a whole range of privately provided education. There has been a consistent stream of argument from the opposition that only the government should provide various services or training in areas that were previously run by the government.

A number of objections were raised about the quality of supervision the approved training agents might deliver. The house has been advised of some significant and very tight performance agreements that will be required under the bill and of the guidelines that the State Training Board will supervise.

I am not particularly concerned that outsourcing as proposed in the bill will impact on quality. What will determine quality will be the performance agreements and the guidelines the State Training Board will devise and supervise. A point had also been made about the privacy of records. My understanding is that security will be increased.

In conclusion, this bill is extremely limited but the opposition's attitude to it has been consistent with its attitude to so many things since we came to government in 1992. It looks at who provides the function rather than what the function is, whether it is important or whether it is being delivered properly. The opposition has an ideological bent in favour of the government providing certain services. This bill does not alter any function. It does not say that certain functions will not be performed. It simply allows approved training agents to take over functions previously undertaken by government employees.

The bill is not about abolishing functions; it is simply about transferring the function from the government to an open-market tender situation on a regional basis. As has been pointed out in this debate, this bill will result not only in more appropriate supervision of training but in a better geographical spread over the regions of Victoria. The bill does not alter any other aspect of the State Training Board's functions; it deals only with the two narrow functions that I outlined at the beginning of my presentation. Most importantly, the bill will allow industry to participate in training to a greater extent than it does at present. Furthermore, and also extremely importantly, it will allow greater flexibility in the supervision of training. I commend the bill to the house.
House divided on motion:

Ayes, 26
Asher, Ms
Atkinson, Mr
Baxter, Mr
Best, Mr
Birrell, Mr
Bishop, Mr
Bowden, Mr
Connard, Mr
Cox, Mr
Craige, Mr
Davis, Mr
de Fegeiy, Mr
Evans, Mr
Forwood, Mr
Guest, Mr
Hall, Mr
Hallam, Mr
Hartigan, Mr
Knowies, Mr
Skeggs, Mr
Stoney, Mr (Teller)
Strong, Mr (Teller)
Wells, Dr
Wilding, Mrs

Noes, 11
Davidson, Mr
Gouid, Miss (Teller)
Henshaw, Mr (Teller)
Hogg, Mrs
Ives, Mr
Kokocinski, Ms
McLean, Mrs
Mier, Mr
Power, Mr
Pullen, Mr
Walpoole, Mr
Theophanous, Mr
White, Mr
Nardella, Mr

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 all members who contributed to the second-reading debate for their appreciation of the need for training and support for training delivery. However, in this case the opposition has taken a view about this bill which was clearly demonstrated by Ms Asher and Mr Hall as being based on ideology and not on understanding the need to have proper delivery of services for trainees in the context of what is happening at a national and state level.

It was made clear that this bill is designed to facilitate changes in the arrangements for trainee officers and the services the state provides. That in no way inhibits the training provisions.

Mrs Hogg made some comments about the initiatives of the federal Minister for Employment, Education and Training, Mr Crean, last week. I asked Mrs Hogg if she would give details, because Mr Crean spoke at a national training course in Sydney last Thursday night and was asked how the system would work. He said he had not worked out the details. It is acknowledged that there is still a fair way to go before we reach that stage.

Mrs Hogg also questioned whether apprentices could still be employed by government departments.

Hon. C. J. Hogg interjected.

Hon. HADDON STOREY — I shall not go into that any further. Mrs Hogg raised a number of questions that were similar to the questions raised in the other place and were answered by the Minister for Education and also by Ms Asher and Mr Hall in this place. I was asked whether the bill precludes unions from tendering to become approved training agents. It does not preclude them; they will have to submit tenders and be judged on the same basis as everybody else. If they come through all of that and are the most appropriate ones to be engaged, they will be engaged. The bill does not prevent them from doing that.

Mrs Hogg asked about the issues relating to the outsourcing, which was the subject of an analysis. These are matters that are the subject of finetuning of the arrangements that will be put in place. The bill does not determine those matters one way or the other. The bill facilitates the operation of the outsourcing. One requires that framework to put the outsourcing into place. That is a matter that will be resolved.

There has been a lot of consultation, as Ms Asher said, but the fact that the negotiations or consultations are still continuing is no reason for opposing the bill, nor is it a reason for holding up the bill. We need to have it passed so that the arrangements can be put in place next year. The bill has not been rushed into Parliament; it has been the subject of a lot of consultation earlier this year.

Mrs Hogg asked about the database and access to it. I assure her that it will be strictly controlled. Security provisions will be built into the database and it will not be able to be used to generate lists for marketing purposes and so on. There will be no charges for access to the database. It will be properly controlled and appropriate measures will be taken to protect confidential matters.
The other matter Mrs Hogg raised was the future of training development officers. The Office of Training and Further Education will be seeking to place them with approved training agents. I understand that some discussions have already taken place along those lines. I hope the matter will be addressed in that way. Otherwise, the agents will be dealt with through the existing mechanisms within the public service that operate when people have jobs that are no longer relevant.

Opposition members suggested that in some way the government has brought about a reduction in the number of training development officers.

Hon. C. J. Hogg — I did not suggest that.

Hon. HADDON STOREY — Perhaps it was implicit in what Mrs Hogg said. She did not mention the figures. In case anyone is in any doubt, the biggest reduction in the number of training development officers occurred under the previous government.

Hon. R. I. Knowles — That is probably why Mrs Hogg did not mention the figures.

Hon. HADDON STOREY — The number were reduced from 60 to 29. Mrs Hogg criticised the drop in the number of trainees. I will make a couple of comments on that. Firstly, there was a higher number of trainees in 1993 than in 1994 due to a one-off arrangement put in place by the previous government. It subsidised employers to take trainees for one year. For whatever reason, that one-year arrangement was introduced. Since that came to an end, the number of traineeships has fallen off again. I am pleased to be able to say that the number increased substantially in 1995.

I point out that it is the obligation of the CES and DEET to get employers to take on trainees; it is not a state government responsibility. The state delivers the training required by those in traineeship positions. The state government has done nothing but cooperate fully with Nettforce and the commonwealth government in fulfilling its obligations. The blame for the number of trainees not increasing as much as people would like to see cannot be laid at the feet of the state government.

Finally, as I said in answer to a question without notice this afternoon, the fact is that the overall number of training places in Victoria is increasing, and I am sure it will continue to do so.
Apart from those restrictions that are part of the trust conditions, the bill enables the trustee to search far and wide for an appropriate area in which to invest those funds, which is quite a departure from the arrangement to date. The argument for the change is that the changing nature of safe investments are such that it is not sufficient security to rely simply on a list of nominally safe investments. The second-reading speech points out that that might give an uninformed operator of a trust a false sense of security. The operator, because he or she is operating from a safe list, might not make adequate checks of the security of an investment. A legislated list at least makes an implied or moral suggestion that the government is taking responsibility and is standing behind those safe investments. That is the reason the government has given for the changes.

It is difficult to specify the concept of a prudent person, but the bill attempts to set some guidelines in proposed new section 8 headed, ‘Matters to which trustee must have regard in exercising power of investment’. It states:

(1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee must, so far as they are appropriate to the circumstances of the trust, have regard to ...

Some 15 items are listed in paragraphs (a) to (o) which a trustee should have regard to but not exclusively, the overarching need being the exercise of care and taking regard of the trust placed in the trustee.

I shall not read all the points, but I shall refer to a few to give the house an idea of their flavour:

(a) the purposes of the trust and the needs and circumstances of the beneficiaries; and

(b) the desirability of diversifying trust investments; and

(c) the nature of and risk associated with existing trust investments and other trust property; and ...

(o) the results of a review of existing trust investments.

I suppose the last paragraph is an attempt to get feedback on the situation on previous performance.

In coming to the decision to support the bill, the opposition had regard to two matters. Firstly, we believe it enjoys the support of practitioners in the field. Based on our efforts to gauge their views, we have received a favourable response, so that is important. Secondly, the bill is based on somewhat similar legislation that has been operating in New Zealand for some five or six years and, so far as we can tell, has been working reasonably well. Therefore, the opposition is supporting this change based on those major factors, even though it is quite a radical change from the way trusts have operated in the past.

However, I shall place on record some of the concerns and factors the government should bear in mind when implementing this change. Given the wider scope that a trustee now has, particularly a lay trustee, there will be a need for trustees to obtain professional advice because there will probably be a greater capacity and need to balance risk against the gains or the security that can be obtained by way of a return to the trust being managed. Most people familiar with this area know there is potential for a conflict of interest to arise. The person giving the advice, the consultant, usually receives a commission from the recipient, the area of the fund where the investments go, so it is necessary for the person to show high integrity in this matter.

The bill also provides for the payment of the consultant to come from the trust fund itself, that is, from the earnings of the trust. So the trustee now has to manage the funds in such a way that not too much is spent on actually obtaining that advice and ensuring he or she is not going only to a favourite kind of person to get the advice and because of a financial relationship there.

These things can certainly be handled prudently and properly, but clearly the situation needs to be monitored. The opposition expects the government to monitor the operation of the legislation. I recognise that there does not appear to be any evidence of malpractice to any great extent in New Zealand, but there is also a need to address the issue of the potential for fraud and breach of trust, and that will need to be monitored and tested in the courts.

As the minister said in his second-reading speech, investments are made all around Australia and it would be much better if there were uniformity of legislation across the country. The government has indicated there has been considerable difficulty in getting a uniform approach across Australia, and that is why it believed it had to move even before a uniform approach could be achieved. The opposition accepts that because South Australia is also moving in this direction. However, it would still be desirable in the end for uniform legislation to apply across Australia because investment does not respect boundaries and people look for investments...
that are most suitable to them. It would offer more security to people if they knew the legislation applied uniformly across the country. The opposition would like to see the attempts continued to arrive at a model that could operate across the whole of Australia.

We hope the bill will work well and will provide security for the people whose funds are held in trust. That is an extremely serious matter, as all honourable members would agree, because to many people these funds are vital. Funds may be held in trust for a minor until he or she attains maturity, or they may have been set aside to look after people who are not able to manage their own affairs, or whatever the case may be. If such funds are misappropriated or some other problem arises, the consequences for the person or family concerned can be disastrous; it could affect the fulfilment of their life and their standard of living. Therefore the matter has to be treated very carefully.

As I said, the opposition is supporting the bill on the basis that it seems to enjoy the support of practitioners in the field and that the experience of this type of legislation has been implemented successfully elsewhere. I look forward to the minister's response that the legislation will be monitored to ensure the changes are actually effective and are an improvement.

The second-reading speech did not contain any information on reports or other data about problems that have arisen under the existing system or any statistics from New Zealand that would actually enable a comparison to be made between the effectiveness of the current system in Victoria and other systems in obtaining the best returns for the people whose funds are held in trust, nor is there any information on the incidence of failures or problems that have arisen. They are the two key areas on which information is required in order to gauge the differences between the performance of one management system and another.

It is essential that the government monitor the situation so that we can see that the change is beneficial. With those comments, I indicate again that the opposition supports the bill.

Motion agreed to.

Read second time.

Committed.
Amendment agreed to; amended schedule agreed to.

Reported to house with amendment.

Remaining stages

Passed remaining stages.

**ELECTRICITY INDUSTRY (FURTHER AMENDMENT) BILL (No. 2)**

Second reading

Debate resumed from 31 October; motion of Hon. R. M. HALLAM (Minister for Finance).

Hon. D. R. WHITE (Doutta Galla) — The bill is not dissimilar to an earlier bill that related to the Yallourn power station. The purpose of the bill is to make provision for the further rationalisation of land titles in the Latrobe Valley held by two main generation companies, Loy Yang A power station and Hazelwood power station. It also provides for the appointment of a Deputy Administrator of the State Electricity Commission. The bill confers powers on the chief electrical inspector to assist in the administration and enforcement of electrical safety provisions. It replaces the Tree Clearance Consultative Committee with a new Power Line Clearance Consultative Committee.

The object of the bill is to organise the land titles for the Loy Yang A and Hazelwood power stations, which will make it easier to bring about the sale and privatisation of our generation system. As an aside, I indicate that we have seen in recent days the emergence of privatised distribution businesses such as Solaris and Eastern Energy, but to date within those entities there is no competition for consumers. No-one who lives in the Solaris or Eastern Energy districts, including members of this house, has chosen to change his or her billing arrangements in the same way as can be done with Telstra or Optus.

The reason we oppose the rearrangement of land titles is that without the legislation it would not be possible to sell Loy Yang A and Hazelwood power stations, so this bill is a necessary precondition to enable the government to sell Loy Yang A and Hazelwood. The opposition is opposed to what looks at face value like a fairly innocuous piece of legislation on the grounds of what it facilitates: an activity that we see as undesirable.

In support of our proposition I refer again, but on this occasion in more detail, to a submission that all members of Parliament received from Robert White, former chairman and general manager of the SEC; Charles Trethewan, former chairman and general manager; Kevin Connelly, former chief general manager; Allan Maguire, chief engineer, production coordination; and Greg Lake, chief engineer, system control. In their submission to members of Parliament they wrote on behalf of a group of retired SEC executives to voice their concerns about some aspects of the plans the government is implementing in the electricity industry. They acknowledge the government’s intention to privatise the distribution business; to retain the transmission network as a separate entity; to establish the Victorian power exchange as a means of coordinating supply and managing the wholesale market; to establish a means of regulating the industry; and finally, to proceed with the privatisation of the five presently corporatised generating entities — namely, Loy Yang A, Yallourn W, Hazelwood, Newport/Jeeralang and Victorian hydro-electric stations.

They say their prime concern is the adoption of arrangements based on the reform system developed in England and Wales in terms of the disaggregation of the generating system and the use of a competitive bidding method based on quoted prices unrelated to the actual cost of production. They note that this method is not known to be in use anywhere else in the world. They further say that as a group they have given serious consideration to these reforms and feel compelled to comment on
several problems which they believe are inherent in the existing arrangements and proposals.

The former SEC executives further said that the lack of overall planning for the expansion of the generation system would leave consumers at the mercy of the private entrepreneurs, who may or may not respond to pricing signals in the marketplace. They were referring to the major issue of security of supply. Under the government's proposal the brown-coal fired power stations, the hydro stations and the gas-fired power stations will be broken up and sold at some stage in the future. At some stage in the future we will need further generating capacity. For 75 years planning for the emergence of the new generation capacity has rested with the SEC. It has planned and submitted to various parliamentary committees its proposals for the expansion of the generation system. In the past the SEC submitted plans for consideration by the former Public Works Committee prior to environmental effects statements and prior to the establishment of a new brown-coal fired station.

The retired SEC engineers are saying that there is no provision under the state-owned enterprise model for the emergence of the prospective brown-coal fired power station but there might be the prospect of the emergence of a natural-gas fired power station similar to Jeeralang and Newport if BHP or CRA or a similar company is so moved. However, there is nothing intrinsic or evident in the government's proposals to suggest how a new brown-coal fired power station might emerge, given that the gestation period from initial planning and design through to construction, completion and operation could be a period of not less than 5 and probably up to 10 years. The government is saying that the free play of market forces will see the emergence of that investment and that prospect. At the moment there is no evidence to support that proposition. At some stage in the future Hazelwood will be retired — it is not far away — and there will be a need for an additional prime brown-coal capacity.

The second point the former SEC executives make is that the outworking of a half-hourly bidding into the pool as a basis for short and long-term financial transactions means that those bids are in no way related to seller costs, either totally or incrementally. They believe, with electricity users as a virtual captive market, bids will result in increased profits to the major generating companies at the expense of distribution companies. The concept that private contracts between generators and customers — based on cost and values — will overcome this difficulty is open to question.

I go further and argue that with the proposed break-up of the generation system it will be extremely difficult to attract major bidders if they do not have secure electricity markets and if they are dependent upon spot-price, half-hourly markets. If there are bidders, I cannot see how the financing arrangements of the banks and financial institutions will differ from those applied to Mission Energy at Loy Yang B. There is no doubt that Mission would not have been able to secure a contract at Loy Yang B and would not have been able to bid for an equity involvement in Loy Yang B — nor would any other prospective bidders such as Southern Company, National Power or the other unsuccessful bidders of that time — if it had not been able to demonstrate to the financiers that at the end of the day it had a secure market.

The government is proposing a continuation of the pool price method, which means there is no secure market for the prospective purchaser of a generation company. We do not believe when the next stage of the sale of the generation system is contemplated the major financiers will change the rules they applied to Mission for the next set of bidders. They will not say, 'On the one hand we set rules under which we expected Mission to secure a contract in a secure market into the future for at least 80 per cent of the product, but on the other hand we — the banks that will have to finance the bids for the purchase and operation of Loy Yang A, Yallourn W and Hazelwood — will be able to finance future bids if the bidders come to us and say that they do not have secure markets. The bidders will be expected to secure markets by operating through the pool'.

At this point I contrast what the government has undertaken in the sale of the generation system with the model we used for Loy Yang B and Mission Energy. We were faced with two settings for Loy Yang B. Firstly, the Australian Loan Council was not prepared to continue to allow the SEC to borrow to complete the construction of Loy Yang B. There was inadequate equity in the electricity market. Secondly, at the time there were 24 unions covering each power station, which made it untenable for Victoria to be competitive in a national market by attracting industry to expand or invest in the state. We did two things. Firstly, we invited bids for the completion of the construction of Loy Yang B as opposed to selling existing assets. Secondly, we allowed the successful bidder to be the sole employer and manager of Loy Yang B, establishing
what was euphemistically described as a new gate for new employees at Loy Yang B. The demarcation of Loy Yang B by the ACTU meant single union coverage. It also created a setting that led to reforms that occurred under public ownership leading to a reduction in the work force of the SEC from 23,000 in October 1989 to approximately 14,000 in October 1992, and fewer than 8000 today.

At that time we did not contemplate — nor did we consider it necessary — breaking up the distribution system or selling any other part of the generation system. We believed then, and still do, that the pace of reform we were achieving in the electricity industry under public ownership was sufficient to protect and enhance the interest of Victorians. It was not necessary to proceed with a break-up or a model similar to that put into effect by the Treasurer, the Premier and the government.

Prior to the 1992 election all the coalition announced on electricity policy was that the SEC would be considered for privatisation. The coalition in opposition did not seek a mandate for nor did it achieve a mandate — or spell out in any detail the proposed break-up of the SEC in the form in which it has occurred. It did not seek a mandate to break up the generation system in the form in which it has occurred.

Hon. R. M. Hallam — Do you claim a mandate for Loy Yang B?

Hon. D. R. WHITE — The former government made it perfectly clear to the community that the Australian Loan Council arrangements had changed after 1988 so that the construction of Loy Yang B could be completed. It was necessary to bring about the change in public policy, which was announced and about which there was extensive consultation.

Hon. R. M. Hallam — Are you saying that you do claim a mandate for Loy Yang B?

Hon. D. R. WHITE — In fairness to the minister, the previous government did not say prior to the 1988 election that it was going to complete Loy Yang B by selling 40 per cent of it. That is correct; there is no question about it. Prior to the 1988 election it was not an issue, so it was not raised.

The Minister for Finance would appreciate that prior to this event major legislation had to be passed in this house. I remind the Minister for Finance of the comments made by the Minister for Roads and Ports today about the City Link project and consultation.

He explained that he had gone to some trouble to consult with the opposition about the City Link project and had provided several hours last Friday and the following Monday for discussion about the project.

I remind the Minister for Finance that the government said the City Link project is far more significant than Loy Yang B, and with Loy Yang B it was not a matter of the former government providing 4 hours for consultation; it was at least 400 hours. Moreover, because of the significant technical details that had to be considered the coalition sought permission to choose its own consultant in an effort to understand the complexities of Mission Energy and Loy Yang B. Nobody now understands the complexity of that transaction. The government of the day provided $15,000 so the coalition could employ a consultant, Price Waterhouse, to undertake a study of the technical issues and questions about which it wished to satisfy itself before reaching a view on the merits of the Loy Yang B and Mission transactions.

The previous government did not gain or seek access to the information provided by Price Waterhouse to the coalition. It is correct to say that during the course of a Parliament events occur that sometimes necessitate new public policy, but that did not happen prior to 1988, and I do not contest that.

Hon. R. M. Hallam — You said you were going to build Loy Yangs A, B, C and D.

