Tuesday, 20 October 1998

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.33 p.m. and read the prayer.

CONDOLENCES

Theodore Sidiropoulos, Esq.

Hon. T. C. THEOPHANOUS (Jika Jika) (By leave) — I wish to say a few words about the untimely death of Theo Sidiropoulos, the former honourable member for Richmond. Theo Sidiropoulos was a genuine trailblazer, a man who prepared the path for so many others who followed. He did so because of his commitment to social equality, a better deal for workers, a diverse multicultural society and to the idea that, irrespective of people’s background or religious beliefs, they could take their places at the highest level in this country.

I knew Theo for almost 20 years, during which time he remained consistent in his views and in what he believed, something I have always respected. I remember that 16 years ago he was at my sister’s wedding, but unfortunately she too recently tragically passed away.

Theo was the first Greek-born Labor member of Parliament and may have been the first from a non-English-speaking migrant background. In that sense he was a pathfinder for many of us who were also born overseas and came from non-English-speaking backgrounds. For that he will always be remembered. In attendance at his funeral last week were former Prime Minister Gough Whitlam, former Premiers John Cain and Joan Kirner, Barry Jones, Al Grassby and a host of other people who had known him for a long period and who respected what he had achieved.

Theo Sidiropoulos joined the Labor Party in 1957 shortly after his arrival in Australia and was always an active party member. He was a Collingwood city councillor from 1968-78, including a term as mayor around the time of his election to Parliament. I believe Theo, in full mayoral regalia, was one of many in the Labor Party who tried to stop the construction of the Eastern Freeway. His involvement with the ALP also extended to membership of the immigration and ethnic affairs and the industrial affairs policy committees, and he was a member of the government task force on bilingual education.

Theo Sidiropoulos was active within the Greek community and spent time on the Melbourne and Victoria committee of that community. On behalf of the Greek community he pursued with a considerable passion a number of issues including the introduction of bilingual education into Victorian state schools. Another of his great passions was for the community to recognise trade and professional qualifications of migrants — a matter which has been taken up by successive governments and addressed, to a point.

Theo supported and was active on radio 3ZZZ; not long ago he interviewed me in Greek on that station. He maintained an interest in politics even after he left Parliament. His whole life was a tribute to Australia’s postwar migrant program, to multiculturalism and to the way a country can be enriched when it opens its doors to what were then ordinary people migrating from other countries who had only one aim: to discover a country where they could find justice for themselves and their children.

Theo was born on 24 July 1924 and educated in Katerini, Greece. He was involved with the Greek Resistance between 1942 and 1945. After a term as the municipal registrar in the City of Katerini between 1949 and 1954, he migrated to Australia in 1954. He then returned to Greece to collect his future wife, Popi, and returned to Australia. They were married in 1956 and later had two children, Anthie and Harry.

Like many other migrants at that time Theo came to Australia and worked in a factory. He worked at General-Motors Holden. My father, who came to Australia at about the same time, worked at the Standard Motor Company, which no longer exists. Theo also worked as a tram conductor and then as a small businessman. He had broad experience.

Because he came from an essentially working-class background, worked in a factory and was a migrant who on arrival could not speak English, I pay tribute to his becoming the first migrant member of Parliament. That is an achievement we should all recognise and one that I salute.

Theo Sidiropoulos entered the Victorian Parliament as the member for Richmond at a by-election in 1977 following the resignation of Clyde Holding. Theo was the member for Richmond for 11 years until August 1988. He was retiring when I was elected. During his time in Parliament he was Government Whip and a member of the University of Melbourne council, the Public Works Committee, the Public Bodies Review Committee and a government representative on the Melbourne/Thessaloniki Sister City Committee. He had a broad range of interests.
For his contribution to the Victorian Parliament and to the community, the opposition recognises the achievement of Theo Sidiropoulos. Today I say farewell to a Labor member of great courage and commitment. On behalf of the Labor Party opposition I extend my condolences to Theo's wife, Popi, and their children, Anthea and Harry.

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) (By leave) — This debate represents an unusual action by the house, although it is common for it to recognise the passing of current members of either chamber, former ministers or former members of this chamber. This debate, by leave, is appropriate given that Mr Sidiropoulos was a member of Parliament alongside many of us. Therefore, he is a contemporary of many current members.

He was a Labor Party member of the Legislative Assembly from 1977 to 1988 and had been active in local government affairs in the then City of Collingwood. He was a mayor of that city, as was, I think, one other member of this chamber. Theo was highly regarded across all sides of Parliament. As a Greek-born Australian citizen and as a clear advocate for his community in public life and within Parliament he was well respected. It is fair to say he was a pacesetter in the many issues he raised in a manner that is now perhaps not regarded as exceptional but was so regarded in the mid-1970s.

To his surviving family I extend my condolences on behalf of the government and government members.

Hon. W. R. BAXTER (North Eastern) (By leave) — I remember Theo Sidiropoulos well with respect and high regard for the reasons outlined by the Leader of the Opposition. I served with Theo on the former Public Works Committee from 1979 to 1982. I enjoyed his contribution to that committee's activities and especially his company and that of his delightful wife, Popi, on committee inspections, particularly to the Ord River and far north Queensland.

My then wife and I formed such a friendship with Theo and Popi that they kindly and generously invited us to the wedding of their daughter at the Greek church in Victoria Parade, East Melbourne. I remember that as a gala event in the full Greek tradition; it was a grand occasion. Other honourable members were also present on that day.

Theo Sidiropoulos was a trailblazer. It is appropriate to make particular note of the fact that he established a path that others are now following and through which they are enriching our society. I am happy to associate the National Party with the comments of the house and, in particular on my own part, to pass on our condolences to Popi and her family.

Hon. C. J. HOGG (Melbourne North) (By leave) — I first met Theo Sidiropoulos in 1968. He was a friend for 30 years, although in the past few years we probably lost touch as many people do when their paths do not interconnect quite so much. Basically, Theo Sidiropoulos was a terrific bloke. All the political tributes we pay do not really get close to touching the essential niceness, decency and good humour that was Theo's or the smile and radiance that lit up his face or the singing that many members of this house would have heard at the annual Christmas party. He had a terrific voice and very much enjoyed singing partisan Greek songs and perhaps some Australian songs that he learned along the way.

I remember Theo most keenly because of the experiences we had at local government level when we forged the type of friendship that is necessary if you are to be true friends. I remember him, with Cr Petersen, standing in full mayoral robes in protest on the Eastern Freeway. I remember the effort he made to make certain the community health centre, then known as Dr Singleton's, became the Collingwood community health centre; and the effort he put into making sure the library — a poor, sad establishment — became the Carringbush library, now a good library shared by the citizens of Richmond and Collingwood.

I remember the effort Theo put into the Collingwood education centre. He adored that place where his kids went to school. After the old Collingwood High School was burnt down in that awful rash of fires that destroyed many secondary and primary inner suburban schools, the government of the day was persuaded to try to do something really new, different and special with the Collingwood site. The Collingwood education centre was the first school of its kind in Victoria to incorporate a primary and a secondary school as well as a community education function into the one site. Much of the activism that powered that decision was Theo's. The centre was readily enjoyed by members of the community and council, and was eventually blessed by the government of the day.

Theo Sidiropoulos was a great enthusiast for local government — what it could do and what services it should provide. He was the first councillor in the then City of Collingwood to try to provide services for the Greek elderly. With the small mayoral allowance he received, he and Popi provided the first services in the form of cups, saucers and teaspoons for that group.
As a local member of Parliament he was proud to represent a slightly wider community than Collingwood. Through all that time and during the preceding years he was attentively and lovingly assisted by Popi. As Mr Baxter said, she and Theo made a most generous and hospitable couple. You could not find people who were more inclined to open their house and hearts for community events.

I did not realise until perhaps three or four years ago that as a young man Theo had been part of heroic events, I think it is fair to say, in Greece in the final years of, and for a couple of years after, the Second World War.

As a young man Theo participated in political and community events that today's young people could barely imagine. Since the time Theo sat in Parliament as a member of the Collingwood community I have often thought about his past which was full of heroic deeds and which was vastly different from that of most honourable members.

Theo Sidiropoulos was a terrific bloke, as all speakers have said, and I am delighted to add my very heartfelt condolences to Popi, Anthie and Harry. I was shocked by Theo’s death. He was so lively that to me he seemed indestructible. Indeed, people were really amazed when on the day of the last federal election he did not turn up to hand out how-to-vote cards. It was only then that someone got on the telephone and found that he was sick in hospital and, indeed, did not come out of hospital. Theo will be remembered by members on this side of the house and in the wider community with much affection.

**Hon. B. T. PULLEN** (Melbourne) *(By leave)* —

Like Mrs Hogg, I knew Theo Sidiropoulos for about 30 years. I met him under circumstances where we were both concerned about what was happening in Fitzroy and Collingwood. We could not understand the destruction of houses and the pushing out of people, often migrants, who were spending a lot of their time fixing up little houses in the city. Theo, like me, could not understand why these houses that were being repaired by people who were attempting to raise families in them, were being demolished to create large structures in the sky. I did not know much about planning at that stage and I do not think Theo did either, but our intuition was that it was hopeless wrong.

As I got to know Theo during the various meetings that occurred at the local level I discovered that he had a great interest in education and had worked on the local school council. In one of those ironies of life we spent some time defending local schools against overcrowding and seeking to get rid of portable classrooms because of the significant increase in the population, yet during a later period while both serving as members of Parliament we again were defending those schools against closure by our own government because of the reducing population and the reduction in student numbers at those schools.

As Mrs Hogg has said, it was his honesty and ability to grasp issues quickly and clearly that I found most attractive in Theo Sidiropoulos. In some ways I was slow to understand issues and would examine them carefully. After I had examined the issue and generally before I had a chance to say something, Theo would say, ‘We will do this’, and he was invariably right.

I had many happy and cooperative conversations with him discussing projects. Theo served in local government for some 10 years and was a distinguished mayor. Like many people he got involved in disputes about the freeway because it was seen as a significant intrusion into our neighbourhood. Like the colourful Fitzroy mayor, Billy Petersen, he was doing things with people and showing that he was prepared to put his body on the line over issues he thought were important. Too often in Australia we tend to think of people in terms of their occupations. Theo Sidiropoulos was a small businessman and I thought it was unusual and a contradiction to find a small businessman who was so left wing and radical — someone who had a different milieu of thought. It is more a European situation, but it opened my eyes and made me realise that we should see people in terms of what they think and do rather than put labels on them.

Theo was extremely generous to me. He introduced me to many people in the Greek community and took me around to meet people in clubs, teaching me to play backgammon, which he played with gusto and enormous speed. Not for Theo and his friends the softness of the backgammon sets that had felt backing on them. They played it vigorously, excitingly and their style was to think quickly and to act.

Theo Sidiropoulos made an enormous contribution to the area in which I live. He inspired a number of people and in my mind he typified an important value in politicians: to think in terms of issues and not to get involved in personalities. It was clear by the friendships and links he made on all sides of politics that he could distinguish between disagreeing with someone about an issue he held dearly while recognising that the person was a human being and that he could still have a proper relationship with him or her.
Theo Sidiropoulos will be sorely missed by people in the Labor Party and the Greek community, as was shown by the enormous attendance at his funeral service. I sincerely join in the condolences to his wife Popi, Anthie and her partner Michael, and son Harry.

ROYAL ASSENT
Message read advising royal assent on 13 October to:
- Local Government (Amendment) Act
- Physiotherapists Registration Act
- Printers and Newspapers (Repeal) Act
- Road Safety (Amendment) Act
- Trade Measurement (Administration) (Amendment) Act

PLANNING AND ENVIRONMENT (AMENDMENT) BILL
Introduction and first reading
Received from Assembly.
Read first time on motion of Hon. R. M. HALLAM (Minister for Finance).

LEGAL PRACTICE (AMENDMENT) BILL
Introduction and first reading
Received from Assembly.
Read first time on motion of Hon. LOUISE ASHER (Minister for Small Business).

PETROLEUM BILL
Introduction and first reading
Received from Assembly.
Read first time on motion of Hon. G. R. CRAIGE (Minister for Roads and Ports).

CONSUMER CREDIT (FINANCE BROKERS) BILL
Introduction and first reading
Received from Assembly.
Read first time on motion of Hon. LOUISE ASHER (Minister for Small Business).

QUESTIONS WITHOUT NOTICE
Workcover: Shell refinery

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the minister responsible for Workcover to the closure of parts of the Shell refinery due to safety concerns. Will the minister confirm that that is a belated response to safety concerns about the plant dating back to 1995 that have been raised by the Country Fire Authority and the union? Will he further confirm that those concerns came to a head last week when a safety representative discovered that hydrocarbons had leaked into firefighting pipes designed to carry water, thus creating a situation of extreme danger?

Hon. R. M. HALLAM (Minister for Finance) — I certainly do not accept the honourable member’s description of this as a belated response. I can report to him and to the house that the issue confronting the Victorian Workcover Authority relating to the oil refinery at Corio near Geelong is a result of an inspection undertaken on 27 July, followed by a further inspection on 25 August and subsequent inspections on 15, 16 and 30 September. It is a good illustration of the system at work.
As it happens, part of the refinery has been closed down because of concerns regarding the alternative fire protection that is required under the notice issued by the Victorian Workcover Authority. I simply make the point that no matter how much the honourable member might try to denigrate the role of the authority, the result that has emerged at Shell is a good illustration of the system at work.

**Mental health: services**

Hon. J. W. G. ROSS (Higinbotham) — Will the Minister for Health advise the house of the government's commitment to the reform and expansion of Victoria's mental health services?

Hon. R. I. KNOWLES (Minister for Health) — Dr Ross's question is pertinent given that this is Mental Health Week, which I had the privilege of launching yesterday morning at Parliament House. Those responsible have organised a huge range of activities right throughout Victoria. The week is designed to draw the attention of the community to the importance of promoting good mental health and developing a system that provides an appropriate response to the one in five Victorians who will develop a mental illness at some stage during their lives.

Mental health services have been a high priority for the government, and over the past six years the resources available for mental health services have increased by something like 50 per cent. Not only has the government significantly increased available resources, but it has significantly reformed the system to ensure that it is much more community based. Now more than half those resources are used in providing community-based mental health services.

In the past year the government has given priority to particular areas of mental health. There has been a significant expansion of psychiatric disability support services, and over the past six years there has been a 200 per cent increase in the resources made available to those services. The government has allocated $2 million for the employment of ethnic mental health consultants in every region to ensure that the service is able to respond to the needs of Victorians from non-English-speaking backgrounds. Finally, in the past year the government has had a particular focus on developing mental health services for Kooris, a group of Victorians who have previously been poorly served by the mental health service system.

We can celebrate those significant achievements. Victoria continues to be recognised, not only in Australia but also internationally, as a leader in reforming mental health services. The new government in Britain recently sent a delegation to Victoria to study our reforms to the system. On its return to England the delegation announced that it intended to implement in Britain many of the reforms that have already been introduced in Victoria.

Although not underestimating the continuing challenges that we face to ensure the ongoing development of appropriate mental health services, we can take some pride in the changes that have been made and the benefits that have flowed from them. As I said yesterday, and I am happy to repeat it today, I trust that all those who have been involved in developing the multitude of activities throughout Victoria in the coming week will enjoy the success to which they are entitled. I also trust that the celebration of Mental Health Week will help to develop an appropriate community attitude, destigmatising mental illness and allowing it to be recognised as a mainstream health issue, and that with appropriate support those who suffer mental illness will continue to make significant contributions to our community and lead fulfilling lives. It is an area of priority for the government, and it will remain so into the future.

**Workcover: Shell refinery**

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Finance to his answer to the previous question, in which he sought to justify the Victorian Workcover Authority's safety inspection record at Shell. I ask him to confirm that the last occasion on which the Victorian Workcover Authority carried out a safety audit of the Shell refinery at Geelong was in 1995, and only after the CFA had raised serious concerns? Will the minister further confirm that 75 per cent of the safety issues raised in the 1995 report have still not been complied with and that no action has been taken by the VWA?

Hon. R. M. HALLAM (Minister for Finance) — Here is another attempt by the honourable member to denigrate the role and performance of the Victorian Workcover Authority. It strikes me as a bit strange, Mr President — —

Hon. T. C. Theophanous — We are concerned about safety! We care about people dying! When was the last safety audit?

Hon. R. M. HALLAM — If the honourable member were concerned about workplace safety, he would not be so ready to denigrate and criticise the people responsible for it in the workplace.
Hon. T. C. Theophanous — If they did their jobs, I wouldn’t be!

Hon. R. M. HALLAM — Now the honourable member casts aspersions on all health and safety officers across the entire state. That is effectively what he is doing.

Hon. T. C. Theophanous — Under your management.

The PRESIDENT — Order! The house will settle down and allow the minister to answer the question. We will then move on to the next question.

Hon. R. M. HALLAM — How can the honourable member justify his position when in this place he is prepared to name people and criticise their performances and roles when all they have been guilty of is doing their jobs and when he is prepared to protect members of the same union who are coming to him with unsubstantiated allegations?

Hon. T. C. Theophanous — They happen to be inspectors. They are concerned.

Hon. R. M. HALLAM — On the basis of unsubstantiated allegations, unnamed and unidentified officers are prepared to denigrate the role and performance of fellow union members. Are other members of the opposition prepared to support that stance and that strategy?

Honourable members interjecting.

The PRESIDENT — Order! The house cannot proceed unless Hansard can hear the minister’s answer. The house will settle down and allow the minister to complete his answer.

Hon. R. M. HALLAM — These attacks are scurrilous.

Hon. D. T. Walpole — Answer the question!

Hon. R. M. HALLAM — I would like to know, Mr Walpole, whether you support the strategy undertaken by your so-called leader and whether you are prepared to put on the record that it is appropriate to slander safety officers on the say-so of unnamed officers, given that the overall charter of the Victorian Workcover Authority is workplace safety, which is meant to be in the interests of the people you say you represent? I will give you the good news again.

Hon. T. C. Theophanous — At least I took the trouble to find out when the last safety audit was conducted!

Hon. R. M. HALLAM — It would not have taken you too much trouble to find out, Mr Theophanous — you would know if you had bothered to read any of the available data — that we have reduced the incidence of traumatic injury in the workplace.

Hon. T. C. Theophanous — On dodgy figures!

Hon. R. M. HALLAM — I am prepared to stand by them. I want this on the record: I am prepared to stand by my figures if the honourable member is prepared to stand by his accusations and name the people he is now relying on. Name names!

Hon. T. C. Theophanous — On a point of order, Mr President, the question I asked the minister had to do — —

Honourable members interjecting.

The PRESIDENT — Order! If you are commenting on the nature of the question, that is not a point of order. As the honourable member knows, the rules about questions and answers are clear. They have been spelt out by the Chair — by me and my predecessors — for the past 15 years.

Hon. T. C. Theophanous — He is under an obligation to answer the question.

The PRESIDENT — Order! He is under an obligation to give an answer that is responsive to the question.

Hon. T. C. Theophanous — That is right. It was not responsive to the question.

Hon. R. M. HALLAM — Mr President, I am happy to be judged on the data I have used in the chamber. In return, I ask the honourable member to justify the accusations he has put about in the marketplace. I want some answers: I want to know, for instance, whether the honourable member has taken his accusations to the police. Has he mentioned any of his accusations to the coroner?

Hon. T. C. Theophanous — Are you talking about Shell?

Hon. R. M. HALLAM — I expect to see the honourable member’s advice go to the coronial inquiry. Let’s see how good the honourable member is!

Hon. D. A. Nardella — This is Shell at Corio!

Hon. R. M. HALLAM — You want to talk about health and safety? Let me talk about — —
Honourable members interjecting.

The PRESIDENT — Order! Things are getting out of hand. The minister has made his point, and the house will move on to the next question.

Yarra pedestrian bridge

Hon. I. J. COVER (Geelong) — Will the Minister for Industry, Science and Technology advise the house of recent steps taken to further enhance Melbourne’s reputation as the convention and exhibition capital of Australia?

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — I thank the honourable member for his question. I was very pleased to be with the Premier last week at the official opening of the new pedestrian bridge across the Yarra River that links the Melbourne Convention Centre with the Melbourne Exhibition Centre. The physical connecting of the two precincts was an historic moment. The work commenced in late 1992 with our construction of the Melbourne Exhibition Centre, followed by the purchase of the then World Congress Centre from the foreign banks that owned it under a funny financing deal created by our predecessors. As the owner of the Congress Centre, renamed the Melbourne Convention Centre, and as the creator of the Melbourne Exhibition Centre, the government was in a position to physically link the two by a pedestrian bridge across the Yarra River. The 370-tonne covered walkway between the two landmark properties will further enhance Melbourne’s status as a convention and exhibition market.

The two centres cater for the tens of thousands of local and international visitors who each week attend trade shows, public exhibitions, conferences, meetings and dinners. The $10.5 million pedestrian bridge project has also created a new entrance to the Melbourne Convention Centre. The bridge will be put to immediate use, with two large conventions, Interact and Sapphire 98, about to be held.

The bridge project included the construction of the long-overdue new entrance to the convention centre. For the first time the public will have unimpeded and architecturally sound access to the convention centre, rather than having to walk unceremoniously up the back driveway into the large building. The new Spencer Street entrance will enhance public access at street level with a new stairway and escalators.

Since the government came to power, the old used car lot, the cement batching factory and the closed rail yard on the south bank of the Yarra have been turned into a casino and an exhibition centre. Visitor numbers have risen from several thousand to around 15 million a year. The amount of pedestrian traffic in the area has therefore grown tremendously, so good pedestrian access to the buildings has become essential. The new bridge, which is an architectural feature in itself, provides protection from the wind and rain. I hope those honourable members who have not yet seen it will go down there and enjoy it.

I am delighted to be able to also advise the footbridge was built by Geelong Fabrications at Geelong, before being transported in sections up the highway to Melbourne. It was a pleasure to visit Geelong Fabrications. It has provided the engineering structures for the roof of the Melbourne Park National Tennis Centre as well as structures for Parliament House in Canberra. The company has a worldwide reputation and it has done an outstanding job with a very demanding steel-based structure for this bridge.

I also congratulate John Holland Constructions and Heritage Glass and, most importantly, Melbourne architect Peter Elliott, who has done a very good job in blending together the architecturally superb and national award-winning Melbourne Exhibition Centre with the architecturally indifferent and unusual World Congress Centre. Blending the two has created quite a statement on the river and I commend them for it.

Workcover: Mulgrave office

Hon. M. M. GOULD (Doutta Galla) — I refer the Minister responsible for Workcover to an internal memo from the head of the Victorian Workcover Authority’s eastern division, John Hickey, to staff dated 18 October, which states that the authority:

closed Mulgrave office early on Friday (16/10/98) and searched for material which may have been overlooked — and that —

the search was overseen by Arthur Andersen, VWA’s auditors.

Will the minister confirm whether the Esso Longford master file pertaining to the dangerous goods licence renewal was found in that search?

Hon. R. M. HALLAM (Minister for Finance) — I am flattered that Miss Gould would expect me to have that sort of data.

Hon. T. C. Theophanous — We do not expect you to have anything because you never answer a question.
Hon. R. M. HALLAM — Then why do you keep asking them? As I expect Miss Gould would anticipate, I shall take the question on notice and report in due course.

West Gate Freeway: noise controls

Hon. W. R. BAXTER (North Eastern) — I desire to ask the Minister for Roads and Ports a question regarding noise attenuation on freeways and in passing I note that the sound barriers on the Eastern Freeway extension have won international acclaim. My question then goes to the widening and enhancement proposed for the West Gate Freeway. Will the minister advise the house what noise attenuation measures will be included in that project?

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I thank Mr Baxter for his question and his recognition of the government’s role in improving noise attenuation methods on Victoria’s freeway network. Earlier this year the government announced the allocation of $13 million from Better Roads Victoria — a most successful program introduced in 1993 by this government, but which the Leader of the Opposition calls a silly tax that he wants to abolish, and we must continue to ensure the public understands that is the ALP’s roads policy — designated for work on the West Gate Freeway. It will improve the freeway by adding an extra lane on both carriageways of the freeway between the Western Ring Road and the West Gate Bridge.

I am pleased to inform the house today that as part of the measures for improving that freeway the government will allocate $2.5 million for additional noise fencing for the length of that route — that is, $2.5 million for noise attenuation, particularly as it relates to residential areas and properties along the freeway. All areas adjacent to residential properties along the freeway will be treated with new timber noise fences, and in some places there will be a 5-metre high continuous noise wall, which was not originally put there. Timber fencing will provide equally effective noise reduction to concrete walls at a lower cost and will match the existing fencing. Those walls have certainly been seen to effectively reduce noise along freeways. After much dialogue with the community in the area the government has considered providing residents with some real noise relief along that section of the freeway, and that is why it has allocated this amount of money for the project.

Some other measures proposed for that extended part of the freeway include significant landscaping along the improved area and the planting of additional trees and shrubs on the outer verges of both carriageways. I am pleased to announce that the project will commence early next year and will be completed — with the roadworks, noise attenuation, landscaping and additional tree planting — by December 1999.

Workcover: Mulgrave office

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister responsible for Workcover to the internal memo dated 18 October from John Hickey, which states that the VWA management had closed the Mulgrave office early last Friday in order to allow Arthur Andersen, consultants, to conduct a search for material which may have been overlooked in earlier searches. Were those searches conducted because the VWA did not know what documents it possessed, or was it because the VWA does not trust its own management to comply with the coroner’s request?

Hon. R. M. HALLAM (Minister for Finance) — I shall take that question on notice as well, but by way of preamble I suspect the rationale was nowhere near that postulated by the two honourable members opposite.

Tourism: Australian awards

Hon. R. H. BOWDEN (South Eastern) — Will the Minister for Tourism advise the house of Victoria’s success at last Friday’s Australian Tourism Awards?

Hon. LOUISE ASHER (Minister for Tourism) — I thank Mr Bowden for his question and his interest in Victorian tourism. As he indicated, the Australian Tourism Awards were held in Brisbane last Friday night and for three years in a row Victoria has scooped the pool with the most awards of any state. There are seven category winners I wish to congratulate and direct to the attention of the house. Given the number of Victorians in the chamber, I am sure we are all very pleased that the AFL final series won the major festivals and special events award, and against some very stiff competition — the Sydney Gay and Lesbian Mardi Gras.

Honourable members interjecting.