Hon. D. R. WHITE — Go back a bit further, Minister. You will recall that the late Sir Phillip Lynch announced at a national level that not only would Loy Yangs A and B be built but also Driffield would be built during the late 1970s and early 1980s. If you are unsure about that, Minister, speak to Mr Jack Johnson, a former planner with the SEC, who prepared the plans for the Hamer administration to construct it. I spent many hours with him discussing those proposals.

Hon. P. R. Hall interjected.

Hon. D. R. WHITE — I remind Mr Hall that our intentions for the SEC to construct power stations in the Latrobe Valley were more modest than those of this government, and they took on board Jack Johnson’s proposals.

Hon. P. R. Hall interjected.
Hon. D. R. WHITE — We proposed Loy Yangs A and B but I have never heard of C.

Hon. P. R. Hall — It was public policy.

Hon. D. R. WHITE — I have never heard of it. I have heard of Driffield and Loy Yangs A and B but not Loy Yangs C and D. As recently as the early 1980s, whether it involved dam construction in the water industry or power station construction in the electricity industry, the engineering profession was of the view that we needed more investment and resource development, and it measured its success by how soon it could build the next power station. That drove the development of many public policies. In only 10 years the profession turned 180 degrees. Now it does not measure its success by how efficiently it can use the electricity that is produced in the Latrobe Valley.

It has claimed for at least 10 years that we could make more efficient use of the water we produce. The engineering profession, not to mention the environmentalists, argues that we use electricity inefficiently and could use it more efficiently and delay the need for the construction of new power stations, except in the case of the Hazelwood power station where it will be necessary to replace existing assets.

Arising from that is the reason we take exception to what the new owners of Eastern Energy have been saying about the need for people to use electricity more efficiently. The engineering profession’s discipline today is that at the core of energy policy should be demand management projects, whereas in the late 1970s Sir Phillip Lynch, Jim Balfour and others were of the view that it was unlimited resource development. You, Mr Deputy President, would recall Sir Phillip Lynch’s announcement to that effect. That philosophy of unlimited resource development has been changed dramatically. I repeat that during the 1980s the ALP’s views on resource development in the Latrobe Valley were far more modest than what Sir Phillip Lynch or Jim Balfour had in mind.

Charles Trethowan and Kevin Connelly make the point that maintaining satisfactory levels of reliability in power system operation is critically dependent on central coordination. This will be degraded in that private ownership of power stations will involve the pursuit of internal financial operational directives. That point was made in the government’s reform document of December 1994 in which it admits that the central coordinator will have very much less discretion in managing the system.

The point is that in the past a number of power stations operated simultaneously, as is the case today, and as each power station operates you must have central coordination to bring units into the system during times such as the morning and afternoon peaks as well as seasonal peaks in June and July. That is necessary to have sufficient capacity in the system as a whole and to make daily operational decisions about which units are to be used — brown coal, gas-fired or water.

There was a central coordination group with access to all the assets of the SEC. During the course of the day managers of individual power stations would ring through and describe precisely how their parts of the system were operating — for example, how many units at Hazelwood were operating — what their conditions were, their capacity to come on-line to meet an emerging peak and the likelihood of a breakdown or of going off-line.

This central coordination group had the ability to access information to enable it to determine precisely what was occurring in the system. The person responsible for that today is Graham Dillon.

Sitting suspended 6.31 p.m. until 8.03 p.m.

Hon. D. R. WHITE — As I was indicating before the suspension of the sitting, Charles Trethowan, Kevin Connelly and others were putting the point of view that the difficulty of maintaining satisfactory levels of supply reliability was that the power system’s operation is critically dependent on central coordination.

They are saying that under the public sector model within the electricity industry there was a capacity to have access to information from each of the brown coal and gas-fired power stations as well as the hydro systems. The information would enable them to properly coordinate and manage the system, but under the government’s proposed arrangement that will become more difficult.

The reason that will become more difficult — as has been explained to Graham Dillon who is now responsible for that activity — is because as each entity becomes corporatised and then privatised each business will operate separately. Each business will be holding onto information about what is occurring with each of the units and that
information will not be as accessible to people such as Graham Dillon and others.

Hon. R. M. Hallam — Unless they want to maximise their returns, which is precisely what the pooling process is about, Mr White, as you understand!

Hon. D. R. White — Each of the power stations want to maximise each return, and there has to be surplus capacity not only for peak consumption in February and July and for certain periods during the day but also because from time to time some of the units are not accessible or available. There will be circumstances that can occur both during the year and during the day when units at Hazelwood, for example, will not be available. That information must be available not just on a yearly or monthly basis but on a daily basis.

I indicate to the house that in operating Hazelwood there will be a need for units to be taken out of the system. The units taken out of the system will mean that money will need to be spent on maintenance. It is also true that an owner of Hazelwood may decide for commercial purposes that, as a unit is taken off-stream, it may not be in his interests to carry out maintenance on that unit to bring it back into operation. When looking at the interests of his business the owner may deem that the projected life of the unit may be such that it is no longer in the interests of his business to continue to provide that unit into the system centrally and that it should be taken out completely.

Hon. W. A. N. Hartigan — You define the accounting conventions that will determine that! The marginal cost, the depreciation cost, the fixed cost!

Hon. D. R. White — As Mr Hartigan correctly says, that will be determined.

Hon. R. M. Hallam — On a rational basis.

Hon. D. R. White — Let's suppose that Mr Hartigan spoke on behalf of the owner of Hazelwood and decided to take into account all the factors he mentioned and that, in the interests of the business of Hazelwood, a unit that is no longer necessary is taken out. At some stage each of the units for commercial purposes will be looked at on their commercial merit. Over the next 5 to 10 years the owner and equity holder will decide solely on a commercial basis whether to bring that unit back into operation.

Hon. Rosemary Varty — So what!

Hon. D. R. White — The proposition Mr Trethowan — who is a commercial person because he is a director of the National Australia Bank — and Mr Connelly are putting is this: the system itself might need that unit. Irrespective of the business in the interests of security of supply and even though it may be uneconomic for the owner of Hazelwood, the system may need the unit to be brought back on.

That is the experience I had in 1983 when Loy Yang A was not available. Not only was Hazelwood operating but the very uneconomic Spencer Street power station which had been put in mothballs had to be brought back on stream to guarantee security of supply in the winter of 1983.

Hon. K. M. Smith — What about the national grid?

Hon. D. R. White — The same transmission link that exists today existed in 1983. We had access to the Snowy Mountains scheme for our entitlement and we had access to our third. The honourable member knows how the Snowy system operates. During periods when there is a need in a particular state and there is a surplus capacity in New South Wales you can purchase part of the New South Wales entitlement that is available. However, in purchasing part of the New South Wales entitlement, as the former government did in 1983 and as the government has to do in 1995, one has to recognise that there is a limit to the capacity on that line. I point out to Mr Smith that in 1983 there was not an unlimited capacity to import in from New South Wales; there is not today and there will not be in the future.

Hon. K. M. Smith — If it’s upgraded with the national grid, what about it! You know and I know it had to happen, because the national grid will make sure it will happen!

Hon. W. A. N. Hartigan interjected.

Hon. D. R. White — Mr Hartigan disagrees. There is no plan to upgrade the national grid in Victoria.

Hon. W. A. N. Hartigan interjected.

Hon. D. R. White — This is the point Mr Charles Trethowan and Mr Kevin Connelly are making — —
Hon. W. A. N. Hartigan interjected.

Hon. D. R. WHITE — Trethowan is an appointment of yours.

Hon. W. A. N. Hartigan — I am not saying anything about Trethowan. I disagree with him and I am entitled to do that.

Hon. D. R. WHITE — The point Trethowan is making is this: suppose there is a system-wide requirement in the marketplace for an upgrading of the transmission line; who will make that decision?

Hon. K. M. Smith — The national grid people.

Hon. D. R. WHITE — Acting on behalf of the interests of Victoria?

Hon. W. A. N. Hartigan — Representing their own interests — financially generated.

Hon. D. R. WHITE — A commercial interest operating the national grid. The national grid will not be operated by the commercial sector; it will be operated by bureaucrats in Canberra. It will be retained in public ownership, and you are asking me to believe they will be taking into account Victoria's interests in upgrading the national grid! That is like asking the Federal Airports Corporation to take into account Victoria's interest when we need more capacity for our international terminal at Tullamarine. We have said that for 10 years and it doesn't work like that. There is nobody on the national grid who will take into account Victoria's interests when it wants more capacity. There is nobody in Victoria who will initiate, plan for, construct and provide development for a new brown-coal-fired power station in Victoria.

Hon. Rosemary Varty — Who says?

Hon. D. R. WHITE — CRA and BHP. In the marketplace there is a 10-year gestation period. Hazelwood is due —

Hon. W. A. N. Hartigan — Existing players!

Hon. D. R. WHITE — They will come into the marketplace and build a brown-coal-fired station.

Hon. Rosemary Varty — Why wouldn't they?

Hon. D. R. WHITE — I am indicating that if you go around Australia and look at who is interested in managing, operating and owning a brown-coal-fired power station, you will see it does not include CRA or BHP.

Honourable members interjecting.

Hon. D. R. WHITE — Mission Energy is running Loy Yang B. It has a worldwide perspective on how it will manage that business.

Hon. W. A. N. Hartigan — Brown coal!

Hon. D. R. WHITE — Yes, a brown-coal-fired power station. Mission Energy has a number of competing opportunities throughout the world, in the United States of America and elsewhere.

Hon. R. M. Hallam — What is different?

Hon. D. R. WHITE — A lot is different.

Hon. W. A. N. Hartigan interjected.

Hon. D. R. WHITE — You agreed with the price; you were part of it, Mr Hartigan. The legislation went through this place.

Hon. R. M. Hallam — That was delivered to us after the event.

Hon. D. R. WHITE — Put yourself in Mission's position: it wants a rate of return after tax of about 15 per cent plus worldwide opportunities.

Hon. W. A. N. Hartigan — Risk adjusted.

Hon. D. R. WHITE — It did not plan Loy Yang B. It did not do the land acquisition, the development of the project and design and construction of Loy Yang B: it inherited all of that. If you were Mission, faced with new opportunities, think of the risk involved in getting a coal allocation, land acquisition, undertaking the planning, design and construction and doing all that youself to produce a new brown-coal-fired power station just because Victoria might need one.

I indicate that the likelihood of Mission wanting to do that is remote. Moreover, I invite members to discuss it with Mission to see how interested it is today in the prospect of doing that in the future. I know where Mission's eyes are, and they are not here for the next brown-coal-fired power station.

Hon. W. A. N. Hartigan — That is your assumption. Let's get on with the argument.
Honourable members interjecting.

Hon. D. R. WHITE — It is not an unlimited capacity on that line, nor is it about to be expanded. I am indicating to the house that what both Trethowan and Connelly are saying is apposite to the security of supply to Victoria's generating system.

Hon. R. M. Hallam interjected.

Hon. D. R. WHITE — This bill is about assembling the land titles for two power stations. The whole purpose of assembling the land titles is to enable the sale to occur. If this bill did not provide for that they could not be sold. This is the trigger, the key to the sale, and by introducing this bill, passing it and assembling the land titles you trigger the sale of those two units. It is therefore perfectly appropriate to discuss why these land titles are being done. There is no other reason, and therefore you have to discuss the logic of what is being contemplated.

No other country in the world has contemplated breaking up an electricity system into such small units as this government is doing. Nobody has done that.

Hon. R. M. Hallam — I heard this at the start of the debate at least half an hour ago.

Hon. D. R. WHITE — No-one has done that without creating problems with security of supply.

Hon. K. M. Smith — He is a genius; he knows all about electricity!

Hon. D. R. WHITE — It is interesting to note —

Hon. K. M. Smith — You are the $5 million sucker — anything to do with electricity you are preaching to us, but you have been the greatest disaster of any minister in a government so far as electricity is concerned — a disaster!

Hon. D. R. WHITE — In response to Mr Smith's interjection, I put on the record that in April 1982 we inherited from the Liberal administration a half-built aluminium smelter at Portland. We also inherited a half-built transmission line to Portland. It was not our proposal to build the aluminium smelter at Portland. We also inherited a half-built power station at Loy Yang A and a proposal for the price of electricity which had been put to Alcoa. The price that the Hamer administration put to Alcoa for electricity for the production of aluminium was 1.25 cents per kilowatt hour, lower than the price that is now in the contract.

Hon. K. M. Smith interjected.

The PRESIDENT — Order! I understand that Mr White wants to respond to Mr Smith's interjection. I will allow a pithy answer for a couple of seconds, but the subject of the interjection is not the subject of the debate.

Hon. D. R. WHITE — If Mr Smith interjects, I will respond.

The PRESIDENT — Order! It should be a quick response.

Hon. D. R. WHITE — In your electorate, Mr President, is the company, Powercor; in your electorate is an organisation that is yet to be sold. A chief executive was appointed to that organisation, Chris Mitchell, a former Elders executive, a corporate person and a well-known Geelong football player. He has since resigned from Powercor. The ostensible reason for his resignation is that he opposed the Minister Assisting the Treasurer on State Owned Enterprises in progressing with the trade sale instead of his preference, which was a partial or total float.

That was the public reason for his resignation, but the honourable member for Warrnambool, Mr McGrath, has a different view of those events. He indicates that Mr Mitchell left because of a breakdown in the confidence of the Treasurer in the operation to do with a problem relating to what happened. What was the problem Mr McGrath was referring to, Mr Hartigan?

Hon. W. A. N. Hartigan — I don't know. You tell me.

Hon. Rosemary Varty — On a point of order, Mr President, the issue Mr White is debating has no relationship whatsoever to the bill.

Hon. D. R. WHITE — On the point of order, Mr President, the legislation is about the aggregation of land titles to enable the sale of two power stations. That brings into question the model that will be created by the legislation. This very bill will lead to the sale of Hazelwood and Loy Yang A power stations. It will mean a breakdown in the security of the state's electricity supply, as is already
occurring in Mortlake, not because of the distribution system in Mortlake but because of a breakdown in the pooling arrangements. The breakdown in the security of supply in the provision of electricity and the coordination of the system will be further exacerbated by the sale of those power stations.

The PRESIDENT — Order! In his opening remarks Mr White rightly said that the bill deals with the aggregation of land and the titles attached to certain power stations which could be privatised at some stage. That is a relatively specific area of activity. The issue the member is on about — namely, whether Mr McGrath was influential in getting rid of Mr Mitchell because of power breakdowns — is such a long bow it is not relevant to the bill. Mr White is entitled to respond to interjections in passing, but that should not become the subject of his speech. I uphold the point of order.

Hon. C. A. Strong interjected.

Hon. D. R. White — Mr Strong has interjected, saying that I have ended up with mud on my face. Mr President, he was sitting out of his place, yet you did not describe his action as disorderly.

The PRESIDENT — Order! I did not hear the interjection.

Hon. D. R. White — I heard it. I want to say this to you, Mr President.

Hon. K. M. Smith — On a point of order. Mr President, as you realise, the tradition of the house is that members speak through the Chair rather than directly addressing another member of the house. I ask you to draw Mr White to order.

Hon. D. R. White — On the point of order, Mr President, I have addressed the Chair throughout the debate, as I am doing now. I have the capacity through the Chair to address an interjection from Mr Strong. I am doing that, and I intend to continue.

The PRESIDENT — Order! Mr Smith’s point regarding the rules of the house is quite correct, but I do not believe Mr White has transgressed those rules.

Hon. D. R. White — If it is apposite in the course of debate for Mr Strong to interject — and obviously the interjection has been made; Mr Strong does not deny that — I will respond to it through you, Mr President.

In the management of the electricity system, I had the privilege to be the minister responsible for the State Electricity Commission from 1982 for 6½ of 10 years in government. I put on record that the late Mr Smith and the late Mr Bates initiated in 1989 a major reform process within the State Electricity Commission. They both served Victoria extremely well. It was my privilege to have had the opportunity to support their initiatives and the initiatives of their predecessors from 1982. Mr Strong, you were part of those changes and supported them. The honourable member said I had mud on my face regarding the management of the electricity industry.

Hon. C. A. Strong — On a point of order, Mr President, I put on record that I never supported things such as the sale of Alcoa and the SEC building scam.

The PRESIDENT — Order! That is not a point of order; the honourable member knows that is not a point of order.

Honourable members interjecting.

The PRESIDENT — Order! The parameters of the debate are set by the bill before the house. The fact that a member interjects gives the member speaking the right to respond briefly to the interjection, but that does not redirect the debate. That is not an authority to go off on a tangent. I ask Mr White to address himself to the issues of the bill.

Hon. D. R. White — I thank you for your ruling, Mr President. If an interjection is made and it relates to something not related to the bill, I am perfectly happy for you to rule the member out of order and invite him to cease interjecting. If a member makes an interjection that is not related to the bill and I respond, I am perfectly in order unless you rule the interjecting member out of order. I will continue to respond.

The PRESIDENT — Order! It is a matter of degree.

Hon. D. R. White — Government members cannot have it both ways. On the one hand they want to move points of order saying the debate should be about the bill while on the other hand they want to make interjections that are not related to the bill.

The changes to land titles legislated in the bill will mean the sale of Hazelwood and Loy Yang A as
separate entities. What happens to the other major programs integral to the provision of electricity in Victoria? What happens to the demand management program? Who manages that? Where is that initiated? Is that initiated by the minister's office? Is that initiated by the distribution companies? No. Eastern Energy is already saying that we purchase far too little electricity. What happens to the demand management program be initiated by the owner of Hazelwood? No. Its only interests are maximising electricity sales and CO2 emissions and pumping more electricity into the system. It is clear that the preferred fossil fuel for heating is natural gas, and there should not be competition.

Hon. K. M. Smith interjected.

The PRESIDENT — Order! Mr Smith, I have you listed to speak after Mr Hartigan. I am sure you will take the opportunity to spell out your opinions.

Hon. K. M. Smith — I was getting excited.

The PRESIDENT — Order! Don't get excited. Leave it to Mr White to deliver his speech.

Hon. D. R. WHITE — There is no central coordination in a demand management program.

Hon. Rosemary Varty — On a point of order. Mr President, Mr White is now debating issues relating to the management of the system by the privatised entities that have been sold off. That bears no relationship whatever to the content of the bill, which is about consolidating land titles.

Hon. D. R. WHITE — This is the first and only opportunity that this house will have to discuss the implications of the consolidation of the land titles of Hazelwood and Loy Yang A for the purpose of privatisation. Once this bill has passed, the sale occurs. All Victorians are entitled to full, frank and open debate in this house of review about the implications from the assembly of those titles for the sale of Loy Yang A and Hazelwood.

If the government is so confident about this bill, instead of trying to stifle the debate I would expect the secretary of the cabinet to want the maximum debate to occur because government members have every reason to want their views about the merits of selling Hazelwood and Loy Yang A canvassed. That is what this bill is about.

This bill would not be necessary at all if the government had no intention to sell Hazelwood and Loy Yang A. That is the only reason we are discussing it. It is the only reason the bill is before us. Consolidation of land titles did not occur over the past 76 years — —

The PRESIDENT — Order! I do not think the bill is quite as restrictive as Mrs Varty suggests to the house, but I suggest Mr White take more account of what is in the bill. I think the premise he is making is reasonable; he should develop his argument along that line and not be diverted.

Hon. D. R. WHITE — Thank you for your ruling, Mr President. I remind honourable members that in 76 years it has never been necessary to consolidate the land titles of any of the power stations. You would know, Mr President, how difficult it is to actually go about achieving the land acquisition and the difficulties that occur with not only rural communities and the farming community in seeing that justice is done when their land is acquired but also, in the case of Yallourn, with a whole township. That entails bringing together, firstly, the purchase of all the properties and, secondly, ensuring the land is then made available, after the overburden is removed, for access to the coal. In its whole history, the SEC has never had to consolidate the titles after the land acquisition has occurred.

We had never had a bill of this type in the history of the Parliament until this government decided it was necessary to sell the two power stations.

Hon. R. M. Hallam — That is not quite true.

Hon. D. R. WHITE — There is no other purpose for this legislation.

Hon. R. M. Hallam — What about Loy Yang B, which you privatised, and then you had to discuss rateability for local government purposes and decide about the property?

Hon. D. R. WHITE — Yes. So?

Hon. R. M. Hallam — It is exactly the same principle. We had to determine the title.

Hon. D. R. WHITE — The purpose of this bill is to assemble the land titles for a bigger purpose, and the bigger purpose is privatisation. We are discussing here the consequences of this course of action for all Victorians.

I remind honourable members that this is the house of review. This is the place where we have the
opportunity for a settled and extended debate. This is the house where, while the guillotine may apply somewhere else from time to time, it never applies here. Why doesn’t it apply here? Because we are of the view that this house should be put to a proper purpose, which is to have a considered and extended debate on major issues of public policy.

But what we have instead is members on the government side of the house saying, 'Close up the shop, close up the debate. We do not want to hear it'. They are saying they do not want to hear about demand management, bushfire mitigation, security of supply, or the fact that there is no competition in the distribution business. They do not want to hear that there are already breakdowns in the security of supply or that the concerns of the distinguished engineers who have served this state — the five I am referring to have a combined experience of more than 240 years in the electricity business — have any merit or are worth any consideration. All that government members expect to happen in this place is for a bill to be introduced and passed expeditiously.

These issues are of far more consequence and significance than many decisions over which this house has spent days, weeks, months and years. The former Public Works Department spent days, weeks, months and years working out when and how to build a new power station like Loy Yang A, Loy Yang B, Hazelwood or Yallourn W. But within a few minutes the members on the government side want to curtail debate on the magnitude of what they are about to embark on, which will see the early demise of Hazelwood. I repeat to the house that two of the units at Hazelwood have already been closed down and will never come back on stream. That has never been made public by the government.

It has also never been made public that if there is $9.5 billion debt in the SEC and if there is a potential or actual revenue stream of $450 million a year, capitalised at $4.5 billion, you need a return of at least $13 billion from the sale of all these assets. We are in the circumstances, as Terry McCrann and Kenneth Davidson have said, where as a consequence of the sale of the distribution business and all the generation businesses, the total amount we will receive will be less than $13 billion and the amount received from the generation system will mean that at the end of the day we will be financially worse off. That is not put on the table in this debate, nor are any of the issues that have been raised by community groups about the consequence of the consolidation of the land titles.

All the major issues should be a substantial part of the bill because this government is not only so hell-bent on the action it is undertaking but also so enthusiastic and confident that it has every aspect right that it should feel free to encourage any debate whatsoever on security of supply, the financial outcomes, the demand management, and bushfire mitigation. But in three years and two months have we received any document that addresses any of the issues I have just mentioned? Has there been a paper that indicates who will be responsible for the bushfire mitigation program and how it will operate? Has any paper been put on the table about the demand management program?

Hon. K. M. Smith — What about Alcoa? You didn’t release a paper on that.

Hon. D. R. WHITE — The Alcoa transaction at Portland was the subject of legislation. In 1984 the Portland aluminium smelter was the subject of legislation which passed through both houses of Parliament, including the upper house where we did not have the numbers. The then opposition, now the government, agreed to it and yet it had the numbers in this house. Of course, in the 1970s the Liberal government inherited it half built and honourable members opposite are supporters. The Labor government inherited it half built and honourable members opposite agreed to the proposal. They agreed in August 1994, and not only that —

Honourable members interjecting.

The PRESIDENT — Order! Mr Mier and Mr Smith are not helping. Some members are complaining about how long the debate is taking. If they allow Mr White to have his say without interruption, I am sure it will be quicker. Then Mr White will not have to talk about whether the house is constrained in the way it is debating the matter.

Hon. D. R. WHITE — Thank you, Mr President. Therefore, the engineers are saying about the sale of Hazelwood and Loy Yang A — and these suggestions should be taken into account and treated seriously, which honourable members on the government side are not doing — firstly, that the existing bidding process should be replaced with payments for both capacity and energy; that is, fixed costs including management charges; long-term variable costs including manning and service
CHARGES ON THE ONE HAND AND SHORT-RUN MARGINAL COSTS SUCH AS FUEL ON THE OTHER.

THIS TYPE OF STRUCTURE SHOULD BE MODELLED ON THE TRIED AND PROVEN ARRANGEMENTS USED IN THE UNITED STATES OF AMERICA AND OTHER COUNTRIES INSTEAD OF THE POOLING ARRANGEMENTS THAT ARE IN PLACE ON A SPOT BASIS AT THE MOMENT.

THE ENGINEERS ALSO SAY THERE SHOULD BE AN UPGRADING OF THE SCHEDULING AND COORDINATION RESPONSIBILITIES OF THE VICTORIAN POWER EXCHANGE SO THAT A MORE EFFICIENT USE OF RESOURCES CAN BE ACHIEVED AND RELIABILITY OF SUPPLY IMPROVED. THEY QUESTION WHETHER THIS MODEL TO BREAK UP THE GENERATION SYSTEM AND ITS SALE IN CONJUNCTION WITH THE POOLING ARRANGEMENTS WILL PRODUCE SECURITY OF SUPPLY. THEY ARE SUGGESTING THE GOVERNMENT HAS A RESPONSIBILITY TO SHOW AS A CONSEQUENCE OF SALE THAT THERE WILL BE SECURITY OF SUPPLY AND HOW CONSUMERS, WHETHER COMMERCIAL, INDUSTRIAL OR DOMESTIC, CAN BE ASSURED THAT THERE WILL BE SECURITY OF SUPPLY. THE GOVERNMENT SHOULD DO THAT RATHER THAN DEPEND ON SAYING THAT THERE IS A CERTAIN DEGREE OF CAPACITY OR OVERCAPACITY AT THE MOMENT.

THE ENGINEERS ARE SAYING DESPITE WHETHER IT IS 30 OR 40 PER CENT OVERCAPACITY AT THE MOMENT, GIVEN THE PEAK LOADS, GIVEN THE FACT THAT MACHINES HAVE TO BE TAKEN OFF LINE FROM TIME TO TIME, GIVEN THE RESTRICTIONS ON THE HAZELWOOD EQUIPMENT, IT IS NOT EXCESSIVE OVERCAPACITY NOW AND IN A VERY SHORT TIME THERE MAY BE A SHORTAGE OF CAPACITY. THE ONLY RESPONSE THE MARKET WILL HAVE TO THAT, ACCORDING TO THE ENGINEERS, IS A DEMAND FROM SOME IN THE COMMERCIAL SECTOR TO COMMIT THEMSELVES TO BUILDING SHORT-TERM OR MEDIUM-RANGE GAS-FIRED POWER STATIONS SIMILAR TO JERALANG AND NEWPORT D AND NOT TO GO BACK INTO THE LATROBE VALLEY AND PRODUCE MAJOR COAL-FIRED POWER STATIONS.

THEY ARE ALSO SUGGESTING THERE SHOULD BE ESTABLISHED A CORPORATE ENTITY — WHICH DOES NOT EXIST UNDER THE GOVERNMENT'S MODEL — TO HAVE THE RESPONSIBILITY FOR LONG-TERM PLANNING OF THE GENERATING SYSTEM, INCLUDING THE CALLING OF TENDERS FOR THE CONSTRUCTION OF NEW PLANT UNDER PRIVATE ENTERPRISE FINANCE, CONSTRUCTION AND OPERATION. THAT RESPONSIBILITY COULD BE ASSIGNED TO THE EXISTING SECV SHELL OR VPX OR VESTED IN A NEW ENTITY. IT WOULD BE APPROPRIATE TO PLACE ON THIS AUTHORITY THE OBSESSION TO SUPPLY, WHICH CURRENTLY DOES NOT EXIST. IN THE INTERESTS OF SECURITY OF SUPPLY SOMEBODY SHOULD BE RESPONSIBLE FOR THE LONG-TERM PLANNING OF NEW PLANT.

PRESENT INDICATIONS ARE THAT THE NEW GENERATING PLANT WILL BE REQUIRED IN FOUR OR FIVE YEARS, THUS REQUIRING IMMEDIATE ATTENTION. THIS COULD BE EXACERBATED BY THE RETIREMENT OF THE HAZELWOOD POWER STATION. IT IS NOT CORRECT TO BELIEVE THAT YOU CAN FEEL SECURE BECAUSE THERE IS OUSTENSIBLY 30 OR 40 PER CENT ADDITIONAL CAPACITY AT THE MOMENT. WITH THE RETIREMENT OF HAZELWOOD — —

HON. C. A. STRONG — YOU JUST SAID WE WILL SELL IT! ARE WE GOING TO RETIRE IT OR SELL IT?

HON. D. R. WHITE — THERE WILL BE A SALE OF HAZELWOOD. THERE IS AN EXTREMELY LIMITED CAPACITY TO REFURBISH AND BRING BACK ON STREAM ANY OF THE CURRENT OPERATING UNITS BEYOND THE NEXT FOUR OR FIVE YEARS.

HON. C. A. STRONG INTERJECTED.

HON. D. R. WHITE — NO-ONE IS QUESTIONING THAT HAZELWOOD IS FOR SALE. ON THE ONE HAND WE HAVE MR STRONG'S VIEW AND ON THE OTHER HAND WE HAVE MR ROBERT WHITE, MR CHARLES TRETHOWAN, MR KEVIN CONNELLY, MR ALLAN MAGUIRE AND MR GREG LAKE WHO ARE SAYING THIS:

PRESENT INDICATIONS ARE THAT NEW GENERATING PLANT WILL BE REQUIRED IN SOME FOUR OR FIVE YEARS TIME, THUS REQUIRING IMMEDIATE ATTENTION.

WHAT DO THEY MEAN BY THAT? THEIR EXPERIENCE DEMONSTRATES THAT IF YOU WANT NEW EQUIPMENT IN THE LATROBE VALLEY, EVEN NEW GAS-FIRED STATIONS, WE NEED TO BE PLANNING IT NOW. YOU CAN'T SAY TO THE COMMUNITY WE NEED A NEW PLANT IN 1997 OR 1998 AND EXPECT IT TO BE PLANNED, DESIGNED AND CONSTRUCTED IN THAT TIME. THEY ARE EXPRESSING CONCERN ABOUT WHO IS TAKING RESPONSIBILITY FOR THAT PLANNING AND THEY WANT TO ENSURE THAT IT OCCURS. IF MEMBERS SAY ALL IS WELL AND THERE WILL BE A RESPONSE IN THE MARKETPLACE, WILL THAT RESPONSE BE IN TIME TO AVOID A BREAKDOWN OF SECURITY OF SUPPLY?

THESE PEOPLE ARE EXPRESSING CONCERNS FROM THEIR COLLECTIVE EXPERIENCE AND ARE SAYING THOSE CONCERNS WILL NOT BE ALLAYED UNTIL SUCH TIME AS A PLANNING PROCESS IS PUT IN PLACE. DON'T FORGET THAT THESE FIVE, UNLIKE RALPH URIE, ARE NOT OPPONENTS OF PRIVATISATION OF THE SEC; THEY ARE ACTUALLY SUPPORTERS OF PRIVATISATION. RALPH URIE IS AN OPPONENT OF PRIVATISATION. THEY ARE PUTTING FORWARD THESE CONCERNS IN THE CONTEXT OF PRIVATISATION.

THEY ALSO SAY THAT STEPS SHOULD BE TAKEN TO ENSURE THE NEGOTIATIONS AND DEVELOPMENT OF THE NATIONAL
grid recognise the need to have a common
cost/commercial framework for all grid
participants. The adoption of the capacity and
energy components of costs proposed for Victoria
would be an essential feature of the arrangements.
They will also facilitate intelligent energy trading
between the states which at present is being
prejudiced by trying to accommodate the new
bidding process in Victoria and different methods in
other states at the same time.

They are suggesting the bidding process in Victoria
is different from the pricing policies and models that
will exist and will continue to exist in New South
Wales, Queensland and South Australia. I suggest
not for the first time and not for the last time that
there will be increasingly limited opportunities. We
are indicating to the house that when legislation
with enormous implications for the state is put on
the table and major issues need to be addressed - I
have outlined what they are - the government's
response should not be, 'No, this is just a limited
land title acquisition and we don't need to hear, nor
will we encourage, nor do we have, nor have we
ever had in the upper house a considered position
about the security of supply, demand management,
pricing policies and financial implications'. None of
that has been put on the table by Minister Plowman,
Treasurer Stockdale or any members of the
government.

Given their enormity and magnitude, it is for those
reasons we strongly oppose this legislation.

Hon. W. A. N. HARTIGAN (Geelong) - As
Mr White said, this bill deals rather narrowly with
the separation of titles for Loy Yang and Hazelwood
land. However, as he also said, there is no question
that the intention of the legislation is to prepare
these two sites for eventual privatisation.

As we attempt the move to an accrual accounting
arrangement I hope we have better titles to all of the
assets that remain in public ownership. It is true that
the primary motivation for this legislation is to
enable us to dispose through private sale the
generating plants and Loy Yang and Hazelwood
power stations. There is no argument about that.

Mr White also referred to some other subsequent
provisions dealing with the appointment of
inspectors and so on, so the bill is a reasonably
straightforward, technical bill but it is directly
related to the intention of the government to
privatise all aspects of the electricity industry with
the exception at this stage of the high-tension line
and the pooling arrangements.

Mr White referred to a whole range of activities, and
I am always interested in hearing from him because
he has been involved in the SEC for most of the last
decade. I won't suggest that his view is entirely
partial, but I suspect he did focus on and emphasise
those points which are of interest to him.

I went through some newspaper clippings in an
attempt to understand how we got ourselves into
the situation with which we are confronted and
picked up by chance — and Mr White didn't deal
with the issue nor was he asked to — —

Hon. B. W. Mier — I have some doubts about
what you ever picked up!

Hon. W. A. N. HARTIGAN — You are entitled to
have your doubts. You have every reason to be
doubtful, but that is not my problem. It is Mr Mier's
problem that he is doubtful; I can do nothing about
that.

I can do nothing about that. I suggest that Mr Mier
take some treatment if he has a real problem. I was
attempting to refer to issues that seem to have
escaped Mr Mier, but that is not unusual! I was
talking about Loy Yang B and Loy Yang A and
referring to the Sunday Observer of 27 November

Hon. B. W. Mier — Have you ever been there?

Hon. W. A. N. HARTIGAN — Yes, I was down
there about three months ago. I will tell you
something about that that may be to your
advantage, or at least to the advantage of your
understanding, although it will require some effort
on your part rather than mine.

I was referring to an article in the Sunday Observer of
27 November 1988 that dealt with an announcement
made before the election that year by Mr Evan
Walker, the Minister for Industry, Technology and
Resources in the former Labor government, that the
Labor government intended to go ahead with Loy
Yang B units 3 and 4.

Hon. D. R. White — The election was in October
1988. What are you referring to?

Hon. W. A. N. HARTIGAN — I was referring to
a decision made before the election but the article
was published after the election. The article refers to
recommendations of the former Natural Resources and Environment Committee, which in April 1988 told the former Labor government that the decision about the completion of Loy Yang B should be put off for as long as possible. It suggested dates from late 1989 to May 1991. Mr Reid, the chairman of the committee, told the Sunday Observer that the early announcement made by Mr Walker would cost the SEC an important lever in its efforts to reform work practices in the power industry. The article states:

‘Our decision (to wait) would have put everyone in the Latrobe power industry on their mettle’, Mr Reid said.

The article says Mr Walker explained that the timing of the announcement was partly a response to ‘an uneasiness in the valley’. It continues:

‘The general feeling in the valley is an uneasiness about what the future holds. They feel they are the core of the wealth generation of this state, but they don’t necessarily get assured of a long-term future,’ he said.

‘Now I think governments can have advice like NREC, but governments also have other things that matter to them. One of the things that matters to me is that we can we ought to reassure communities like the Latrobe Valley that they have a secure future.’

‘The more assurance you can get in that sense, the better, socially and for the development of the valley in terms of jobs.’

Mr Walker felt it was reasonable for the government to have announced the decision early, saying that the advice given in the NREC report was purely based on energy considerations.

‘It’s the government’s job to put its knowledge on top of what the report said’, he said.

‘So if a government says, “I would like your advice but I’m going to bring it forward a little because I want some other effects”, I think that is reasonable’. ‘I don’t think it’s fair to say it was all done because of the election. The fact that he [Mr Fordham] made some comment in September ... it is fairer to relate that to the timing of the NREC report rather than what happened later.’

The article says Mr Walker was saying — —

Hon. B. W. Mier — On a point of order, Mr President, during the course of this debate government backbenchers have raised numerous points of order concerning relevancy to the bill. Mr Hartigan seems to have drifted away from all aspects of the bill, and I suggest, Sir, that he should be directed to return to the bill and to refrain from wandering in the way he has during the past 5 or 10 minutes.

The PRESIDENT — Order! I understood all Mr Hartigan’s remarks related to Loy Yang B. These issues have already been raised by Mr White to some extent. I believe they are relevant to the debate.

Hon. D. R. White interjected.

The PRESIDENT — Order! They were not just interjections made by Mr White. I am talking about the issues raised by Mr White during the debate relating to Loy Yang B and its development. I believe Mr Hartigan has finished with the matter, and I do not uphold the point of order.

Hon. W. A. N. HARTIGAN — Because I was interrupted I may have lost my place, but I will not start over again. I was saying that former Minister Walker was reported as saying:

I don’t think it is fair to say it was all done because of the election.

It is clear that Mr Walker made little pretence about much of the action taken regarding Loy Yang B being directly related to the 1988 election. He did not make any bones about it. That decision was made for a whole range of reasons relating to political advantage!

I turn to comments Mr White made about a number of former luminaries of the SEC who expressed an opinion on the operation of the pool and ensuring that adequate capacity is available to meet future demands. I understand you have to have the capacity level that is designed to meet peak capacity both seasonally and hour by hour. I understand you have to have the capacity to meet such requirements when maintenance must occur. It is also clear that those former management officials — I will not denigrate them; I do not want to denigrate them and I do not believe they deserve denigration — were working in the context of a publicly owned, integrated electricity operation and their perspective on the way the electricity industry operated inherently involved cross-subsidy in the system and dissociated prices from costs. That perspective led to responses that ignored the marketplace.

There is plenty of evidence to suggest that large-scale investments can be made on long-term
projections of demand in industries that are much more variable than the electricity industry. The important thing is to have a reasonable and competent market, which means a market where the knowledge of product requirement is well established. There is no doubt that the electricity industry in Australia falls into that category. There is no uncertainty, generally speaking, about the level and direction of demand.

A more significant problem when planning future demand will be the capacity that can actually be generated by the facilities that currently exist. It is clear that Mission Energy and Loy Yang demonstrated they were able to operate a given investment at a higher capacity than was the experience with the SEC.

Hon. D. R. White — That is correct.

Hon. W. A. N. HARTIGAN — There is no dispute about it. At this point we do not have a fix on the effective real capacity of the existing investment. The other point that nobody can dispute is that when you look 5 or 10 years down the road the difficulty will not be in deciding to make an investment in generating power, it will be in the selection of technology and its location. It is highly desirable that the disaggregation of the various elements make that a likely response to future demand. People will be thinking about how they can provide incremental capacity for future demand at the lowest marginal cost. I do not believe the SEC, in a fully integrated structure, was encouraged to do that. In fact I know that, because it dissociated prices from costs.

Mr Mier asked when I was last down in the valley. Curiously enough, I was down there about three months ago.

Hon. B. W. Mier — What were you doing? Picking mushrooms?

Hon. W. A. N. HARTIGAN — I did not know there were mushrooms down there, Mr Mier. That seems to be something in which you are more expert than I. I was looking at some of the facilities that are surplus to requirements.

Hon. B. W. Mier — I heard you were in the open-cut looking for mushrooms.

Hon. W. A. N. HARTIGAN — Is that right? You really have got your ear to the ground, but now and then you have to raise yourself a little!

During my visit to Morwell I met people who were trying to dispose of excess facilities. A particularly interesting one was the former SEC’s small-parts warehouse. The building is about two years old, has an area of 120 000 square feet and is approximately 11 metres high. It has a heated, laser-levelled concrete floor and magnetic tape designed to allow a cherry picker to pick up the parts automatically. There is only one problem: it is empty. It is empty because when the SEC disaggregated in a corporatised sense the various generating elements came and picked their own stock of parts and placed them elsewhere. That means we are left with an excellent building worth between $15 million and $20 million, excluding the land, for which there is no use.

I visited another firm which, I suspect, was one of the first to be chosen by Mr White’s management for outsourcing of SEC activities, Siemens Ltd. It was under Mr White’s management that Siemens quoted for and won a maintenance contract. I asked how they were going and they expressed satisfaction with the maintenance contract. It had gone well and they were pleased with it. I said, ‘But you don’t seem happy,’ and they said, ‘We had a big repair business here and because we have done such a good job of maintenance, guess what? No repair! It’s all gone’. Those two elements are material facts that reveal, where a disaggregation of facilities has occurred, it has demonstrated inefficiencies in the system.