Hon. LOUISE ASHER — The award for general tourism services was won by Melbourne Airport, which I know is of great interest to the Minister for Industry, Science and Technology. The award for tourism retailing was won by the Healesville Sanctuary. The tour and transport operators (significant) award was won by Melbourne River Cruises. I direct particular attention to this because one of the things the government is trying to do is to open up the Yarra River. This business has been operating successfully on the Yarra for some time and has won a national award.
The award for tourism wineries was won by the Red Hill Estate winery, against very vigorous competition including a whole range of South Australian wineries. The award for unique accommodation was won by Riviera Nautic. That is a very small business in regional Victoria which has done particularly well in recent times.

Of course, everyone is proud that for the third year in a row Victoria was the best performing state in the Australian Tourism Awards. However, there is a deeper meaning — that is, that our tourism product and infrastructure has been developing well in recent times. I formally congratulate all the winners.

**Gas: Longford explosion**

**Hon. PAT POWER** (Jika Jika) — I refer the Minister for Small Business to comments made by the Victorian Employers Chamber of Commerce and Industry when it indicated that in its opinion the terms of reference for the Longford royal commission were too narrow. Given that Victoria’s peak body for small business has indicated its lack of confidence in the terms of reference for the royal commission, has the minister made any representations to the Premier to have the matter corrected?

**Hon. LOUISE ASHER** (Minister for Small Business) — I am delighted to make a number of points on the issue. First, VECCI is a peak body that covers both small and large businesses. VECCI certainly has a small business committee — a member of VECCI sits on my small business round table — but it may be a little perturbed to be regarded as solely a small business peak association. It covers the full gamut. I also advise Mr Power of the way government works, as he is not in government. The terms of reference were, of course, put through the cabinet of which I am a member. I am delighted the terms of reference are so broad.

**Workcover: annual awards**

**Hon. W. A. N. HARTIGAN** (Geelong) — Can the minister responsible for Workcover inform the house of the highlights of the recent annual Workcover awards night?

**Hon. R. M. HALLAM** (Minister for Finance) — I thank the honourable member for his question and the opportunity he provides me to report on an important occurrence in the Workcover calendar. I have previously reported that those who are concerned about workplace safety see this as an important initiative, given that the Health and Safety Week is actively supported by both employers and employee organisations as well as now being seen to be of significant importance across the general community.

On 7 October I was pleased to attend the annual Workcover awards ceremony at the Melbourne function centre and particularly pleased to recognise those who had reaped the rewards of workplace safety under the headings of “excellence” and “innovation”. It was a night when we put aside political differences and legislative changes became something of just passing interest.

There were nearly 200 entries to be judged. The organisations that entered the 1998 awards did so because they knew the objectives were good for the workplace, good for the work force, and also in the best interests of the community. I had the chance to congratulate all who had been involved on their preparedness to have a go. I am delighted to reinforce that message of congratulation.

It is significant that the overall winner was again Ford Australia. I acknowledge that it is appropriate that the question should come from Mr Hartigan, given his long and successful association with the great Australian company. Ford Australia was recognised for the development of a process safety review that examined the safety of component design and plant assembly procedures and facilities. Like Mr Hartigan I am proud of Ford Australia, particularly with respect to workplace safety because not only has the company shown great initiative within its own plant, but this real success story has allowed us to use the Ford experience as a spur for others to do better in the same field. I unashamedly use the example of Ford Australia to goad improved performance across the commercial sector.

Denso Manufacturing and the late Noni Holmes received the inaugural Eric Mayer Award for outstanding achievement in health and safety. Noni Holmes leaves an extraordinary legacy of easy-to-read booklets for workers giving practical advice on dealing with workplace hazards. It was a significant award.

Other categories of winners included Ford for best health and safety reporting. The best solution or approach to identified health and safety issues went to Forklift Safety Services. I would love to have the time to go through the basis of that award because it was extraordinary. Best health and safety promotion went to the Transport Industry Safety Group, which comprises the TWU, Vicroads, the VRTA, Victoria Police, the Bus Association of Victoria and Workcover. That is what Health and Safety Week and working safely is generally all about. This was real cooperation. Finally, Janet Coghill won the student award. It is important that
the people who were successful on this occasion be recognised by the house for their efforts. I am proud to recognise not just the winners but everyone who was involved. The award movement recognises a great contribution to workplace safety. In a sense all those involved were winners.

QUESTIONS ON NOTICE

Answers

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

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

The question numbers are: 30, 133, 905, 933, 1273, 1275, 1276, 1277 and 1278.

Motion agreed to.

The PRESIDENT — Order! I inform the house that I have been advised that questions on notice nos 1589 to 1621 inclusive, of which notice was received on 7 October and which appear for the first time on today’s notice paper, have already been asked during this session and answers were given on 6 October. I therefore direct that they be removed from the notice paper.

PETITION

Sydenham Road footbridge

Hon. M. M. GOULD (Doutta Galla) presented a petition from certain citizens of Victoria praying that a footbridge be erected over Sydenham Road and the railway line in a position adjacent to McNicoll Way, Sydenham.

(61 signatures)

Laid on table.

BUDGET OUTCOME STATEMENT


Laid on table.

NILLUMBIK SHIRE COUNCIL

Hon. R. M. HALLAM (Minister for Finance) presented commissioner’s report of inquiry, August 1998.

Laid on table.

Ordered to be printed.

NATIONAL ROAD TRANSPORT COMMISSION


Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 7.

Hon. P. A. KATSAMBAHIS (Monash) presented Alert Digest No. 7 of 1998, together with appendix.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Acting Clerk:


Parliamentary Committees Act 1968 — Minister’s response to recommendations in Environment and Natural Resources Committee’s Report upon Weeds in Victoria.

Planning and Environment Act 1987 — Notices of approval of the following amendments to planning Schemes:

Ballarat Planning Scheme — Amendment L42.

Boroondara Planning Scheme — Amendment L35.

Brimbank Planning Scheme — Amendment L2.

Doncaster and Templestowe Planning Scheme — Amendment L129.

Flinders Planning Scheme — Amendment 141.
ROAD SAFETY (DRIVING INSTRUCTORS) BILL

Hon. PAT POWER (Jika Jika) — I move:

1. Clause 3, page 5, after line 11 insert —

'(17) Despite anything to the contrary in this section, the Secretary must, if the applicant is a former authority holder who is the holder of a full driver licence, grant a driving instructor authority if the Secretary is satisfied that the applicant is qualified to hold such an authority and, on such an application, the Secretary may, before granting the authority, require the applicant to do anything referred to in sub-section (2).

(18) In sub-section (17), “former authority holder” means a person who immediately before 19 December 1993 was the holder of a motor driving instructor licence granted under section 33 as in force at any time before that date.'.

In support of the amendment I will continue the comments made during the second-reading debate. In its wisdom, and as Mr Baxter indicated as an aside at the time, based on its view about mutual recognition, the government in 1993 deregulated the driving instructor sector which affected many driving instructors. The opposition, observers, driving instructors and those concerned with road safety issues said they believed the decision would be counterproductive. I said during the second-reading debate that the opposition acknowledged that as a consequence of realising its error of judgment the current minister established a consultative committee to report on what should occur about re-regulation. The decision to re-regulate driving instructors, as was the case in the decision to re-regulate the tow-truck industry, is a decision the opposition supports.

The amendment concerns basic fairness. In 1993 those driving instructors who held appropriate authorities and licences had them withdrawn for no other reason than the government deregulated the sector. A decision to re-regulate is an acknowledgment that it was a mistake at the outset. Consistent with that there should be a preparedness by the government to say that those driving instructors who were appropriately authorised and licensed at the point of deregulation should, following re-regulation, have those licences or authorities returned.

It is important to understand that driving instructors took no action which brought about their licences or authorities being withdrawn, or action that could justifiably bring into question the licences or authorities they held at the time. That was stolen from them by the government’s decision to deregulate. The opposition congratulates and supports the government in recognising its error and that re-regulation is essential. It is beholden on the government to demonstrate its bona fides by returning the licences or authorities to

ROAD SAFETY (DRIVING INSTRUCTORS) BILL

Committed.

Committee

Clauses 1 and 2 agreed to.

Clause 3
those driving instructors who held such at the point of deregulation.

This is not a matter of driving instructors not being prepared to address the sensible call for further training, nor is it an attempt by them to avoid all of the desirable probity checks about criminal records or to challenge any of the reasonable intent in the decision to re-regulate; this is a question of fairness and justice. The government should agree to the amendment to demonstrate that those driving instructors who were unauthorised simply on the basis of deregulation should have their licences or authorities returned to them.

Hon. G. R. CRAIGE (Minister for Roads and Ports) — Although Mr Power has argued that the driving instructors’ training qualifications were taken away from them in 1993 as a result of deregulation the government rejects the amendment for legitimate reasons.

We need to look to the future and not worry about what happened in the past. Since 1993 the government has tried to restore the public’s confidence in the service its members receive from driving instructors. The new registration scheme is based on a need for training that will give the public the assurance that under the new regime, authorised driving instructors will have at least a basic level of up-to-date relevant knowledge and skills for driving today, not yesterday or earlier. We cannot assume that in 1993 driving instructors obtained such skills. I know Mr Power would support the government putting in place a system to provide that confidence not only to the public but to the industry.

It is also important to note that about 800 driving instructors have already voluntarily undertaken and benefited from the certificate 3 driver training course because those 800, many of whom were previously registered under the pre-1993 system, now have an up-to-date knowledge of all the road rules and are able to teach Victorians how to drive.

The certificate 3 provisions allow for a recognition of prior learning. Previously licensed instructors and others with relevant skills and experience can demonstrate their competence and, if appropriate, can receive exemptions from particular certificate 3 provisions. The certificate 3 provisions allow driving instructors who were licensed under the old system before December 1993 the opportunity to demonstrate their skills and experience.

It is also important for the public to understand that the certificate 3 course is more comprehensive in its application and content; it generally sets a higher standard than was previously required by Vicroads.

I have a concern about something other than the training of driving instructors. The amendment would allow the Secretary or directorate to grant exemptions, including one relating to checks for fit and proper persons to become driving instructors. Mr Power and I share the view that driving instructors, taxidrivers, bus drivers and so on should fully satisfy the fit-and-proper person criteria. No-one should be able to grant exemptions. The government does not disagree with the opposition on that aspect.

A great deal of work has been done in consulting on this measure not only within the driving instructor industry organisations but also with many individuals. The certificate 3 course stipulates that everyone must complete the course and that those with prior learning that can be recognised under the course will be adequately covered. The mainstream industry fully supports the legislation. The government opposes the amendment.

Hon. PAT POWER (Jika Jika) — I acknowledge the minister’s comments and appreciate the way he has explained the government’s position. I understand the government is unable to support the amendment. However, I wish to comment further on it.

I have received many telephone calls and much correspondence about the subject of my amendment and I attended a large number of meetings with driving instructors who were concerned about the application of justice. I received only one telephone call from a person who said she was unequivocally opposed to the intent of the opposition’s amendment.

On the basis of my consultation I am confident the strong view among driving instructors is that people should not be disadvantaged and discriminated against as a result of a government decision to deregulate and now re-regulate the sector.

I also emphasise that I did not talk to or receive correspondence from any driving instructor who challenged the fact that a recognition of prior learning facility does exist under certificate 3 provisions. No driving instructor wanted anything other than the highest standards for driving instructors. The majority of people I met were at pains to say they understood the importance of their role to ensure Victorians are able to travel on the roads safely, and to know that increasingly people who learn to drive and get their licences understand the road laws, the performance of vehicles and the need to drive defensively and safely.
I do not now attack what the minister said in his contribution to debate on the amendment, but simply underscore the widespread view across the sector that people should not be discriminated against or disadvantaged. No driving instructor seeks to have anything but the highest standards of training available for that industry sector. Driving instructors understand the importance of training and retraining for their industry.

Committee divided on amendment:

Ayes, 9

Gould, Miss
Hogg, Mrs
McLean, Mrs (Teller)
Nardella, Mr
Nguyen, Mr

Noes, 31

Asher, Ms
Ashman, Mr
Atkinson, Mr
Baxter, Mr
Best, Mr
Birrell, Mr
Bishop, Mr
Boardman, Mr
Bowden, Mr
Brideson, Mr
Cover, Mr
Craige, Mr
Davis, Mr
Davis, Mr P. R.
Forwood, Mr
Furletti, Mr (Teller)

Amendment negatived.

Clause agreed to; clause 4 agreed to.

New clauses

Hon. PAT POWER (Jika Jika) — I move:

2. Insert the following new clauses to follow clause 3:

'A. Paid driving instructor deemed to be in charge of vehicle

After section 48(1) of the Road Safety Act 1986 insert —

'(1AA) Despite sub-section (1)(b), a person who for financial gain, or in the course of any trade or business, is teaching a person, who does not hold a driver licence, to drive on a highway a motor vehicle of a kind described in section 33(3) is to be taken to be in charge of the motor vehicle being used for teaching purposes while the person whom he or she is teaching to drive is driving or in charge of it.

(1AB) Sub-section (1AA) does not affect any liability of the person who is being taught to drive for any offence committed by that person while driving or in charge of the motor vehicle being used for teaching purposes.'.

B. Driving instructor to have zero blood alcohol

After section 52(1C) of the Road Safety Act 1986 insert —

'(1D) This section also applies to a person who for financial gain, or in the course of any trade or business, is teaching a person, who does not hold a driver licence, to drive on a highway a motor vehicle of a kind described in section 33(3) while that person is in charge of the motor vehicle being used for teaching purposes by virtue of section 48(1AA).'.

Amendment no. 2, which inserts new clauses following clause 3, relates to driving instructors being required to have a zero blood-alcohol level. In the second-reading debate I said I wanted to compliment the government and the Minister for Roads and Ports for indicating their preparedness to accommodate the amendment. When the legislation was introduced and debated in the other place the Minister for Transport said that while the bill was between the Assembly and the Council an appropriate amendment would be drafted and agreed to, subject to consultation. As I said earlier, the Minister for Roads and Ports and the government ought to be complimented for that. The Driving Instructor Consultative Committee recommended that zero blood alcohol content ought to be addressed through a code of conduct. The opposition acknowledges that and interprets it as an indication by the consultative committee that it is an important issue.

As I said during my second-reading contribution, the RACV held the view that the opposition's amendment was appropriate and has complimented the opposition for proposing the amendment and the government for its acceptance of it.

The amendment is important in terms of practice and the message it delivers to those people seeking to learn to drive: that driving instructors ought to be required to have zero BAC while instructing students. The government, supported by the opposition, has introduced zero blood-alcohol levels for a range of driving situations. Probationary drivers are required to be alcohol free for an appropriate period, so all the indicators are that the amendment is appropriate. There are not many occasions in this chamber when amendments are agreed to by the opposition and the
government and I congratulate all members for that occurring in this case.

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I thank Mr Power for his contribution and the work he has done in introducing the amendment. While recognising that the government supports the amendment, there is no doubt one of the important messages we need to get through to every member of our community is the clear and unequivocal message that alcohol and driving do not mix. The amendment is a clear indication of that message.

As Mr Power has said, there has been an extensive program in which the government has looked at the effects of alcohol on driving. The government has introduced zero blood alcohol levels to L and P-plate drivers, to taxidrivers, bus drivers and drivers of heavy vehicles and it does not see driving instructors as being any different from those people. The government supports a strong legislative approach rather than the approach recommended by the Driving Instructor Consultative Committee that it should be dealt with by a code of practice. This will allow for a formal process of enforcement.

Although Mr Power’s reference to the RACV congratulating the Labor Party for raising the issue is interesting, I find the letter somewhat amusing. The RACV was part of the consultative committee that supported the proposal to include in the industry code of practice the requirement that driving instructors have zero blood alcohol levels. I acknowledge that the RACV has seen fit to support the opposition’s amendment. As I said, the government supports it.

On investigation it was found that the Queensland, South Australian, Tasmanian and Northern Territory codes all have a requirement that driving instructors have zero blood alcohol levels, and the ACT has a .02 per cent limit. It will certainly bring Victoria into line with other states. The measure is responsible, and the government therefore supports the amendment.

New clauses agreed to.

Reported to house with amendment.

Report adopted.

Third reading

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I move:

That this bill be now read a third time.

I thank honourable members for their contributions, and I particularly thank Mr Power for the work he has done during the bill’s progress. I also mention all those who contributed during the extensive public consultative period. I place on the record the government’s appreciation of all the work that has been done.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

MUTUAL RECOGNITION (VICTORIA) BILL

Second reading

Debate resumed from 7 October; motion of Hon. M. A. BIRRELL (Minister for Industry, Science and Technology).

Hon. T. C. THEOPHANOUS (Jika Jika) — The Mutual Recognition (Victoria) Bill extends and renews the Mutual Recognition (Victoria) Act and allows for the re-adoption of the commonwealth Mutual Recognition Act, with effect from 1 July 1998. The bill enables Victoria to enter a scheme for the mutual recognition of regulatory standards for goods and occupations within Australia. It is important to note that both political parties have supported mutual recognition. State and federal Labor governments took some initiatives back in the 1980s, and other initiatives have since been taken by conservative governments.

Mutual recognition arose from a special premiers conference process that started in the late 1980s. At that time the heads of government realised that Australia was — and probably had been for a long time — a truly national market. They also recognised that it was time Australia had laws that allowed it to function as one country, rather than having different laws applying in six or seven jurisdictions. In May 1992 the heads of government endorsed the Mutual Recognition Bill, and the legislation was enacted in November of that year. At that time the Labor Party supported the bill and, both in opposition and in government, has continued to support the bill’s principles for uniform laws.

As I said, the aim of mutual recognition legislation is to remove needless artificial barriers to interstate trade. The bill implements two principles — firstly, that goods that may be legally sold or traded in any Australian state or territory may be legally sold or traded in another; and secondly, that a person registered
to practise an occupation in one Australian jurisdiction is entitled to practise an equivalent occupation in another. The consequence of implementing the principles is a much higher level of consistency in product standards as well as the greater mobility of labour across states.

Honourable members will remember that, for example, prior to the enactment of the mutual recognition legislation it was virtually impossible to sell margarine across the nation in only one type of package because of the different standards that applied in the states. Western Australia required that margarine be packaged in cubes, whereas other states allowed it to be packaged in round tubs. That is an example of how ridiculous the regulatory barriers were before the enactment of the legislation, which related not only to goods but also to the mobility of labour.

For the first time, after the legislation was passed it allowed professionals — including doctors, lawyers, dentists and others — who were registered to work in one state to work in others.

The legislation has been important to a large number of migrants who arrived from overseas with qualifications and struggled to have their qualifications recognised in one state, only to find the same barriers erected in another. Under the legislation, migrants who are qualified to practise a profession in one state can have their qualifications recognised in others. For the first time, chiropractors in one state have been able to be registered in other states without having to go through separate registration processes. Before the introduction of the legislation, many tradespeople such as plumbers and builders whose training was identical to their counterparts in other states were not able to practise in those states.

The legislation removed many cross-border anomalies, a number of which I am sure honourable members can recall. One example involved tow-truck drivers and taxidrivers operating out of Echuca who were unable to work in New South Wales. Taxi passengers travelling interstate had to change taxis when they reached the New South Wales—Victoria border. That latter example is typical of the circumstances that existed prior to the introduction of the mutual recognition legislation. It is important that the mutual recognition framework is continually reviewed and monitored to ensure that anomalies do not crop up again and that Australia continues to enjoy the benefits of increased efficiency.

Mutual recognition raises the genuine issue referred to by some as lowest common denominator standards. It is possible that one state might decide to adopt standards for the sale of goods, for instance, that fall significantly below standards in other states. Similarly, a state could adopt standards for registering professionals such as doctors, lawyers or engineers that may not be as high as other states are accustomed to, which might lead to the development of a lowest common denominator. I do not think that is likely with the professions, given that Australia’s educational institutions demand uniformly high standards. However, problems could arise in occupational health and safety and accident compensation.

The opposition is concerned about the move to introduce lowest common denominator standards for safety inspections under the Occupational Health and Safety Act. The opposition is also concerned that the benefits available to workers under Victoria’s accident compensation laws may be lower than those available in other states. As honourable members know, in Victoria injured workers no longer have access to common law, whereas in other states that access remains.

The opposition notes that the purpose of the bill is to give Victoria the flexibility to terminate its involvement in mutual recognition schemes if necessary. The same provision is contained in the Trans-Tasman Mutual Recognition (Victoria) Act, which the opposition also supports. With those brief comments, I indicate that the opposition supports both the principle of mutual recognition and the bill.

Hon. R. H. BOWDEN (South Eastern) — I support the bill with pleasure because it will further strengthen our nation and enhance the part the great state of Victoria plays in its economy.

The intent of the bill is to assist the free flow of goods and services, to establish regulatory and licensing standards and to protect the community. In the past, for historical reasons, there have been misalignments among the states in the regulation of similar functions. I am pleased that the principles underlying the bill will further Victoria’s participation in the Mutual Recognition Act in a clear and orderly way.

The previous speaker touched on some of the difficulties the residents of the various states of Australia have encountered due to the misalignment of regulations, and I am sure all honourable members can recall other instances. One instance I can recall involved the differences in traffic regulations in Victoria, New South Wales and Queensland. A driver in Victoria or New South Wales who wanted to slow down could simply do so, but Queensland had a regulation that required a driver who wanted to slow
down to put his or her arm out the window and move it up and down. That used to be called patting the dog, and as recently as the 1970s drivers in Queensland who did not pat the dog were liable to receive traffic infringement tickets. I never received a ticket for failing to pat the dog in Queensland, but I always thought it highlighted a rather quaint difference in state traffic regulations. That is a good example of the progress that has been achieved by mutual recognition legislation.

More importantly, it is good to see the improved alignment among the states in recognising professional qualifications in medicine, dentistry and health care, which has been brought about by the legislation of which the bill is an extension. I continue to support the principles in the Trans-Tasman Mutual Recognition (Victoria) Act, which the house recently passed. New Zealand is one of Australia’s major trading partners, and the commerce transacted between Victoria and New Zealand is also important. The Trans-Tasman Mutual Recognition (Victoria) Act has further strengthened Victoria’s economy while enhancing commercial opportunities on both sides of the Tasman.

I do not intend to speak for very long, but I wish to say that the government has been able to ensure that Victoria has adequate safeguards. Should Victoria’s interests not be foremost in any changing circumstance, it has the ability to terminate participation. The bill provides that even though the commonwealth act is being adopted and furthered, it is possible on a future day for the Governor in Council to determine to terminate Victoria’s participation through proclamation in the Government Gazette. That is a good safeguard. Victoria may never use it and may never want to use it, but who knows what can happen with technologies in the future? At least that provision is there.

A similar provision gives protection to the citizens of Victoria in the Trans-Tasman Mutual Recognition (Victoria) Act 1998. It is not that the government wants to use the provision, and it does not seem likely to be necessary in the foreseeable future, but it is a good safeguard to have. The bill also validates all actions done after 1 July 1998, when the previous time frame expired, because it is necessary for the period between then and now to be covered.

Apart from furthering Victoria’s sensible participation in the recognition program, which is a good thing, the bill also provides that should new mutual recognition legislation be necessary Victoria will be a positive contributor to that. Honourable members may care to note that the states and territories have been reviewing the mutual participation scheme to see what changes may be necessary as part of a natural evolutionary process.

In conclusion, I am enthusiastic in my support for the bill. It is sensible in this day of sophisticated trade and provision of services for the states and territories to be positive about the need to trade and have common standards and mutually to recognise each other’s circumstances.

I support the view expressed by the Leader of the Opposition in this house that standards are important and that we need ensure they are maintained. Should the lowest common denominator arise by accident, I am sure under the provisions of the bill the other participating states and territories would be keen to ensure the best possible level of qualifications and services are adopted.

In the short time it has been operating the mutual recognition program has proved to be successful, and it should continue to be so. It is with pleasure that I support the bill.

Hon. S. M. NGUYEN (Melbourne West) — This bill continues the process initiated by state and federal Labor governments in the late 1980s. The goal of the mutual recognition process is to promote freedom of movement of goods and service providers between all the Australian states and territories.

The mutual recognition principle is that goods that may be legally sold in one Australian state or territory may be sold in another state or territory and that a person registered to practise an occupation in one Australian state or territory is entitled to practise an equivalent occupation in another.

The purpose of the bill is to readopt the commonwealth Mutual Recognition Act 1992. It allows the Governor in Council to fix a day to terminate the act. The purpose is to give Victoria flexibility in terminating its involvement in the mutual recognition scheme if necessary. The same provision is contained in the Trans-Tasman Mutual Recognition (Victoria) Act 1988, the passage of which the opposition supported.

Several likely benefits are to be derived as a result of Australian governments adopting the mutual recognition agenda. The first is the provision of free trade across state borders. The bill will allow for free trade between states that will minimise any hindrance to the operation of a national market economy. This will help unify Australia in an economic sense by allowing freer movement of goods and services, including energy products and transport services, across state boundaries. The bill will help facilitate the
national competition agenda run concurrently by the Australian heads of government.

A second benefit is the provision for greater mobility and flexibility of labour. A person legally entitled to practise a profession or trade in one Australian state should be entitled to practise his or her skills in any other Australian state or territory. Inconsistencies in recognition of trade and professional qualifications and different regulations governing trade and professional practice have led to the existence of artificial barriers for business that are costing our country in lost economic productivity. The intention of the bill is to create a foundation to avoid these inconsistencies.

A third benefit is higher consistency in product standards. Mutual recognition will require new ways of standardising Australian product regulations on a national basis. As the Leader of the Opposition said in his contribution to the second-reading debate, it is important that in setting new national legal frameworks and regulations we aim for best practice and the highest possible product standards and quality and do not opt for the lowest common denominator. That will require governments across Australia to embrace new and more progressive reforms of national regulation. Mutual recognition must not be an excuse for market deregulation at the cost of lower product standards.

Examples of spin-offs from uniform product regulation include uniform regulation of product safety, environment friendly packaging requirements and possibly a new national code for occupational health and safety in our workplaces. Businesses will benefit from economies of scale if they opt for uniform product development and manufacture. Company investment in marketing and packaging will be driven more by national market requirements than meeting different state government regulations. Businesses will also benefit from reduced red tape and time lost in learning and dealing with a variety of regulations.

A fourth benefit of mutual recognition is the reduction of state border trading inefficiencies. Honourable members may be familiar with some difficulties faced by professionals and traders operating in the various state and territory border regions in Australia — like professionals having to comply with different professional rules and practices and in some cases being prohibited by state-based licensing systems from accepting work across state boundaries.

Mutual recognition of government regulations will assist businesses to overcome the legal and artificial barriers associated with cross-state trading. It could also assist in cutting unnecessary duplication of services in border regions and will enable greater competition for professionals and tradespeople who operate in those regions, which will provide benefits to local consumers.

It is important that we break down traditional legal boundaries which impede interstate economic activity, that we develop uniform national forms of regulation on labour and the manufacture and trading of goods and services. It falls on all governments, including the Victorian government, to be critical in their approaches to mutual recognition of economic regulation.

Hon. B. W. BISHOP (North Western) — I am pleased to again contribute to the debate on the Mutual Recognition (Victoria) Bill. I recall clearly that when I spoke on the 1993 legislation the basic question the house asked at that time was why it should adopt mutual recognition and what effect it would have on Victoria and its industries, particularly agriculture, agricultural production and food processing. Mutual recognition has a dramatic effect on electorates such as mine, which stretches along the River Murray from the South Australian border to Koondrook near Kerang. The proposed legislation made a lot of sense in 1993 as will the adoption of this bill.

The legislation makes even more sense when one recognises that Victoria and New South Wales have the strongest manufacturing and service industries in Australia, especially in the food processing and agricultural industries. The need for mutual recognition across state borders is supported by the recent huge investment in food production. At the last regional strategy meeting for the northern region, much of the discussion and policies were directed to food production and processing. It is interesting to note that northern Victoria produces 26 per cent of our agricultural production and 6 per cent of Australian exports. Over the past five years we have experienced a 70 per cent increase in food production. Coupled with that, of course, are the huge investments across Victoria in food production and processing.

If Victoria is to reach the target of $12 billion in agriculture and food exports in a few short years, it will certainly have to get its house in order. Over the past few years the process has commenced and it is important that it be market driven. In the past I said Victoria should examine its agricultural production from paddock to plate. I now say we should examine it from the plate to the paddock to ensure that it is truly market driven and has management processes in place so that international and domestic markets will eagerly seek the products we grow and produce. Victoria requires good quality assurance programs, good environment management systems in the future, good
multimodal transport in road, rail and air, good ports and world best practice.

If Australia is to compete on the global markets we will need even more. Those markets are large, exciting and interesting. However, they are becoming more sophisticated and demanding. Of course, our competitors are also becoming stronger. It is vital that we have sensible and practical rules to create a national marketplace that will allow Victoria to launch its produce onto global markets. Mutual recognition comes into play in those areas.

I remind honourable members that a significant proportion of the 70 per cent increase in agricultural production over the past five years has been due to irrigation production along the River Murray. Many good rules and regulations have been introduced to remove the competitive impediments that were in place years ago. One of the best examples would be the national road transport rules and regulations which are now uniform across Australia. That has removed both the fuss and uncertainty. It has introduced commonsense into our road transport system that needs to cross state borders to make Australia competitive.

As the various systems unfold we must ensure that we do not lower the standards and adopt the lowest common denominator. I recall that was an issue in the 1993 debate. I also note that we have had a fair chance to test the system because it has been in place over a number of years, whether it be in the health, safety, environment or transport segments.

The minister in his second-reading speech refers to a review that will determine whether any changes are required to the scheme and to the uniform national legislation, which really underpins the whole system. It is a great idea to have a review because it will test some areas and ensure the system is finetuned properly as the years go by.

In 1993 I thought the legislation would not have much effect on health, but over the years I have noticed that it has had a substantial impact. Just a few weeks ago some health providers from my electorate, Dr Peter Talbot, a senior executive of the Mildura hospital, and Mr Lindsay Lynch, chief executive officer of the Mallee Track health service, were having difficulties in drawing health professionals into their services from other states. They were delighted to know we were re-adopting the mutual recognition system. It will give them flexibility to bring people who are sorely needed into the health services from interstate. That can be extended to front-end loader operators, forklift operators or pleasure craft operators who operate on the River Murray. It could be anyone.

There is no doubt that the system has wide scope. With safeguards in place it allows the states and the territories to set their own standards for good produce. It is important for agricultural areas, particularly horticulture, that the states and territories can also impose separate quarantine measures. A good example is the fruit fly outbreaks we unfortunately suffer from time to time in Sunraysia. However, measures can be introduced quickly, crisply, efficiently and effectively by the Department of Natural Resources and Environment to ensure those outbreaks are controlled and managed.

I recall saying in the earlier debate that we do not want to add too much detail to the process. If we had thought of these things many years ago we would not have had, for example, different rail gauges throughout Australia, which are an impediment to grains, mineral sands or any other products reaching ports. The decisions that were made incorrectly years ago have impeded our flexibility in transporting products to the ports and into those export markets. If this type of thinking had been around in those days we would not have suffered the expense and nuisance value of the various rail gauges.

Mutual recognition is a good concept and system. It certainly assists in creating a national market in Australia. It rids us of many of the unnecessary trade impediments so that we can become internationally competitive in the various global markets.

It allows skilled professionals of any profession to move with a minimum of fuss across state borders and therefore become more effective. It does not matter whether it is health, transport, services or professions such as painters, plumbers, motor mechanics, electricians or construction workers. Safeguards are built into the system. I make the point again that I am pleased to see the review process being undertaken. It will test a number of processes that have been in place over a period. The review should be successful and well sourced. Given that the scheme has been operating for a number of years good data and history are now available. It is a good system that needs to be managed properly to create a national market that will benefit everyone. I commend the bill to the house.

Hon. M. T. LUCKINS (Waverley) — The Mutual Recognition (Victoria) Bill goes a long way towards ensuring that our nation is competitive both within and without. On Federation section 92 of the constitution was supposed to ensure that no interference took place in trade between states but, what evolved,
Unfortunately, was a different story. We are all aware that the different rail gauges in each state impeded Australia’s opportunity to trade between states. It also impeded mobility between states.

In 1992 the Council of Australian Governments agreed to the principles of mutual recognition that goods produced in one state or territory may be sold in another state or territory, and a person registered to practise an occupation in one Australian state or territory is entitled to practise an equivalent occupation in another state or territory.

The Victorian government has demonstrated a commitment to the principles of mutual recognition, together with the national scheme, legislative programs and the principles of national competition policy. The Mutual Recognition (Victoria) Act came into being in 1992. During the period between 1992 and 1996 in my capacity as the adviser to the then Minister for Industry and Employment I had a lot to do with the Victorian review of partially registered occupations, which arose from the COAG and mutual recognition process. The COAG committee conducted an audit of all trades and professions registered in one or more state or territory where registration was inconsistent across the nation. Each ministry was advised of the professions within its portfolio responsibility and was required to consult to discuss the need for recognition and, if necessary, registration. Ministries were encouraged to examine the aims of registration and other means to achieve those goals. Many of the industries became self-regulating as a result of that process, which, again, removes red tape and ensures that the industries that know their requirements best have the capacity to deliver for their members within certain professions or trades.

Health and safety was exempted as part of the mutual recognition process. The review has resulted in many bills being debated in Parliament between the advent of the Mutual Recognition (Victoria) Act and today. Many reports by academics were compiled over the years giving examples of barriers to trade within Australia. In the 1970s and 1980s it was easier to import and export goods in Europe with its international borders and different languages and standards than it was to sell goods in Australia. That resulted in Australia being a step behind competitively with the rest of the world, particularly with its trading partners.

Before mutual recognition the process for the recognition of skills and education standards in some professions was the same between the states as that required for migrants to Australia who wanted certain skills recognised to enable them to work. Unfortunately, Australians were discriminated against in that period because the states did not recognise the skills and education standards of other states.

Earlier this year I had the opportunity of visiting Canada, Belgium, France and England with the Scrutiny of Acts and Regulations Committee to investigate national scheme legislation and to examine in depth the result of competition policy and the advantages for Australia. It was interesting — especially in Brussels where the European Community secretariat is based — to hear how other countries have tackled these challenges. They faced language difficulties, a problem Australia does not have. However, they faced the same challenges we do with labour requirements and standards. The nations disputed content, but, on the whole, matters have been resolved.

There were some funny examples in Europe. German beer is well known around the world as an exquisite beer. The Germans wanted to protect their beer by ensuring that no other nation could say they were producing beer by certain means. Other nations said requirements should be lifted throughout the European Community to ensure that no beer within the community was of lesser quality than the German beer. They tried to stipulate the type of water and preservatives to be used which resulted in a consideration of standards between the nations that produce beer. Finally, after many years of negotiation, common ground was reached.

Another example was Belgian chocolate. A dispute arose among the different nations that produce chocolate about the percentage of butter used. The Belgian government suggested that its standards were being compromised by the lower standards of other countries. The formation of the European Community has provided advantages for countries such as Australia. If a country’s product meets the requirements in one nation in the European Community that country can trade with the other nations in the community.

Everywhere the committee travelled throughout Europe it looked forward to tasting the local wine. However, it was given Australian wine at every meal. Australian wine is everywhere in Europe because it was the first to be accepted through a longstanding agreement with Great Britain. It has been accepted for many years and, because Australia met the standards of Great Britain, it was able to export throughout the European Community.

In its contributions to the debate the opposition raised questions about standards. It was concerned that, rather than having decent standards across the nation for all
goods and services, the lowest common denominator may prevail. I do not find that argument acceptable. I note the opposition did not give examples of where standards have been lowered since the introduction of mutual recognition about six years ago, but I acknowledge that consensus must be reached between the states to establish national standards that uphold the principle of mutual recognition to ensure that the goods and services in question meet the expectations of consumers and are considered safe. I am confident that the government will be stringent in ensuring that standards are maintained for all goods and services affected.

Another challenge in the process is to ensure industry does not have to bear too high a financial burden in complying with national standards established within the mutual recognition framework. The vast majority of Australian enterprises have benefited from mutual recognition since 1992, and increasingly businesses are operating across states and territories and growing with the formation of consortia and through franchises operated from state to state.

The bill also encourages mobility of labour so we can keep industries vibrant and ensure that real estate developments and building franchises are afforded the opportunity to expand. Mutual recognition results in the removal of impediments for business to operate interstate. That is a good thing for our companies, but I feel for the people on the state borders who, before the introduction of the mutual recognition system, have had to face daily the challenges of conflicting regulations, laws and standards across different states.

Hon. W. R. Baxter — They still have a fair number of them, too.

Hon. M. T. Luckins — Yes, and I have heard quite a few examples from the honourable member for Benambra in the other place, who shares constituency responsibilities with Mr Baxter in the Wodonga area. In those areas mutual recognition has enhanced the community’s capacity to earn income and ensure its activities are not curtailed. Since the legislation ceased to operate in July and the consequent absence of mutual recognition the people of Albury–Wodonga have been subjected to non-compliance with regulations, which is why the bill contains a provision for retrospectivity. Clause 2(2) provides that the bill will come into operation on 1 July 1998 — that is, the expiry date of the Mutual Recognition (Victoria) Act 1993. That clause expunges any of the adverse consequences caused for some businesses by the absence of previous legislation.

The bill again adopts the powers in section 51(37) of the commonwealth constitution. Victoria will gain the flexibility to pull out of mutual recognition arrangements if it is in its interests to do so. Clause 6 provides:

The Governor in Council, by proclamation published in the Government Gazette, may fix a day as the day on which the adoption of the Commonwealth Act under section 4 of this Act terminates.

I serve on the Scrutiny of Acts and Regulations Committee, which was concerned about clause 6 because it did not believe the legislative expiry should be treated in any manner other than as the date of commencement. In its Alert Digest No. 6 of 1998 the committee noted:

The committee believes that legislative expiry should generally be treated similarly to commencement. The committee believes that an open-ended expiry clause would not seem to have sufficient regard for the institution of Parliament and would have to be clearly justified.

That comment is made under the Scrutiny of Acts and Regulations Committee’s terms of reference, which provide that it has the power:

... to consider any bill introduced into a house of the Parliament and to report to the Parliament as to whether the bill, by express words or otherwise ...

(v) insufficiently subjects the exercise of legislative power to parliamentary scrutiny ...

The Alert Digest also refers to the fact that the Governor in Council, on the advice of the government of the day and through a proclamation in the Government Gazette, can terminate the legislation. As I said earlier, that provision is appropriate in the circumstances because if the government of the day, democratically elected, believes it is in the government’s best interests to pull out, it has every right to do so.

Clause 7 is a validating provision that everything done on or after 1 July 1998, the date of the expiry of the act, and before the enactment of this bill is deemed to have been valid as if the 1993 act had not expired. That will help people who were caught when the act expired in July.

In conclusion, the bill moves us forward in the public policy context to mutual recognition national scheme legislation and national competition policy — all great steps forward for Australia in general. It will allow Australia the opportunity to compete locally and globally and enable our companies to meet world best practice. Australia may be an island nation but we cannot be an island in the international context, and
certainly we cannot be an island when it comes to international trade. The more efficient we become within our nation, the greater will be our opportunities to trade with other nations.

I look forward to continued improvements in our competitiveness as a result of the mutual recognition of all our services, standards, labour and professions. All Australians have the right to free trade and mobility. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank honourable members for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ARTS ACTS (AMENDMENT) BILL

Second reading

Debate resumed from 7 October; motion of Hon. M. A. BIRRELL (Minister for Industry, Science and Technology).

Hon. M. M. GOULD (Doutta Galla) — This bill increases from 9 to 11 the number of members of the council of the National Gallery of Victoria. In the second-reading speech the minister says the increase by two is necessary because of the increasing workload for the council due to the pending refurbishment of the St Kilda Road premises over two years and the responsibility for the management of the Museum of Australian Art, which is part of the Federation Square concept. The council will also arrange for the storage of some of the gallery collections at North Melbourne during the refurbishment program. The government acknowledges that the council needs extra members to enable it to properly manage the project. The government has announced that, unfortunately, more than 100 gallery staff will be sacked. When it came to office the government removed staff representation on the council. The new council was appointed by the Minister for the Arts in the other place; in other words, it has been established by direct appointment of the minister and at the minister’s whim.

Approximately two years ago the council of the National Gallery of Victoria was told that it had to raise $15 million for the stage 1 development and a further $21 million for the stage 2 development. The government in its wisdom removed the admission fee for entry to the National Gallery. That was a popular move and was supported by the opposition. It was designed to open up the gallery to the public, but at the same time it removed a revenue stream to the gallery and meant that the council had to work that much harder to find the $15 million it was required to raise. I recall that when an arts bill was debated in this place some years ago the number of visitors to the National Gallery was compared with the number attending AFL matches. I was surprised to learn that more people visited the gallery than watched AFL matches. So the removal of the entrance fee to the gallery has made the council’s job that much harder.

During the past two years the council has been involved in the public debate about the redevelopment of the National Gallery. When the redevelopment was first announced the cost was put at $80 million, but last night I heard a report that it had blown out to $156 million! As that figure has been mentioned prior to the gallery’s closure for redevelopment purposes. I suggest that it should be of concern to all honourable members.

The government’s Public Sector Asset Investment Program for 1998-99 indicates that by the time the gallery closes at the end of June next year and prior to the redevelopment $13 million will be spent on plans and the redevelopment program. For nearly two years the council has been working on the program and developing new ideas for the gallery. It seems odd that the government should at this time increase the number of members on the council from 9 to 11 when the current members have done all the groundwork.

As I said, the council does not have any employee representation. As a former trade union official I know employers were often concerned when advising employees of changes they were making to their establishment, and they often did so without prior consultation. I know of many cases where, after advising their employees of the proposed changes to their establishment, the employers would discover to their horror that the employees knew more about their workplace than management, engineers and consultants. In this case one of the staff...
recommendations was that a number of works of art be put into storage in North Melbourne, with curators looking after them, and some of the gallery walls be removed so that there would be more hanging and display space than is proposed in the new gallery. If that proposal were implemented there would be no need to reduce staff by more than 100 when the gallery closes in June next year.

Mr Steve Vizard is the new chairman of the council. Other members include Mr Darvell Hutchinson, Mr Jim Cousins, Mr Peter Clemenger, Mr Michael Darling, Ms Alison Inglis, Mr Rupert Myer, Mr Ron Walker — the friend of the Premier — and Professor Jenny Zimmer. The current council is comprised of well-respected business people who have also established a business council that includes people such as Marcus Besen from Sussan Corporation, David Jones from the George Adams Estate and Hugh Morgan from Western Mining. Those business people have been given the task of raising the $15 million for stage 1.

In 1996 the opposition raised concerns about the trustees appointed to the council and it raises the same concerns now. It believes they will be government appointees who will do the government’s bidding. Their appointment will be a payback for services rendered. The opposition expresses concern about the lack of representation of employee representatives, which would give the council a better understanding of some of the redevelopment proposals. It would also help to alleviate their concerns about increasing catering facilities and the loss of more than 100 jobs.

The opposition does not oppose the bill, but it is concerned about the Minister for the Arts appointing new members to the council and the lack of staff representation. The bill makes minor technical changes, which are not opposed. As I said earlier, the opposition is primarily concerned about the possible loss of 105 jobs and believes the plan submitted by staff would alleviate that problem.

Hon. W. I. Smith (Silvan) — The Arts Acts (Amendment) Bill is a small bill that will increase the number of council members of the National Gallery of Victoria from 9 to 11. It reflects the increasing workload of council members, particularly with the renovations and the development of the Museum of Australian Art at Federation Square. It is timely to place on the public record the importance of the National Gallery art collection. I take a positive approach and will look at the impact on the gallery and the significance of the Museum of Australian Art.

The National Gallery of Victoria is the most visited gallery in Australia and its operating costs per visitor are the lowest in Australia, even though the entry fee has been abolished. It is the oldest public art gallery in Australia, having been established in 1861. It is the only Australian gallery that has a collection of art dating from prehistory to the present day — the story of world art. The collection has more than 70 000 items, and in 1996 Sotheby’s valued it at $598 million. The collection is recognised internationally as the finest in both Australia and the Southern Hemisphere.

The gallery’s collection of Australian art is best known by four major paintings: Tom Roberts’s Shearing the Rams, painted in 1890; Fred McCubbin’s The Pioneer, painted in 1904; John Brack’s Collins Street, 5 p.m., painted in 1955; and Peter Booth’s Painting, painted in 1977. The gallery has works by European masters who are internationally respected, including Rembrandt, Manet, Poussin, Tiepolo, Pissarro, Bonnard and Bacon. The gallery continues to maintain its strong focus on significant Australian artists and contemporary international artists.

However, the gallery has some obvious space problems. The current exhibition space allows only 5 per cent of the total collections to be displayed. After the renovations that space will be doubled, which will result in major improvements in the kinds of displays the gallery will be able to put on. I refer to some possible future exhibitions that will include rarely seen collections that are currently stored in the bowels of the National Gallery. The renovations will allow the display of collections such as the 50 works of Nolan’s Wimmera series, which have rarely been seen. At present there is not enough room to display them without excluding other artists’ work. In future similar rarely seen collections of considerable depth will be able to be shown in discrete groups.

For the first time in 20 years, contemporary Australian and international art will have permanent display space, allowing the gallery to showcase the achievements of young Australian artists and put their work in the context of their overseas colleagues. Other important collections which are rarely seen but which will go on permanent display include international furniture that has key fittings from the Gallia and Hoffmann apartments of turn-of-the-century Vienna. Those collections, which have never been fully displayed, will create a sensation among devotees of the Art Deco and Secessionist design movements.

Other collections such as prints and drawings, fashion and textiles and photography will have a far higher profile, and the increased display space will allow...
works to be rotated continually. There will be greater access to works by artists including Blake, Rembrandt and Dürer and designers in the fashion world such as Worth, Dior and Balenciaga.

The National Gallery will establish a new Museum of Australian Art (MAA) at Federation Square, which will be the first gallery dedicated to the finest work of both indigenous and non-indigenous Australian art. The nation’s home for Australian art will comprise a new three-level, 13 000 square metre gallery that will have works by Australian artists from all periods. It will house the most comprehensive display of Australian art in the country. The MAA will offer a unique experience of contemporary art, involving performance and multimedia. In acknowledgment of the importance of contemporary art and its reflection of the society of the day, the museum will have more than double the current display space of Australian and international contemporary art in Melbourne. More than 3000 square metres will be dedicated to modern and contemporary art, which will be displayed so that it relates to the external environment, including the planned courtyards, gardens and the atrium.

The National Gallery has very few works of Aboriginal art on permanent display. They are shown for only short periods because of the lack of space to display major pieces of work. The new display space at Federation Square will enable the National Gallery of Victoria to make permanently accessible key icons of the Aboriginal collection such as Napperby Death Spirit Dreaming and Big Yam Dreaming.

The prominent location of the new museum will bring the visual arts to the CBD and provide important links with the arts sector south of the Yarra and the Southbank arts precinct. I strongly support the bill, and I wish the members of the council of the National Gallery well in their delivery of a world-class art gallery that will maintain Melbourne’s prominence as an arts capital.

Hon. C. J. HOGG (Melbourne North) — In making some brief remarks on the Arts Acts (Amendment) Bill I welcome the addition of two members to the council of the National Gallery of Victoria. Their appointment is an acknowledgment by the government that in some situations too few people are called on to do the necessary work. That may involve the number of workers carrying out a job or the number of members of a board of trustees overseeing a development, as is the case here.

It is impossible to calculate the importance of the redevelopment of the National Gallery to the role Melbourne plays in Australia’s cultural life. But in attempting to do so we have only to reflect on the comments being made about the Sydney Opera House as it celebrates the 25th anniversary of its opening. People are thinking and saying a lot about the design of the Sydney Opera House, the actualisation of the concept and the fact that it has perhaps become the iconic building in Australia. Nonetheless, everyone who performs there says that the Sydney Opera House does not work terribly well. The great design is flawed for a variety of reasons. Whether because of bureaucratic bungling or a lack of faith in the architect the truth is that the architect was not allowed to completely execute his design.

In that context I thought more than I usually would about the redevelopment of the National Gallery. It is imperative that that difficult job is executed properly. It must be very hard to close down an existing operation while maintaining some displays, storing a lot of others and managing all the things that need to be managed, to which Miss Gould referred, as well as completing the redevelopment and having the gallery ready for opening at the right time.

The National Gallery of Victoria can be the most exciting gallery in the country. Ms Smith has described well the treasures it holds. As she said, only 5 per cent of them can be displayed. The redevelopment will allow the display of 10 per cent of the collections, which I understand is closer to what we should expect from a national gallery and closer to what we call world best practice. So we must welcome and look forward to the redevelopment.

Given that we are in the middle of the holding of the Melbourne festival it is impossible to overstate the National Gallery’s importance in the infrastructure of what we might call the cultural precinct, which also includes the Playhouse, the Arts Centre and the Melbourne Concert Hall. I congratulate Sue Nattrass, the director of the terrific Melbourne festival, which has marvellous surprises and great delights. One of the reasons Melbourne festivals are successful is that some of the physical infrastructure that is needed is already there, and the National Gallery of Victoria is part of that. The gallery’s redevelopment is welcome for that reason, too.

I have never met the new chairman of the council of trustees, Mr Steve Vizard, but it seems to me and to others on this side of the house that his is a terrific appointment. Steve Vizard brings to the job flair, wit, urbanity, an understanding of business practice, and, I hope, a good way with people. He will need all those qualities because there will be some problems with the
redevelopment that will have to be handled with sensitivity and good judgment. I wish him well in his appointment, as I do the two new trustees, who are the subject of clause 5.

It is time society acknowledged that often we try to do too much with too few. I have often thought of late that there are not always enough local councillors or enough members of school councils to enable them to carry out their endeavours. I am delighted to see the increase in the number of council members. That is an acknowledgment of the huge task that lies ahead of them and their need for assistance in carrying it out.

This is an interesting time for the arts in Australia. Yesterday the Prime Minister appointed a new federal Minister for the Arts. Every member of this place hopes that as a Victorian the new minister, Peter McGauran, will bring to his portfolio a keen appreciation of the arts in this state. I understand from his comments in today’s media that he has a good understanding of the arts in his province, which is shared by the Honourable Peter Hall. I also understand, as Mrs McLean reminds me, that Mrs McGauran is also a participant in the arts scene. I hope he brings to his portfolio a passion for the arts in Victoria, which has such a lively and complete arts scene that is exemplified not only by the Melbourne festival but by its comedy festival, theatre companies, film festival and provincial collections.

Hon. I. J. Cover — And regional festivals.

Hon. C. J. HOGG — Yes, and the regional festivals. They all provide the underpinning for the arts in Victoria. That being said, I wish the new members of the council well. All members of the opposition hope the redevelopment of the gallery goes as planned.

In conclusion, I was pleased to read in today’s newspaper that the water wall will remain. I am the only person I know who is not a fan of the water wall. However, every other Victorian I have met is, so I bow to popular opinion. I am glad it will stay. The decision appears to be profoundly popular; and as Mrs McLean reminds me, it was part of the original plan. We are told the redevelopment is a true fulfilment of what could have been the next stage of Sir Roy Grounds’s plan. We all look forward to its successful completion.

Hon. I. J. COVER (Geelong) — It gives me great pleasure to support the Arts Acts (Amendment) Bill. As Mrs Hogg said by way of conclusion, it is timely that we are debating the bill today, given that the plans for the redevelopment of the National Gallery were unveiled just yesterday, revealing that the water wall is to be retained. Miss Gould wondered how the original quote of $80 million had blown out to $136 million. It occurred to me that perhaps the retention of the wall will cost $56 million, but that remains to be seen! During the planning discussions there was also conjecture about whether the Leonard French stained glass ceiling was to be moved. However, that is also staying where it is, so positive decisions have been made that are well supported.

Mrs Hogg said she had not met the new chairman of the trustees, Steve Vizard. I am sure I can organise an introduction for her, because I have known him for a number of years. Prior to entering the public arena he was a corporate lawyer and I had reason to engage his services — always a favourable thing to do. He is now the head of his own company and a trustee of the National Gallery of Victoria. He has also been appointed one of Geelong’s Smart Move ambassadors, so he is working for Victoria both in Geelong and at the National Gallery of Victoria. There is no doubt that Mr Vizard has all the qualities listed by Mrs Hogg, in addition to his boundless enthusiasm for the arts. He supports the arts through his own collecting and through his generous support of galleries such as the Potter gallery at Melbourne University.