I do not plan to speak in a derogatory fashion about the four or five people Mr White named, because I have no doubt they believe what they said. My point is that the environment from which they come does not equip them to deal with market-oriented situations. That is the flaw in everybody from the old SEC who has talked about it.

It is clear that the deal that was done with Loy Yang B concerning the 35-year contract, the take-or-pay deal and the price could be done only because the SEC was fully integrated. The differences in prices guaranteed to Loy Yang B were obscured by the fully integrated nature of the SEC. Now we are finding, through the disaggregation of a facility, that the deal with Loy Yang B is demanding prices that are substantially higher than those presently available from other power stations.

I do not suggest that the deal on Loy Yang B was not done with the best intentions, but it was done in the context of a publicly owned system in which was hidden a privately owned and operated electricity
company. It is a deal that, for whatever reasons, leads to a comparison of this sort of arrangement with the costs to the state. We have disaggregated generation and distribution. Even the disaggregated power stations are very large entities with very large turnovers. They are certainly large enough to be managed properly, and there is every evidence not only in this country but also elsewhere that diseconomies of scale exist at certain levels of activities just as do economies of scale.

I do not see any technical reason why a disaggregated generation and distribution arrangement cannot provide the right market signals. Given the relatively stable nature of the electricity market, I cannot see why both the distributors, which are customers for the power generated by the generating companies, and the generating companies will not have the sorts of long-term contracts that will ensure they all have adequate supplies of electricity from both existing and future capacities. More importantly, it is my experience that in a large industry the distributors and generators will go to lengths to which they have not gone in the past to do projections of their requirements beyond five years and well into the future.

If Mr White is capable of seeing, and you, Mr Mier, are capable of seeing a future need to visit the issue of capacity, surely you must think the distribution companies will be at least as well equipped as you to make that judgment. The fact is that they will be much better equipped than you to make an assumption about the level of demand. Having made that assumption, if they have a concern about the availability of that power in the future they will sign long-term contracts.

Mr Mier's great difficulty is that he has no business experience of any sort. He has an innate disgust of the marketplace. He is a member of the Pledge group. If you had your way, Mr Mier, you would join the North Koreans in finding a Marxist means of production. You are not able to make constructive criticism. You know nothing about this subject.

Hon. B. W. Mier interjected.

Hon. W. A. N. HARTIGAN — You know nothing about — —

Hon. B. W. Mier interjected.

Hon. W. A. N. HARTIGAN — All Mr Mier knows — —

Hon. B. W. Mier — You wouldn't know how to switch on a light!

The PRESIDENT — Order! There will be plenty of time during the debate for Mr Mier to make comments. Hansard cannot possibly hear the debate.

Hon. W. A. N. HARTIGAN — We are not turning the lights off yet; I have not finished! The fact is that the market will give perfectly adequate short, medium and long-term indications of what capacity it requires. The generators will be looking for those indications because they will guarantee to make every effort to get the maximum production out of their existing capacity and to implement and expand that capacity at the lowest marginal cost. I have no doubt that the least of our problems will be guaranteed long-term capacity.

It is a very simple thing. In respect of market forces, this is a simple industry. Why people in this house with no experience think it is difficult I cannot understand. When I worked in the automotive industry I had to make long-term investments. From time to time I put in excess capacity. BHP makes long-term decisions that involve short-term excess capacity because the minimum investment involved is of such a large order of magnitude that it cannot avoid doing so.

I am not surprised that Mr Mier has his suspicions about the way private enterprise and markets work, but that is due more to ignorance than understanding. I am sure he does not understand it. The fact is that anybody who has worked outside a public sector activity will understand perfectly well how the marketplace gives signals and how all the players in the marketplace, particularly in a relatively straightforward industry like electricity, will make the adjustment. I have no doubt that that will happen.

Mr White referred to the minimum asset value needed for the sale. I am not going to debate whether it is $12 million, $13 million or $14 million. I have no doubt that when we look at the discounted value of the projected price reduction for electricity through the next five years what we will see in asset sales will more than cover the debt servicing and dividend payments and reduce our debt. It is my judgment that as we go through the next six months or so Labor will become more and more muted on this issue.

Labor Party members will become more and more mute because I will not be talking about what might
happen; I will be talking about what did happen. I do not have any doubt whatsoever that the price the government receives for the assets will more than offset the cash flow it is receiving from the SEC. I have no doubt at all that the privatisation of generation will produce a more efficient utilisation of capacity. I do not have any doubt at all that the marginal cost of electricity will be lower in the privatised system than it has been in the public system, and I do not have any doubt at all that this will be a significant advantage in micro-economic reform for Victoria and Australia.

It might be fair to say that the people Mr White was talking about expressed a concern about the way pricing may be established within the national grid. If those people had paid any attention to the competition bill the government introduced and passed in this house a little while ago, they would recollect that that legislation requires people involved in issues such as the sale of electricity from state to state to reach agreement about the true cost of the supply of power. In other words there is a specific understanding between the state and the commonwealth that there will be no dumping of electricity merely to sell off at a marginal cost.

That matter is clearly understood; it is not a greatly difficult or complex issue. I suppose the gentleman whom Mr White referred to was an ex-employee or manager of the SEC and was not familiar with that piece of legislation. There are no big surprises in what the government is doing with the SEC.

Hon. B. W. Mier — What happened in South Australia?

Hon. W. A. N. HARTIGAN — What happened in South Australia in regard to what? I wasn’t in South Australia; I was in Victoria.

Hon. B. W. Mier — In the dumping of electricity.

Hon. W. A. N. HARTIGAN — Mr Mier referred to the sale of electricity — —

Honourable members interjecting.

Hon. W. A. N. HARTIGAN — I am not frightening, Mr Mier, in fact, I am not very threatening at all.

Hon. B. W. Mier interjected.

Hon. W. A. N. HARTIGAN — We’ll carry it over in a bucket.

Hon. B. W. Mier — Tell me how!

Hon. W. A. N. HARTIGAN — How do you think! If he is talking about the price — —

Hon. B. W. Mier interjected.

The PRESIDENT — Order! Mr Mier, I am not sure whether it is coffee time for you, but you are not helping the debate.

Hon. B. W. Mier — Explain the deterioration in South Australia to us!

Hon. D. R. White — In detail!

Hon. Bill Forwood — How many buckets does it take?

Hon. B. W. Mier — And how we dump it on them!

The PRESIDENT — Order! Mr Mier you may contribute to the debate, but not in that form.

Hon. W. A. N. HARTIGAN — I don’t mind Mr Mier’s interjections; I just wish he wasn’t so repetitious. We are selling electricity at a marginal cost for a short term. The agreement the government has expires next year. It is not a 35-year deal; it is a perfectly responsible deal given the immediate and current availability of excess electricity. But you do not sell a 35-year deal when you have to put capacity in place. It is nonsense, and Mr White knows it is nonsense. Mr Mier may not know it to be nonsense because he has no understanding of the issue. Any member of the Pledge group by definition has to be ignorant, otherwise he would not be a member of the Pledge group!

Honourable members interjecting.

Hon. W. A. N. HARTIGAN — I was making the point that Mr Mier’s membership of the Pledge group speaks for itself. You do not have to qualify his problems any further. Anybody belonging to the Pledge group on the basis that he or she opposes all privatisation does not get involved in the debate about whether it is good or bad, so what does Mr Mier care.
It makes sense to sell power so long as your marginal revenue covers your marginal costs for the short term and so long as it does not involve any capacity expansion.

Hon. B. W. Mier interjected.

Hon. W. A. N. HARTIGAN — Have you got that? I doubt that you will ever get it! I used a couple of words there with three syllables and it has created a serious problem for Mr Mier. That is his problem, not mine!

Hon. D. R. White — Why do you respond to all the interjections?

Hon. W. A. N. HARTIGAN — You are quite right, Mr White. I am just a happy, helpful fellow trying to help Mr Mier!

Hon. D. R. White interjected.

Hon. W. A. N. HARTIGAN — Mr White is quite right, but I do live in hope. He is right; my optimistic expectations will be dashed again by Mr Mier. It is probably time I stopped answering the interjections because I will not gain any benefit from his lack of comprehension, but that is more his problem than mine.

There are no problems with the technical issues Mr White described. I am sorry that the people who used to work for the SEC are still out of touch with reality; I do not believe that you can expect people who have spent that long working in a public sector organisation of such a monumental, byzantine complexity to have any understanding, belief or feeling for a private enterprise system.

Mr White understands what is happening because he would have sold 100 per cent of Loy Yang B if he could have. He understands very well that the private enterprise investment in generating plants will improve productivity because it will respond more quickly to changes in the market place. Private enterprise investment will improve the utilisation of capacity and will work very hard towards more effective use of power because it makes sense. If you can use the power more effectively you have a lower cost of production.

It is very important to Victoria and to Australia where we have significant comparative advantages, such as the potential for our cheap source of very large capacity brown coal fields, that we should make every effort to take advantage of the lower power cost that those fields potentially generate. That will be one of the bases on which we create new industries and on which we obtain a competitive position in the world marketplace. It will also provide a basis on which we can seek to employ more people in Victoria and overcome the most significant issue of poverty the state confronts — namely, unemployment.

It is true that this bill deals very narrowly with the establishment of the aggregation of land so that the government can sell two power plants. I do not have any argument with Mr White that it is a necessary action to enable the government to undertake the most important micro-economic reform available to Victoria. It is a very important bill and I have great pleasure in supporting it.

Debate interrupted.

BUSINESS OF THE HOUSE

ELECTRICITY INDUSTRY (FURTHER AMENDMENT) BILL (No. 2)

Debate resumed.

Hon. R. S. IVES (Eumemmerring) — As Mr Hartigan has acknowledged and as the second-reading speech says:

This bill paves the way for the continuation in the generation sector of the successful reform and privatisation of the dynamic group of companies which now comprise Victoria’s electricity industry.

We are not talking about consolidation of land titles; we are talking about privatisation. I will say that there is a no way I can hope to equal Mr White’s most substantial speech and his reasoning on why the opposition opposes the bill. These issues have been canvassed by Mr White and by others in another place. I shall speak on a small but significant sentence in the second-reading speech because I believe we cannot separate the debate on the bill
from the second-reading speech. The second-reading speech is a very important legal document which could be used in the Supreme Court to assess the interpretation of the bill. Therefore, I think there is no way we can ignore the second-reading speech in a debate as important as this. The sentence I shall concentrate on reads:

The recent World Competitiveness Report 1995 shows that those countries with great levels of internal competition are achieving the highest levels of external competitiveness.

That sentence implies that the actions outlined in this bill have the sanction of the prestigious World Economic Forum, which produces the World Competitiveness Report. It implies that a worldwide body of respected economic opinion is recommending practices foreshadowed in the bill and that this state is falling into line with accepted best international practice. That implication is clear in another sentence in the second-reading speech:

There is now growing interstate and international endorsement for the competitive Victorian electricity model.

Therefore it is worth while taking a closer look at what the 800-page World Competitiveness Report is all about.

Among other things, the report produces a world competitiveness scoreboard of developed and semi-developed countries. In 1995 Australia was 14th. We are improving. In 1994 Australia was 15th. The United States of America was no. 1 and Russia was no. 48. The countries falling immediately below Australia were: in 15th place, Sweden; 16th, Finland; 17th, France; and 18th, the United Kingdom. Among the OECD countries, with whom we must closely identify and compare ourselves, Australia was 11th: the USA 1st; and Mexico 24th. The countries falling immediately below Australia were again Sweden, 12th; Finland, 13th; France, 14th; and the United Kingdom, 15th.

The broad factors on which the competitiveness of each country is judged are domestic economic strength; internationalisation; government; finance; infrastructure; management; science and technology; and people.

If one looks at the executive summary of the World Competitiveness Report one sees that at page 19 under the heading 'New Zealand, Australia and South Africa — Southern Stars' it states:

Australia in 14th position: has a very well balanced performance ... it performs very well in government (ninth) and obviously infrastructure (fourth).

So we are the fourth in the world in competitiveness in infrastructure according to a report which was mentioned in the second-reading speech. Factors in infrastructure are energy production; energy consumption; energy self-sufficiency; environment; transport infrastructure; information technology; and technological infrastructure.

Nowhere is there any suggestion that our energy industry or infrastructure will benefit by splitting into small components and privatising. In the whole 800 pages of the report there is not one suggestion that this may be the case. I note that the report commends Australia on its balanced approach. This issue of balance is taken up elsewhere in the report.

Hon. K. M. Smith interjected.

Hon. R. S. IVES — I realise that we are obliged to make our own speeches. I shall make a moderate reference from the report to give the flavour of how important this balance is. An article at page 11 of the report, under the heading 'Competitiveness is not just efficiency' states:

Developing the competitiveness of a country is, therefore, a rather more subtle undertaking than just maximising efficiency in every aspect. (Maximising efficiency is comparable to training an athlete with only muscles, but without brain and soul.) ... The same applies for countries. The role of enterprises obviously remains central to a country’s competitiveness. But modern societies will, in addition, have to efficiently manage their structures — public administration, education, research, social care systems, etc. — while preserving the enthusiasm of citizens and the value system they care for ... Ultimately they should aim to become competitive societies, balancing globality and proximity, wealth creation and social cohesion, and managing change while preserving a stable value system.

The constraints on competitiveness are very much to be found, not in enterprises, but in the capacity of a country to develop its own model of a competitive society. Such a model may be different in Germany, in Chile or in Malaysia.

The significance of this is that the government decided to include reference to the World Competitiveness Report in the second-reading speech. The government introduced the matter of the report...
by including it in the second-reading speech. I am teasing out some of the ramifications. Among these important ramifications is the question of balance. One cannot concentrate only on competitiveness in a single sector; one should look at the whole country. The report says that every country has its own historical conditions. Australia, given its large scale of land, decentralisation of the population, the need for strong governments then government expertise in large infrastructure, is the logical and sensible way for us to go. Certainly there is no suggestion to the contrary in the report. In its conclusion, under the heading 'Competitiveness in perspective' it says:

This article echoes the calls of Paul Krugman, Samuel Brittan and others who have been particularly vocal about the need for industrial policies to be more specific about their objectives and to produce more convincing empirical evidence about their effectiveness. We believe that this need is particularly pressing as globalisation is leading to more frequent policy clashes. As has long been known and is once again being demonstrated with the current trade frictions, the simultaneous pursuit of activist policies can lead to large welfare losses for all parties involved. This sad state of affairs is even more nonsensical if the policies in isolation are ineffectual.

If present electricity privatisation policies are ineffectual, and a strong body of evidence here and in the other place has shown that they are, we simply compound the problem by concentrating too narrowly and specifically on one area of efficiency without looking at the total balance with the rest of our society.

I find it particularly interesting that in the World Competitiveness Report the scoreboard for Australia is some four positions ahead of the United Kingdom. During the Thatcher years between 1979 and 1990 Britain went down very much the same path as the present state government. We saw increased taxation; deregulation; privatisation of utilities; selling off of public assets; user pays; cutting back on government services, particularly human services; outsourcing; allowing the private sector to profit from traditional public sector activities; generous concessions to business; smaller government; reduction of wages and working conditions; and restructuring the municipal government.

Yet after all the sacrifices of the 11 hard years of the Thatcher government Britain is not as competitive a society as Australia.

I view with alarm the quote from the former senior executives of the State Electricity Commission when they say:

Our prime concern is the adoption of arrangements based on the reform system developed in England and Wales in terms of the disaggregation of the generating system and the use of a competitive bidding method based on quoted prices unrelated to the actual cost of production. We note that this method is not known to be in use anywhere else in the world.

After 11 years resulting in a deplorable level of international competitiveness, it can hardly be said that the Thatcher experiment was an outrageous success, yet we are adopting a similar narrow approach to energy privatisation unlike any other country in the world. I view this with considerable alarm.

England has not only become uncompetitive. Samuel Brittan, an author quoted in the World Competitiveness Report, in his 1995 book Capitalism with a Human Face points out that in the 11 years of the Thatcher government from 1979 to 1990, during which the average household increased its real income by 36 per cent, the 10 per cent less well off in British society actually experienced a 1.4 per cent decrease in income — a shocking disparity. The next 10 per cent of the less well off in British society experienced zero income increase. Therefore the poorest 20 per cent of the population missed out completely on the so-called 'Thatcher revolution', evidently at no great increase in competitiveness but tremendous cost in social dislocation. So much for the trickle-down and the wealth generation theories. The opposition fears that Victoria is heading in the same direction.

In conclusion, I believe the opposition has much to learn from the British experience. Both the Victorian ALP and the British Labour Party will assume government, with a political and institutional landscape changed beyond belief, to such an extent that the past cannot be put back into place. Both parties will have to make hard decisions about what changes should be accepted, what changes must be accepted, what conditions can be changed and what new policies are necessary to pursue traditional ends.

As Samuel Brittan said, the poorest 20 per cent of British society either stayed at the same level or went backwards over 11 years of Thatcher government. One of the reasons the ALP wishes to keep electricity in public hands is that it is one way of protecting the less well off, the elderly and the
disabled in our society to ensure they have access to affordable electricity charges.

When all electricity services are privatised — and they soon will be under the present government, both the distribution and generation plants — we will have to find new policies and new ways of ensuring that laudable social objective is met.

I mention as an afterthought that that is the purpose of my forthcoming trip to the United Kingdom under the Commonwealth Parliamentary Association study tour. I intend to examine these issues in Britain and look forward on my return to going through my report with you, Mr President, which will consider policies and directions that may be useful in Victoria, based on the experience and findings of the study tour.

Hon. K. M. SMITH (South Eastern) — It gives me great pleasure to support the Electricity Industry (Further Amendment) Bill (No. 2), a small but important bill that relates to the aggregation of Loy Yang properties that will allow us to get on with the sale of a number of the properties of the SEC, which is shortly to be corporatised. I listened to the ramblings of Mr White trying to defend his position when he was minister. I interjected during his speech that he was a disgraceful minister. His decisions as minister in that period saddled Victorians with a debt of more than $5 billion.

David White made the decisions and signed the deal with Alcoa. He raised the deal Mr White tried to defend his position when he was minister. I interjected during his speech that he was a disgraceful minister. His decisions as minister in that period saddled Victorians with a debt of more than $5 billion.

As minister, David White was responsible for the sell-out of Loy Yang B. He locked Victorians into high electricity prices. Why did Loy Yang B have to be built? Why did there have to be such development in the Latrobe Valley? It was an undertaking of the Labor Party to try to get Keith Hamilton and Barry Cunningham elected to the Parliament, one state and one federal member. The Labor Party gave that undertaking against the advice of so many people.

The power station was not needed. There was already an oversupply of power in the state of Victoria. David White committed Victorians to Loy Yang B, knowing Victoria did not have the money to build it. In the end the Labor government had to go grovelling on hands and knees to Mission Energy, looking for a saviour to put enough money into it so that it could be run. But there was a deal, there was a cost to Victorians — that is, the cost of the power he tied us to. For how many years will Victorians be paying for the sins of that man?

David White committed us to the funny-money deals. He was the minister who had the SEC building, on the books valued at $84 million, written down to $10 million. The old SEC building was sold for $40 million. The funny-money deal was the recorded profit of $30 million. Victorians were then locked into a lease agreement that cost the state $30 million.

Those are the sins of the man who has the hypocrisy to stand up in the house as a so-called, self-confessed expert on electricity and electricity deals. That man lectured the house for about an hour and a half on what the government should do. If we stood by his experiences, the state would go broke. The sins of that man have flushed $5.5 billion down the drain. The sins of David White will come back to haunt him for a long time; the coalition will remind him, even when he is out of the house and out of the Parliament.

Mr White spoke about the need for greater generation capacity and the fact that sections of the generating plant at Hazelwood are already down and eventually will probably have to be closed down. Victoria currently has a power overcapacity of approximately 40 per cent; we have far in excess of what we need. Looking back on the history of the matter, Mr White mentioned the position in 1982 when he became minister responsible for the SEC.

Hon. B. W. Mier interjected.