The addition of two trustees will assist the council of the National Gallery in what will be a challenging and busy time. As my colleague Ms Smith said, the challenges involve not only the redevelopment of the gallery but also the development of another exciting program, the Museum of Australian Art at Federation Square.

While considering what lies ahead for the vibrant arts scene in Victoria it is worth noting that we have reached this point some 40 years or so after another Liberal Premier of Victoria, Sir Henry Bolte, first had the idea of establishing a national gallery. In that light it is interesting to reflect on the gallery’s history while contemplating its redevelopment. Patrons of the arts and Labor Party supporters are often seen as closely aligned, yet it was Premier Bolte in the 1950s who wanted to see Victoria play an active part in the modern world. His ambition was to see Victoria respected as the premier state of Australia and to have Melbourne recognised as the nation’s economic and cultural capital. That might seem at odds with the public persona of Sir Henry Bolte, given his rural knockabout background; but he was a great visionary and supporter of the arts, particularly the National Gallery of Victoria. One of the first pieces of legislation passed by his government was the National Art Gallery and Cultural Centre Bill of 1956. That legislation affirmed his government’s commitment to building a state gallery and cultural centre on the St Kilda Road site.
The National Gallery of Victoria is the oldest publicly owned gallery in the country, having commenced operations in the early 19th century. In 1956 the proposal to relocate the gallery to St Kilda Road was put on the agenda. In the book *A Quiet Revolution. The Rise of Australian Art 1946–1968*, Christopher Heathcote, who among other things was a senior art critic for the *Age* between 1991 and 1994, says that when Bolte outlined his plans in 1956:

... the *Age* applauded the announcement of the proposal to relocate the National Gallery of Victoria to Wirth’s Park since a gallery there would be ‘a fit and noble building for the gateway to the city’.

So, 42 years later it is still very much a fit and noble building and still a gateway to the city. Perhaps people engaged in debate here in 42 years time will talk about how the Premier of today was also overseeing visionary plans to have that same noble building redeveloped at the gateway to the city.

Although the gallery will be closed and a great deal of artwork will go into storage, there will still be opportunities for the people of Victoria to see some of the works and exhibitions that may have been earmarked for the National Gallery, but which of course cannot go there while it is shut, in other places around Victoria. As an honourable member representing Geelong Province, which has one of the state’s regional art galleries, I can say the people of Geelong look forward to hosting some of the exhibitions that come to Geelong, and seeing some of the collections that would normally come to Melbourne being displayed in regional Victoria. Therefore, although it may be a negative that the gallery is closed in Melbourne, it may be a positive for the people of regional Victoria to have some of these works brought into their towns. The trustees will be faced with the challenge not only of evaluating the work they have to do in redeveloping the gallery but also of ensuring that the art travels to various regions of the state.

I have mentioned Steve Vizard as being an excellent choice, and I am sure with his enthusiasm, creativity and business acumen he will be a fine chairman of the council of trustees. I also point out that in her contribution to the debate Miss Gould was emphasising the business background of the current trustees who will be joined by two new appointments. Lest there be some misapprehension that the council is comprised entirely of people with a business background, it is worth mentioning that two current trustees, Dr Alison Inglis and Professor Jenny Zimmer — one being an art critic and the other a fine arts academic — are already bringing their art and arts knowledge to those important positions.

The council is not just loaded up with business people. Jim Cousins, who until recently was the deputy chairman and who I imagine has retained that position since Mr Vizard was appointed, has a business background but for many years he was also involved in the art and antique world and has a fine record as a former chairman of the Geelong Art Gallery — so the council has broad art experience as well as business acumen.

I conclude by returning to the book by Christopher Heathcote that I mentioned earlier. Mr Heathcote refers to Henry Bolte when he was Premier of Victoria and the drive he gave to arts in the state. As I said earlier, I trust people will also look back on this period in Victoria’s history that saw our arts world and cultural position enhanced and recognise Victoria’s leadership position, which will remain unassailed for many years to come. At page 50 of his book Mr Heathcote states:

... by the time of Henry Bolte’s retirement in 1972 there had been the construction of 10 regional galleries —

many of which may well host exhibitions and works from the National Gallery’s collection during the period it is closed —

and the Victorian Arts Centre in Melbourne —

including the State Theatre and Concert Hall, where many festival activities take place at present —

the drawing up of plans for a state arts ministry —

which, of course, is now presided over by the Premier —

and the founding of the Victorian College of the Arts.

It is worth putting on the record that we had that period of vision and development in the Victorian arts world under Sir Henry’s leadership and indeed a Liberal government’s leadership. The same thing is occurring in Victoria today and I look forward to it reaching its culmination and fulfilment in the completion of the National Gallery of Victoria redevelopment. I wish the two new trustees who come on board to join the current nine all the best in their endeavours to see that through to completion.

**Hon. S. M. NGUYEN (Melbourne West)** — Essentially the Arts Acts (Amendment) Bill provides for an expansion of the number of trustees on the council of the National Gallery of Victoria from 9 to 11, with the number of those directly appointed by the responsible minister — the Minister for the Arts and Premier — to increase from 5 to 7 people. The remainder of the bill addresses some unintended
consequences arising from the passage of the Public Sector Management and Employment Act earlier this year as it concerns the employment status of council or trustee members.

The terms of the bill have been characterised by the Speaker of the Legislative Assembly as ‘narrow’. However, following debate in the other chamber, it is obvious the bill has touched a few raw nerves regarding the plans to refurbish the existing gallery site in St Kilda Road and the plans to build the new Museum of Australian Art on the Federation Square site.

I turn now to staff redundancies. As a Labor member of Parliament my concern obviously reaches out to the significant number of gallery staff whose employment will be affected by the structural changes to the gallery. In my view the National Gallery has a duty of care to ensure that its staff members who have a strong attachment and dedication to the arts and who have developed expert skills in the field are provided adequate redeployment assistance if they become redundant as a result of the changes.

In regard to the display of artwork, I understand that plans are under way to exhibit major works of art possessed by the National Gallery at the State Library of Victoria site during the construction and refurbishment phase. However, the stock of art possessed by the National Gallery is significantly larger, including significant Aboriginal works and other artefacts. Although most of it will be mothballed during the construction of the new Museum of Australian Art and the existing gallery’s refurbishment, it is my hope the government will give an assurance that the public will have access to any of the gallery’s works if required for educational purposes.

Although I welcome the digitisation of the gallery’s collection, the concept of a ‘virtual gallery’ is no match for experiencing the reality of works at a display or an exhibition.

I refer to the autonomy of the council of trustees. I express my concern at the apparent encroachment of the Minister for the Arts and Premier on the direction and future operation of the National Gallery by increasing the proportion of government-appointed representatives on the council from five to seven, or from 55.5 per cent to 63.6 per cent.

I turn to the future of the gallery. I am sure that with the completion of the new developments and with the appointment of Mr Steve Vizard as the chairman of trustees, the National Gallery of Victoria will go from strength to strength and continue the trend of providing innovative ways for Victorians to access their art treasures.

Hon. D. McL. DAVIS (East Yarra) — I support this small but important bill. I also support the contributions made by a number of other members. It is not my intention to canvass issues that have been raised already, but I will comment on the context in which the bill occurs. It is a time of rising professionalism in arts and arts management. The bill fits well within that context. It is a time when not only are the cultural aspects of the arts important but economic aspects are also important, particularly visual arts. The National Gallery of Victoria plays an important part in our lives. I refer to some of the collections that Wendy Smith reviewed and discussed and the contributions they make to the lives of Victorians.

The government has seen fit to successively put significant amounts of money into this area in order to strengthen the impact of the arts, visual arts in particular, on the Victorian economy. That can create ripples not only in tourism and job creation but also in the building of an arts industry in Victoria where a collection of people have the management skills and the understanding and where these galleries and other visual arts collections, as well as the arts broadly, make a significant economic contribution to the Victorian economy.

In referring to the visual arts, I refer to some figures from the Arts Marketing Task Force brief on visual arts audiences in Victoria:

Approximately 42 per cent of the Victorian population aged 14 years and over visited an art gallery in the 12 months to February 1997. Over that period 14 per cent of Victorians visited a commercial art or craft gallery in Melbourne or another capital city, 10 per cent a major regional gallery, and 15 per cent a small regional art or craft gallery.

There are further figures but that gives a fair understanding that almost half of the Victorian population in any given year is visiting a formal gallery for the visual arts. That demonstrates that this is a significant area for the Victorian economy overall.

In referring to the number of people employed by industry I rely on labour force surveys from the Australian Bureau of Statistics in cultural and recreational services. In line with those of many Western nations the Victorian and Australian economies are no longer based predominantly on agriculture and manufacturing. Although these sectors continue to be important and continue to generate much in the way of economic activity, and indeed successively greater value on economic activity, the arts and other cultural areas of the economy are growing in
importance generally. According to the ABS survey, in 1987 the number of persons employed full time in Australia was 88,800; in 1997 it was 127,000 persons. One can see the sort of shift that is occurring. If one looks at total employment, which includes part time, by 1997 it was well over 200,000 according to ABS surveys.

It is not only the employed workforce that is important. The unpaid workforce contributes significantly to the Victorian economy. That includes the people who make contributions at the gallery and other cultural institutions in an unpaid capacity. Those people also contribute to their own understanding and to the strength of the community in a broader way — for example, surveys reveal that the number of unpaid people in cultural institutions may be up to three times the number of paid persons. Those people deserve credit. Many of us who occasionally visit the National Gallery see the significant work that is done by the unpaid volunteers, the guides who take people around and explain an area of art or an exhibition in a way that makes it intelligible and understandable to somebody who is not a specialist in a particular area.

I also note some of the comments made by Mr Cover and Mrs Hogg about the energy and credentials of Steve Vizard as one of the new people on the council of the National Gallery. The contribution he will bring to that role is undoubted. There were also comments about the involvement of the federal government. The federal government, under Senator Alston, Federal Minister for Communications, the Information Economy and the Arts, has been generous to the arts in Victoria. I note the recent announcement of $12 million for regional art galleries, with which Victoria made significant gains. Ballarat, Castlemaine, Geelong, Shepparton, Latrobe, Mornington Peninsula and Benalla art galleries have made significant gains. That will strengthen the cultural heritage of Victorians in those regional areas. It will strengthen the economic impact of the arts through both tourism and the creation of direct employment in some of those areas.

I note that many honourable members are very fond of and respect the National Gallery as an institute, other than in the wider context. One of the measures of that is the growth in attendances at the National Gallery since the removal of the entry charge. I quote the word "spectacular" from the recent annual report. Attendances have almost doubled from 642,533 in 1995–96 to 1,222,731 in 1996–97, far ahead of any targets and expectations. That again indicates that the government, with its focus on the economic significance of this area as well as its tremendous cultural significance, will move the gallery with its current renovations, which have been detailed so well by previous speakers, into the next century in a way that respects and builds on our cultural heritage and on the economic strengths of Victoria.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank honourable members for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ROAD SAFETY (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 7 October; on motion of Hon. G. R. CRAIGE (Minister for Roads and Ports).

Hon. PAT POWER (Jika Jika) — The Road Safety (Further Amendment) Bill does not require a substantial debate. However, that should not be taken as an indication of its lack of importance. The opposition is happy about the legislation and does not oppose it.

The bill does a number of simple but important things. Consistent with national uniformity measures the federal government has established the national exchange of driver information system known as NEVDIS, which allows for an exchange of driver licensing and vehicle registration information across all states and territories. That is important not only for management and monitoring but also for ensuring that we have a regulatory and management system that meets the demands of consistent national uniformity.

The legislation also addresses what has been a customary practice where Vicroads has sensibly and properly cooperated with vehicle manufacturers in providing data about current ownership, names and addresses and so on, in the event of vehicle recall. The government has acknowledged that that practice should
be formalised, and the legislation does that. The bill sensibly requires that Vicroads would provide that information only as a matter of course when the nature of the vehicle recall relates to a safety issue. All members of this place would want that to happen so that if safety problems were discovered in any relatively new vehicle they can be expeditiously recalled and the matter rectified.

Another aspect of the legislation about which the opposition is relaxed is that it clarifies issues about the demerit point program. Clause 4 adds proposed new subsections (4C) and (4D) to section 25 of the act. It makes it clear that a suspension of licence under the demerit points system is additional to any other period of licence cancellation or suspension and cannot be served concurrently. The opposition would obviously not want to support a circumstance in which demerit points can be avoided. The legislation means that if a licence is suspended or cancelled the demerit points are banked until that suspension or cancellation has expired.

Clause 5 amends section 92 of the principal act to enable information to be disclosed for the purposes of the national exchange of vehicle and driver information system and to facilitate the provision of information by Vicroads relating to safety recalls by vehicle manufacturers. That is sufficient comment for the opposition to indicate its support for the legislation.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 agreed to.

Clause 2

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I move:

1. Clause 2, line 12, after "7" insert "13".

The amendment adds an additional figure, 13, as a result of changes to dates for the cessation of the regulations.

Amendment agreed to; amended clause agreed to; clauses 3 to 12 agreed to.

New clause

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I move:

2. Insert the following new clause to follow clause 12:

‘AA. Amendment of Road Safety (Amendment) Act 1998

(1) In section 2(3) of the Road Safety (Amendment) Act 1998, for “1 February 1999” substitute “1 March 2000”.

(2) In section 11(1) of the Road Safety (Amendment) Act 1998, in paragraph (a)(ii) of proposed new sub-section (3) to be substituted for sub-section (3) of section 7 of the Road Safety Act 1986, for “office” substitute “offence”.

Earlier the house passed the Road Safety (Amendment) Bill. The proclamation date was to be 1 February 1999 at the latest. Its main provisions were to bring about changes to national terminology in the Road Safety Act. It was drafted on the basis that it should be enforced before the existing regulations were sunsetting on 8 February 1999.

Clause 7 of the Road Safety (Further Amendment) Bill contains a safety net provision to extend the regulation sunset to 1 March 2000 unless sooner revoked. However, it has been pointed out that issues arising from the public consultation period may not be satisfactorily resolved by 8 February 1999. As a result, if the act is amended by the national uniformity provisions of the Road Safety (Amendment) Act but the existing regulations are kept in force there will be a problem with incompatibility between the Road Safety Act and the regulations. To avoid the problem, the Road Safety (Amendment) Act should be amended to change its default commencement date to 1 March 2000.

Hon. PAT POWER (Jika Jika) — The opposition accepts the need for the new clause for administrative purposes.

New clause agreed to.

Long title

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I move:


This merely makes an insertion into the long title of the bill to take account of the Road Safety (Amendment) Bill which was debated and passed earlier this sessional period.
Amendment agreed to; amended long title agreed to.

Reported to house with amendments, including amended long title.

Remaining stages

Passed remaining stages.

BAIL (AMENDMENT) BILL

Second reading

Debate resumed from 7 October; motion of
Hon. LOUISE ASHER (Minister for Small Business).

Hon. D. A. NARDELLA (Melbourne North) —
The opposition does not oppose the Bail (Amendment) Bill. The Bail Act applies to different offences in different ways and caters for different crimes. In particular, the test for bail differs for certain serious crimes. The following tests apply to charges concerning the trafficking and importation of drugs.

Under state law the importation of a trafficable quantity of narcotic drugs requires a court to refuse bail unless the person shows cause why his or her detention is not justified. The bill deals specifically with the 'shows-cause' aspect.

The second test is that a person who is charged under state law with trafficking or cultivating a drug of dependence is required to satisfy the court that there are exceptional circumstances justifying release of that person. The 'exceptional circumstances' aspect is the other important part of the bill.

Under the commonwealth Customs Act the provision of bail faces a lesser test for a person charged with the importation of narcotic goods. The bill brings the test for the granting of bail for a person charged with the importation of narcotic goods into line with that applying to a person charged with trafficking — that is, he or she must demonstrate 'exceptional circumstances'.

The issue of bail is important in the criminal justice system and to the way a person is seen by the community to be held in the eyes of the law. Under the criminal justice system a person is presumed innocent until proven guilty. Bail provides the opportunity for a person to put his or her case on why he or she should not be in custody but out in the community. The bill deals with trafficking offences where the importation of large amounts of drugs, called commercial quantities, is involved. It is justifiable to apply a stricter test for those accused of trafficking hard drugs. That test is the appropriate 'exceptional circumstances' test where an accused can prove that because of exceptional circumstances he or she should not be in prison.

The bill tightens up the bail conditions for traffickers of drugs. The community needs to deal with the drug problem effectively. The Penington report was a great step forward in that it highlighted issues surrounding drugs and examined ways of dealing with drugs as a serious problem in the community. We need to adopt more of the recommendations in that report. Harm minimisation must be the goal in what we do, certainly within this house, but also within the community. The government has gone down the track of dealing with the end users of drugs, especially the first-time users, in that they are required to undertake counselling and other treatment rather than have a criminal offence recorded. That action assists to reduce drug taking within the community.

In those instances it is important to understand that simply because a user may be picked up for the first time it does not necessarily mean that that was the first time the person had used drugs; it may simply be the first time he or she has been caught. But it is important to put programs in place to change the way people view drug use. Those programs should sound a warning to drug users that they should change their ways.

If the drug trafficking trade is reduced, the need for the bail requirements proposed in the bill will be lessened. We need to go further. We should remove the financial benefit gained by people importing drugs. Conservative governments have difficulty taking that step — for example, the proposed heroin drug trial in Canberra was scuttled by the Howard government. I believe programs like that should be implemented because they would reduce the incidence of crime and have the flow-on effect of reducing the need for the provisions set out in this bill.

The importation of narcotic drugs is a serious issue because drug addiction touches all our lives. It may mean that our house and contents insurance is increased. I was talking to the owner of a large new house in Delahey, a new estate on the outskirts of Melbourne, who told me that the two houses next to his had recently been burgled. Burglaries of this kind are normally associated with drug addicts who need to steal goods to feed their drug habit. It is a vicious circle: the money ends up in the pockets of drug traffickers and it then becomes part of organised crime syndicates throughout Australia. It is a concern for communities such as those at Delahey that have to put up with burglaries by people who steal money and goods to
feed their drug addiction. There must be a better way to deal with this problem.

It is obvious that putting people in cells and throwing away the key does not work. There is a continuing debate among members of the government about the measures taken by the Victoria Police in the Broadmeadows police district. The police have expanded that policy throughout Victoria and I believe the Broadmeadows police district has adopted a similar policy with hard drugs. The harm minimisation program is extremely important in telling drug users that they should not use drugs.

It is a difficult issue for conservative governments because their view of crime and punishment is different. Nevertheless, we have to deal with this issue because the trafficking of hard drugs is a growth area for organised crime both in Australia and overseas.

The drug bust off the coast of New South Wales in the past week is an example of the amount of hard drugs flowing into this country. I understand 400 kilograms of heroin was being illegally imported by a ship and that some 18 or 19 people were arrested. Unfortunately, it is only the tip of the iceberg. It is like the Titanic, which collided only with the tip of the iceberg. I understand the drugs came from the Golden Triangle located in South-East Asia and largely centred in Thailand. It is almost an autonomous region with its own government. Its regions are controlled by war lords who are extremely rich and who have strong global networks. Heroin from the Golden Triangle first travels to China where it is shipped around the world by Chinese Triad gangs from Hong Kong.

This measure provides that the courts must be satisfied that exceptional circumstances exist before bail is granted to persons charged with drug importation offences. The opposition agrees with that position. Organised crime is making a fortune out of the misery and pain of young people. I believe one way of dealing with the drug problem is to hit the drug traffickers hard. If that means they have to undertake a more difficult test for bail, so be it. This is a global issue and the legislation deals with the after-effects of a person caught in Australia trafficking drugs, but it does not help us to get the Mr and Mrs Bigs of the world — the people behind the drug trade. I understand drug syndicates are compartmentalised and work in such a way that people on different rungs do not know others above or below them — for example, the captain of the ship that dropped the drugs off the coast of New South Wales would not know the people for whom he was transporting the drugs or even the people to whom he was delivering them in Australia.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Hon. D. A. NARDELLA — The Bail (Amendment) Bill is important when considering the effects on our community of last week’s 400-kilogram drug bust. Given that the price of heroin is as low as $15 a cap, the bust will not have much of an effect on heroin prices in Australia. So many drugs are available that what has been confiscated will soon be replaced. The body of organised crime that was transporting the drugs to Australia took the same calculated risk of the shipment being discovered as it always takes, but in the long term the benefit to them is much greater than the cost of a single drug bust.

The bill will assist in keeping in gaol people who are apprehended on drug charges, and it will make skipping bail much harder. The opposition supports the proposal to deal more harshly with people accused of trafficking in drugs. The requirement that a court must be satisfied that exceptional circumstances exist before bail can be granted shows how severely the house considers those involved in the importation of drugs should be dealt with. The only way to deal with drug trafficking is to remove the financial rewards available to bodies of organised crime and to find effective mechanisms to diminish their power and influence. After I referred to the Golden Triangle that takes in Thailand, Burma and Laos, Mr Walpole told me that in the main the drugs come out of Burma, which I was not aware of. That trafficking must be dealt with globally.

We will never be rid of the scourge of drug trafficking because of the amount of money involved, but we must make it hard for people to escape the law, especially once they are apprehended and behind bars awaiting trial. Greater emphasis must be put on getting the people at the top of the organisation rather than the foot soldiers at the bottom. On that basis, the opposition does not oppose the bill.

Hon. R. H. BOWDEN (South Eastern) — In supporting the Bail (Amendment) Bill I congratulate the government on taking a positive step to further strengthen the state’s laws to ensure that those who traffic in and market illicit drugs are given a harder time for bringing that scourge on our community. I wholeheartedly support the sentiment behind the bill, which is to protect our society from the effects of the widespread use of narcotic substances.

I congratulate all those in the law enforcement and customs agencies who played a role in last week’s highly successful interception of a major shipment of drugs off the New South Wales coast in which more than 400 kilograms of heroin was seized. Although,
CRIMES (AMENDMENT) BILL

Tuesday, 20 October 1998

COUNCIL 133

Read second time.

Third reading

Hon. LOUISE ASHER (Minister for Small Business) — By leave, I move:

That this bill be now read a third time.

I thank Mr Nardella and Mr Bowden for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

CRIMES (AMENDMENT) BILL

Second reading

Debate resumed from 7 October; motion of Hon. LOUISE ASHER (Minister for Small Business).

Hon. D. A. NARDELLA (Melbourne North) —

The opposition has serious concerns about the Crimes (Amendment) Bill. It supports two of the measures it contains, but not the third. The opposition will in the main support bills such as this, but in this case it finds it difficult because of the implications in the bill.

As I said, the Crimes (Amendment) Bill has three specific measures. The first relates to loitering offences by sex offenders, which the opposition has no major concerns with. The second relates to contaminated goods offences and makes changes in line with the national model legislation, which is an important development that the opposition does not oppose. The third measure involves changes to section 360A of the Crimes Act, which deals with the powers of courts to order the provision of legal aid to ensure fair trials. The bill will not guarantee a fair trial; instead it will achieve the reverse, which is of concern.

The opposition supports the need to protect the community from people gratifying their sexual needs by loitering around kindergartens, schools or anywhere young people gather during the day or night. Members of the opposition are concerned to protect vulnerable young people in our community, and that is why we support any measures that seek to do so.

Much of the bill is based on the work done by the all-party former Crime Prevention Committee under the chairmanship of Mr Ken Smith. Perverts and deviants...
hanging around kindergartens or primary and secondary schools trying to satisfy their sexual needs by being close to or procuring young children were of major concern to the committee. Mr Smith and I heard many stories about the problems they caused throughout Victoria, and legislation designed to deal with those problems was enacted in 1993. The bill strengthens its provisions by increasing the penalty for those types of offences from a one-year maximum term of imprisonment to a two-year maximum, and the relevant fines are also increased. Serious sex offenders as defined in the Sentencing Act also come under the bill’s ambit.

It is important that Parliament protect vulnerable young people in our society from deviants who can ruin their lives. Some would say children need protection not only from people loitering outside schools or kindergartens but also from people within those institutions, including private and public schools, who should not be there. Victoria has come a long way in exposing such problems within its school communities, but there is still a long way to go. Various institutions continue attempting to deal with those matters internally rather than bringing them to the notice of the police. I urge those institutions to do the right thing.

It is important for the young people who have been abused to get some justice. It is also important to make sure it does not occur again. The government has the onerous responsibility of ensuring it does not occur again either outside or within the schools or kindergartens.

The opposition has welcomed many measures that have been put in place in this area of concern. The bill alters the loitering laws to correct an anomaly caused by bad drafting of the provision dealing with how to determine whether a person is a previous sex offender. Apparently section 46 of the Crimes Act was section 48 before the 1991 changes; that was not picked up in the legislative changes in 1993, as I understand it, and the bill now closes the loophole.

As I said, this area of the bill increases the maximum gaol terms, and the term for a serious sexual offence has been increased to five years. The opposition has no concerns about and welcomes that change.

The second change relates to contamination of goods. In 1997 the produce of Arnott’s Biscuits was threatened with contamination and the company was affected markedly. A similar incident occurred more recently with Sanitarium products and the company withdrew its goods from the shelves. It acted responsibly; it was the only way it could respond to the threats until it was safe to put the goods on the shelves again. The companies had to pay a penalty for trying to safeguard the community, and they lost sales as well. They gained public admiration, but that does not replace the financial losses they experienced. Deliberate contamination causes an immense problem for companies that produce food and deal in perishable goods.

The bill updates the offence of contamination of goods to include goods that are not necessarily for human consumption, such as toiletries — shampoos, soaps and so on — the contamination of which can cause severe problems for people who use them. The losses are just as bad for companies that manufacture those sorts of products as they are for food companies. The bill also amends the definition of ‘economic loss’ to include loss caused by the removal of goods from shelves when it is done to prevent poisoning. That updates the legislation to keep up with changes in our society.

One of the problems with this type of legislation is that, good as it might be, ultimately there is a need to catch the culprits who are contaminating the goods. If they are caught they can be taken to task, but in many instances that has not occurred, so the companies affected have no redress for the economic losses resulting from their removal of consumer goods from the shelves. Sometimes it is just impossible to get any redress from people who have no assets or income when the companies’ losses run into tens, hundreds or millions of dollars. However, the provision is a good step that the opposition supports.

The third part of the bill, which the opposition will oppose in the committee stage, deals with changes to section 360 of the Crimes Act. The minister said in his second-reading speech:

The bill will give effect to the government’s justice policy objective of reforming the criminal justice system to ensure that it is accessible, efficient and cost effective, and that it has the confidence of the public.

This bill does nothing of the sort. In fact, it takes away rights that defendants currently have in the Victorian criminal justice system. Just as bad is the fact that it removes the discretion Victorian judges have used to protect accused persons in cases where there may be a lack of balance in the criminal proceedings.

It will be interesting to see how the government justifies this removal of rights. Its words about creating efficiencies and productivity and all that type of economic rationalist jargon do not change the fact that the amendment will diminish the rights of accused persons. It will mean that in effect the judges will not
have control of the court system but Victoria Legal Aid will determine the appropriate representation for the accused.

This situation arises as a result of the Dietrich case, which gave rise to the Dietrich principle. Under the Dietrich principle, which was established by the High Court, a court can make a permanent stay of proceedings where it cannot guarantee a fair trial because of the absence of legal representation for the accused. In Victoria, in response to that decision section 360A of the Crimes Act vests power in a judge to compel Victoria Legal Aid to provide legal representation for an accused person to ensure a fair trial.

However, in certain circumstances judges have been forced to make orders that specify the identity and level of representation of the accused to ensure a fair trial. For instance, where trials have collapsed on three or four occasions through no fault of the accused — there may have been a mistrial or some problem in the trial itself — obviously it is necessary that the legal representation remain the same. Trials become so complex that for Victoria Legal Aid to simply sack the solicitors jeopardises fairness.

Similarly in high profile cases where the Director of Public Prosecutions determines that a Queen’s Counsel and a junior is appropriate to prosecute the case, it cannot be a fair trial if Victoria Legal Aid funds only a single junior barrister to defend the accused. We need to understand that this bill takes away the discretion of judges to ensure a fair trial. There have been cases where there have been mistrials, but Victoria Legal Aid will be the sole determinant of who is to be allowed to represent an accused.

An accused could go through two or three complicated trials represented by a solicitor and a couple of barristers. Then when a critical trial is reached Victoria Legal Aid can say it no longer wants the solicitor and barristers to represent the accused and will put up a junior barrister against a QC and one of his or her juniors. That is not what a fair trial should be about.

In an economic sense it does not mean the system will be any better. If fair trials are not permitted within the state court system one thing will occur — the trials will be prolonged. The cases will then be appealed to the High Court and it will cost Victorian taxpayers even more money. People should be given a fair trial under the same rules. When a person’s liberty is threatened it is important that he or she has a fair trial. We cannot have a society where fair trials are not part of the legal landscape, or where they get thrown out the window to ensure that the system is efficient and cost effective, using the words of the minister. It may be efficient and cost effective, but it is wrong if injustices are inherently built into the criminal justice system, particularly if they weigh heavily in favour of the prosecution. The state has unlimited funds in these cases. It has the ability to support and fund its cases way beyond an individual’s economic circumstances, and certainly beyond those of Victoria Legal Aid. It is wrong to include any provision that will take away people’s rights. The bill will prevent judges from making orders, so the court will be effectively controlled by Victoria Legal Aid.

Honourable members interjecting.

Hon. D. A. NARDELLA — Honourable members opposite are saying it will not. Then why put these provisions into the bill?

Hon. W. R. Baxter — That is not what they say.

Hon. D. A. NARDELLA — Of course it is not what they say. The provisions in the bill were proposed by Victoria Legal Aid.

Hon. W. R. Baxter — But not to do what you are alleging.

Hon. D. A. NARDELLA — Yes, they are. Leaked minutes of Victoria Legal Aid have revealed these changes were drafted by its managing director, Mr Rob Cornall, and the general manager of VLA’s grants division, Ms Jane Macdonnell. They are acting on behalf of the interests of the government in a way that they perceive as dealing with these matters. In fact, they will take away the rights of the accused. It is not unusual for this government to take away the rights of accused people. It is not unusual for it to take away rights and benefits from victims of crime. It does that consistently. In this case it goes even further.

The Attorney-General has simply taken at face value the bureaucrats’ amendments and has ignored their impact on the courts. She is now seeking to put Cornall and Macdonnell, the two bureaucrats, above judges in a determination of whether a fair trial can be assured.

Hon. W. R. Baxter — What a lot of rubbish!

Hon. D. A. NARDELLA — It is not rubbish. All you need to do is read the particular provisions in the bill.

Hon. W. R. Baxter — I have; I just read them again.
CRIMES (AMENDMENT) BILL

Hon. D. A. NARDELLA — That is good, and keep on reading them because it takes you a little time to understand. However, if you were in a position where you had no money, you had used up all your assets and found yourself at the mercy of Victoria Legal Aid, at the mercy of Cornall and Macdonnell, you would quickly discover that the justice system is not fair.

However, there is a safety valve. The safety valve is the High Court, a process outside this Parliament and independent of the VLA, the minister and the government. It does not take away from the position that the government is again attacking the rights of individuals and the accused. That is of concern to the opposition. The opposition will strenuously defend the right of judges to have discretion in these matters.

The opposition supports most of the provisions contained in the bill. It opposes only clause 6, which concerns the conditions under which the VLA can fund legal representation. There have to be checks and balances within the legislation, as the government has outlined. However, the provision takes away the discretion of judges. Opposition members have spoken on a number of bills supporting the discretion of judges in determining these matters. There are other ways of dealing with vexatious litigants. The bill will take away the discretion of the judge to give fair and equitable legal representation to the accused.

Honourable members should put themselves in the position of an accused person. Although you know you are innocent, you have the full weight of the state against you, including experienced QCs and their juniors. If you want a fair trial you have to rely on the discretion of the judge. Judges are in a good position to work through the economic and personal aspects of the accused. It is important that they retain that discretion within the criminal justice system.

The bill is about the government saving money, but justice will not be served if it goes down that path. The opposition supports the measures on loitering and contamination of goods but does not support the ordering of legal aid, the removal of people’s rights and the removal of the discretion of a judge to award legal aid on the same basis, level, pay and representation as the state provides which will take away the liberty of an accused person. The opposition will oppose that provision during the committee stage.

Hon. P. A. KATSAMBANIS (Monash) — I support the Crimes (Amendment) Bill and will put the record straight about one of the elements it contains. The bill amends three parts of the Crimes Act, the first being that of loitering by sex offenders in the proximity of schools, kindergartens and child-care centres. The second refers to the contamination of goods and the third refers to the provision of legal aid in some circumstances in Victoria.

Amendments made to section 60B of the Crimes Act about loitering by sex offenders are welcome. It is pleasing to hear that the opposition does not oppose that provision. It is clear that when the section was inserted in the act in 1993 it was intended to be a deterrent for those types of sexual offenders who have a propensity towards paedophilic activity. It was made clear that the Victorian community did not welcome such individuals, and I concur with Mr Nardella’s contribution in his colourful language. Such persons are of bad character and it was decided that the community would not tolerate such people loitering without reasonable cause near or in school grounds, kindergartens, child-care centres or any other public places frequented by children.

The current drafting of the act makes the section applicable only to those who have been found guilty of certain sexual offences from 1991 onwards. It was clear that the intention of the government in 1993 was that the section should apply to people who had committed such sexual offences regardless of the time they committed them. The offences could have been committed in 1980, 1991, 1993 or whenever and they should no longer rely on the technical nature of the provisions of the Crimes Act that have been converted from one section to another. The provision ensures that those offenders who have been convicted and found guilty of sex-related offences, irrespective of when those offences took place, whether it be in Victoria or another state or territory, be precluded from loitering without any reason or excuse near schools, kindergartens, child-care centres or other places that children frequent.

The entire community of Victoria welcomes such a provision, which continues to ensure that the government looks after the interests of the community, children and young people who may fall prey to such individuals.

The second part of the bill refers to the contamination of goods. Unfortunately last year there was a high profile incident at the Arnott’s biscuit factory when an individual decided to contaminate goods and create public alarm. As a result, the Standing Committee of Attorneys-General introduced a model throughout the nation to protect the public against such events. As a result of the findings of that committee’s working party Victoria has now decided to repeal section 248 and introduce in its place the new model section that will
apply throughout Australia to ensure that the same rules apply because many corporations, and in particular Arnott’s in 1997, are subject to such threats. Many corporations operate well beyond the boundaries of any one state.

The main changes in the new provision are that the definition of goods will be extended to include all types of goods regardless of whether they are destined for human consumption. Goods that are destined for human consumption are currently covered. In the cases that have arisen in Australia so far most contamination has been related to goods destined for human consumption. There have been cases overseas, especially in the United Kingdom, where activists have decided to contaminate toiletries or cosmetics to further their particular causes, which may, for example, relate to goods being tested on animals. Another instance involves the contamination of petrol, either making it more explosive or for some other reason that was not intended. Although that does not relate to human consumption such contamination can clearly be harmful. The bill ensures that tampering with any goods, regardless of whether they are for human consumption, is illegal and will be dealt with as a crime.

The amendment provides that economic loss will include both the steps taken to avoid any public harm and anxiety or any steps taken to avoid actual harm to members of the public. Corporations that suffer economic loss as a result of tampering with their goods will have the ability to use the provisions to recover economic losses by both alerting the public to the alarm and also the economic loss caused to them when trying to avoid real harm to members of the public.

Mr Nardella mentioned that, unfortunately, in many circumstances the economic loss may never be recovered because the person committing the crime may be impecunious. That happens frequently in society. People do not have the funds to repay the losses, and there is not much one can do about it. The bill further provides that where a corporation suffers a loss it can institute a process of recovery depending on the depth of the pockets of the defendant. The measure is consistent with the government’s commitment to providing a safer place for all Victorians and to ensure there are adequate provisions in place so that if people decide to indulge in criminal behaviour by tampering with goods offered for sale to the public the justice system can deal with them.

The third measure is the provision of legal aid. It amends section 360A of the Crimes Act. That section was introduced in 1993 in response to a decision taken in the High Court in the case of Dietrich v. The Queen. Basically, the provision enables the County Court or Supreme Court to order Victoria Legal Aid to provide assistance to an accused person if the court is satisfied that the trial would be unfair if the accused did not have legal representation and also that the accused were unable to afford such legal representation. The elements of that provision are maintained by the amendments introduced by the government. It is unfortunate that Mr Nardella misinterprets the effects of the provision. He argues that in some way the bill removes the rights of defendants or the discretion of judges.

I direct Mr Nardella’s attention to clause 6 and ask: who has the power to make an order under section 360A? It is not Victoria Legal Aid because the discretion stays with the court. The court is the body empowered to make an order under section 360A of the Crimes Act about legal representation in Dietrich-type cases when they come before the County or Supreme courts. That discretion stays with the court, which is able to order effective legal representation where it believes it would be unfair for the accused not to have legal representation and where the accused cannot afford such legal representation.

The bill changes the way those orders operate. First and foremost, it ensures that the court can have regard to any type of conduct, either vexatious or unreasonable, on the part of the accused. Unfortunately, we have seen cases where the accused person uses his or her own funds to bring a large number of preliminary applications as a tactic to delay the trial or the day of reckoning, often hoping that witnesses, either through the effluxion of time, natural causes or for other reasons, will become unavailable to give evidence. On any view that is an attempt to delay the legal process. Often those people spend all their funds. Dare I say it: there may well be cases where the opportunities to delay hearings have frittered away an accused’s funds until nothing is left for legal representation.

This amending legislation rightfully gives the court — that is, the judge — the power to take those circumstances into account. The Victorian community welcomes this sort of provision because legal aid is provided from Victorian taxpayers’ funds. It is not a magic pudding that mysteriously appears.

Honourable members interjecting.

Hon. P. A. KATSAMBANIS — Accused persons should not go out and use delaying tactics in the court process. They should not be able to spend thousands of
their own dollars to circumvent having their trials 
brought on at the right time and then — a few years 
down the track when, hopefully for them, some 
witnesses may have disappeared, passed away or gone 
interstate or overseas, or circumstances may have 
changed to the benefit of the accused — tell the court, 
'We cannot afford to pay silks for two or three years; 
we need to use legal aid'. Victorian taxpayers would 
see that as a misuse of their funds. In that case a 
discretion is given to the judge. That should answer 
Mr Nardella's concern because he said such a 
discretion is removed from a judge.

The discretion lies fully with the judge in the 
circumstance that such challenges are regarded as 
vexatious. Judges are the best people to determine such 
cases; they have been given guidelines and the 
community would surely welcome the fact that its legal 
aid dollars will be targeted to the people who really 
need it. Money does not grow on trees. If Mr Nardella 
wants to talk about efficiencies I can tell him that the 
idea behind such efficiencies is to provide a legal aid 
service for Victorians who need it. The funds should 
not be squandered on people who can afford to pay for 
their own defence.

Hon. D. A. Nardella — We agree.

Hon. P. A. KATSAMBAonis — Then you must 
support the bill, Mr Nardella. The burden of proof in 
Dietrich-type cases lies with the accused. He or she 
should say to the court, 'Here I am; I am presenting a 
case on why I cannot afford legal representation'. That 
individual is best placed to highlight his or her own 
circumstances. The onus should not be on Victoria 
Legal Aid to disprove that that individual does not have 
the funds. Guilt or innocence is to be determined later, 
but if people come to the court with clean hands they 
should be able to present their financial position to the 
court and say, 'Here it is; these are my circumstances'. 
The judge will have full discretion to determine such 
cases, but the burden of proof is on the accused to prove 
he or she cannot afford legal representation.

The bill also extends the definition of property owned 
by the accused. It incorporates the definitions that have 
recently been brought into place in the compensation 
legislation which allows the courts to cut through the 
legal fixtures. It allows a court to determine a person's 
real financial position. People cannot hide behind 
partners, spouses, offshore companies or trust account 
structures.

The bill provides the opportunity for the court to delve 
into the real financial circumstances of people and to 
determine what properties are under the effective 
control of the accused. Such property belonging to 
accused persons is to be taken into account when the 
court determines their true financial position. The 
Victorian community would welcome that provision. 
The last thing it wants is for supposedly smart people to 
be funnelling funds away so they do not use their own 
funds but rely on the largesse of the Victorian 
community. This provision ensures the court can cut 
through those sorts of legal positions and determine the 
true financial position of an accused.

Further, the bill contains a provision that the court may 
not impose conditions relating to the identity, number 
or representation of persons representing the accused.

Hon. D. A. Nardella — You mean 'remuneration'. 
You said 'representation'. Does that take away the 
discretion of the judge?

Hon. P. A. KATSAMBAonis — Mr Nardella takes 
issue with this provision, which simply reserves the 
common-law provision that applies to all other states. It 
also places people who are providers of legal aid under 
section 360A of the Crimes Act — that is, the Dietrich 
provisions — in exactly the same situation as all other 
people who are provided legal aid in Victoria. In other 
words, they must abide by the guidelines for the 
provision of legal aid. They cannot hire four Queen's 
Counsel with many junior barristers; they will be put on 
the same level playing field as every other accused 
person in Victoria who avails himself or herself of the 
legal aid provisions.

They will not be able to get some form of super justice 
over and above those other conditions. That is what the 
provision does. It ensures the same opportunities are 
afforded to every single accused person who takes 
advantage of or is offered legal aid, irrespective of 
whether it is given to them under section 360A of the 
Crimes Act through a court order or whether they 
qualify formally under the normal processes applying to 
Victoria Legal Aid. The community welcomes that 
provision because it will ensure the appropriate level of 
representation is provided to everyone who seeks legal 
aid and that the right level of legal aid is available. It 
creates equality among all people who seek the 
assistance of legal aid. The provisions ensure our legal 
system continues to be accessible and provides 
efficiencies so that the legal aid budget can provide 
legal aid for those people who really need it and not for 
those intelligent people who manipulate the system to 
their best advantage.

By introducing this provision the government indicates 
it does not support people who manipulate the legal aid 
system to take advantage of the largesse of the
CRIMES (AMENDMENT) BILL

Tuesday, 20 October 1998  COUNCIL  139

Victorian community and that it supports those people who legitimately require legal aid services. On that basis, I commend the bill to the house.

Hon. C. A. FURLETTI (Templestowe) — I am pleased to support the Crimes (Amendment) Bill. I congratulate Mr Katsambanis for his contribution to the debate, particularly the way he cut through the opposition of Mr Nardella to the provisions relating to the Legal Aid Act. Mr Katsambanis’ contribution has left me with little to comment on, but I will add just a few points. An article in the Herald Sun of 12 September headed ‘Call to toughen loiter law’ states:

A Supreme Court judge says the Kennett government should toughen its most controversial law against child-sex offenders.

Justice Frank Vincent, head of the parole board, said the one-year maximum jail sentence for sex offenders caught loitering in schools seemed too low.

In contrast, thieves loitering in schools with intent to steal face a two-year maximum sentence.

This bill addresses those concerns. In the same newspaper on the same day Andrew Bolt wrote an article that raises an interesting question. The article entitled ‘Men who lie in wait’ states:

Last year, 16 sex offenders were charged with loitering, including a man who had earlier raped two children and attacked several others.

When arrested again outside a primary school, he told police he had planned to rape a young boy.

What should we do with men like that?

Keep the law that lets them walk completely free in just a year or less?

Or change it so a judge can force them to take two years of needed treatment?

What would be best — for our children?

I add, ‘and our community’.

The bill takes us a step further to what the community demands in such instances. It makes some technical amendments to the Crimes Act. It is ironic to say the least that an anomaly exists that simply because of a renumbering of sections in the previous act the intention of the law cannot be implemented. The bill seeks to amend the Crimes Act by broadening it and by referring to specific sections that are currently referred to in section 60B. The anomaly arises because specific sections through the passage of time are different from the original sections. The intention of the Crimes Act is that a sexual offender who has offended at any time should be subject to the provisions of the Crimes Act. Because of the anomaly I have mentioned, if someone committed the offence of rape before 1991 that offence could not be held as a sexual offence because of the way the Crimes Act is currently worded.

The bill clarifies and expands the category of offences that fall within the category of sexual offences, particularly by including what I call parts of schedule 8 offences — the forensic sample offences which were introduced late last year. Rather than specifically referring to offences under certain sections of the act, the offences are broadened to those set out in clauses 8, 9, 10 and 12 of schedule 8. The amendment also includes new offences in the definition of sexual offences, particularly crimes under the Prostitution Control Act and its regulations involving children.

Also significant is the increase in the maximum penalty for summary offences under section 60B from one year to two years of imprisonment. However, for serious sex offences the penalty is increased to a maximum of five years imprisonment. Although it is a minor amendment, it will have a significant deterrent effect on people such as those referred to by Andrew Bolt in his article.

The second minor but significant area is the amendment to the Crimes Act by the abolition of section 248 and the introduction of a new model provision that will be a model for the whole of Australia. The amendment was appropriately addressed by Mr Katsambanis in terms of the expansion and redefinition of contamination and the redefinition of goods. As indicated by earlier speakers, the previous provision was restrictive in that goods were described as goods for human consumption. The amendment will extend the definition to include goods for human consumption and other goods that humans use. Mr Katsambanis gave the example of petrol. It is significant that damage no longer has to occur; people can be charged with threatening to contaminate goods.

As Mr Katsambanis explained in his contribution, the purpose of the term ‘economic loss’ as a factor in creating an offence is significant. If there is an assertion that goods may be contaminated, it may impose on shopkeepers, manufacturers, distributors or warehouses enormous costs for recall, and in some instances destruction.

The amendment is directed as much at avoiding public alarm or anxiety as it is at avoiding public harm and deterring people from purchasing or consuming contaminated products or making profits from them.

Finally, the bill amends section 360A of the Crimes Act. In his usual style Mr Nardella delivered a diatribe,
commenting inaccurately on significant facts. He said that people’s rights will be reduced and that judges will not have control of the court system. He also referred to Victoria Legal Aid having that control. He gave no examples; statements were made and left hanging in the air. I sat, pen in hand, waiting for specifics, but as always I was disappointed because instead of providing them he went on to another issue. I hope one day he will give some details of what he predicts will happen. By then he might even have been briefed properly.

I will add a brief comment to Mr Katsambanis’s demolition of Mr Nardella’s argument. As the minister said in her second-reading speech, the most important aspect is the possibility of a deadlock, based on the High Court decision in Dietrich’s case, which decision has been explained by Mr Katsambanis and Mr Nardella. In effect it means that if the accused cannot afford legal representation and will suffer as a result of that disability, the case must be stayed. Obviously many people would like to have their cases stayed indefinitely. It is an appropriate tactic for people who have limited resources. I will not repeat all that Mr Katsambanis said, except to reiterate that it is not difficult to spend a lot of money very quickly in actions in the Supreme or County courts.

The concept underlying the provision of legal aid is not that everybody will get the best possible legal representation for as long as cases take — —

Hon. D. A. Nardella — No. Under your legal aid system they get the worst.

Hon. C. A. Furletti — I thought that might be your attitude. That is probably why your government ran up the debt it did.

Hon. D. A. Nardella — You don’t want a fair trial, do you?

Hon. C. A. Furletti — Some day Mr Nardella might explain to us what a fair trial is, but in the meantime let us get back to basics. Mr Nardella says it is all about getting a fair go, but I put it to Mr Nardella that it is all about need and not greed. There are those who need and should receive legal representation and assistance; and there are those who abuse the system and drain it dry, which you allowed to happen in the 10 years of your government of the state.

One of the features of the legislation which has been retained and which is strongly supported by all honourable members is that the courts — that is, the judges — have been left with the discretion of administering what is in effect government funding. The court must be satisfied that the conduct of the accused prior to making an application for legal aid is such that he or she does not deserve legal aid. The proposal is to insert proposed section 360A(4)(a) to provide that:

... if the court is satisfied that, in relation to the trial, the accused has engaged in vexatious or unreasonable conduct that has contributed to the accused’s inability to afford — and so on. It does not refer to Victoria Legal Aid; it says ‘the court’. The proposal to transfer the responsibility so that Legal Aid does not have to prove that a party can afford legal representation but that the accused has to prove that he or she cannot afford it is significant. In my days as a lawyer that was referred to as piercing the corporate veil. So irrespective of whether a person has any funds, if he or she controls or has access to funds, which may be held by associates, companies or trusts, that person will be obliged to disclose those funds and they will be taken into account. They are practical and reasonable propositions.

Hon. D. A. Nardella — We agree.

Hon. C. A. Furletti — Mr Nardella says that friends of the government hide their money. He should support anything which is not an expression of economic rationalism but which is designed to stop people rorting the system.

The only point that was not picked up by Mr Katsambanis was Mr Nardella’s suggestion that Victoria Legal Aid will determine all aspects of representation, including whether the party will be represented. Clause 6(f) clearly provides not only that Victoria Legal Aid does not have that power but that if it wants to do something about it, it must become a party to the proceedings by applying to the court. Mr Nardella has either misread the bill or has not been briefed appropriately. I suggest that in future he should be better prepared. The bill is appropriate and I support it.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 5 agreed to.

Clause 6

Hon. D. A. Nardella (Melbourne North) — I move:
1. Clause 6, page 8, lines 12 to 16, omit all words and expressions on these lines.

The opposition opposes that part of clause 6. Unfortunately Mr Katsambanis and Mr Furletti did not listen to what I said, which was that the opposition has a problem with lines 12 to 16 on page 8 — that is, clause 6(e) — and that they should be omitted. We do not have a problem with the other parts of the legislation.

**Hon. P. A. Katsambanis** — I didn’t say that.

**Hon. D. A. NARDELLA** — You insinuated that I said it, but that was never my position. You did not listen to what I said, which is that the opposition supports the other aspects of the bill that take into account vexatious litigation and the provisions under the Confiscation Act.

**Hon. P. A. Katsambanis** — You’re shifting ground.

**Hon. D. A. NARDELLA** — I am not shifting ground. The problem is that you hear only what you want to hear and you attack things you know very little about. It is unfortunate that although the honourable member spent all that time in law school he has not learnt how to listen to people on this side of the house.

Proposed section 360A(4)(e) is of real concern to the opposition because it takes away the discretion of judges to ensure fair trials. The discretion that judges currently have to match the firepower of the defence with the firepower of the prosecution is being removed. Victoria will be left with a situation where, under the panel system the government is putting in place although an accused will be prosecuted by an experienced QC and a junior barrister Victoria Legal Aid will be able to appoint only a junior barrister to defend him or her. That is what proposed subsection (4)(e) is about. Junior barristers just out of law school who have just entered the towers of Queen Street will be put up against a combination of experienced barristers and their juniors. It will mean judges will not be able to use the discretion they currently have to ensure that the defence and the prosecution have the same firepower.

After an accused has been through a number of court cases Victoria Legal Aid will say, ‘Under our guidelines we will no longer fund the accused’. Under proposed subsection (4)(e) the judge will have no discretion to order that the accused be provided with appropriate, fair and equitable legal representation. That is the difference the proposed subsection will make, which unfortunately both Mr Katsambanis and Mr Furletti do not want to recognise. They are seeing it from the economic rationalist point of view, arguing that in that situation the accused should get a local bush or suburban lawyer — that is what those two honourable gentlemen are — to represent him against a silk and a junior with experience and knowledge under their belts. They would buckle under that system, but that is the system they want to subject accused people to.

Fancy saying that because that is the common law position in New South Wales and Queensland, Victoria should adopt the lower standard. If that is what the bill is about the government should be honest with the Victorian community and say that that is the standard Victoria aspires to. The government should not argue that that is the standard Victoria should adopt and then cry poor about federal legal aid cuts when it is responsible for cutting legal aid funding in Victoria. Those cuts have meant that the protection that was affirmed in the Dietrich appeal in the High Court has been withdrawn from accused people fighting the state in the court system.

They are the major problems with proposed subsection (4)(e), and they are the reasons the opposition does not support it. The issue is not about super justice, it is about ensuring fair and equitable trials for both the accused and the prosecution, especially when the denial of liberty is at stake. That is why the opposition will be opposing this proposed section.

**Hon. LOUISE ASHER** (Minister for Small Business) — The government opposes both amendments. I will relate to the house the advice I have received because it gives a rational rather than an emotional background to the government’s view.

I have been advised that the effect of the proposed opposition amendment would be that the courts would effectively be drawn into arbitrating disputes between Victoria Legal Aid, legal practitioners and their clients over issues such as remuneration. According to my advice it would mean that the courts would be asked to consider questions such as whether specific legal practitioners should be briefed, whether two or perhaps three counsel should be briefed, and how much counsel should be paid.