Hon. K. M. SMITH — Mr Mier, as you were interrupting I point out to you that power production in Victoria was 20 per cent cheaper than in any of the other states because we were doing it right; it was being done right under a Liberal government. When David White and the Guilty Party were thrown out of office in Victoria in 1992, Victoria's power production was 20 per cent more expensive. No wonder the Labor Party was thrown out! It deserved to be.
Mr White throws up arguments about the national grid. Mr White said he would be interested in upgrading the national grid so that power could be sold to New South Wales and so that we could get power back from New South Wales or the Snowy Mountains scheme. A lot of people would be interested in that! The national grid would run through each state. People in South Australia might be able to buy cheap power. People in Victoria might be able to buy cheap power. People in New South Wales might be able to buy power from Victoria when the competition we set up makes our power cheaper. People in Queensland will want that line upgraded, too. Mr White mentioned the bureaucrats in Canberra. They might have run the Labor government, but they will not run this government.

Hon. D. R. White — The grid will not happen.

Hon. K. M. SMITH — Under the Labor government it would not have happened. It is not up to you.

Hon. D. R. White — Are you going on to the front bench? Never!

Hon. K. M. SMITH — The time may come; it may not. It does not matter.

Hon. D. R. White — It will never come.

The PRESIDENT — Order! The constant barrage of interjection is unfair to the house and to Hansard. I suggest that the honourable member get on to the bill.

Hon. K. M. SMITH — I am speaking on the bill. I am discussing issues raised in the wide-ranging speech of Mr White on privatisation. I have raised a few issues that have got up his nose, so he is trying to have a bit of a screaming match. David White, the disgraced former minister responsible for power provision in Victoria, is the man who made all the wrong decisions.

Hon. D. R. White — When you have had 10 years on the front bench, give me a ring.

Hon. K. M. SMITH — I have to laugh. When I think of the sort of person David White is, it makes me wonder how his party could have left him there for 10 years after all the mistakes he made. The party must have been bereft of decent candidates.

Hon. D: R. White — You haven’t even had a day on the front bench — not one day, and you have been here for seven years!

Hon. K. M. SMITH — The important thing is that I am part of a team. David White is the only member in his team, because nobody else wants him. Even his own party moved him along because he was not good enough to be leader. It would not even give him a seat that was winnable. It is a seat we hold. That is how good he was for the position. What an insult to be replaced by Theo Theophanous!

Hon. B. W. Mier — Can we return to the bill?

Hon. K. M. SMITH — Mr Hartigan has said some awful things about Mr Mier in his time. I do not believe any of those things because I cannot believe that a decent plumber could be as Mr Hartigan describes him. Mr Mier is a nice bloke; he is giving it away, and I am not going to get into dishing out abuse.

This is more of a discussion about the non-privatisation of things. The opposition trots out the same old argument it has trotted out over a long period. We want to prepare some land so it can be privatised, so we can have the power stations on there, set up and ready for sale. We have been up front about that for a long time, and we have done it well. We have been very successful in the deals we have done on the sales at the other end of the transmission lines, the distribution companies that we corporatised and then sold.

One of the opposition speakers talked about what we got out of it, what we sold it for and the SEC’s debt being $9.2 billion or $9.5 billion. We inherited it and we had to do something about it. It added to Victoria’s bill — the money we owed. We corporatised our companies. We made some people show interest in those companies and they have been prepared to put their dollars into Victoria. That is more than you can say about Mr White. He has only ever taken money out of Victoria and given it away. But we are finding people in this state who want to put money into it.

We have done extremely well. We sold United Energy for a huge profit. We sold Solaris and Eastern Energy, and we have two more companies to sell: Powercor, for which we expect to get more than $2 billion; and Citicorp, for which we expect to get more than $1.5 billion. It totals some $8 billion which is coming into Victoria to pay for power distribution. Taking $8 billion off a $9.4 billion debt
ELECTRICITY INDUSTRY (FURTHER AMENDMENT) BILL (No. 2)

COUNCIL

Wednesday, 15 November 1995

Hon. D. R. White — We saw it yesterday with Transurban and Ron Walker.

Hon. K. M. SMITH — We get the anti-privatisation people on the other side of the chamber, but let us examine what they have been responsible for selling off. When I saw an Age editorial headed 'The party of privatisation' I thought, 'Good, they have written something about us'. But the editorial was about the ALP, and a lot of the activity occurred in the time Mr White was a minister. The editorial said that in Victoria the ALP was responsible for selling off the State Bank. We know about that; it was a disaster. It also sold off the State Insurance Office, another disaster. It sold off the Loy Yang B power station and locked us, for more than 30 years, if I am not mistaken, into a very high cost for power for all Victorians. The sales also involved a number of specialist subsidiaries of the SEC and Melbourne Water, and the former Labor government sold off a share of the Portland aluminium smelter — the one it wanted to put so much into but for which Victorians are paying out so much more over 30 years. Mr White, the Six Billion Dollar Man, should add it up. That is $200 million a year. The former government also sold off thousands of hectares of pine plantations.

Hon. B. W. Mier — On a point of order, Mr President, Mr Smith has drifted once again right away from the content of the bill. I suggest you rule that he confine his remarks to the subject matter before the house.

Hon. K. M. SMITH — And I said nice things about you, Mr Mier! On the point of order, Mr President, a number of points of order have already been raised in this debate on the relevance of issues that have been mentioned by members on both sides of the house. Showing a great deal of tolerance in this year of tolerance, Mr President, you said it is a wide-ranging debate.

Mr White set the precedent early in the piece with the issues he raised. I do not think I am going beyond the issues he raised either in his contribution or in answer to interjections from across the chamber which he saw fit to answer and to go into detail about. I do not believe I am out of order in speaking on the issues I am raising because they are all relevant to the debate. The debate is about getting together the land and putting together the power stations to privatise them. The issue we are talking about is privatisation, and that is what I am talking about.

Hon. D. R. White — On the point of order, Mr President, in the debate on this bill we are talking about the privatisation of electricity. If Mr Smith confines his comments to the implications of the privatisation of electricity arising from the land parcels related to Loy Yang A and Hazelwood, that is one thing; but if he indicates to the house a number of other projects, corporations or entities that have been privatised that bear no relationship to the electricity industry, I cannot see how that relates in the slightest to the bill now before the house.

Hon. M. A. Birrell — On the point of order, Mr President, I had the opportunity to hear much of Mr White's speech.


Hon. M. A. Birrell — No, but I was just in the corridor immediately behind the chamber. It was a very wide-ranging contribution from Mr White and, as is the case with lead speakers, that is always tolerated. But this has been a very broad-ranging debate and Mr Smith is picking up the fact that this debate has been liberally sprinkled with arguments against privatisation, and not just privatisation of electricity.

The context that Mr Smith is establishing, as he was pointing out by the sale of Loy Yang B, is the fact that this has been a program of all governments and that this bill is consistent with the ambition of governments to privatise and corporatise. I think it is correct for him to have the capacity to raise these issues in the debate on the bill, which is fairly and squarely about privatising an asset. To speak about privatising an asset is contextual. Mr Smith is not talking about the sins of the Cain government or the guilty party. That would be broadening the debate in a manner that he would never do. He is talking specifically about privatisation, and that is quite legitimate.

Hon. D. R. White — Further on the point of order, Mr President, I remind you that Mrs Varty
ELECTRICITY INDUSTRY (FURTHER AMENDMENT) BILL (No. 2)
Wednesday, 15 November 1995  COUNCIL  591

raised a point of order against me when I was speaking and said this was a land title debate, that it was only about land titles and that I should confine my remarks exclusively to land titles.

The PRESIDENT — I ruled against that.

Hon. D. R. White — Now we have the Minister for Conservation and Environment totally contradicting Mrs Varty and saying this is not about land titles but that it is a most broad-ranging debate.

The government cannot have it both ways. The secretary to cabinet and the Leader of the Government cannot have it both ways. The debate is about land titles, which you, Mr President, correctly ruled would lead to the privatisation of the power stations, and as a consequence of leading to the power stations there was scope to talk about the electricity industry.

I am putting, and Mr Mier is putting, that what Mr Smith is doing is taking the debate well beyond the electricity industry and privatisation of it. He has referred to the State Bank and the water industry, and is moving beyond what I would describe as the implications of privatisation: both the advantages and disadvantages of the privatisation of the electricity industry. It might be appropriate to make some analogy with privatisation in some other sector, but to read out a shopping list of items which bear no relationship to the electricity industry is not relevant.

The PRESIDENT — Order! When Mrs Varty raised a point of order in which she sought to confine the debate, I ruled against her on the basis that it would be an artificial restriction of the debate and, as Mr White said, the basic purpose of the bill. On this occasion, obviously the question of privatisation in general is an issue, although only a passing issue, but passing reference to it is allowed. I am sure Mr Smith is going to concentrate his comments on the power industry: most of what he has been saying up to now has related to that, and if he keeps going along those lines he will be in order.

Hon. K. M. SMITH — I thank you for the ruling and the guidance you have given me, Mr President. I agree with you that if the former Labor government sold off the State Bank during its time, that is something it did. It was certainly a bad loss for Victoria.

I again refer to the Age editorial headed 'The party of privatisation'. We have done our best to try to overcome the sins of the previous government for the debts that it created for us. We have done that through privatisation and we have done it, strangely enough, with the support of the Age. It surprises me that we received this support from the Age. I shall just read the end of the editorial because it is important to emphasise the points I have made:

The SEC parts should be sold if, and only if, the prices received are such that Victoria is better off as a result. That is, the interest savings on the debt thus repaid must outweigh the loss of dividends, and power prices must fall as a result of the greater competition.

We have done exactly as the Age editorial asked us to do. We have sold at this stage three distribution plants for a price better than we expected, and certainly far better than could have been expected from the Labor Party if it ever considered doing the same thing. We have set up competition. The people who are in charge of these companies have said we will go out and compete for the electricity dollar. They are saying they want consumers to use more electricity — and what is wrong with that?

In the past the SEC was advertising the fact that it supplied good, clean electricity. That was under the same government that lost all the money, the guilty party government on the other side of the house. That is how the Labor government used to promote the use of electricity. Yes, it is good and it is clean. Perhaps more power will be used, but we are also in the position where we have far more efficient equipment than we had previously.

Mr White referred to the generation plant at Hazelwood and asked what happens if a company buys it and within a very short time the plant starts to break down and the company has to make a decision on whether it will continue to use the plant or close it down. Mr White asked what we would do then about power. What will we do about it?

Hon. B. W. Mier — Blackouts!

Hon. K. M. SMITH — No, we have an overcapacity of power now, Mr Mier, remember; 40 per cent overcapacity. But if the company decided to close it down we could get power from elsewhere because we are setting up the national grid. We spoke about this before. Mr White said the transmission wires that are stretching across the Snowy Mountains scheme cannot take further capacity. If they have to be upgraded they will be upgraded by the people who have an interest in it.
Mr White asked who will invest in building more power stations to replace Hazelwood.

Lots of people would want to build a power station and have an opportunity of hooking into the national grid and being able to sell to the north, the south, the east and the west, to be able to sell power to people who want to buy it. This is something that those on the other side do not seem to understand. That is what business is about. None of you on that side, including Mr White, have ever invested 1 cent of your own money.

Hon. D. R. White — You have been here seven years and you are still in Fantasyland! When are you going to get to the front bench?

Hon. K. M. SMITH — I am part of the Kennett government team and I am damn proud of it, I can tell you. The one thing you can never say is you were proud of being a member of the Labor government because that government was a disgrace. It was the guilty government. The unfortunate aspect is that these people cannot see any further than when they were in government. We as a government are looking to the future. We as a government are looking to doing things for Victoria. We as a government are looking to cutting out the debt that was created by the Guilty Party on the other side, led by Mr White — the $5.5 billion man that we are paying for and will be paying for for a long period of time.

The privatisation issue has thrown up a lot of people who do not want to tell the truth about is going on with privatisation. There was a little group set up and backed by the Trades Hall Council called the Public First campaign. Those people are prepared to do anything, put anything in writing, tell any sorts of lies, stand up at public meetings and mislead people who wanted to find out a little bit about privatisation, whether it was good or bad, to make up their own minds.

The letter is extremely interesting. It is important that we set things right! The letter continues:

They made the situation safe but had to wait for someone from the area to coordinate repairs. Until the coordinator arrived, no repair work could be done and service restored.

One crew said that they could rehang the cable but the connecting would have to be done by another crew. The crew to do the jointing was called. The designated person was not available. His assistant was finally obtained but would not come without approval from his supervisor. An hour later this person was located and called out.

The jointing crew confirmed that they were able to join the cable, but a new section would be needed. They had difficulty arranging for a full crew of jointers. They knew where some spare cable was located but lacked a truck or trailer suitable to collect and transport it.

The line crews from both areas had no knowledge of any spare cable in their yard and expressed reluctance to travel outside their areas of responsibility to collect the cable from the jointing crew’s source...

Total people involved: 15.

Total time to restore supply: 10 hours.

Total cost: high.

Hardly an inspiring example of the ‘efficient, economical’ privatised SEC system.

The letter was from M. Rimington, Montmorency Street, Mordialloc. Citipower, which controls the area, was a little concerned about the matter. It did not realise that the incident had actually happened and it decided to investigate the details of the letter. It chased around to try to find M. Rimington from Montmorency Street, Mordialloc, but there was no record of that person. It checked to see if anybody by that name was connected to the power, but there was not. Citipower then checked with the newspaper, which said, ‘We have run it in good faith, but we do not check the name and address’.

After phoning the Rimingtons’ telephone number, which it found in the telephone book, Citipower spoke to F.C. Rimington of Montgomery Street, Mordialloc — it could have been a typographical
Mr White said that nowhere else in the world is there a structure as diversified as the one we are putting in place in Victoria. That is simply incorrect. It displays his total lack of knowledge of the subject. I can give him one example of a structure that is more complex than the one we have in place — the Western Area Power Coordination Council, which covers much of the states of Washington, Oregon, California, Nevada, Utah and Nebraska, all of which run as an integrated system in the United States of America. It has hundreds of generators and scores of distribution companies, all of which are coordinated as an integrated system and all of which work together through a series of pools.

Mr White also spoke at length about some former SEC engineers who made adverse comments that were reported in the press about some of the security of supply implications of the structure the government is putting in place. All those individuals are engineers and they also raised many of their concerns through the national Institution of Engineers, of which I am a fellow. Through that institution a delegation of the engineers referred to by Mr White was organised to see the Minister for Energy and Minerals. They spent some time with the minister and his expert advisers. After having the situation explained to them and being able to question the minister and his advisers, the engineers published the result of their delegation in the April edition of Engineers Victoria.

... [they expressed] surprise and disappointment that public statements ... by the government ... have not done justice to the care which has obviously been taken to develop and refine a system without jeopardising its integrity, whilst lifting its reliability and cost efficiency significantly.

They were expressing concern about the system, but when they acquainted themselves with the details, the bottom line of their complaint was that the government had not communicated the fact that it had done a good job as well as it should have.

They no longer believe their original statements, which have been quoted again and again by Mr White. It is very important to get on the record the fact that these people have changed their position. I support the bill and wish it a smooth passage.
Hon. W. A. N. Hartigan interjected.

Hon. PAT POWER — By interjection
Mr Hartigan indicates that he is looking forward to it. That view is in stark contrast to that of my colleague Mr Henshaw, who in his contribution will illustrate the opposition’s preparedness to represent the wishes and aspirations of not only those associated with the Port of Geelong but also the general community. The difference is that Mr Hartigan and his colleagues are prepared to impose ideological privatisation on the Victorian community whereas Mr Henshaw is prepared to address these issues based on the view at the local level.

Indeed, the capacity to privatise Portland, Geelong and Western Port as a single parcel seems to me to be hardly competitive. The question that needs to be asked about this 177-page bill is: why is the government prepared to privatise the ports? The answer can only be that it has a belief in the merit of privatisation over the continued public operation of the ports. The facts indicate that under the current structure they have been very successful authorities — Portland and Geelong in particular.

There is no evidence on the basis of performance that the structure needs to be changed in the radical way the government is proposing. There is no evidence that the performance of the ports will be improved significantly as a consequence of moving into private management. One thing that typifies this legislation is the lack of information from the government setting out in detail the projected savings the ports will achieve under the privatised structure to which the government is so deeply committed.

I mentioned the sharp difference between Mr Henshaw and Mr Hartigan in the sense that Mr Hartigan is prepared to impose upon his electorate in Geelong the wish of the coalition government in respect to privatisation whereas Mr Henshaw will be able to indicate that not just is the opposition opposed — —

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! There is far too much interjection.

Hon. PAT POWER — The opposition and Mr Henshaw oppose this bill, and the maritime unions in Geelong, the port users in Geelong, and the community at large in Geelong are all concerned
about it. I am quite happy to place on record my response to Mr Hartigan's interjection about the current reputations of honourable members in the Geelong region. I await with interest discovering whether Mr Hartigan is able to make similar observations after the next state election. It is quite clear that, regardless of whether it is a matter relating to local government or to forced decisions concerning the port of Geelong, the Geelong community is most distressed.

There is no question that the former Labor government paid a price in Geelong with the Pyramid issue; none of us would dispute that. Mr Hartigan has suggested that another judgment will not be made by the electorate in Geelong as a consequence of the government's decision on local government and as a consequence of this imminent decision with regard to the forced privatisation of the ports. We can all wait and see.

One of the problems with the 177-page bill is the absence of information. For example, I refer to clause 3, which contains the definitions. I refer particularly to page 5, and the definition of 'port waters', which states:

... in relation to the port of Melbourne, Geelong, Portland or Hastings, means the waters declared by Order in Council made under section 5(2) to be the port waters of that port.

In other words, there is no legislated information on what the port waters are. Quite clearly the government is seeking to create a situation where it can use an order in council to define port waters to suit its needs and whims.

Clause 12 at page 9 sets out the objective of the Melbourne Port Corporation and states:

The objective of MPC is to carry on the business of being the land manager of the Melbourne port area by —

(a) planning and coordinating the development of port land and infrastructure within that area; and

(b) making that land and infrastructure available to port service providers —

And to do so in a manner that is economically efficient and that encourages competition among port service providers.

Again there is an absence of detailed information in what is actually set out.

Under the heading 'Objective' clause 20 at page 13 sets out the objective of the Victorian Channels Authority and states:

The objective of the VCA is to manage channels in port waters for use on a fair, reasonable and commercial basis.

Again what that means is absolutely unclear. It is not possible for any Victorian to read clause 20 and understand what it means. The definition of port waters states that port waters will be whatever the government of the day, on that day, deems them to be. They are not described in any legislation; they are simply created by order in council. Under this legislation the Victorian Channels Authority is able to manage channels in port waters but we have no idea of where or what those port waters are. In a major bill of some 177 pages that seems to me to be quite a hole. The government should have made absolutely clear in the legislation what port waters are so that the community could be absolutely clear about where they are and what is happening.

Another matter that concerns the opposition is the situation with harbourmasters. The bill seems to create a situation in which the management of the privatised port can appoint the harbourmaster. Those who are familiar with the maritime industry will understand that the position of harbourmaster requires intellectual skills. Currently the appointment is independent. If the ports are privatised and the private management can appoint the harbourmaster, will we see the influence of that private management filtering through the harbourmaster and affecting the movement of ships in and out of the port? Will we see a situation where the harbourmaster is the messenger expressing the preferences of the management of the privatised port?

Currently in the maritime industry ships moving into a port can within reason dock on a first-come-first-served basis. But what assurances are there in the bill that when national or international shipping comes into the privatised ports ships' captains will not find themselves being well or badly treated by the harbourmaster as a consequence of the preference of the private managers? We all know if we look at the Skases and Bonds of the world that the only thing that drives private management is profit and dollars. Will we see incoming vessels or vessels waiting to load not being treated on the basis of what is in the best interests of the port as a whole and the region it serves? What assurance is there that we will not see
PORT SERVICES BILL

596 COUNCIL Wednesday, 15 November 1995

a situation where, through the harbormaster, the preference of the private management will shine through?

The opposition is worried about the removal of powers from the ports under this legislation. It could be said that it would not be possible for these new port authorities to move without the written authority of the Treasurer. It is clear from their performance, especially the ports of Portland, Geelong and Melbourne, that this draconian control is not necessary, even if one makes a hard-nosed commercial evaluation. If there were some clear evidence that these ports were not successful on a commercial basis or were not meeting the commodity needs of regional Victoria, perhaps one could understand the government of the day being able to intervene in this heavy-handed way. It is further evidence of the lengths this government will go to to ensure that not only is 'privatise, privatise, privatise' its theme song but that privatisation is organised in a very hands-on way.