I am well aware that Mr Nardella has dismissed the issue of common law, but it is very important. The opposition’s proposed amendment would make Victorian law inconsistent with the common law. In other states of Australia courts have held that it is not appropriate for courts to enter into such issues.
Mr Nardella has made a number of comments about proposed section 360A(4). The question for the courts to determine under that section is whether or not a trial would be fair if the accused did not have legal representation. According to my advice it is not appropriate for the courts to embark upon an inquiry into, for example, whether barrister X might argue the case more forcefully than barrister Y, how much a barrister should be paid or whether the barrister should be paid a daily or global fee.

A number of interesting things arise from the opposition's proposed amendments. The amendments proposed in the bill were developed in consultation with the Supreme Court, which has acknowledged that it is not the court's role to enter into such disputes. I am advised that that point of view was emphasised in a recent Court of Appeal judgment. The interesting thing about the judgment is that it was brought down on 5 October, after the bill had been drafted, or at least in a policy sense devised.

The Court of Appeal judgment is contained in *Victoria Legal Aid v. Boris Bejajev and Ors.* I will cite the judgment, because it brings wisdom to bear on the amendment we are now discussing. Page 21 of the judgment states:

The court's power is limited to ordering that assistance be provided by VLA, and conditions which interfere with its capacity to provide such assistance are not a proper exercise of that power.

That is an independent judgment by a court, after the policy position determination and the drafting of the bill. The judgment continues:

Once the court has ordered that VLA should provide assistance and has set the general parameters of such assistance, that is as far as it can and should legitimately go. It is open to the court to recommend, even strongly recommend if it thinks it desirable to do so, that VLA should seek to provide assistance through a particular counsel or solicitor who is familiar with the litigation. But in my view, it can go no further. If it were permitted to do so the court would be putting itself in the unseemly position of an arbiter between VLA, on the one hand, and lawyers for the accused on the other. It would be asked to resolve disputes that lawyers chosen by the applicant would better serve the ends of justice than lawyers within or selected by VLA.

That is an independent judgment of the Court of Appeal which endorses — obviously not by a political desire to do so but quite independently — the position that the government is putting in this amending legislation.

Mr Nardella is concerned about equity. Government members accept and understand that view, but one has to be realistic. According to my advice the opposition's amendment could result in large amounts of Victoria Legal Aid resources being used in one case. The government's amendment strikes an appropriate balance between the role of the courts in ensuring fair trials and the role of Victoria Legal Aid in allocating its resources equitably and efficiently. The government opposes the amendment.

**Hon. D. A. NARDELLA** (Melbourne North) — There is an inconsistency even in the part of the Court of Appeal judgment the minister read. The judgment talks about the ability of a judge to recommend strongly in regard to legal representation for an accused person. However, under proposed section 360A(4)(e) a judge does not have any power to even recommend any such thing to VLA.

**Hon. W. R. Baxter** — It does nothing of the sort.

**Hon. D. A. NARDELLA** — It does. Just read proposed subsection (4)(e), which states:

... the court under sub-section (2) do not include conditions relating to the identity, number or remuneration of persons representing the accused.

If you are talking about the conditions that may be specified by the court this provision excludes all of that, and that is the concern the opposition puts before the committee. The opposition will not walk away from its position — this is important. The discretion by the judges is not the discretion needed in cases where they cannot balance the position of these matters. I believe the judges, having come from the legal profession, are able to do that. The opposition continues to support the amendment.

**Committee divided on omission (members in favour vote no):**

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The effect of the bill is to extend the category of persons for whom money can be raised to include those who have been injured or killed in training exercises, such as the Blackhawk helicopter incident in 1996. There have been other incidents where in times of peace our armed forces have had accidents and where Victorians have been affected — for example, Victorians were injured in the Voyager sea accident. Some Victorian families and dependants have also been affected by the Blackhawk disaster in north Queensland.

It is appropriate that the bill updates the current legislation and provides assistance for peacetime accidents. When one is training under dangerous circumstances in the defence of one’s country such accidents are a fact of life. It is appropriate that the bill extends the patriotic funds to cover peacetime incidents.

The bill will enable more modern banking practices to be used. It will abolish anachronistic requirements such as the signing of a cheque by a trustee. Nowadays facilities such as automatic teller machines are used and it is in keeping with the times that these provisions are changed. The bill also allows for the trustee to delegate account-keeping powers to local organisations with certain requirements to provide financial statements. Although there are 300 patriotic funds in Victoria, the delegation of account-keeping powers is appropriate. Under the legislation there are accountability mechanisms and that is a position the opposition supports.

The bill also allows for the transfer of assets up to $20 000 from a patriotic fund without the necessity of obtaining Governor in Council sanction. The bill has safeguards within it — for example, there needs to be an approval by the Patriotic Funds Council, but not the Governor in Council, for funds under $20 000. It is a quicker process that is welcomed by the RSL, and it is certainly less bureaucratic.

Finally, the bill increases penalties for breaching the act. These have been increased from 5 and not more than 10 to 25 penalty units and not more than 50 penalty units. Again, it is keeping up with the changes in our society. It means that the money that is donated to the patriotic funds or raised by various community organisations to assist the people the funds are authorised to assist is safeguarded. Those safeguards are encompassed in and strengthened under the legislation. On that basis we do not oppose the bill.

Motion agreed to.

Read second time.
INTERNATIONAL TRANSFER OF PRISONERS (VICTORIA) BILL

Third reading

Hon. LOUISE ASHER (Minister for Small Business) — By leave, I move:

That this bill be now read a third time.

I thank Mr Nardella, the opposition spokesman, for his support of the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

INTERNATIONAL TRANSFER OF PRISONERS (VICTORIA) BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. G. R. CRAIGE (Minister for Roads and Ports) on motion of Hon. M. A. Birrell.

LAND (REVOCATION OF RESERVATIONS) BILL

Second reading

Debate resumed from 6 October; motion of Hon. M. A. BIRRELL (Minister for Industry, Science and Technology).

Hon. PAT POWER (Jika Jika) — The Land (Revocation of Reservations) Bill is a simple but important bill that addresses some parcels of land and brings their usage and classification up to existing demands. The opposition does not oppose the legislation. The bill provides for the revocation of permanent reservations of lands. It removes those reservations to facilitate disposal or because the purpose of the reservation is no longer appropriate.

Clause 4 deals with 0.9 hectares permanently reserved for watering and camping located adjacent to the Western Highway near Bacchus Marsh under the management of Western Water. The revocation will allow for the disposal of the land.

Clause 5 deals with 0.4 hectares of land on the corner of Hay Street and Canterbury Road, Box Hill, reserved for use as a shire hall. Revocation will allow for the disposal of the land. The legislation is simple but important, and the opposition does not oppose it.

Hon. B. W. BISHOP (North Western) — The Land (Revocation of Reservations) Bill is small but important. As a member of the bills committee I am interested in the history of revocation of reservations. It is an important part of our history that should be maintained in the records of the house. The East Gippsland Institute of TAFE is located in Main Street, Bairnsdale, on Crown land reserved for state school purposes. However, through some misunderstanding the institute has encroached onto two adjoining Crown land areas — a permanent reserve for public recreation and a permanent public purposes reserve that forms part of the frontage of the Mitchell River. Buildings have been erected on a small portion of that land due to a misunderstanding about the boundaries between the reserves.

Part of the public purposes reserve is also a proclaimed government road, which terminates at the institute. Since the construction of the road, an informal car park and recreation area has been created on part of the permanent reserve. The excision of this area from the reserve will not affect public access along the Mitchell River. The East Gippsland Institute of TAFE is considering redevelopment of the campus and wishes to ensure that the areas occupied by the college are appropriately reserved for future security and safety. It is proposed that the two sections of permanent reserves adjacent to the institute be revoked and re-reserved for education purposes.

The second parcel of land is at Korkuperrimul and consists of 0.9 hectares of watering and camping reserve adjoining the Western Highway and Korkuperrimul Creek near Bacchus Marsh. The land is under the control of Western Water. The original reservation was to allow for the watering of stock and for camping and would have been used mostly by drovers.

Western Water has advised the department that it does not require the subject land for its purposes and the Moorabool Shire Council has advised that the land has
no value to it. The department intends to dispose of the site after the reservation has been revoked.

The final piece of land is in Nunawading. It consists of approximately 0.4 hectares and is located on the corner of Hay Street and Canterbury Road, Box Hill. It is reserved for a shire hall. It forms part of a site which until recently was occupied by the City of Whitehorse for use as a pound. The remainder of the pound site is unreserved Crown land. Consistent with the government's local government policy on the use of Crown land for operational purposes by councils, the pound site was offered for either sale or lease to the council. The council chose to vacate the pound site, thereby making it available for sale. The pound site has some historic values and the council has given a commitment to protect it through the planning scheme.

It is interesting that the sites concerned have a sense of history. As time catches up with them it is important that the house note the changes when debating the Land (Revocation of Reservations) Bill.

Hon. P. R. HALL (Gippsland) — I thank my colleagues for their contributions to the debate.

Clause 3 of the Land (Revocation of Reservations) Bill is of particular interest to me because it refers to areas of land adjoining the Bairnsdale campus of the East Gippsland Institute of TAFE. I have been involved with the TAFE college council on this issue over the past couple of years. Some of the college buildings encroached on Crown land reserve and consequently clause 3 and the schedules to the bill make amendments so that the land will no longer be Crown land and will be zoned for state education. That will consequently make the future of the Bairnsdale campus of the East Gippsland Institute of TAFE secure. I welcome the introduction of the bill. The institute wishes to expand some of its operations at Bairnsdale and will now be able to do so legally.

The East Gippsland Institute of TAFE is one of the success stories in East Gippsland with the provision of vocational education. The institute originated 11 years ago in 1987 when it was called the East Gippsland Community College of TAFE. Before that its history went back more than 100 years. The East Gippsland Community College of TAFE came into being with the amalgamation of the Bairnsdale School of Mines and the Sale and Bairnsdale technical schools.

In 1987 when the East Gippsland Community College of TAFE was formed it had only 3000 students who had options for about 40 courses. Ten years later, in 1997, 8000 students have 165 courses to choose from at the East Gippsland Institute of TAFE, which reaches about 10 per cent of the regional population of East Gippsland. In 1987 for the first time the number of student contact hours reached more than 1 million. On any criteria the institute is a significant provider of vocational education in East Gippsland.

As well as the Bairnsdale campus to which the bill refers, the institute has two campuses at Sale — one at Fulham on the old National Safety Council site and a flexible learning centre in Sale. The institute has outreach centres at Orbost, Buchan, Mallacoota, Swifts Creek, Heyfield and Yarram. It also has a significant training centre for maritime studies at Lakes Entrance.

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I particularly wanted to mention that facility because Forestech would be the most advanced training facility that I have seen in the timber industry — something in which the East Gippsland Institute of TAFE has established a speciality. It is a centre for excellence for the hardwood timber industry. As well as providing courses in nature resource management it has an excellent course in furniture design and construction. It would be well worth the while of honourable members who, like me, have an interest in this area to drop in on Forestech when travelling the Princes Highway to Lakes Entrance. The design of the building is special, and the work that students do there is equally special. Many students who have graduated from the two-year diploma course in furniture design are now working in small business incubators at Forestech.

I was particularly pleased that this year at the Victorian training awards one of the graduates of the two-year diploma course at the East Gippsland Institute of TAFE, Nick Sweet, was named the outstanding student of the year in the vocational category. I have seen some of the work Nick Sweet and his partner are doing on a commercial basis. I thoroughly recommend the East Gippsland Institute of TAFE Forestech centre as a place well worth visiting to see what vocational education training in Victoria is all about.

I pay the strongest commendation possible to the East Gippsland Institute of TAFE as the provider of vocational education training in East Gippsland. I am pleased that this bill will secure the buildings they have on their Bairnsdale campus and ensure that the institute can build on the excellent work it is now doing.

Motion agreed to.

Read second time.
Third reading

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — By leave, I move:

That this bill be now read a third time.

I thank honourable members for their contributions, and particularly Mr Bishop for his extraordinary contribution. It is a pity historians will see his speech as having overshadowed the contribution of Mr Hall. I also thank Mr Hall for his contribution and the Labor Party for its support of the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — I move:

That the house do now adjourn.

Schools: religious instruction

Hon. C. J. HOGG (Melbourne North) — I direct to the attention of the minister representing the Minister for Education in the other place an issue drawn to my attention by the Humanist Society of Victoria. As honourable members may know, it is the view of the Humanist Society that the requirement for the provision of religious instruction should be deleted from the Education Act and that, instead, opportunities should be provided for students to learn about the diversity of religions within Australia. I understand this year the Department of Education is examining some aspects of providing religious instruction in government schools. I ask the minister to request his colleague, the Minister for Education in the other place, to advise what opportunity exists for a properly thought-out submission from the Humanist Society of Victoria to be given due and meaningful consideration.

Melbourne Custody Centre

Hon. JEAN McLEAN (Melbourne West) — My concern is directed to the attention of the minister responsible for Roads and Ports representing the Minister for Police and Emergency Services in the other place. One of my constituents was arrested and detained for 14 days in the Melbourne Custody Centre. His family asked me to visit him to ensure he was okay. They asked me to take some clothes to him because when people are held in that centre they do not get a change of clothes, and he had to appear in court on the following Friday. I contacted the minister’s office and spoke to a staff member. I asked if I could visit my constituent in the cells, only to be told that no facilities existed for visiting rights for anyone except close family members.

When my constituent was released after two weeks and all charges against him were dropped he told me many disturbing things that occurred during his time in the crowded cells where innocent young men and hardened criminals were lumped together in an enclosed area. He told me that many fights occurred and the weaker inmates were often bashed. He said they were intimidated by the police and did not dare complain.

During my constituent’s time in the centre one of the inmates had an epileptic fit. My constituent rang the centre’s buzzer to try to get assistance. Nobody appeared for a long time. Finally, a policeman responded and told him to give mouth-to-mouth resuscitation. My constituent did not know how to handle the situation. The police made no move to assist. As I understand what he says, the only assistance the police will give to the inmates in those cells is to suggest they should ‘come out’. In the parlance of those inside, to come out means you become a pimp — and then you are in even more trouble!

The graphic and chilling footage of the brutal bashing that occurred in the centre last March, released by the magistrate last week, has been shown worldwide. I saw it during the parliamentary delegation’s trip to China last week. Although that bashing occurred last March, nothing has changed according to my constituent.

Will the minister ask the Minister for Police and Emergency Services to advise what is being done to redress the terrible situation continuing in the remand cells? It is an absolute travesty of justice and certainly we do not want footage of such episodes showing how we treat inmates flashed around the world.

Local government: transaction of business

Hon. B. N. ATKINSON (Koonung) — I raise for the attention of the Minister for Finance, representing the Minister for Planning and Local Government in another place, concerns I have about the trend for local government to use in camera or committee sessions to transact the business of councils.

It has come to my attention that a number of issues that I believe do not warrant it have been discussed by councils in closed session. In some cases those issues
were straightforward town planning applications that warranted public scrutiny and ought to have been subject to notification to the public so that the community had the opportunity of expressing opinions on them.

In my experience — the practice appears to be widespread throughout local government — a number of councils have begun to rely on a practice of closing the doors and conducting in-camera sessions to conduct their business. That is not in the interests of democracy or local communities.

The minister should have his attention drawn to this trend and ought to address it. The particular example I direct to the minister's attention concerns a shopping centre development approved by the City of Whitehorse in Whitehorse Road, Nunawading. The shopping centre application was done by delegation by an officer of the council. The only report to council was made in November last year, which was an in-camera session. Effectively, the whole process, which included advertising the proposed development, was inadequate. The application was placed in newspapers on 29 December when most people were away on holidays and only four objections were drawn to the development. That application has escaped public scrutiny entirely and is an example of what I am concerned about.

The concern I have is not just about that instance, but about the increasing trend of local government to have in-camera sessions and to decide many issues in committee away from public scrutiny. The minister should look at the issue and address it.

Youth: Maribyrnong Link program

Hon. S. M. NGUYEN (Melbourne West) — I raise for the attention of the Minister for Health, representing the Minister for Youth and Community Services in another place, my concerns about the Maribyrnong Link program jointly conducted by the Maribyrnong Secondary College and Melbourne City Mission. The program which finished at the end of last term was founded by the highly esteemed youth worker, Mr John Byrne. It was designed to help refugee kids, young homeless kids and substance abusers who require personal support, life counselling and accommodation.

The program was funded from the Community Support Fund, but funding has not been renewed this term even though funds for the project have been granted for a number of years. The project is strongly endorsed by the community, councils and schools. It is a great project and it has been effective for some time. I ask the minister to advise why funding for a program that benefits young people and the community was cut.

Western Highway, Rockbank

Hon. D. A. NARDELLA (Melbourne North) — I raise for the attention of the Minister for Roads and Ports the concerns of some residents of Rockbank, which is on the main road adjacent to the Western Highway. The township has two main entrances to the highway — namely, Troups Road and Leakes Road. The highway is extremely busy, especially during peak hours, and it is particularly difficult for people in that township to get onto or off the Western Highway with the constant stream of traffic.

Many mothers take their children to school using back roads because they are not able to get on to the highway. The Rockbank Primary School has no service roads. The residents feel isolated, but face real safety problems when entering or exiting the highway or walking in that area. Just this morning a young mother with a baby in her arms, accompanying her young son across the road to the bus shelter, had to cross four lanes of the highway to catch the bus to take them to Sunshine. A number of accidents have occurred at the two main intersections of Troups Road and Leakes Road where they meet the Western Highway. Recently I witnessed an accident where a young boy riding his bike was knocked over at the Leakes Road and Western Highway intersection.

The minister is aware that major works will occur at the Ted's Cafe intersection. I ask the minister to investigate whether the township can be linked in some way or have safe access developed to the new bypass down the road so that families can feel more secure when they need to use the highway.

La Trobe Lifeskills

Hon. PAT POWER (Jika Jika) — I seek the assistance of the Minister for Roads and Ports in relation to the taxi service for people with disabilities. The minister may have had the opportunity of reading correspondence forwarded by La Trobe Lifeskills, a program operating out of La Trobe University in Bundooma which provides day programs for people with disabilities and has participants who attend daily or at least on regular days each week.

Since February this year La Trobe Lifeskills has had a permanent booking with the central booking service to provide taxis for some of the people who attend the program. In its correspondence to me the program director indicates that taxis have had difficulty
providing the service for participants at the predetermined times and that they have not received a reasonable standard of service, which causes distress to the participants and to La Trobe Lifeskills.

A recent incident is cited when a regular booking for two of the participants to be collected at 3.30 p.m. from La Trobe University resulted in both taxis failing to arrive, in one case until approximately 4.30 p.m. and in the other case until 5.15 p.m. As a result of those delays one of the participants refuses to return to the program because of his frustration and anger about the standard of service.

In its correspondence, La Trobe Lifeskills asks why, when it has a permanent booking for taxis, it is not possible to provide the services as requested and as confirmed by the central booking service; why it is not possible to provide La Trobe Lifeskills participants with a service that is reliable and of good quality; and why organisers are hardly ever contacted to inform them of late arrival of the taxis. I ask the minister to respond to those issues raised by Ms Ros Leslie, the program director of La Trobe Lifeskills.

Responses

Hon. R. I. KNOWLES (Minister for Health) — Mrs Hogg raised for my attention and that of my colleague the Minister for Education the matter of religious instruction in schools. It will be a matter of debate as amendments are made to the Education Act during the current session so there will be plenty of opportunity for canvassing the views expressed.

Mr Nguyen raised with me for referral to the Minister for Youth and Community Services what he perceives to be defunding of the Maribyrnong link program. I will refer his concern to my colleague and ask him to respond to him directly.

Hon. R. M. HALLAM (Minister for Finance) — Mr Atkinson raised with me for referral to my colleague the Minister for Planning and Local Government what he describes as a trend.

Hon. Pat Power — It's more of a gallop than a trend.

Hon. R. M. HALLAM — I am using the terminology that he used. Mr Atkinson described it as a trend that councils are relying heavily upon committees to take decisions. He made the comment that in many cases those decisions could not be described as sensitive and that the practice is reducing the level of public scrutiny in local government. Many members of the chamber would consider such a trend, if that description can be sustained, as a direction that local government is going in that cannot be supported. I will raise the issue with my colleague and ask him to respond directly to Mr Atkinson.

Hon. G. R. CRAIGE (Minister for Roads and Ports) — Mrs McLean raised for my colleague the Minister for Police and Emergency Services issues relating to custody centres in general and cells in particular. She highlighted some specific instances of difficulties about visitations concerning a constituent and also things that happened to her constituent while in a cell in a custody centre. I will refer her concerns to my colleague the Minister for Police and Emergency Services.

Mr Nardella raised with me a very significant issue, which I always view with considerable interest, especially when it is about difficulties associated with major national highway networks and fast growing communities. More importantly, sometimes there is conflict between fast-moving traffic, made up of not only cars but also heavy vehicles, and people trying to gain access from local road networks to either school bus facilities or shelters. Clearly it is a very important issue. I will investigate the matter of safe access, which is important not only for cars but also, as he quite rightly says, for pedestrians. There is nothing more worrying than seeing mothers, sometimes with several young children, trying to cross major highways. I will look into the matter and get back to Mr Nardella right away.

Mr Power raised difficulties with disability taxi services being encountered by the La Trobe Lifeskills program. I will investigate that and get back to him and the people at the La Trobe Lifeskills program.

Motion agreed to.

House adjourned 10.25 p.m.
The disastrous explosion at the Esso Longford plant and the forced partial closure for safety reasons of the Geelong Shell refinery are events that must concern all Victorians. However, they did not occur in a vacuum. They occurred within a deregulated safety environment established by this government.

On 2 July 1996 the previously autonomous Occupational Health and Safety Authority, established by the former Labor government, was merged with the Victorian Workcover Authority and thus came under the direct responsibility of the Minister for Finance.

Honourable members interjecting.

The PRESIDENT — Order! The Leader of the Opposition is entitled to put his motion to the house without a barrage of interjections. The house is entitled to hear what is being said and respond accordingly, but not in a way that prevents the honourable member from making his speech.

Honourable members interjecting.

The PRESIDENT — Order! This motion makes a serious allegation against a minister. The house is entitled to hear what is being said and respond accordingly, but not in a way that prevents the honourable member from making his speech.

Honourable members interjecting.

The PRESIDENT — Order! The activities of some government members are beyond the pale. I ask them to give the honourable member, even though they may not like what he has to say — —

Hon. M. A. Birrell — We do not like him!

The PRESIDENT — Order! That may be, but the house protects the rights of honourable members to have their say and to do so without a barrage of interjections.
Hon. T. C. THEOPHANOUS — The changes resulted in self-inspection and self-regulation. The Occupational Health and Safety (Plant) Regulations 1995 thus replaced the regulations for boiler and pressure vessels, scaffolding, cranes, lifts, machinery, tractors and explosive-powered tools.

Hon. Bill Forwood interjected.

Hon. T. C. THEOPHANOUS — You will get your chance.

Hon. Bill Forwood — And I will have my chance, don’t you worry about that!

Hon. T. C. THEOPHANOUS — By 1 July 1996 Victoria had entered a brave new era where statutory inspection under all those regulations was no longer a government responsibility but was conducted by employers. This is confirmed in an authority memo of 12 April 1995 by Trevor McDevitt, a senior manager, to a number of other managers. He said:

D. Orr from plant safety approached me today with respect to the development of procedures for the phasing out of statutory inspections.

It is envisaged that after proclamation on 1 July 1995 that a six months phase-in period be allowed for all parties to prepare for change ...

After 1 January 1996 all inspections of plant would be carried out by ‘competent’ persons and at this point it is contemplated that OHSA withdraw our inspection function.

There it is in black and white. The Occupational Health and Safety Authority said it was withdrawing its inspection function.

That is what the memorandum says. Morale among inspectors at the Victorian Workcover Authority has been devastated because of those changes. Over the past few years many inspectors have been extremely concerned about safety but they have been either nobbled or pushed aside by this government.

Hon. K. M. Smith — On a point of order, Mr President, two matters concern me: firstly, there is a television camera in the public gallery that is obvious to everybody, and I do not believe you have mentioned that permission has been granted for it to be there. Secondly, I want to know whether the proceedings are being recorded and, if so, for whom that recording is being made. Can Mr Theophanous give an undertaking to the house that he is not wearing recording or amplification equipment?

The PRESIDENT — Order! I neglected to inform the house that I had given permission for Channel 7 to record proceedings. I take this opportunity of indicating that the television station would do better to ask for permission earlier than was the case in this instance, when it left it to the last moment.

I do not believe it is appropriate to raise the second matter. We know what happened once before when a secret body microphone was being used.

Hon. M. A. Birrell — That is why it is being asked — there is a rule.

The PRESIDENT — Order! There is a rule and there is no expectation that the Leader of the Opposition has breached that rule.

Hon. T. C. THEOPHANOUS — I am happy to give an undertaking if I can get Mr Smith to sit down and shut up. I have in my possession a nine-page memorandum, which I seek leave to table.

The PRESIDENT — Order! I ask Mr Theophanous to identify the document more fully.

Hon. T. C. THEOPHANOUS — The first document has been sent by the principal regional investigating officer at the Mulgrave office, the most senior investigator. It is a memo to Glenn Sargent, the head of the occupational health and safety division for field services in the Victorian Workcover Authority; Mr John Hickey, the manager of the Mulgrave office; Derrick Harrison and Carl Marsic.

The PRESIDENT — Order! Is the honourable member intending to make them available to members of the house?

Hon. T. C. THEOPHANOUS — Yes, Mr President. I have enough copies for members of the house. The document was sent to senior managers of the Victorian Workcover Authority, including the director, Glenn Sargent, and the manager at the Mulgrave office, John Hickey. The principal regional investigating officer who produced the document is the most senior inspector below John Hickey.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — Honourable members may try to drown out the truth but it will come out anyway. Honourable members would be wise to sit down, shut up and listen.

Honourable members interjecting.

The PRESIDENT — Order! I ask the three members at the back of the Chamber who seem to have
trouble keeping quiet to relax and wait their turn to speak.

**Hon. T. C. Theophanous** — The author of the memo is Mr Jim Arnott, but I hasten to add that although he produced this document he was not the person who made it available to me. The document is dated 7 November 1997 and refers to attempts by Mr Arnott to secure a prosecution of PBR Automotive Pty Ltd, a multinational corporation involved in the manufacture of component parts for the Australian automotive industry.

In 1996 and 1997 two separate and serious accidents occurred at PBR. Those accidents were investigated and recommendations were made to prosecute PBR for failing to provide a safe workplace. The document details the concerns of the principal investigator and attempts by the management of the Victorian Workcover Authority to have the prosecution pulled. That is what the document is about.

**Hon. R. J. H. Wells** — On a point of order, Mr President, does the Leader of the Opposition suggest this is an official document; if so, is there an address on it, and are the status and organisation origins within the authority included on it?

**Honorable members interjecting.**

**The President** — Order! It is a legitimate question because the document is not on a letterhead and it does not bear a signature, although a name is included at the end. In the past when similar instances have arisen the honourable member using such a document has been asked to warrant its veracity. In this case the honourable member warrants that the document emanated from Mr Arnott and has not been fabricated for the purpose of this debate.

**Hon. T. C. Theophanous** — Mr President, I am happy to give that assurance.

**Hon. Bill Forwood** — On a point of order, Mr President, the motion is specific in that Mr Theophanous seeks to condemn the Minister for Finance for:

(a) providing false or misleading information to the house …

(b) compromising the safety of workers …

(c) failing to act decisively to protect all documentation …

Finally, he calls on the government to:

… expand the terms of reference for the Longford royal commission.

They are specifically outlined in his motion. I seek your ruling, Mr President, on whether Mr Theophanous can now canvass anything he likes across this whole field.

**Hon. T. C. Theophanous** — On the point of order, Mr President, the second paragraph of my motion condemns the Minister for Finance for:

(b) compromising the safety of workers by allowing a culture of low morale to develop at the Victorian Workcover Authority due to lack of support for comprehensive safety inspections and the prosecution of negligent employers.

This document is about the lack of support for the prosecution of negligent employers.

**The President** — Order! Firstly, the form of the motion has been provided by the Leader of the Opposition, and that limits the parameters of the debate. Secondly, there is a reasonable expectation that, if given time, Mr Theophanous will relate the document to paragraph (b) of his motion, and I look forward to that happening.

**Hon. T. C. Theophanous** — On page 4 of the document Mr Arnott outlines the meetings that occurred between the safety manager from PBR Automotive Pty Ltd and Mr John Hickey, manager at the Mulgrave office. Mr Arnott said the investigating officer was not informed of the meetings between John Hickey and PBR. On page 4 of the memorandum he states:

> John has never at any time given me as PRIO any information in relation to the reason, or subject matter of these meetings, and as I subsequently found out on 28 October 1997 meetings have been brokered by John, between PBR, Glenn Sargent and Derrick Harrison. I believe that given the situation where two investigations were being conducted into this employer, where prosecution was being recommended, as PRIO I should have been informed by John that approaches had been made to him by the company and what the nature of those approaches were.

Mr Arnott decided to spend — —

**Hon. K. M. Smith** — On a point of order, Mr President, in such a debate as this the information provided by Mr Theophanous must be relevant. He produces one document that has no relevance. His information about a person’s concerns, the reprimand the person received and all the bits and pieces that must follow to make sense are not here. We cannot be properly informed. Mr Theophanous’s contribution is irrelevant to the facts. His piece of paper means absolutely nothing.

**The President** — Order! The point of order taken by Mr Smith comes too early because the document has been referred to and the house has a
Honourable members interjecting.

The PRESIDENT — Order! The house is doing itself no good whatsoever. This house prides itself on its ability to bring honourable members, whether they be government or opposition, to account. We do not do that by way of a barrage of interjections.

Hon. T. C. THEOPHANOUS — Mr Arnott decided to send the relevant information and his recommendation to prosecute to a manager at the central prosecutions section. The response of his supervisor, John Hickey, manager of the Mulgrave branch, was to seek to discipline him for doing his job. On page 5 of the document he outlines how that happened, and states:

Perhaps the most damning comment of all appears on page 2 of the document when Mr Arnott, the principal regional investigating officer (PRIO) at Mulgrave, says of his superior officer:

... I will deal with John Hickey’s attitude to the new structure and procedures and investigation and prosecution. On his arrival at Mulgrave John canvassed the notion of doing fewer investigations with myself and Tony Evans, stating that Andrew Lindberg had told him (John) that he (Andrew Lindberg) wanted fewer investigations carried out. This appears inconsistent with the organisational plan which lists investigations of serious incidents that, under VWA compliance and prosecution policies, may lead to prosecution action — —  

Hon. D. Mcl. Davis — On a point of order, Mr President, I understood the procedures of the house were that comments should be directed through the Chair and not to members of the gallery.

The PRESIDENT — Order! I uphold the point of order. Comments should be directed through the Chair.
He is a loyal and caring officer.

Honourable members interjecting.

The PRESIDENT — Order! The relationship between the honourable member’s remarks about the document and the motion has gone beyond the pale. He should get off this issue and return to the motion, especially paragraphs (a) or (c).

Hon. T. C. THEOPHANOUS — Certainly, Mr President.

Honourable members interjecting.

The PRESIDENT — Order! The house is not doing itself any good by this sort of display. The Leader of the Opposition should be able to put his case and then government members can respond.

Hon. T. C. THEOPHANOUS — I make the point that a culture has developed at the Victorian Workcover Authority of low morale that is not conducive to prosecutions and following up negligent employers. Mr John Hickey who, according to this document, tried to have a prosecution pulled, ought to be a concern for the minister and the house. He is the person who did not want any workers in wheelchairs turning up to meetings of the authority because they would give it a bad image.

Honourable members interjecting.

Hon. R. I. Knowles — On a point of order, Mr President, the Leader of the Opposition is flagrantly breaching your instruction to get off this issue and on to the motion he has moved. I ask that you call the Leader of the Opposition back to his motion.

The PRESIDENT — Order! I do not believe the issue has been addressed as yet.

Hon. T. C. THEOPHANOUS — I intend to quote from other memos.

Hon. M. A. Birrell — You are meant to be condemning the minister, but you have not mentioned your allegations yet.

Hon. T. C. THEOPHANOUS — I will get to them. I refer now to a meeting that took place between management of the Victorian Workcover Authority and 29 inspectors on 3 September 1998. At that meeting Workcover Authority management tried to answer the concerns of inspectors about their changing role and their low morale, which were key issues at the meeting. This is relevant to the second part of the motion. On page 1 of the official minutes of the meeting management refers to the shift in the definition of the jobs of inspectors which has led to their low morale.

Hon. W. A. N. Hartigan — Who took the minutes?
The objective of an inspection is to bring about compliance with the OHS and/or DG legislation. This often involves the inspector issuing notices or directions where noncompliance is observed.

The new job description is all about helping the employer to develop management plans and includes giving advice on rehabilitation and Workcover payments. As I said, that is not the work of safety inspectors; it is the work of rehabilitation officers of the Victorian Workcover Authority.

At the meeting with inspectors, management stated also that under the new arrangements there will be:

... an overall increase of 15 in the number of field operations branch field staff positions — from 160 to 175.

But on 6 October the minister insisted in the house that:

The number of field officers is currently being increased by 15 to 223.

How is it possible for the minister to tell the house on 6 October that after an increase of 15 there would be more than 200 field officers when VW A management had told field staff on 3 September that there were only 160 field staff positions and that, with the extra 15, the number would increase to only 175? Who is lying? The minister or the VW A?

Government members interjecting.

Hon. T. C. THEOPHANOUS — I suspect the real situation is that the minister has been misled by the Victorian Workcover Authority. A lot of people who are not field inspectors were classified differently by the authority, following which the figure of 223 was given to the minister; but unfortunately they forgot to tell Glenn Sargent to make sure he had the same numbers to ensure consistency between what the minister said and what the VW A said.

Hon. R. M. Hallam interjected.

Hon. T. C. THEOPHANOUS — You can respond later, Minister. If you are happy to get up and say the VW A gave you misleading figures, that is fine. Then we will at least know the source of the misleading figures. It is clear from what the VW A management is saying that they believe there are 175 field officer positions, not more than 200 as the minister has stated in the house.

It is difficult to overstate how low the morale is, but it stems from a lack of support in pursuing and prosecuting negligent employers.

Honourable members interjecting.
The PRESIDENT — Order! The conversation between the Deputy Leader of the Opposition and government members does not help the Leader of the Opposition.

Hon. T. C. THEOPHANOUS — On a number of occasions the minister claimed in the house that the closure of the Sale office of the Victorian Workcover Authority could be justified because it was open only one day per fortnight. In fact, the office is advertised in the White Pages as being open every Tuesday. The opposition has been told by a number of sources that it was open every morning between 8.00 a.m. and 10.00 a.m. as well as all day every Tuesday. Whichever way you look at it, it is another example of the minister having got it wrong.

I hasten to add that when the statements the minister made in the house were challenged, he undertook to respond urgently to the opposition — but to date we have not received a response. There is no evidence of additional resources being allocated to the Traralgon office to compensate for the closure of the Sale office and the resignation of David Considine, who was the full-time officer at Sale.

Hon. R. M. Hallam — What is the relevance of that?

Hon. T. C. THEOPHANOUS — The relevance is that you, Minister, claimed in the house that the resources allocated to the Traralgon office had been increased to compensate for the closure of the Sale office.

Hon. Bill Forwood — Quote the Hansard reference.

Hon. T. C. THEOPHANOUS — I am happy to quote the Hansard reference, if that is what the minister needs. He was asked an additional question on the matter, but again he did not get back with the answer. On 6 October in the house he is reported as having said:

At the same time, the hours of the office at Traralgon were extended. As a result of the decision taken about the Sale office, no safety standard has been put at risk — in fact, the reverse applies.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — The minister said the hours of operation of the Traralgon office had been extended. On 6 October and again on 7 October the minister made a statement on the same matter. During the adjournment debate on 7 October I specifically raised with the minister the fact that the internal telephone listings of the VWA, which I produced, showed not only that the Sale office had been closed but that the number of staff at the Traralgon office had been reduced by two!

To date I have not received a response from the minister, despite my having raised the issue in the house and despite his having promised me he would make that information available.

Hon. R. M. Hallam — I will.

Hon. T. C. THEOPHANOUS — It has taken you two weeks! It was two weeks ago!

Hon. R. M. Hallam — I will explain very carefully why it has taken two weeks.

Hon. T. C. THEOPHANOUS — The minister has failed to act decisively to protect all the documentation relating to inspections and licence renewals carried out by the Victorian Workcover Authority. The only action the minister has taken has been to keep information from the opposition. Following a letter sent by the opposition to the VWA requesting information that the minister and the authority had promised and seeking a briefing on the legislation, the minister wrote back to me on 14 October, stating:

…it is my clear view that a number of the requests for specific information or documents are, or may be, relevant to the royal commission or coronial inquiry, in which case they should not be made available.

That is what he said! He went on to say:

…it is to be no discussion of any issues captured by the terms of reference of the royal commission or the coronial inquiry, and that the briefing is to be terminated at any attempt to circumvent my instructions on this matter.

He is very clear about the opposition not having access.

Hon. R. I. Knowles — He is very clear about them all.

Hon. T. C. THEOPHANOUS — I am glad you said that, Minister, because it is interesting that he refers to the coronial inquiry. He says no documents should be made available, relating to not only the royal commission but also the coronial inquiry. The coronial inquiry was under way when the minister came into the house and produced the inspection reports, the very documents the opposition had been requesting.

Hon. R. M. Hallam — That is simply wrong.

Hon. T. C. THEOPHANOUS — The minister came into the house and produced the inspection reports; yet I requested access to inspection reports and
he denied it. There was a coronial inquiry at the time, but it did not worry the minister.

Hon. R. M. Hallam — No, there was not. Did you hear that?

Hon. T. C. Theophanus — You can give your own speech. The coroner was carrying out an investigation at the time, and you knew it. You knew he was conducting an investigation, yet you came into the house and you made these documents available!

This whole sad saga will unfold in a way that will bring no credit to the minister. The VWA initially rejected allegations of a cover-up of its safety inspection activities at the Esso Longford plant. The authority was so confident there had not been a cover-up that it invited the police in on 12 October. That was followed by further inquiries by consultants from Arthur Andersen, who were also invited in by the authority to search its offices. That is the level — —

Hon. R. M. Hallam — It is called an audit.

Hon. T. C. Theophanus — An audit is not done by closing the office on a Friday, searching all the inspectors’ documents and throwing papers all over the place. That is not an audit, and it is not described as an audit in the internal memo. It is described as a search.

The opposition remains concerned that crucial documents have not been located by the coroner and may not be available to the royal commission. We are aware, for example, that two amendments were granted to Esso’s dangerous goods licence without any inspections taking place and that those amendments were made verbally, by phone.

Hon. P. A. Katsambanis — Where is your evidence?

Hon. T. C. Theophanus — Our information is that the only evidence is handwritten notations in the dangerous goods licence renewal master file, which went missing. That is the file Eileen McMahon has acknowledged had been taken out of the Traralgon branch. It was removed from where it was and — —

Hon. R. M. Hallam — It was shifted! That is a long way removed from going missing.

Hon. T. C. Theophanus — It was taken from the Traralgon office.

The President — Order! Honourable members on my right should keep their missiles until it is their turn to speak and allow the Leader of the Opposition to put his case to the house.

Hon. R. M. Hallam — Is it still missing? Was it relocated or did it go missing? What is your information?

Hon. T. C. Theophanus — The critical question, for your information, is whether the handwritten reports still exist and whether they have been found. No-one knows the answer to that question.

Hon. R. M. Hallam — You said it was missing. Now you say you do not know.

Hon. T. C. Theophanus — We know the file went missing. Eileen McMahon confirmed that it was taken out of the Traralgon branch. We also know there were handwritten notations. We know that two amendments to Esso’s dangerous goods licence were given without an inspection, and that they were done over the telephone.

Hon. Bill Forwood — By whom?

Hon. T. C. Theophanus — The critical issue is whether the minister took any action to protect any of the documents. We do not even know what documents the minister has in his own office. We know, for example, that the minister has inspection records, because he produced them in the house. Now he says the inspection records are sub judice and that they cannot be made available to the opposition. The opposition wants to know what other inspection records the minister has tucked away in his office and whether he will make that documentation available to the royal commission.

Hon. Bill Forwood interjected.

Hon. T. C. Theophanus — This is a very serious matter, Mr Forwood. What documentation did the minister rely on when he said in the house that no safety issues flowed from the ice-plug incident? What documents or briefing notes did he receive about the ice-plug incident which enabled him to come into the house and make that statement? What documents did the minister receive, and will he make them available to the royal commission?

At the end of my contribution I shall discuss some other issues but I shall first address the minister’s deception in this house. The minister got it wrong when he told the house about the number of field staff.

Hon. Bill Forwood — What date?
Hon. T. C. THEOPHANOUS — I have already been over this. The minister also got wrong the number of days the Sale office is open. He got wrong the notion that there had been an increase in resources at the Traralgon office.

Hon. Bill Forwood — Come on, get your act together.

Hon. T. C. THEOPHANOUS — It is a complicated issue. The minister then made a claim in the house on 7 October — —

Hon. Bill Forwood — What page?

Hon. T. C. THEOPHANOUS — It is recorded at page 64 of Hansard of 7 October. The minister states:

... the last full examination of the Esso plant occurred in June 1998 and was followed by another in July 1998. It was a rigorous inspection of Esso’s facilities for the purpose of re-issuing Esso’s licence under the Dangerous Goods Act.

‘A rigorous inspection’ is the way the minister described it. The inspection records show that in fact there was an inspection by two inspectors lasting 2 hours and 45 minutes and a further, follow-up inspection by one inspector lasting 1 hour and 40 minutes. The reports indicate that two Esso supervisors were spoken to and that they raised no major concerns. Of course! Why would Esso supervisors raise major concerns? Not one of the 13 health and safety representatives is listed as having been consulted. The minister calls ‘rigorous’ an inspection that lasted 2½ hours! Let us compare that rigorous inspection with the inspections that have taken place at the Shell refinery of recent times. Rigorous inspections have taken place at that refinery as a result of a crisis situation developing where the Victorian Workcover Authority was forced to act. How long did the VWA spend at the Shell refinery?

Hon. D. A. Nardella — Three hours?

Hon. T. C. THEOPHANOUS — It was not 3 hours; it was a little more than 3 hours. How long did the VWA spend there in order to establish that the place was not safe? It spent not 2½ hours, not a day, but 12 days at the Shell refinery in order to establish that safety problems existed there. Yet a 2½ hour inspection is what the minister calls rigorous. No wonder the inspectors were not able to detect some of the safety issues and problems!

A former dangerous goods inspector I consulted on this issue told me that a dangerous goods licence should be accompanied by comprehensive, updated site drawings and typically involves a 1½ day inspection by a technologist and a dangerous goods inspector, but that in more complex establishments such as refineries an involvement over many days, if not weeks, is not unexpected. That is what normally takes place with these inspections. Yet the minister tried to mislead the house by saying that a 2½ hour inspection was a rigorous inspection. The minister ought to visit the site and ask himself how long it would take to walk around it. It would take almost 2 hours just to walk around the site, let alone make rigorous inspections.

Whenever the opposition raises these issues the minister always trots out the figures on deaths and traumatic injuries. I shall address this issue once and for all. The number of deaths in the workplace has not been reduced. There is no evidence to support that claim. The number of successful claims against the Victorian Workcover Authority since 1991–92 has been reduced, but that is simply because the new Workcover rules do not allow claims in cases where the workplace is not deemed to be a significant contributing factor. The minister knows that; he knows he changed the rules. If the workplace is not deemed to be a significant contributing factor the claim does not get on the books. However, that does not mean these accidents have stopped. It simply means the way they are recorded has been changed — for example, the figures do not include such things as heart attacks in the workplace and stress-related deaths where the workplace was a contributing factor. All those deaths were included in the previous figures but they are not included in the new figures. A much fairer test is the number of deaths resulting from traumatic injuries. I inform the house that the figures on this subject are quite difficult to obtain.

The annual report of the then Occupational Health and Safety Authority for 1991–92, the last year of the previous Labor government, indicates 34 such work-related fatalities were notified and investigated in that year. It states that work-related deaths from illness or disease are not included in those figures — they were taken out because they were not traumatic ones — and still the authority investigated 34 deaths resulting from traumatic injuries in 1991–92. This compares with the figure for deaths from traumatic injuries over the past few years, which has remained steady at around 40.

There has not been any dramatic change or improvement in the number of deaths and injuries. The government makes up things as it goes along, as does the Victorian Workcover Authority. An article in the Herald Sun of 5 July, in which Anthony Black reports on the rise in workplace deaths, states:
The latest Victorian Workcover Authority figures reveal 120 workplace deaths in the 12 months to 30 June — 10 more than in the previous year.

I was intrigued by this so I contacted Mr Black. He informed me that his source for those figures was the Victorian Workcover Authority. The article further states:

The level of workplace tragedy has prompted Workcover to commission a study to find out why workplace deaths are rising.

Workcover is hoping the $900 000 study, to be done by Monash University's Accident Research Centre over three years, will uncover trends behind workplace deaths and injuries.

Workcover's director of public affairs, Eileen McMahon, said the research program would look beyond the site of a death.

'We need to know why they are being killed', she said.

Ms McMahon said the research team would visit work sites ...

Ms McMahon said Workcover obviously was disappointed about the rise in deaths because it had spent $6 million last financial year on advertising preventative workplace safety campaigns.

Eileen McMahon and the Victorian Workcover Authority are saying there were 10 more deaths, that the authority's $6 million campaign had not worked and that it would spend $900 000 to try to find out why there was an increase in deaths. Yet the figures provided to me by the authority do not show an increase in deaths from last year to this year. They are completely different from the figures quoted by Anthony Black. The Workcover figures show 120 in 1996–97 and 118 in 1997–98. This is another example of false and misleading information being given out to the public. It has to stop.

The minister has also quoted massive reductions in traumatic injuries by more than 50 per cent. At page 6 of the Hansard of 6 October he is reported as saying:

... we have brought the number of traumatic injuries down by something in excess of 50 per cent — from 6822, the number when we arrived, to 2991.

I make four points about this. Firstly, these figures are not on the number of traumatic injuries as the minister has claimed. They are figures on the number of traumatic injury claims. Traumatic injury claims are different from the number of traumatic injuries. The number of claims has obviously dropped because one cannot claim in the same way under Workcover. For instance, journey accidents cannot be claimed. Nor can a host of other accidents that are not allowed under the new definition of injury. It is misleading to claim there has been a reduction in traumatic injuries. The number of claims has dropped because of denial of access to a claim, not because of fewer accidents.

The figures are wrong anyway. The minister claims 6882 in 1991–92, whereas the figures the Victorian Workcover Authority has provided to me show the figure at 5687. Even the Victorian Workcover Authority was honest enough to exclude journey claims from the figures. That is the level to which this minister has fallen.

There is a more relevant measure. When we talk about the number of claims, whether they be traumatic injury claims or other types of claims, let's talk about serious injury claims. To most people the number of serious injuries may be a more relevant measure of what is happening in the workplace. According to the Victorian Workcover Authority 1996–97 Annual Report, the number of serious injury claims increased from 672 in 1992–93 to 2346 in 1996–97.

Hon. R. M. Hallam — Where did you get this from?

Hon. T. C. THEOPHANOUS — It is interesting that the minister asks me the question. I refer the minister to his own annual report.

Hon. R. M. Hallam — The accusation is that I have misled the house.

Hon. T. C. THEOPHANOUS — These figures are from the annual report which lists the serious injury claims.

Hon. R. M. Hallam — What does it have to do with your motion?

Hon. M. A. Birrell — You have to substantiate your allegation against the minister.

Hon. T. C. THEOPHANOUS — I do not know how many times we have to do that because we have been putting on the record a series of wrong and misleading claims by this minister. This is just one of a number. Minister, if you say the number of traumatic injuries has been reduced, you need to establish that that is the case. That is not what has occurred at all. That claim is wrong. The correct claim, even if you wanted to make it in that way, would be to say that the number of traumatic injury claims has been reduced. You could make that claim but if you were half honest about it you would still have to at least take out the journey injuries. This is an example of an attempt to give misleading information. Misleading information has been received on the number of deaths, about the closure of the Sale office, about the Traralgon office,
and the list goes on. None of these questions has been addressed by the minister.

Hon. R. M. Hallam — I will address them all.

Hon. M. A. Birrell — He has not spoken yet; you have been speaking for 1 hour and 20 minutes.

Hon. T. C. THEOPHANOUS — You could always extend the normal courtesy and give us the extra half an hour. It is all in your hands.

Honorable members interjecting.

Hon. T. C. THEOPHANOUS — I make another point about prosecutions. The number of prosecutions of negligent employers has dropped dramatically in the state.

Hon. R. M. Hallam — Is that a good sign or a bad sign?

Hon. T. C. THEOPHANOUS — It is indicative that the minister thinks it is a good sign.

Hon. R. M. Hallam — No, I asked you: is that a good sign or a bad sign?

Hon. T. C. THEOPHANOUS — The minister believes it is a good sign that the number has dropped. The number of prosecutions of negligent employers in 1991–92 — the last year of the Labor government — was 95. That was when the Occupational Health and Safety Authority was probably in its first full year of operation. The figure for 1992–93 was 68; in 1993–94 it was 55; in 1994–95 it was 79; and in 1996–97 it was 76.

I have just gone through the annual reports because that is the only way to find documentation. However, I hasten to add: who knows how many there were in 1995–96 because the government did not list them in the annual reports of either the Victorian Workcover Authority or the Department of State Development. It is clear from the figures available that the number of prosecutions has never reached the levels in 1991–92 under the former Occupational Health and Safety Authority. They did not reach that under you, Minister Birrell. When you had control of it they were down to 55.

Hon. M. A. Birrell — When you were in government it was 45.

Hon. T. C. THEOPHANOUS — That is an indication of how this government operates. It thinks it is a good thing to have a lower level of prosecutions.

Hon. M. A. Birrell — It was 45 under you. Would that be unacceptable?

Hon. T. C. THEOPHANOUS — It was 95 in 1991–92 when the authority was fully functioning. I shall comment about the expansion of the terms of reference of the royal commission because they are designed to ensure that the cover-up continues. Minister Birrell came into this house in August 1990 and argued for an expansion of the terms of reference for the royal commission that was being established into Tricontinental at the time. He was successful because the government agreed to increase the terms of reference. If the Minister for Finance has any integrity he will use the terms of reference for the land deals and the Tricontinental royal commissions as a model. At the instigation of the current Leader of the Government the terms of reference of both those royal commissions examined whether there was dishonesty, impropriety, misconduct or negligence on the part of any person. It specifically examined those issues and you, Minister Birrell, insisted on it.

Hon. M. A. Birrell — Absolutely right.

Hon. T. C. THEOPHANOUS — Exactly the same words were used for the land deal royal commission. The words used were dishonesty, impropriety, malfeasance or negligence on the part of any person. Why was it good enough for two royal commissions but not good enough for the present royal commission? The reason is there has been a change of government. This government does not have the guts to live up to the principles it espoused when in opposition.

I shall conclude in the following way. I had intended spending some time on the latest incident at Shell where concerns have been expressed, but I will not have time to do so. There is a litany of failure to properly examine safety at the Shell plant that goes back to 1994 when someone was killed. It also goes back to 1995 when, after the insistence of the Country Fire Authority, it was found that 150 items were not being complied with and there were many serious problems at Shell. Not only did it find all those items but many of the same problems were discovered in the 12-day audit conducted recently at Shell. People have had a gutful of this authority and this government not living up to their responsibilities to look after safety in the workplace. It is crisis management. It is only after workers' deaths or workers threatening to walk off the job because of safety issues that any action is taken. This serious motion condemns the Minister for Finance for:

(a) providing false or misleading information to the house ...
I have given five examples of the minister providing false or misleading information to the house. The motion also states that the house condemns the Minister for Finance for:

(b) compromising the safety of workers by allowing a culture of low morale to develop ...

The low morale is evident from the documents I have produced from the 29 inspectors at the meeting to which I referred. Morale was one of the biggest issues and it is documented in the memorandum. The low morale led to the development of a culture within the Victorian Workcover Authority that is not conducive to prosecution, so much so that the most senior inspector at the authority’s Mulgrave office is complaining of being nobbyed. That is what happened when he tried to prosecute an employer who was negligent in the workplace.

The minister has taken no action to protect documentation. We do not know what documentation is around or what the VWA is hiding. A number of agencies are now running around trying to discover exactly what the VWA did in the lead-up to the Longford disaster.