Concern has been expressed about the associated ports and the government’s commitment to them. The opposition is concerned that the government has little or no commitment to those 15 or so associated ports around the coast of Victoria which may not be important economic units in the way that Portland, Western Port and Geelong are, but are nonetheless important parts of Victoria’s infrastructure. While there is no doubt reason to visit their place in this structure, it is bad public policy for them to be deserted in the way the opposition believes they may be. Some people who are passionate about the associated ports fear they are simply being thrown to the wolves. They fear there will be some contest involving conservation and natural resources and perhaps a feeling by the new local government instrumentalities that they have no choice but simply to take over the management and control of the associated ports.

I am sure Mr Henshaw will inform the house how sensible and orderly the relationship between Geelong and Queenscliff has been. If that relationship is to cease, what capacity will Queenscliff have to remain an active port area serving all the needs it currently serves? Of course it would not be inconsistent of the government to throw Queenscliff to the wolves. Local government reform swept across Victoria and the 1800-odd voters in the Borough of Queenscliffe were left completely untouched. Queenscliff again being deserted will not be a new experience for the people and it will not be a new decision for the Kennett coalition.

Those who are familiar with the operation of the port of Melbourne would know that Kingsley Culley, who was the Chairman of the Port of Melbourne Authority, has departed from the authority and John King, who held the position of chief executive, has also left. Some people in the maritime industry have strong views on why those two individuals made those decisions. In the Port of Melbourne Authority annual report released early in October Kingsley Culley states:

The board is of the view that the new MPC [Melbourne Ports Corporation] should assume the role of strategic port manager. The importance of this role is highlighted by the City Link project which poses a major challenge for the port. The construction of a bridge across the entrance to Victoria Dock will prevent upstream access by commercial shipping and will require the relocation of trade to new downstream facilities in an extremely tight time frame. The funding of these facilities and the impact on the trading community are key issues for the PMA.

Earlier in another debate opposition members sought a clear commitment from the minister about who would be financially responsible for the relocation of Victoria Dock. We were unable to get a clear answer. In the same annual report John King states:

The state government’s plans for the Melbourne City Link project will link the Tullamarine and West Gate freeways with a 23.5 metre high bridge over the Yarra River, on an alignment of 22 Victoria Dock and Graham Street, Port Melbourne. When constructed it will prevent all shipping movements upstream of 22 Victoria Dock and 21 South Wharf, making 10 berths unusable.

In evaluating alternative facilities, the PMA’s objective is to minimise capital investment, to ensure efficiency of the port from the customer’s perspective.

Perhaps those are some of the reasons why those two individuals are no longer with the Port of Melbourne Authority.

Not only is there concern about the treatment the government has in store for major ports on the Victorian coast but there is also concern about the impact of the City Link project on the port of Melbourne. Two senior officials are concerned about the impact of the prevention of movement upstream
and about the funding of works. I remind the house that in discussions today we have been unable to establish with the minister the clear detail of funding arrangements.

The port of Portland is very important to Victoria. Because of its being located in the south-west corner of the state, it is not seen as being as sexy or important as the ports of Melbourne or Western Port. Those of us who, like you, Mr President, represent that province or who, as a consequence of our work over the years or interest in such matters, have spent time in Portland would be in no doubt about how critical that port is to Victoria's economy.

Given that Australia is increasingly becoming a smaller place and the world is becoming a closer knit community, honourable members should remember that Portland is not just important to Victoria and its economy but also to Australia and its economy and its capacity to act as an international player. Portland's principal trade is in bauxite, aluminium, livestock, woodchips and grain. Those commodities are important subsectors of the economy.

Noting the structural importance of Portland, why is it necessary for the government to move in the way it has? What is it about the performance of the port of Portland that causes the state government such anxiety? The opposition would have no difficulty if the government were proposing action that represented assistance and perhaps even leadership in making the port of Portland an even more effective maritime trade outlet than it is at the moment, but to suggest that it needs to be privatised and to legislate so that it may be privatised in a climate in which people such as Mr Kroger and Mr Strang are reported publicly as being interested is, whether honourable members like it or not, causing anxiety in the community.

In respect of the port of Portland, and given the interests of the two gentlemen that have been reported, what will be the purchase price of the port? What action has the government taken to request the Valuer-General, for instance, to put a price on the port of Portland so that people in the general community can at least feel that an independent officer has given, albeit some ballpark figure, an indication of what the port might be worth?

If we consider issues relating to electricity, people in the community have two concerns. One is that a public asset is to be privatised, and I agree that is their main concern, but there is also another major concern: whether the price gained for the public authority at the point of disposal is, in fact, a real and proper price.

Hon. W. A. N. Hartigan — A reasonable price. I agree with that.

Hon. PAT POWER — Yes, a reasonable price. What I am saying is not that the Valuer-General would necessarily set the price at which the deal would be struck, but at least if the government were to request the Office of the Valuer-General to make a valuation there could be some general understanding in the community of the value of the port.

I am sure my colleague Mr Henshaw will make some particular reference to the port of Geelong. I just want to say that Geelong is a classic example of a port that ought to be left alone.

Hon. W. A. N. Hartigan — Why?

Hon. PAT POWER — There is absolutely no evidence that the current structure and management of Geelong are such that, like all elected councillors in local government, they need to be thrown from office and, in this case, replaced by a privatised structure.
Some of the performance indicators in the port of Geelong are very significant. As a consequence of what I am sure Mr Henshaw will agree is some very proper management by Mr Morgan, chief executive of the Port of Geelong Authority, the work force has been reduced from more than 200 to 103. That has been achieved in a climate where the authority, the maritime unions and the port users have established what their needs are into the future and have in a sense halved the work force. The efficiency and productivity of the port have increased significantly as a result.

I understand that last financial year, 1994-95, was the port’s second-best year ever, despite it being considered — especially by many people in this chamber, and correctly so — to have been a drought year. So there is not much evidence thus far that the performance in Geelong is such that the management ought to be tipped out, receive this vote of no confidence and be replaced by private management.

In 1989-90 the operating revenue per employee was $102,756. In 1994, the revenue per employee increased to $204,000. In three years the labour performance of the port doubled. Those three pieces of evidence alone paint a picture of Geelong being very ably managed; of the Geelong authority, in a genuine partnership, making some of the hard decisions about the future of the port and indicating that it has a capacity to continue to make the hard decisions into the future.

The opposition believes this is a bad piece of legislation in the sense that it seeks to privatise ports when the evidence suggests there are much better solutions. The opposition is concerned that the bill is very unclear on detail. I mentioned as an example the definition of port waters. The government has created a public policy precedent by saying it will not legislate so that Victorians, regardless of where they are and what their interests might be, can look at a piece of paper and see quite clearly the parameters of the port waters around Geelong, Portland or Hastings. The government believes it ought to keep it up its sleeve and through orders in council decide from day to day, theme to theme and need to need what the parameters of those port waters will be.

I hear many comments about world’s-best practice and comparing our situation with that of Singapore. The fact is that in the past 10 or 15 years there have been enormous attempts in Australia to recognise that we are no longer an island, that we are part of an international trading community and that our performance needs to be such that we are positioned to compete successfully.

Whether it be the metal trades industry or the maritime industry there has been very significant progress, in partnership, in meeting the challenges that the reality represents. All honourable members would recognise that whether it is the metal industry or the maritime industry there are always hiccups when you have a solution involving partnerships, because from time to time different people in the partnerships have different views about detail. But it cannot be denied that enormous progress has been made, and just the three pieces of evidence I conveyed to the house in respect of Geelong indicate how much progress has been made and what has been achieved.

However, as we debate this Port Services Bill we ought to bear in mind that what has been achieved through the collective efforts and the collective blood, sweat and tears of a very successful port authority is now to be made available to the privateers, who will be able to use it as a mechanism to print themselves money. The fact is that when you consider the commodities that cross the wharves of Portland, Geelong and Hastings and the petrochemical issues there, it is obvious that based on any criteria the performance of those ports is very successful.

That is not to dispute the fact that the pressure needs to be kept on. That is not to dispute that change is not constant. That is not to dispute that the competitive edge needs to be made sharper and more effective.

I am pleased that the opposition strongly opposes the bill. The shadow Minister for Roads and Ports in the other house made that very clear. I am sure my colleagues Mr Henshaw and Mr Walpole will expand on the reasons why this measure is not in the interests of maritime services in Victoria or the levels of competitiveness and effectiveness those ports currently achieve.

Hon. R. H. Bowden (South Eastern) — I support the Port Services Bill. At the outset I say that the flow of goods and the cost profiles of our ports are extremely important for industry and the economic welfare of the state. This bill continues the important reform process the government has under way and is an important step towards gaining the benefits the government is providing to the people of Victoria and to industry through the essential
reform of our ports. Indeed, having efficient ports is vital to our economy and it cannot be delayed.

Victoria can be very proud of its well-developed port assets and physical resources. We have the ability to move high volumes of cargo in and out of Melbourne and through the ports of Portland, Geelong and Hastings we are able efficiently and with good results to move large volumes of bulk trades. The ports of Hastings, Geelong and Portland have bulk trades and their export potential is extremely sensitive to the cost structure. It is, therefore, even more important that these measures be taken.

In reviewing the Labor years of government at state and federal levels, I believe Labor has not done much to address this very important matter. If one looks at Victoria's ports one sees a history of poor commercial practices under Labor, limited user choice and competition and high costs. One could even say the ports were unreliable. The reforms addressed in the bill have some basic objectives that can best be summarised in three basic categories.

The first objective is to increase port efficiency and improve services. The need for that is beyond doubt. The second is to reduce port costs to cargo importers and exporters who are putting high volumes of trade through these important facilities. The third is from the government's perspective a key goal of the bill: to make sure that we achieve a reasonable dollar return to Victorian taxpayers.

In January 1995 after extensive consultation the government announced it would restructure Victoria's port industry. This legislation is no surprise. It is the end result of a significant amount of community and industry consultation.

The bill establishes a new entity, the Melbourne Port Corporation, which, as a landlord, will oversee the physical assets and will be able to offer lessees land and berths. Essentially the MPC will be a supplier of port infrastructure and will enable infrastructure facilities and services to be provided efficiently.

The port assets of Geelong, Portland and Hastings will be offered for sale. The underwater assets, which are extremely important and distinctly different from the onshore physical assets, will be retained in public ownership. A second or new statutory authority responsible for the water channels in the ports will be established for Melbourne, Geelong and Port Phillip Bay. The Victorian Channels Authority will be primarily responsible for the establishment and maintenance of dredging and will look after the navigation channels and make sure they are safe, clearly delineated and useable.

The Port of Melbourne Authority has already called for expressions of interest from the private sector and has asked operators to consider leasing or acquiring the assets on an immediate long-term lease basis so that new major facilities can be acquired for this important trading facility. The state government signalled that it was serious about improving the cost structure of the ports when in December 1994 it abolished the state tonnage duty. The abolition of that duty is further evidence of our thrust towards reducing costs.

The Victorian Channels Authority will have responsibility for the ports of Melbourne, Geelong, Hastings and Portland, and in addition to looking after the dredging and maintenance of those critical water depths it will also have a very strong influence through the quality of the navigation aids, which are pivotal to safe operations involving the large tonnages and sophisticated cargoes that regularly move through those vital areas.

Although the Victorian Channels Authority does not sound glamorous, it will operate on sound commercial principles. The VCA can enter into contracts with third parties to ensure that there is diversity of opportunity, that where competition is needed it can be acquired and that full efficiency in the use of its resources is properly attained for the taxpayers of Victoria.

The bill also provides for an expanded role for the Environment Protection Authority and the Health and Safety Organisation. The regulatory powers of both those organisations are expanded so that the responsibility for dangerous goods is transferred to the Health and Safety Organisation. That is a very good move because it makes clear that those cargoes have a carefully prescribed set of regulations to be adhered to. Under the EPA and HSO scenarios encompassed in the bill port users can therefore confidently understand that they can operate on the same basis as other business entities.

The economic regulation of the ports is extremely important. As a free enterprise government, we are committed to helping the economy and ensuring that the mechanisms for free markets are in place, so the economic regulations in the bill are extremely important. Prices will be regulated by the Regulator-General to ensure that the dollar costs
incurred by importers or exporters are fully understood. Those costs will be kept as low as commercially practical. The watchful eye of the Regulator-General is a fine feature of the bill, and there will be full regulatory ability. The involvement of the Regulator-General is welcomed because it will ensure fair play for the people involved in this important reform measure.

The Regulator-General will also oversee the obligations of the Victorian Channels Authority to ensure there is adequate third-party access to the channels so that any natural monopoly or monopolistic practices can be quickly and efficiently discouraged. I congratulate the minister on that important and effective measure, which will be valuable in the operation of the VCA.

This is consistent with other regulatory regimes. The minister and the government have ensured that the privatisation path we are following in other industries is also practised in this area. The fact that the Regulator-General will be able to regulate the area will become increasingly well known by those involved.

The Marine Board of Victoria has a regulatory role; it will be responsible for the safe operation of all ports in Victoria. That is an excellent provision. It will ensure that the Marine Board’s regulatory functions, standards and requirements are fully met. That is extremely important given the nature and quantity of the cargoes and the sophistication of the trade involved in our import and export industries.

In the case of the ports of Hastings, Geelong and Portland, the government announced in January 1995 that dedicated berths will be offered on a right-of-first-refusal basis to specific large-volume users. That is a welcome measure because there are particular specialised trades in the ports of Hastings, Geelong and Portland. It is fair, reasonable and thoroughly justified to offer the berths for sale on a right-of-first-refusal basis. The onshore assets in each port will be offered for sale in a single parcel, which is detailed in the bill. That is an excellent move. The entities bidding for the ports will know the difference between dedicated berths, physical assets and the onshore assets they are interested in acquiring.

The bill enables the sales to proceed under the guidance of the Treasurer and enables the Treasurer, on behalf of the state, to enter into specific sale agreements so that there is no need for delay. This senior government minister, the Treasurer, will able to ensure that these important measures proceed at a correct pace.

The bill represents a new, fresh and important step in the reform of Victorian ports. The state government understands the need to ensure that the economy is efficient, especially when we look at the pattern of the imports, exports and raw materials that flow in and out of our ports. The bill has some fine points. Its thrust contrasts with the poor, lax performance and unacceptable attitude of the federal government. The lousy performance of the federal government is in contrast to the excellent measures that will be put in place by the bill.

The government is doing good things for the economy. Port reform will bring benefits and efficiencies. The government has moved to ensure that Victoria will again have excellent ports that will improve costs for the benefit of all Victorians. It is with a great deal of pleasure that I support the bill.

Hon. D. E. HENSHAW (Geelong) — The mechanisms in the bill enable the separation of the control of the Geelong channel from whoever operates the port authority. It also provides for privatisation of the ownership of the port of Geelong by one or more parties. That is a major concern to the Geelong community and to the stakeholders who use the port of Geelong. Tonight I shall be speaking about their concerns rather than the general ramifications of the bill.

It must be understood that the Port of Geelong Authority is a creature of the Geelong community. It has existed since 1905 — just on 90 years. Its control has always been held within Geelong. Members of the board have also been respected citizens of Geelong and they have seen it as their duty to ensure that the Geelong community benefits from the way they operate the port authority.

As was indicated by my colleague Mr Power, in recent years the Port of Geelong Authority has achieved good results under the board, with the assistance of the chief executive officer, Peter Morgan, and the current chairman, Mr Alex MacLeod. Its 1994-95 annual report sets out some of the authority’s achievements such as its operating contribution of $5.5 million and its net profit of $9.3 million, which includes contributions from investments and proceeds from the sale of Cunningham Pier and the Siwertell Bulk Unloader. Bearing in mind the nature of the season and the reduction of commodities moving through the port, that is a remarkable achievement. It is a credit to the
port and its employees, as well as those involved on the Geelong waterfront.

The report illustrates further advantages achieved and advances made. Employee numbers dropped from 238 six years ago to the current 101 — a drop of 60 per cent.

Cargo tonnes have risen from about 35 000 per employee six years ago to some 90 000 per employee, and the operating revenue per employee has grown over six years from about $100 000 to about $200 000 — those figures may not be right; I cannot see them properly — so one can see that there has been a substantial turnaround. Operating expenditure per vessel has decreased by comparable amounts.

I point out that the corporatisation of port operations has been carried out on the basis of a model that was proposed by Mr White when he was the minister responsible for ports.

Hon. Bill Forwood — You support it?

Hon. D. E. HENSHAW — Yes. The way the corporatisation model has been finetuned and made into such a success is a tribute to the chief executive, Mr Peter Morgan.

Members of the authority now believe it is difficult to find more savings. The process of achieving savings was halted 18 months ago because the employees realised they were going to have a new employer under this government. Understandably, they were reluctant to negotiate more productivity arrangements before they knew who their new employer would be.

It has to be borne in mind that less than 20 per cent of the actual costs to exporters and importers using the port of Geelong are generated by the Port of Geelong Authority. Stevedoring costs between 40 and 50 per cent, lines 7 per cent and tugs 15 per cent. There is a charge for pilotage, and port charges comprise less than 20 per cent of total costs.

Hon. W. A. N. Hartigan — Is that $20 million?

Hon. D. E. HENSHAW — I think it is less than that.

Hon. W. A. N. Hartigan — It is $20 million.

Hon. D. E. HENSHAW — All right. As I say, the costs generated by the port operations are somewhere between 15 and 20 per cent of the total costs to shippers using the services of the Port of Geelong Authority.

The government is talking about saving money. It might be reasonable to say that with another 5 or 6 per cent of productivity arrangements with employees you might achieve a 1 per cent saving in total costs. I do not believe privatisation will generate a better result than that. Even if it did, the owner would have the difficulty of having to pay extra outlays in federal tax, which would further reduce the possibility of a better result.

Part of the proposal involves the creation of the Victorian Channels Authority, which gives rise to a unique situation. It is very unusual for a port to not have control of its own channels. A difficulty with the separation of the Victorian Channels Authority from other port authorities is that you have one more bureaucracy controlling the operation of a port. When a ship is about to leave a wharf the port authority needs to line up the lines and tugs and consult with the harbourmaster, who will be an employee of the Victorian Channels Authority.

Hon. W. A. N. Hartigan — Not necessarily.

Hon. D. E. HENSHAW — It says in the bill that where a port does not have its own channel the Victorian Channels Authority will employ a harbourmaster.

Hon. W. A. N. Hartigan — Responsible harbourmaster.

Hon. D. E. HENSHAW — I accept the point. It does not follow that he will necessarily be in the structure that is controlling the port. There will be a need for extra coordination between different bodies. In addition the port authority’s successor will have to coordinate with the separate authority, the Victorian Channels Authority, the schedule for leaving the wharf using the 30 kilometres of channel, taking into account tides, wind and so on. It seems that there is an unnecessary separation of duties in that arrangement.

There is another problem that has not yet been clarified. It is not clear whether the wharves and facilities will be within port waters. If they are, presumably any sort of maintenance on the pier or change of structure will require further consultation with the Victorian Channels Authority and so on. Perhaps the minister knows the answer, but it is not
made clear in the bill. Port waters can be anywhere in Port Phillip and Corio bays.

One of the expectations with respect to Point Richard Channel is that in the near future the minister will announce a substantial reduction in the tonnage charge. The minister might well say that it will be a consequence of the government’s initiatives to reform the port structure. It is true that the tonnage charge is a substantial component of the profit earned by the Port of Geelong Authority. It has been set at a level that is competitive — —

Hon. W. A. N. Hartigan — The channel charge?

Hon. D. E. HENSHAW — The tonnage charge through the channel.

Hon. W. A. N. Hartigan — There used to be a tonnage charge. Do you mean a charge for using the channel?

Hon. D. E. HENSHAW — Everybody has a tonnage charge. It has been set at a level competitive with that of the Port of Melbourne Authority. That is the basis on which it was originally set. The minister has the responsibility of approving the budget for the Port of Geelong Authority every year. Three years ago he could have asked the authority to reduce the tonnage charge, thereby reducing the costs of shipping. He has not done that, but the industry expects that he will do it shortly.

There is also an expectation that the independent control of the channel will give rise to uncertainty on the part of the owner of the port facilities as to the long-term cost of using the port. In other words, the cost of using the channel is determined by the channel authority, perhaps in consultation with the minister, which places the port authority or whoever owns the port at a disadvantage in the long-term planning of and commitments to shipping. Although I acknowledge the problem can be overcome, it is a potential disadvantage.

There is the expectation that the facilities of the port of Geelong will be offered for sale as an entity — that is, no-one will take up the dedicated berths.

The industry expects that the two main stevedoring companies in Australia, Conaust Ltd and Patrick Stevedoring Company, will bid for the port. One company is owned by P&O, which is headquartered in Great Britain, and the other company is based in Hong Kong. The Geelong community anticipates that control will be remote if either of those two companies wins the bid.

Hon. W. R. Baxter — They have 20,000 employees around the world and their largest number of employees is in Australia, so I would have thought they had a good local connection, not that I am advocating they will necessarily put in bids for Geelong.

Hon. D. E. HENSHAW — At any rate, the profits will end up in either Great Britain or Hong Kong. The Geelong port will be a minor interest when compared with their world interests and overall control of the port will be removed from Geelong.

Hon. Bill Forwood — It does not have to be that way.

Hon. W. A. N. Hartigan interjected.

Hon. Pat Power — On a point of order, Mr Deputy President, I know that you are in a difficult position because debates like this should be conducted in a convivial fashion, but since Mr Henshaw has been speaking Mr Hartigan and Mr Forwood have been participating by interjection, even though they are out of their places. I respectfully suggest that if they wish to participate in the debate they should return to their correct seats.

The DEPUTY PRESIDENT — Order! Mr Power is correct. A number of members from both sides of the house have been interjecting during Mr Henshaw’s contribution.

Hon. B. W. Mier interjected.

The DEPUTY PRESIDENT — Order! The recent interjection is an illustration of how difficult it is for the Chair to deal with these matters. I can insist that all members abide by the standing orders, but it has been a convivial debate and I hope that it remains so. However, it is 11.30 p.m. and if there are fewer interjections the debate will conclude more quickly. I ask all members to cooperate with the Chair.

Hon. D. E. HENSHAW — The Geelong community is concerned that if either of the two stevedoring companies wins the bid the profits and effective control will be removed from Geelong. There is no reason to believe that the company that wins control of the Geelong facility will have an overriding commitment to the Geelong community. If it were commercially viable for a company such as Conaust or Patrick’s to take general cargo work from
Geelong to Melbourne there is no reason why they would not do so. Approximately 9000 of the 80,000 employees of Geelong would be directly affected by any failure of the port and 12,000 to 15,000 employees would be indirectly affected by a rundown of the port facilities — that is a quarter of the Geelong work force.

Hon. B. W. Mier interjected.

The DEPUTY PRESIDENT — Order! Mr Mier has not got the call and I ask him to remain silent.

Hon. B. W. Mier interjected.

The DEPUTY PRESIDENT — Order! Mr Power called a point of order a few moments ago to allow the speaker to make his contribution without interruption. I ask Mr Mier to remain silent.

Hon. D. E. HENSHAW — I have heard rumours that an independent group comprising a collection of port users will bid for the Geelong facilities. They are concerned that either Conaust or Patrick’s may get monopoly control of the facilities and they are putting a bid together. The group would have the advantage of comprising mainly local interests.

Hon. W. A. N. Hartigan interjected.

Hon. D. E. HENSHAW — I understand they are port users.

Hon. W. A. N. Hartigan interjected.

Hon. D. E. HENSHAW — I am saying port users, but they ship significant tonnages in and out of Geelong. The Geelong community and stakeholders believe a bid by the independent group would be preferable because they are local operators and would be optimistic and enthusiastic about running the port. They would run it for the benefit of the port as well as their own benefit, with the consequence that the Geelong community would benefit.

I understand that Victoria Dock will be moved because of the City Link project. It handles the importation of cars and timber as well as Bass Strait trade, and that will be affected by the change of location. The facilities at the dock could be located in Geelong, and if local users won the bid for the port I am sure they would be enthusiastic about pursuing the location of those facilities in Geelong. It has spare wharf facilities that could handle the additional throughput.

I want to examine an alternative to the government’s present privatisation model, which is inappropriate and wrong. Last January the minister set out the objectives as increasing port efficiency and services, reducing port costs for cargo imported and exported and achieving a reasonable return for Victorian taxpayers. They are laudable objectives and no-one disagrees with them. However, I do not believe the minister has produced a scintilla of evidence or an iota of analysis to demonstrate that the proposals will meet those objectives. If a saving is made in the Geelong operation, you realise only one-fifth of the savings as a measure of the whole port operation.

We are not going to get much out of it in any circumstances.

Hon. W. A. N. Hartigan — So don’t bother!

Hon. D. E. HENSHAW — No, I am coming to alternatives. The minister has been in receipt of a report commissioned by the Port of Geelong Authority; I think it was by Price Waterhouse. If he read the report he would see that there are serious concerns about the wisdom of the privatised model he is following.

I also interpose this point: one of the problems is that 80 per cent or more of your business is done by private sector monopolies, which are not paragons of efficiency or productivity in the ports services. Therefore you are starting at the small end. I am not aware of any moves to deal with the whole problem.

Hon. W. A. N. Hartigan — Are you referring to the waterside workers?

Hon. D. E. HENSHAW — I am referring to stevedoring, lines, tugs and pilotage. In its present capacity there may be room for improvement. The port authority did have its own stevedoring operation, so it had the potential to be in control of more than 20 per cent of the port’s operations. Following the same sort of multi-skilling in the workforce as the Port of Geelong Authority has pursued, you could multi-skill its work force to cover stevedoring operations, port operations and so on. You then have a potential for significant savings. However, the government has not sought to make that available.

Unfortunately, the Port of Geelong Authority was forced to give up its involvement with the stevedoring arm.
Hon. W. A. N. Hartigan — I will tell you why in a minute.

Hon. D. E. HENSHAW — What is the alternative to the government’s model of privatisation? I suggest to the minister and to government members that the alternative is obvious and it is available in New Zealand. New Zealand has not gone down the path of the privatisation of its ports. Some people might be surprised by that. I certainly was when I visited there last August and discovered it had not gone down that path.

New Zealand’s harbour boards are largely in public ownership. I shall go through what happened. The reform process in New Zealand started in 1984 when publication of a government discussion document on onshore costs was released. Harbour boards were then operating under the Harbour Act 1950 and involved elected board members. It was a system closely aligned to local government elections, and I understand that is the case in Tasmania.

Its consultation process continued for some four years with the government adopting a consistent policy of reducing costs of exports as its objective. In 1988 port companies were formed as wholly owned subsidiaries of harbour boards. Those companies were structured under the Companies Act and were in every sense operated as the private sector is with the appropriate memorandum and articles of association. Following the commercial undertakings of the harbour board it adopted a value-adding and cash-flow methodology. The price paid to the harbour board by the newly formed company was met by issues of debt and equity security by the port companies to the harbour boards.

In 1989 all port companies shares were transferred to local regional councils — that is, groupings of local governments effectively — with capital shares being allocated between regional councils on a per capita basis. If you followed this model in Geelong for example, you might allocate shares to the councils of the City of Greater Geelong, the Borough of Queenscliff, the Surf Coast Shire and the City of Wyndham perhaps on the basis of their population.

The New Zealand government stipulated that no more than 49 per cent of the shareholding could be sold to the private sector. If that sort of model had been followed in Geelong there might be scope for selling some of the shares to port employees, which is a damn good way of enhancing enthusiasm for the operation of the port and increasing productivity, efficiency and so on. Also, if the government were to consider the possibility of some 49 per cent being made available to local port stakeholders and perhaps to members of the public, it would then maintain and continue the sense of ownership of the Geelong region to the operation of its ports. That is a crucial factor.

As I said, the regional councils had the capacity to sell 49 per cent of their shares, but the majority of councils with port ownership had not done that. A couple of them sold minor parts of their shareholdings — something like 20 per cent. Basically councils have retained their ownership of the ports, and that has generated an enormous spirit of competition between the various ports. As I said, because the local community own the ports there is a drive to be efficient and to get the business. The system is working in New Zealand, and it is certainly acknowledged to be working by trade areas in this country.

Mr de Fegely would be aware that New Zealand’s ports have a reputation for cost effectiveness. The board company structure in New Zealand is nationally competitive. The company board members are appointed by shareholders and the management is at arms length from the regional councils. It appoints board members on the basis of expertise, and they are subject to ministerial approval. As I understand it, the same system might well be put in place here. The ports are owned and managed by their respected regions and the dividends go back to local government; that is 51 per cent of the holdings. The dividends in New Zealand are found to be attractive to local government because they increase again the desire for the ports to be efficient, profitable and productive.

I will be disappointed if large international companies such as Conaust and Patrick’s were to end up as successful bidders for the port of Geelong facilities. I would be less disappointed if a local port user group initiated a bid that won. Certainly there would be a significant measure of support from the Geelong community if that happened. Perhaps it is not reasonable for me to mention it, but I believe if the bid goes to Conaust or Patrick’s there will be a serious backlash against government members at the next election. They might perhaps bear that in mind, and I say that at my own expense.

Again I emphasise the fact that the government is looking at a small part of the problem — that is less than 20 per cent of the problem. It has not produced any evidence that it will achieve any savings in that small part let alone in the major part of port costs. I
think the people of Geelong would be better assured if there were a proposal involving the local community both in matters of ownership and pride which would to some degree influence the board members controlling it. I would have thought that would be the way to go.

I would be quite happy if the Port of Geelong Authority had been left as it is now corporatised under government management. It can be fairly said that some few years ago before the current board was in place the management of the port was not good. I would have been happy with the current model because it has operated very effectively and enthusiastically. I would hope the port can retain that sort of position in any new arrangement.

I am very disappointed with the bill; the Geelong community is also disappointed. I wish the minister would change his mind.

Hon. W. A. N. HARTIGAN (Geelong) — I support the bill, which covers the current conduct. I would be quite happy if the Port of Geelong Authority had been left as it is now corporatised under government management. It can be fairly said that some few years ago before the current board was in place the management of the port was not good. I would have been happy with the current model because it has operated very effectively and enthusiastically. I would hope the port can retain that sort of position in any new arrangement.

Hon. W. A. N. HARTIGAN (Geelong) — I support the bill, which covers the current conduct. I would be quite happy if the Port of Geelong Authority had been left as it is now corporatised under government management. It can be fairly said that some few years ago before the current board was in place the management of the port was not good. I would have been happy with the current model because it has operated very effectively and enthusiastically. I would hope the port can retain that sort of position in any new arrangement.

Hon. D. E. Henshaw — It appears in the annual financial statements.

Hon. W. A. N. HARTIGAN — Yes, but it was abolished last December. It will be shown for the whole year, of course. The impost will be shown in the first financial report for this year because it existed for half the year.

The bill establishes the Victorian Channels Authority to manage channels, channel assets and the navigation of vessels in the port areas of Melbourne, Geelong, Portland and Hastings. Mr Henshaw was concerned about the relationship or cooperation between, say, a private owner of the on-land port facilities and the channel authority. It would not surprise the house that there has been some discussion about that issue. Although central management activities are desirable in the large investment areas involved in the maintenance of the channel in Port Phillip Bay, the day-to-day operations can and mostly will be handed over or contracted out to the port operator.

Many issues have been raised, and it is said you need a coherent effort to maintain the flow of vessels, and all the rest of it. In my judgment, that is likely to happen. People will do what is sensible. We will not have an arbitrary relationship that will not work. The prime responsibility of the VCA will be for navigation aids and channel dredging, which is quite separate from the current day-to-day operations of the port.

The Victorian Channels Authority is required to operate and determine fees and charges in a commercial manner but will be subject to the overview of the Regulator-General. Other important issues are the role of the EPA, and the health and safety organisation. All honourable members who have read the legislation should support that move because it makes it quite clear who has the total authority for those areas: the Victorian Channels Authority and the ports of Geelong, Hastings and Portland will be subject to the Regulator-General not only in respect of price but also with respect to access to the channels. For example, the Marine Board of Victoria will undertake a regulatory role for safe boating operations in all waters, including port areas, and will be empowered to set standards. It will be another independent authority to ensure we have a statewide and coherent focus on those issues.

As honourable members well know, the government’s January announcement was that dedicated berths at Geelong, Portland and Hastings would be offered to users on a right-of-first-refusal basis. That issue has not been finalised in Geelong. It is my understanding that it is likely that the port will be sold as an integrated whole, but we have given the major users of that port who have particular dedicated facilities the opportunities to express a view.
I cannot help but make some comments about the points made by Mr Power. Mr Power and Mr Henshaw take the view that any private operation will be run by thieves and dishonest people who set out to deceive and steal.

Hon. W. R. Baxter — That is their theory.

Hon. W. A. N. HARTIGAN — Regrettably, they always say that privatisation will result in a dreadful decline in service and in people paying higher prices. Our economy is run particularly well by private enterprise; nobody would be particularly proud of the performance of economies run by public enterprise.

Hon. D. E. Henshaw — What about New Zealand ports?

Hon. W. A. N. HARTIGAN — I think there has been an improvement in the operations of New Zealand ports. You, Mr Henshaw, made the point that only 20 per cent of the costs in Geelong were related to the port operation and that the other 80 per cent related to other activities. A major impact on the cost of port operations has been the deregulation of the labour market; and if you support that view, we could address some of the issues that you claim are of concern.

I know New Zealand pretty well; its ports are small and reasonably dedicated. Honourable members must remember that no part of New Zealand is more than 60 miles from the sea. For a long time the ports have been used not only for international traffic but the movement of domestic material as well. If you are interested in comparing the total usage in New Zealand and Australia, look at the effect of the deregulation of the labour market on the ports. There has been a significant change and improvement in costs.

Mr Henshaw also made a point about the stevedoring and waterside workers. He was right: they had a fifty-fifty joint venture with the Port of Geelong Authority. The group that walked out of that operation was the Maritime Union of Australia, not the Port of Geelong Authority. The union walked out because it had been guaranteed a better deal by the stevedores, particularly on superannuation. I am right, Mr Henshaw, because I spoke to the guy there; he was specific about the reason for what he did.

Hon. W. A. N. HARTIGAN — I am telling you the reason they made the move; I am not trying to make political capital out of it. They decided their best interests lay in getting into bed with the stevedoring company, and that is what they did.

Hon. B. W. Mier interjected.

Hon. W. A. N. HARTIGAN — They felt their superannuation would be more secure with the stevedoring company than with the Port of Geelong Authority. You have good relations with the trade union group there, Mr Henshaw, you check that out.

In the past three years people such as Peter Morgan have made a significant difference to the performance of the Geelong port, but it is also true that profitability is related more to prices charged than to the absolute performance characteristics. If you start with more than 200 people handling one ship per day, which has been the case, you would expect some room for improvement. Now fewer than 100 people handle one ship per day, including stevedoring and other things. I ask the opposition to think about whether that reflects a realistic allocation of labour. I have no doubt significant savings can be made and, more importantly, the Geelong port authority has held for a number of years that privatisation is the only way progress can be achieved and continued.

I shall talk a little about the profitability of the Port of Geelong Authority, and I refer to page 35 of its annual report. In 1995 total port revenue was $22 million, up from $21.7 million in 1994. The big change in revenue was in 1993-94, with no government subsidy for associated ports.

That was one of the big improvements. On the other hand, investment revenue fell from $3.9 million to $2.6 million. There was no change in absolute dollar revenue. Operating expenses in 1993-94 were $13 million, and operating expenditure in 1995 was $13.7 million. The big change arose out of a reduction in administrative expenses of $800 000 and maintenance of $1.1 million. There has been a major reduction in expenditure.

Another relevant matter is that in 1994-95 the Port of Geelong Authority had the benefit of not having to pay redundancy payments which it paid the previous year to reduce employment. I give full marks to the direction in which the authority has moved in the past three years.
PORT SERVICES BILL

Wednesday, 15 November 1995
COUNCIL

It is instructive to make two points. Firstly, it took the best part of 80 years to start moving in a direction that was consistent to a reasonable level of operating efficiently. Secondly, the Port of Geelong Authority understands that if this progress is to be maintained the port must be privatised. There is no argument from the authority about that. I personally believe there is a substantial improvement to be made. As Mr Henshaw pointed out, the total amount involved in one sense is only 20 per cent or so of total charges in the port, but that is still $20 million. I will take a saving wherever I can get it. I am surprised about the xenophobic view the opposition has of who might buy the port. I will be happy if the best bid comes from a group of local people, but when I look at the major operators in the port I see that Shell takes 55 per cent of the operation; Alcoa, the best part of 15 per cent; the Grain Elevators Board, 20 per cent; and the woodchips and fertiliser industry takes the rest. I do not know who the major port users are that are looking around to take an equity interest. I would not be put out if there were a successful bid from a local group of investors. I, like Mr Henshaw, would be happy about that, but they would also have to improve port efficiency.

The major and important issues in the port are the customers, the people who use the port primarily for export but also for imports. These are the people to whom we should be showing the greatest amount of concern. There is no question that over the years they have paid an excessive amount to the Port of Geelong Authority. To argue that a monopoly has been charging excessive prices, has generated a profit and is efficient is to fail to understand the problem with which we are confronted. The fact is that one has only to examine the number of people whom the port had to find to operate it to get an idea of the extent to which it was overmanned and to which the users of the port paid prices beyond what was reasonable.

As to what the value of the port facilities might be, if Mr Henshaw turns to page 35 of the report and looks at the profitability, excluding income from investments, he will realise that the minister announced not long ago that the government had agreed in principle to the deepening of the channel and the application of the appropriate amount of funds from the reserves to do that. The minister has called for expressions of intention. The government has negotiated an appropriate long-term arrangement with the major port users that will cover the deepening of the port, providing the tender is somewhere near the estimated cost.

If one takes out the investment income and the subsidy that the government has given for the operation of the associated ports one sees that in 1994-95 the port of Geelong made about $4 million profit. I know that is a lot better than the $3 million or $4 million loss it made four years ago. The port has made reasonable progress, but I stress that this is not as profitable as the figures might first show.

At page 32, if one looks at the value of fixed assets shown as cost, not the market value that it cost, one sees that there purports to be some $80 million of assets in place. That may well be an accurate assessment of the replacement value. Mr Henshaw would appreciate that that is by no means an assessment of the income-earning capacity. When one examines what there is to sell at Geelong that is producing an income stream, and when one looks at what the value that the Valuer-General or any other market valuer would do in assessing the value of the port, one realises they will examine the capacity of the port to generate an income stream. One can use whatever formula comes to mind that one thinks appropriate to look at the long-term net profit and work out what one thinks that might generate in terms of a price.

I suggest that Mr Henshaw do that because the data is there for one to see. There are guidelines that the government must follow in making a decision. The government is not committed to privatising this port if it does not make sense or if there are no significant savings to the users, or if it does not receive a reasonable value for the asset. The government is not committed to privatisation at any price, although I am forced to observe that Mr Henshaw seems to be opposed to it at any price, as is Mr Power. I know he was prepared to contemplate a private investment in it.

I do not think we are far away. The real test will be whether we finally get around to making the privatisation decision and obtaining a reasonable price for the assets and guaranteeing a long-term improvement in services and prices. If that is the case, we will attract to the port more than one vessel a day than is currently the situation. That one vessel a day is handled by 101 people employed from a three-storey building with an executive dining-room and all the trimmings.

If Mr Henshaw cannot see the potential for future savings on those numbers I would be astonished. There are many opportunities for savings. The operating expenses as shown in the report at page 35 are $13.7 million. I believe there is plenty of fat and I
think a private buyer will examine that and make a value judgment that the buyer can pay a price consistent with the present net profit on the basis of lower operating costs. If that is the case, there will be lower prices and a good return on the assets.

I am not nearly as pessimistic as Mr Power was about the prospect for Portland. I will have to rely on memory, but I believe the port of Portland has a debt of the order of $35 million.

Hon. D. E. Henshaw — I thought it was $29 million.

Hon. W. A. N. HARTIGAN — You may well be right. It is of the order of $30 million. It is clear that when it is offered for sale and expressions of interest are called for, to the extent that it is overburdened with debt, it is possible that the state will take a net loss on the sale of that asset. It is a desirable outcome to reduce the burden of that debt upon the operators of the port. Probably the port should not be carrying that burden of debt that has affected its capacity to attract more business to the port. At the end of the day we will make money out of selling Geelong and lose money with the sale of Portland. In losing money we will equip the buyer of Portland to operate on a more sound commercial basis and offer a better deal to the users.

In every case our concern is to offer a better deal to the users of the port. The users of the port are in the tradeable sector.

Hon. Pat Power interjected.

Hon. W. A. N. HARTIGAN — You are quite right, Mr Power, Portland is a very important port and so is Geelong because it offers the wheat growers of Australia who export their wheat the chance to make a slightly higher net profit. They make so little profit on their primary products that even a slight improvement represents a substantial total turnaround on their profitability. If we do a good job for the users of our port we will do a good job for the people who work in the port and for the community that live around it.

You draw a rather long bow, Mr Henshaw, when you attribute some thousands of people as directly related to the operations of the port. It has nothing to do with it. The reason the port is there is because it is a seaside location. The people of Geelong benefit to the extent we have a growing import and export trade through that port. That is the only reason there is any real benefit to the people of Geelong.

The programs we have in place and the enabling legislation we are considering tonight are designed to do no more than enhance our international competitiveness and to support the port industries. They are designed to generate more foreign exchange and employment and at the same time get a reasonable price for the assets.

I can see no reason why that would be objectionable to anybody. I cannot for the life of me understand why as a matter of ideology anyone is opposed to privatisation if it will benefit port services. If you agree we have made progress over the past three years, you must agree that the previous years were an unmitigated disaster because the port operators took advantage of the users with a monopoly regime. I wonder how much unemployment that cost us over the long term. I wonder to what extent it diminished the amount of wheat planted, and diminished the other products that went in and out of that port as a consequence of the high cost services offered by it. This enabling bill allows us to offer the port for sale at a price for the service that will bring benefits to the users and to the state. I therefore urge honourable members to support the bill.

Hon. D. T. WALPOLE (Melbourne) — I oppose the bill, and given the lateness of the hour I will try to be brief. I am familiar with the Port of Melbourne Authority, having been an adviser to the board for quite some time. I am also familiar with the Port of Geelong Authority, having been a union official for the ETU responsible, during those years, for all port authority matters. I will contain my comments mainly to the port of Melbourne.

I understand the interface between the authority and other port users under the PMA, that the PMA is and was a one-shop stop for users for the resolution of problems that arise from time to time in and across the port and the provision of services to shipping lines, stevedores and so on. The bill will wipe out this remarkable and effective interface which has served the community so well and replace it with a nightmare structure which, if you believe those on the other side of the house, will benefit the shipping community. I say that is highly unlikely.

The bill is unnecessary and has not been justified in any way by the government. It is introduced at a time when a port is performing better than it has ever performed. In the past financial year the port made a commercial profit of $50 million on a revenue base of $150 million. That is a 33 per cent
PORT SERVICES BILL

Wednesday, 15 November 1995

operating profit — not a particularly bad result. Given the excellent operations result how does the minister justify the bill? At no time has he or anyone else in this government been able or even sought to quantify any savings that will accrue as a result of this restructure, a restructure that will replace an efficient and effective organisation with not two new organisations as has been commonly stated, but four new organisations, all with their own boards and their own chief executives — a four-fold increase in bureaucrats.

Those organisations are the Melbourne Port Corporation, the Melbourne Port Corporation subsidiary company, the Victorian Channel Authority, and the fourth one — which is not even mentioned in the bill — is the residual Port of Melbourne Authority. Each of those four authorities will have its own bureaucracy. At the moment we have one authority covering the area to be covered in the future. What about the benefits of efficiency and scope and scale which currently accrue under the existing port structure? Under the proposed new structure they will disappear. No longer will port users and the people of Victoria benefit from the current efficient operation of the Port of Melbourne Authority. Instead, we will have a plethora of new organisations all expected to interface with each other and operate in an efficient manner. It will be a bureaucratic nightmare. This is shaping up to be about what benefits will be gained. The fact is there will be none. This so-called reform will set the port back significantly.

I will divert briefly to give a small example of the sorts of things that can happen when governments seek to disaggregate bodies such as is intended to take place in a particular area. Recently my colleague Mr Burwyn Davidson and myself were in a train in the United Kingdom and it broke down. We were stuck for an hour and a half in the middle of nowhere. The bar did a roaring trade. I suppose the company running the bar owned the train. I am not sure, but it did quite well! Those of us who were stuck on the train for an hour and a half began to wonder why the train could not move on to the next station. In due course we found out. It was because the company that owned the train was a different company from the one that owned the track. The company that owned the track was not particularly keen on giving quick authority for the train to be moved along to the next station. That might seem to have not a lot to do with the bill in front of the house, however, it is an example of what can occur when organisations are disaggregated in the manner that is intended for the Port of Melbourne Authority.

When we finally arrived at our destination there was a massive queue at the complaints desk. People were asking for their fares back because they were so late in arriving. I guess the company made plenty of money at the bar but probably lost more than it actually made in the end because of the number of people who were able to have their fares refunded as a result of their late arrival.

Transurban will be a significant beneficiary in that it gets its land for nothing to build a bridge that cuts off access to a portion of the port — a bridge that I understand on its original design was designed in such a manner that it was unable to handle B-double trucks, which will play a significant role in the port in the not-too-distant future.

The dockland authority will also be a beneficiary. Berths which still have an operating life of up to 20 years will disappear to make way for housing. The housing certainly will not benefit the bulk of Victorians because most of them will not be in a position to be able to afford to live on that land. Last but not least let us not forget the government’s mates and cronies. We already have the spectacle of Michael Kroger and his mates lining up to look for a slice of the people’s assets. But I would not be surprised if it turns out to be a bargain-basement price — for what? I shudder to think what the founding fathers of the port of Melbourne would think about that. Those pioneers — —

Hon. Louise Asher interjected.

Hon. D. T. WALPOLE — I know who the legal people are.

Hon. Louise Asher — Holding Redlich.

Hon. D. T. WALPOLE — That is correct. I am referring to those pioneers who over 120 years ago fought so hard to establish what we have today — an integrated port. It is not perfect, but one that is positioned to be not only the largest but also the best and cheapest port in Australia. That is not the doing of the government; if anything, it is despite the government and its lunatic industrial relations policies. The PMA, the stevedores, shipping companies and other port users who, along with the waterfront unions, have driven the reform process and put the port in the excellent position it is today. All that is now at risk as a result of the legislation.
Many of the people in the PMA who drove those admirable reforms have been replaced by politically appointed boards and chief executives.

Hon. Bill Forwood — You were a political appointment as an adviser.

Hon. D. T. WALPOLE — In my day the board was made up of industry representatives who understood and had the industry at heart and did not have to kowtow to government.

Hon. Bill Forwood interjected.

Hon. D. T. WALPOLE — As an adviser I did not get a vote on the board. The boards appointed people to positions irrespective of political affiliations and on the basis of competence. Sometimes, unfortunately they got it wrong, as was the case with Mr Jack Firman who, after a disastrous stint at the PMA, was appointed by this short-sighted government to the ambulance service, with very unfortunate results.

More often than not, however, boards got it right, as in the excellent appointment of Mr John King, who was widely respected in the industry for his dedication to finding solutions with the best outcomes for the industry. But Mr King, who could see a disaster before his eyes and was totally ignored by the bureaucratic toadies in the Office of State Owned Enterprise, felt so frustrated and sufficiently strongly about the direction the government is taking that he resigned.

That action says much about the disgraceful bill before the house today. Who has replaced Mr King? None other than the minister’s chief adviser, Mr Kevin Shea. I do not know Mr Shea, but I understand that he is recognised to be very competent. Under normal circumstances he may be well suited to the position. However, at the moment the circumstances are not normal. I understand Mr Shea has been involved in negotiations with Transurban on the City Link project and is party to a process that transfers 15 per cent of the PMA’s berths to Transurban and some 40 hectares of land to Transurban and the Docklands Authority. His appointment as Chief Executive of the PMA will undoubtedly ensure the whole shonky process flows as smoothly as possible. That seems to me to be somewhat incestuous.

The bill is a disgrace. It gives almost exclusive rights to the Treasurer not only to direct the sale of land and assets but also to determine the price. It removes a pivotal role of the port authority in trade development and facilitation in an industry that does not want that. If the government disputes that, I challenge it to consult with the industry. The bill proposes a levy. In this morning’s Daily Commercial News there is an article by Sandy Galbraith, part of which I will read into the record because it discusses the consultation between the government and port users:

In an unprecedented move, three peak bodies have jointly called on the Victorian government to spell out the current status of port reform, to consult more with industry, and accelerate the reform process for the port of Melbourne.

The group, made up of the Victorian Employers Chamber of Commerce and Industry, the Australian Shipowners Association and the Australian Peak Shippers Association, has been studying the issue and is concerned that the government is not consulting enough with interested users.

‘Clearly the government must do a lot more to consult with all port users on reforms, and not just those who have an investment stake in the ports’, said VECCI deputy CEO, Don Larkin, who was acting as spokesman for the group.

Mr Larkin said that without effective consultation there was a danger that decisions would be made that may not be in the best interests of the port and its trading community.

He added that the feedback received from a wide range of port users including shippers, exporters, importers, customs agents and freight forwarders, was that the government had achieved mixed success in implementing the key reform initiatives announced in January that year.

‘Given the importance of the port of Melbourne to Victoria’s and Australia’s economic performance, it should be receiving a lot more attention from the government’, Mr Larkin said.

Hon. R. M. Hallam — What does all that mean?

Hon. D. T. WALPOLE — If you do not know, I don’t know what to say. The article refers to port reform. Reform, as I understand it, refers to a process that improves that which already exists. The bill certainly will not do that. The bill creates barriers to best practice by disaggregating the port, which opens up the prospect of private sector monopolies. It will further add to costs because of the duplication
of services that will arise across the new statutory bodies. There will no longer be a one-stop shop to facilitate problem solving in the industry, which as I mentioned earlier has led to many of the efficiencies gained in the industry in recent years. It does not provide for any compensation to the authority or port users for the loss of facilities or the impact on their trade, which has been estimated at between $80 million and $160 million. The government has not quantified one dollar of savings that will accrue as a result of those changes, and it appears that no cost-benefit analysis has been undertaken to justify the changes.

The bill allows commercial operators to employ their own harbour masters. The employers of harbour masters will be able to apply pressure on them, and that opens up the prospect of the harbour masters being required to allow unsafe shipping movements and to not properly police environment practices and so on. Who will coordinate all the harbour masters? Nothing in the bill indicates how the harbour masters are to be coordinated. Are they to be permitted to operate unilaterally, sending ships willy-nilly up and down channels without any concern for safety?

It is only a question of time before there is a major catastrophe under this poorly thought out legislation. At the end of the day, we will know who is responsible. The buck stops with the minister. I hope I am wrong in making those dire predictions, but I fear I will not be so. I urge all honourable members to oppose the bill.

Hon. R. S. IVES (Eumemmerring) — As befits the hour, my speech will be short. I will detail for the benefit of the minister some doubts and concerns expressed in the Western Port region about the implications of the bill for the port of Hastings. The objectives of port reform, as stated in the second-reading speech, are as follows: to increase port efficiency and improve services, to reduce port costs to cargo importers and exporters; and to achieve a reasonable return to Victorian taxpayers.

One concern of people in Western Port is that there is no mention of the extension, development or expansion of services. Indeed, the objectives could well have been written by a bookkeeper. These fears are not allayed when one goes through the second-reading speech, which states in the second-last paragraph:

In Portland, Geelong and Hastings, the government's January announcement provided that dedicated berths

would be offered to users on a right-of-first-refusal basis. Subject to the outcome of those offers, the onshore assets of each port will be offered for sale as a single parcel.

There is a fear that this could lead to fragmentation, and separate sales of the Crib Point jetty and Long Island Point wharf, with the result that it would then be difficult for the port to expand and reach its full potential as part of the development of the Western Port region.

I have no truck with the former management of the port of Hastings. It is generally agreed that the Port of Melbourne Authority for years retarded and neglected the development of the port of the Hastings. It discontinued the cathodic protection system around the Crib Point jetty — the system of electrolysis which protects concrete from corrosion and deterioration. As a result it is now estimated that $1.5 million of maintenance and refurbishment is required. The port of Melbourne has deliberately held back the development in Hastings in favour of the vested and entrenched interests in Melbourne.

It could be argued, therefore, that any change must be for the better. The port of Hastings has enormous development potential and is important to the region and the state, but it is doubtful whether its potential will be developed under the current bill. The port is a fine, deep-water port with great potential as a bulk commodity port. It is a half day's steaming time from Melbourne, which saves ships from places such as Japan a day's steaming time on a return voyage.

There is talk of substantial closures of berths in the port of Melbourne as a result of the City Link project. Replacement berths could be built cheaply at Hastings. Between Crib Point and Long Island Point there is as much land as at Appleton Dock. The port has transport links via the freeway to the city, with direct road access to the freeway, and trucks would not encounter a red light between Hastings and the central business district. On the completion of a spur line to link the port with the national rail link, Hastings would become a natural port for the loading of coal and other products from the immediate region and from Gippsland.

However, the present fear is that should it be sold off the port will be fragmented, with isolated docks being sold. It is understood there are presently some discussions and negotiations with parties in respect to Long Island Point and the Crib Point jetty. These may be the present major users but they are not
large-scale users and if they purchase the facilities they will simply proceed to tie up the port. That action would prevent any long-term viable and coherent development and promotion. Alternatively, the port of Hastings may be bought cheaply by some company with a controlling interest in the port of Melbourne, in whose interests it would be to run the port down.

The development of the port of Hastings, served by adequate road and rail networks, is crucial and integral not only to the further development of the Western Port region but also of the state. On present indications the bill will in no way ensure that development takes place; it is more likely that there will be fragmentation and a further running down of the port.

House divided on motion:

Ayes, 26
Asher, Ms de Fegely, Mr
Ashman, Mr Evans, Mr
Atkinson, Mr Forwood, Mr
Baxter, Mr Guest, Mr
Best, Mr (Teller) Hall, Mr
Birrell, Mr Hallam, Mr
Bishop, Mr (Teller) Hartigan, Mr
Bowden, Mr Knowles, Mr
Brideson, Mr Skeggs, Mr
Connard, Mr Smith, Mr
Cox, Mr Stoney, Mr
Craigie, Mr Varty, Mrs
Davis, Mr Wilding, Mrs

Noes, 11
Gould, Miss Mier, Mr
Henshaw, Mr Power, Mr
Hogg, Mrs Pullen, Mr
Ives, Mr (Teller) Waipole, Mr (Teller)
Kokocinski, Ms White, Mr
McLean, Mrs

Pairs
Storey, Mr Nardella, Mr
Strong, Mr Davidson, Mr
Wells, Dr Theophanous, Mr

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.
hot-water cylinder in his water heating system and his washing machine. Other household appliances have also been adversely affected. All water needs to be filtered at a cost of $8.30 a month, with all the attendant dangers of bacteria building up in the filters.

Yarra Valley Water recently supplied Mr Willsher with 24 litres of emergency bottled water, but this hardly seems to be a satisfactory long-term solution. I request that the minister investigate work practices, the regular purging of pipes, and installation of automatic air purging valves with a view to improving the quality of the water supply in hilly areas in the southern Dandenongs.

Local government: commissioners’ salaries

Hon. PAT POWER (Jika Jika) — I seek the assistance of the Minister for Local Government on a matter involving the chairpersons and commissioners in the new municipal structure. The opposition understands that chairpersons are on a pro rata salary of $80 000 and commissioners are on a pro rata salary of $60 000. I seek from the minister in due course information and advice on the way chairpersons and commissioners substantiate their claims for whatever the pro rata payment might be from pay period to pay period.

I would appreciate it if the minister could advise the house which records are kept at the municipality to demonstrate the on-duty times, for want of a better term, and which activities and visits outside normal office hours he considers to be eligible for pro rata payments.

Merindah Park, Sandringham

Hon. B. T. PULLEN (Melbourne) — I raise for the attention of the Minister for Conservation and Environment a piece of parkland in Sandringham that stretches from Holloway Street to Spring Street — and I have given the minister a copy of the Melway page. The land is about 60 metres by 300 metres and is known locally as Merindah Park.

Since 1950 locals have used the land as a park, and it is shown in the Melway as a reserve. The part that is treed is known locally as the Green Belt; and interestingly enough it is described as such in the directory.

The land has had a strange history. Although it has been used as a park, the underlying zoning is residential C. From time to time the local council has considered developing it for private housing — and at the moment the commissioners are moving to do just that. No doubt they are under some financial pressure to realise some funds.

Hon. R. M. Hallam interjected.

Hon. B. T. PULLEN — I am leaving you out of it at the moment.

Hon. R. M. Hallam interjected.

Hon. B. T. PULLEN — I realise the consequences of the message to generate funds that has been pressed on them by the Minister for Local Government.

Hon. R. M. Hallam interjected.

Hon. B. T. PULLEN — The local community is strenuously resisting the move. Although the piece of land is small, it forms part of a corridor that stretches from Bay Road, where there is a heathland sanctuary, along a devious sort of path and through a collection of treed and open space areas almost to the Beaumaris heathland, because there are golf courses in the vicinity. The locals see the land as part of a wildlife and flora corridor as well as a small park that allows passive recreation. A committee to save the park is being formed, and some people have taken the matter to the AAT. The campaign is consuming a lot of their energy.

Given the coalition’s policy at the last election to not allow any further erosion of our existing parks, I ask the minister whether he will allow some people from his department to investigate the park to see whether there is some way to assist the locals to have the land become part of the wildlife corridor.

Hon. M. A. Birrell — What are you suggesting?

Hon. B. T. PULLEN — I am suggesting that the residential C zoning seems anomalous.

Hon. M. A. Birrell interjected.

Hon. B. T. PULLEN — It is owned by the council. I think it came to the council by way of adverse possession.

Hon. M. A. Birrell — It is freehold land?

Hon. B. T. PULLEN — It is held by the Sandringham council, yes.
Hon. M. A. Birrell — So it is private land, owned by the council, zoned residential and the subject of an AAT appeal?

**Hon. B. T. PULLEN** — Yes, but there are mechanisms. The appeal has been dealt with.

**Hon. M. A. Birrell** — What was the outcome?

**Hon. B. T. PULLEN** — The outcome was that there is a question mark over one part of the land because of contamination, and the EPA has been investigating that. The proposal to go ahead with the development has been put on hold until it has been established that the land is suitable for residential development.

It seems to me that instead of having a long, protracted and conflict-ridden campaign it would be appropriate to look at what a proper planning solution would be. I believe the state government could take an interest in this area and the minister who is responsible for parks could at least examine the issue from the point of view of the parks.

**Responses**

**Hon. M. A. BIRRELL** (Minister for Conservation and Environment) — Mr Ives raised with me for the attention of the Minister for Natural Resources the matter of water quality in the southern Dandenongs, and I will certainly pass on his concerns to the minister.

Mr Pullen raised a matter with me about land in Sandringham which is private land, zoned residential, owned by the local council and which has been subject to a publicly accessible and completely proper Administrative Appeals Tribunal hearing process, according to the honourable member. I will raise the matter with the Department of Planning and Development to start with because it appears to be a planning issue as it does not involve any public land, and I will get a detailed reply to him on that matter from the department’s perspective.

**Hon. R. M. HALLAM** (Minister for Local Government) — Mr Power raises with me the issue of payments to commissioners and accurately cites the basis upon which those emoluments are determined — namely, a pro rata of $80 000 a year for the position of chairman and $60 000 a year for the position of commissioner. He asked how that pro rata is to be determined.

I make the point that we can expect the charter for commissioners to vary from location to location over time and we leave the issue of how the payments are to be determined to the commissioners according to the claims they lodge. Payment is based upon the days in the week when they are involved as commissioners, so if a commissioner works two days a week we would expect that to be reflected in the claims put in for payment.

I might just say as an aside that I read in the *Melbourne Times* that Mr Power has given credence to the notion that commissioners will be entitled to some sort of severance pay at the end of their commissions and that I was to be subject to a barrage of questions in this place on that issue. I simply want to put that to rest, and I think Mr Power understands it to be a fanciful notion. The commissioners are paid pro rata at the rate of $80 000 for the chairman and $60 000 for a commissioner. They are of course not entitled to any severance pay at the end of their terms. I am pleased to have the opportunity to make that clear.

**Motion agreed to.**

House adjourned 12.52 a.m. (Thursday) until Tuesday, 21 November.