We also have the utter hypocrisy of the government establishing royal commission terms of reference that do not live up to the standard that the Liberal Party, then in opposition, imposed on the previous government but which its members have gone about saying is the appropriate standard.

My motion is about safety in the workplace. The opposition will continue to pursue these issues because lives are at stake. Never can enough be done by us or the community to demand that everything possible be done to ensure workers are not killed or maimed because of inaction.

**Hon. R. M. Hallam** (Minister for Finance) — In responding to the motion moved by Mr Theophanous I shall first dispel a number of wild accusations he made in the course of his meanderings. He insinuated there was something nefarious about the merger of the occupational health and safety organisation and the VWA. I seem to recall that that merger was supported by the Victorian opposition.

**Hon. T. C. Theophanous** — We do not support it; we never have.

**Hon. R. M. Hallam** — I could almost rest my case at that point. Mr Theophanous then read out a list of regulations which, he says, have been taken out of existence. I do not dispute that there has been a massive shift in the operation of health and safety in Victoria, as there has been throughout Australia and across all the world’s developed nations. Much of what he said about the removal of regulations is not disputed. It is a fact of historic precedent.

Then Mr Theophanous says he has got me on the grill because he has an undated document.

**Hon. T. C. Theophanous** — It is dated.

**Hon. R. M. Hallam** — I am sorry; it is dated 7 November. I do not intend to do more than simply repeat the subject matter cited at its top — namely, ‘Dispute in relation to written reprimand’.

**Hon. T. C. Theophanous** — You want to prosecute an employee; you support it.

**Hon. R. M. Hallam** — I use this as evidence of your challenge to me, Mr Theophanous. It came from an officer who was reprimanded. My advice since is that Jim Amott is now in the compliance branch and has been promoted.

**Hon. T. C. Theophanous** — Why was that, Minister?

**Hon. R. M. Hallam** — I do not intend to canvass any of the issues in the document because they have been dispelled.

**Hon. D. A. Nardella** — Because you cannot refute them.

**Honourable members interjecting.**

**Hon. R. M. Hallam** — I don’t want to refute them.

**Hon. D. A. Nardella** — That is the problem.

**Hon. R. M. Hallam** — Then we have the major thrust of his argument — —

**Hon. T. C. Theophanous** — PBR still has not been prosecuted.

**Hon. R. M. Hallam** — That much is true, I acknowledge that.

**Hon. T. C. Theophanous** — Why?

**Hon. R. M. Hallam** — Because the case is still under active consideration.

**Hon. T. C. Theophanous** — For how long? We are talking about November 1997.
Honourable members interjecting.

The PRESIDENT — Order! Hansard cannot hear the minister’s reply.

Hon. R. M. HALLAM — I am advised that in July 1996 the VWA had 170 operational inspectors. In July this year that figure had risen to 203. We expect that in July 1999 we will have 223 inspectors. To the extent that Mr Theophanous quoted me to the house I do not have any reason to challenge his quotation on this occasion. But the accusation in this case was that I got it wrong because there were only 175 inspectors. That is what Mr Theophanous says.

Hon. T. C. Theophanous — That is what it says in the document.

Hon. R. M. HALLAM — That would relate only to the field operational branch staff and does not include inspectors from other branches within field services. I am told we have 30 technologists who are over and above the 175 figure. I am quite relaxed about being challenged on the basis of the figures.

Hon. T. C. Theophanous — Have you reclassified a whole lot of people?

Hon. R. M. HALLAM — You can have it whatever way you want, Mr Theophanous, but you have brought to this chamber a most serious challenge to me on the basis that I misled the house. You got it wrong!

Hon. T. C. Theophanous — According to you.

Hon. R. M. HALLAM — I look forward to rebutting the accusation about the Sale office and I am happy to talk through the issue raised about the coronial inquiry.

By way of background, I will tell the house what I feel about this motion. Nobody would be surprised to hear me say that I take workplace safety seriously and personally.

Hon. T. C. Theophanous — Why will you not then prosecute?

Hon. R. M. HALLAM — We might argue at the margins, but I do not think even Mr Theophanous could doubt my motivation about workplace safety. Since the day I was given the portfolio in the shadow ministry the issue of workplace safety has become something of a personal crusade. How many times have I said in this house that we run this argument from the side of the angels? There is no downside to an improvement in workplace safety. The best claim, I continue to say, is the one we avoid; if we avoid the claim, we avoid the cost to the worker, the employer and the community. That is the message I have preached from day one. It is hardly surprising that I take this motion very seriously and personally, even though I have long since lost any respect for the honourable member who brings the challenge. Of course I take it as a personal affront and I intend to demonstrate that the challenges are not only unsubstantiated but unfair and untrue.

The sad aspect about this motion is that it has a more insidious side to it. The opposition — or, more particularly, Mr Theophanous — is determined to politicise and denigrate the issue of workplace safety. By doing so it makes it harder for the government to achieve its objective of having safer workplaces across Victoria. The real tragedy is that the tactics Mr Theophanous employs of denigrating the government’s role in workplace safety not only appear petty but can be destructive. If he cannot see that, I feel sorry for him.

The opposition is making it more difficult to provide workplace protection for the workers whose cause they claim to champion. The difficulty I have, and I talk about it all the time —

Honourable members interjecting.

Hon. R. M. HALLAM — I want to talk about the big picture.

Honourable members interjecting.

Hon. R. M. HALLAM — You insist on chasing ambulances thereby reducing the issue to the lowest common denominator. That makes me so sad. The problem is that our getting the numbers down is not necessarily seen as good news. It does not get Mr Theophanous a headline. What he wants more than anything is the headline. It is sad that he is prepared to prostitute himself to grab the headline in the newspapers.

Mr Theophanous says he cares about workplace safety, but he is prepared to throw it all away for the 1-minute grab on television.

I took the decision regarding this motion that for the sake of today’s debate I would give the opposition the benefit of the doubt. I have assumed there is more to the motion than just the crudest of politics and that this is not just another instance of having a go at a personal level. I started on the premise that some opposition members do care about workplace safety, about the claims that we may avoid, that there are some good
employers and that not everyone is driven by the bottom line. I am bemused.

I shall pose a number of hypothetical questions to members opposite. Why do you want to go through this issue again? We did it last week. What advantage is it to the opposition to go through it again? Does the opposition really want everyone to believe its members are totally bereft of ideas to raise during general business on Wednesdays? If the issue is workplace safety, why does the opposition patronise its leader’s obsession with the Victorian Workcover Authority? Why is it all about Workcover? This is the obsession of the Leader of the Opposition.

I refer the house to the data on the Victorian Workcover Authority since the last election. Mr Theophanous has asked me 49 questions on Workcover. He mentioned Andrew Lindberg on 24 occasions and Eileen McMahon on 18 occasions. Why does he insist on challenging the role and performance of the Victorian Workcover Authority? It is like saying that every time we hear evidence of a crime we should insist on investigating the Victoria Police. If Mr Theophanous is concerned about workplace safety why doesn’t he look at some of the general data, because it is a good story. If he is not prepared to congratulate the government on that good data, he should at least acknowledge on behalf of the people he says he is representing that the data is heading in the right direction. Workplace safety is improving. The data is undeniable.

If Mr Theophanous is not prepared to use the data, what criteria would he select? Would he argue his case on the premium cost and employee benefits? If he does, he must acknowledge that Victoria has the best system in Australia. Does he want to argue about time lost? If so, he would find the data reveals that Victoria has the best system in Australia. Perhaps Mr Theophanous should refer to the Auditor-General’s last performance audit? Why not consider the Boston Consulting Group report? It said of the Victorian Workcover Authority that the mantle of best practice had come to Victoria. He should consider the Upjohn report, which is the best and most recognised international authority. It says the turnaround in respect of workers compensation is startling. Why not look at the Arthur Andersen report? It undertook a comprehensive investigation in 1997 and reported that the Victorian Workcover Authority was well managed and financially responsible. If Mr Theophanous is not satisfied with any of those authorities he should examine the data. Claim numbers, deaths and traumatic injuries — however Mr Theophanous measures them — are going down.

**Hon. T. C. Theophanous** — No, it is the claims. Get it right!

**Hon. R. M. Hallam** — They are going down. If that is the case, why does Mr Theophanous insist on quoting prosecution numbers? Is that a good or bad sign? Does it mean we are winning or losing? Does it mean we have better performing employers or, conversely, that there is some slackness in the system? Mr Theophanous does not draw any conclusions; he just says the number of prosecutions is declining.

I invite Mr Theophanous to more carefully think through the propositions he puts before the house, even though it may be painful for him. Mr Theophanous chose none of the propositions I mentioned, but attacked the quality of the inspections, which is a subjective judgment. He also relied upon a claim of low staff morale, again a subjective judgment and totally pointless. The issues do not take the opposition anywhere. How does Mr Theophanous draw the conclusion that I have misled the house when he runs that stupid data?

In considering the source of the information, the house is invited to speculate on the motivation of those providing the data and their reliability. Could it be that opposition members are being used in the process? Has it crossed their minds that they may be used? Mr Theophanous acknowledged yesterday that his informant was an inspector. Do you deny that?

**Hon. T. C. Theophanous** — I am not going to tell you who my informant is.

**Hon. R. I. Knowles** — You did not say it was an inspector?

**Hon. T. C. Theophanous** — I have lots of informants.

**Hon. R. M. Hallam** — You fingered at least one inspector. We know the source of your information. We know there is at least one disloyal employee.

**Hon. T. C. Theophanous** — This is the old witch-hunt.

**Hon. R. M. Hallam** — At the very least it represents a breach of the terms of appointment.

**Hon. T. C. Theophanous** — Are you going to demote Mr Arnott?

**Hon. B. T. Pullen** interjected.

*Honourable members interjecting.*
The DEPUTY PRESIDENT — Order! This has been a robust debate but it is getting out of hand. I ask honourable members to desist from constant interjections. I remind the minister that his comments should be directed through the Chair.

Hon. R. M. HALLAM — Mr Theophanous is prepared to rely on one informant, but sacrifice the other inspectors. He has named inspectors in the chamber and has denigrated both their role and performance.

Hon. D. A. Nardella — He has denigrated your role and performance as the minister.

The DEPUTY PRESIDENT — Order! Again I ask members to desist from interjecting across the table. Mr Nardella will have the next call and he can respond then.

Hon. R. M. HALLAM — Mr Theophanous was prepared to name inspectors whom he later described as not doing their job. He cannot deny that; it is on the record.

Honourable members interjecting.

Hon. R. M. HALLAM — Mr Theophanous said yesterday, as recorded in Hansard, that he acknowledged they were not doing the job.

Hon. B. T. Pullen — Give us the quote. You insist on having the exact quote.

Hon. R. M. HALLAM — Look up your own Hansard.

The DEPUTY PRESIDENT — Order! I remind honourable members that statements reported in the same session of Hansard are not allowed to be quoted.

Hon. R. M. HALLAM — I could refer to Mr Theophanous’s comment yesterday, but he does not deserve it. On the basis of unsubstantiated and unidentified sources Mr Theophanous is prepared to sacrifice other dedicated and loyal employees of the Victorian Workcover Authority. That is unfair, which just one person on the other side of the chamber should acknowledge, because those people are doing their jobs and they have no right of rebuttal.

 Honourable members interjecting.

Hon. R. M. HALLAM — We should remember that two employees of Esso died in the Longford incident. I again extend the condolences of the government to the families of those who were directly involved. I want to disassociate myself and the government from this attempt to politicise a terrible tragedy.

By way of a general reaction to Mr Theophanous’s comments, I will leave the accusations he levels to the royal commission and the coronial inquiry. I am prepared to have the government judged on its performance, and I look forward to that.

Hon. B. T. Pullen interjected.

Hon. R. M. HALLAM — The performance is irrefutable, with a 49 per cent reduction in the number of traumatic injuries since the inception of Workcover.

Hon. T. C. Theophanous — Claims!

Honourable members interjecting.

Hon. R. M. HALLAM — From 1991–92 to 1997–98 there was a 49 per cent reduction in traumatic injuries and a 41 per cent reduction in the number of deaths, which represents a drop in injuries from 5687 to 2888 and a drop in deaths from 200 to 118. We have the lowest injury rate of any Australian state.

Hon. T. C. Theophanous — Stop misleading the house.

Honourable members interjecting.

Hon. R. M. HALLAM — We have the lowest premium structure of any Australian state. The undeniable fact is that there have been significant improvements in workplace safety across the state. I am happy to be judged on the record.

I refer to the shift in emphasis of occupational health and safety inspections. I am bemused by Mr Theophanous’s stance because he is out of step with everybody else. He is the equivalent of Baldrick of the Black Adder comedy series. In 1985 the then Cain government introduced the Occupational Health and Safety Act, section 21 of which provides:

Duties of employers

(1) An employer shall provide and maintain so far as practicable for employees a working environment that is safe and without risks to health.

That was a change in the culture: that act of Parliament said that from henceforth responsibility for the maintenance of a safe workplace would rest primarily with the employer. That is consistent with occupational health and safety movements across the Western world.

If Mr Theophanous is still not convinced, I refer to the development by the National Occupational Health and
Safety Authority of a national standard for plant, against which we now compare ourselves. I remind Mr Theophanous of the signatories to the document. They included the union movement, peak employer organisations and every jurisdiction across the nation. We worked out a standard for plant, following which terms of reference were put in place to establish legislation in every jurisdiction. Mr Theophanous is out of step not only with the union movement but with his comrades, because it was signed by the New South Wales government. As I said, the standard was adopted by every jurisdiction across the nation, so he is way out of step.

Now the obligations lie clearly with the people who create and control workplace risks, and I put it to the chamber that that is exactly how it should be. The concept of the government and its agency being responsible for activities that occur every day throughout Victoria’s 300 000 workplaces is absolutely absurd. As an aside, I am not persuaded by the opinion piece in today’s *Herald Sun*, written by Andrew Scott, the President of the Victorian Law Institute. However, I like his conclusion:

> A return to common-law rights, and to a proper regime of health and safety, separate from compensation, would go some way to restoring confidence. And saving lives.

Doesn’t that say everything about the legal fraternity? If, as Mr Theophanous postulates, the previous system of external inspectors meticulously inspecting individual pieces of equipment was so much better than the current system, why is the data going in the wrong direction to support his contention? How are we improving experiences in the workplaces?

**Hon. T. C. Theophanous** — You’re not. The figures are dodgy — *I’ve* just been through them. The number of serious injuries has gone up by 400 per cent.

**Honourable members interjecting.**

**Hon. R. M. HALLAM** — I refer to the specifics of Mr Theophanous’s challenge. Firstly, as to the Sale office, I am told that I misled the house. On 6 October I was asked a question by Mr Theophanous about the closure of the Sale office. I corrected him and said that it was not open one day a week but that my advice was that it was open one day a fortnight. The advice I had at that time has been confirmed — that is, that it was open one day a fortnight. There may have been some confusion, and I forgive him if that is so.

I said that at the same time as the Sale office was closed, the hours of the office in Traralgon were extended. I acknowledge that I am on the record as saying that. By the next night Mr Theophanous had converted that statement, saying that I had said the resources at the Traralgon office had been increased.

The reason I did not send the honourable member the letter I had drafted is that I suspected he had some nefarious intent and that he intended to continue either — —

**Hon. T. C. Theophanous** — What do your promises to the house mean?

**Hon. R. M. HALLAM** — The house has a choice: either the misconstruction of what I said was inadvertent, in which case he should apologise, or it was deliberate, in which case I do not know what we should do to him!

**Hon. T. C. Theophanous** — Why don’t you apologise for misleading the house?

**Hon. R. M. HALLAM** — Let the record clearly show that I did not say that staffing at the Traralgon office had increased. You claimed in the chamber that I did. I said the hours of the Traralgon office had been extended. Let me tell you how they were extended: on 1 August the previous hours of the Traralgon office, 8.30 a.m. to 5.00 p.m., were extended to 8.00 a.m. to 5.30 p.m. That is an additional hour each day.

**Hon. T. C. Theophanous** — With two fewer staff?

**Hon. R. M. HALLAM** — The Traralgon office is at present staffed by one team leader, seven field officers, one investigator and one administrative officer.

**Hon. T. C. Theophanous** — Which is two fewer.

**Hon. R. M. HALLAM** — The Traralgon office is open five days a week on the new extended basis. I am happy to put that on the record, because you challenged me with misleading the house. But it was you — you misled the house!

**Hon. T. C. Theophanous** — You have lied to the house!

**Hon. R. M. HALLAM** — I invite honourable members to draw their own conclusions: either Mr Theophanous’s misconstruction of what I told the house was inadvertent or it was deliberate. He knows he got it wrong!

**Hon. R. I. Knowles** — And not for the first time!

**Hon. R. M. HALLAM** — And not for the first time.
Honourable members interjecting.

The DEPUTY PRESIDENT — Order! The Chair cannot hear what the minister is saying, and I am sure Hansard cannot hear, either. I again ask members to allow the minister to make his point so we can all hear.

Hon. R. M. HALLAM — The point is that the honourable member not only misquoted me but now knows he misquoted me, because he has the record in front of him.

Hon. T. C. Theophanous — I quoted you absolutely correctly.

Hon. Bill Forwood — You did not! Liar!

Hon. T. C. Theophanous — I read it out!

The DEPUTY PRESIDENT — Order! The accusations going across the chamber will be tested by the vote that the house ultimately takes. Other members can make formal contributions to rebuke the points currently being made by the member who has the call. I ask honourable members to refrain from debating across the chamber and to use the appropriate forms of the house to decide on these matters — and that is not by way of interjection.

Hon. T. C. Theophanous — I read out the quote.

Hon. R. M. HALLAM — I do not intend to take it any further, because you have been caught out, Mr Theophanous.

Hon. T. C. Theophanous — I read out the quote. What more can I do? The office was not open one day a fortnight. That is a lie, and that will come out in the royal commission, if it does not come out here.

Hon. R. M. HALLAM — That is unparliamentary language, and I ask that it be withdrawn.

The DEPUTY PRESIDENT — Order! I ask Mr Theophanous whether he is prepared to retract those comments? We do not call each other liars.

Hon. T. C. Theophanous — I did not call him a liar. I said ‘That is a lie’.

The DEPUTY PRESIDENT — Order! With the crossfire across the chamber, I cannot remember exactly what the words were.

Hon. T. C. Theophanous — Mr Forwood called me a liar before. Didn’t you!

The DEPUTY PRESIDENT — Order! I am not exactly sure what words were spoken because of the crossfire of interjections, but I remind all members that it is unparliamentary to call any member a liar. I will listen intently to see whether that occurs again.

Hon. R. M. HALLAM — I will go on to the next challenge about the conduct of the coronial inquiry. I have in front of me the letter I think the honourable member quoted from. The letter, which is dated 14 October, is addressed to me and signed by Mr Theophanous, who wrote:

I refer to your letter faxed 14 October 1998. I understand your reluctance to release to the opposition any documents that may be relevant to the Longford royal commission or to coronial inquiry.

There is a typo there, Mr Theophanous. You went on to say:

However, I note that you referred to inspection reports in Parliament whilst there was clearly a coronial inquiry under way.

You repeated that today in the house. The draft letter I prepared for you states:

I am pleased that you acknowledge, as I do, that material which falls within the range of matters which may be considered by the coroner or the royal commission should not be released to any party other than those bodies.

Let me correct you in that there was no coronial inquiry under way when I addressed Parliament on these matters recently. The coroner’s inquest was formally opened on 14 October 1998.

Wrong again. The second challenge he brings before the chamber, that I misled the house, is factually wrong! There is no case to answer!

Hon. T. C. Theophanous — You should talk!

Hon. R. M. HALLAM — As to the quality of the inspections, let me say that from my perspective the outcomes speak for themselves. I know Mr Theophanous does not like good news, but the outcomes speak for themselves. There are now more inspections, more visits and more hours spent in the workplace on inspection.

Hon. T. C. Theophanous — More visits and more inspections? Is that what you said?

Hon. R. M. HALLAM — Be very careful, Mr Theophanous: there is a difference between inspections and visitations. You quoted me as saying there had been about 1000 inspections on a particular site over 10 years but that there had been 37 over the past two years. You have made great play of the fact
that on your mathematics the standard of inspections has therefore fallen, or at least the number has fallen.

Hon. T. C. Theophanous — The number, yes.

Hon. R. M. HALLAM — Okay, the number. Plenty of evidence suggests that one visit under the old system could represent many inspections.

Hon. T. C. Theophanous — And under the new system?

Hon. R. M. HALLAM — I have plenty of documentation to suggest that on one occasion up to 14 inspections were logged on one visit. Where is your data now?

Hon. T. C. Theophanous — Are you going to make the data available to the royal commissioner?

Hon. R. M. HALLAM — Of course; I am going to give the royal commissioner everything that is available. What about you? You are the one throwing the accusations around. Are you going to provide it with everything you may have?

Hon. T. C. Theophanous — Absolutely!

Hon. R. M. HALLAM — Thank you very much.

Hon. T. C. Theophanous — Don’t you worry about that. We want to know what is in your office.

Hon. R. M. HALLAM — Mr Theophanous’s next challenge is that all this is being driven by low morale. His measurement of low morale is intriguing, and his attempt to tie that into his end claim is even more intriguing. Let me give the house some facts: not only do we have more inspectors, they are now better trained.

Hon. T. C. Theophanous — You have not got more inspectors!

Hon. R. M. HALLAM — We have more inspectors, who are now better trained and better equipped. Under the previous system there was one car to about two inspectors. Now they each have a vehicle, and by Christmas they will each have a laptop computer. They are better equipped and, as it happens, they are better paid as well. Mr Theophanous talked about low morale. If morale is so low, how come the authority had 900 applications from outside for the new jobs?

Hon. Jean McLean — Because of the huge unemployment in this state!

Hon. R. M. HALLAM — Okay, I will settle for that.

Hon. T. C. Theophanous — You will settle for that?

Hon. R. M. HALLAM — I will settle for the fact that the 900 applications from outside were a direct result of the employment level. I will settle for that. Whatever it was, there is great interest in the job, which is hardly consistent with the notion that people are driven by the low morale issue Mr Theophanous talked about.

Mr Theophanous then said I should be accused of lack of support for comprehensive safety inspections and prosecutions. I am not sure of the case he wants to make about prosecutions. I still do not know whether he thinks the fact that they have gone down is good or bad — he did not actually get to that. Inspection activity is up — higher than at any time under the previous Labor government; enforcement and compliance activity is up; and inspections are now much more comprehensive and cover a broader range of risk and hazards as a matter of routine.

Mr Theophanous’s final challenge, the pièce de résistance to me, was to say I failed to act to protect all documentation. I am really bemused about how he gets a minister into that position when in fact, in the first place, I am responsible for an independent authority. Let us leave that to one side. If I had done what he says I should have done in the very next breath he would be accusing me of interference.

Because of the accusations being bandied about publicly, primarily driven by Mr Theophanous himself, the Victorian Workcover Authority decided to put the issue beyond doubt and of its own volition called in the police and sent in an internal auditor. Mr Theophanous did not like that. He thought there was a presumption of guilt. We were trying to protect the integrity of the authority, the same authority he seems so hell-bent on dismantling. We were making the point to all and sundry that every effort was being made to protect the data.

Mr Theophanous says it has gone missing. Maybe it has gone missing to his informant, but that is a fair way removed from the suggestion that it has gone from the face of the earth. Is Mr Theophanous surprised that we would act to protect the data in this environment? What would he have done in the circumstances? A member of Parliament is out in the public arena making all sorts of wild accusations about data being shredded. Doesn’t
he think that if the roles were reversed he would have done something to protect the data?

**Hon. T. C. Theophanous** - Like the shredded data?

**Hon. R. M. HALLAM** - For what it is worth, my advice from the authority is that there is no data that will be unavailable to the coroner — none. That does not mean it will necessarily be available to Mr Theophanous’s informant. I make that point again. Mr Theophanous can read into it whatever he likes.

Mr Theophanous has made great play of the fact that the coroner came in what he described as a raid. Leave aside the fact that the coroner said it was not a raid, it was the normal course of business; Mr Theophanous made great play of the fact that the coroner came in this so-called raid and said publicly that the coroner’s officers or agents actually moved people away from computers, stood them to one side and downloaded the data. I suspect in that environment Mr Theophanous would also be prepared to acknowledge that all the data will have been captured by the coroner. Does that mean that when the authority is exonerated Mr Theophanous will accept the outcome? He has painted himself into a nice little corner.

**Hon. T. C. Theophanous** - It depends on whether you expand the terms of reference.

**Hon. R. M. HALLAM** - No. Mr Theophanous said the coroner had to do this because he wanted to get all the data. Now you are hoist with your own petard, Mr Theophanous. You will be required to accept the outcome of the coroner’s inquiry and the royal commission.

I am prepared to stand on my record and the availability of data. How about you, Mr Theophanous? Are you prepared to stand by the accusations you have made out in the public arena? Are you prepared to give a guarantee to the chamber that every piece of information you have gleaned from whatever source will be made available to the coroner and the royal commission?

**Hon. T. C. Theophanous** - Are you prepared to prosecute PBR?

**Hon. R. M. HALLAM** - Do you want me to take that as a negative?

**Hon. T. C. Theophanous** - Are you prepared to prosecute PBR?

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**The DEPUTY PRESIDENT** — Order! I ask honourable members on both sides of the chamber to direct their comments through the Chair. It is the custom of the house, and it takes the personal heat out of these sorts of arguments.

**Hon. R. M. HALLAM** - In that case I simply remind the chamber that I invited Mr Theophanous, who brings this accusation against me, to give a commitment to the chamber that all the information in his keeping will be faithfully supplied to both the coroner and the royal commission and that he was unprepared to give that commitment.

The other aspect is the claim that the terms of reference of the royal commission should be expanded. I have two very competent supporters in Mr Forwood and Mr Hartigan who will take up that issue in the chamber. I simply say by way of rebuttal that I am happy to stand on my record as a minister. I am happy to represent the Kennett government and I am happy to have the Kennett government stand on its record. I make this point — and this is the most critical point of all — however you want to judge the issue brought to the chamber by Mr Theophanous, surely the most appropriate criteria — —

**Honourable members interjecting.**

**The DEPUTY PRESIDENT** — Order! The minister is about to make some important comments in the context of this debate, and the conversations across the chamber make it impossible for the Chair or Hansard to hear.

**Hon. R. M. HALLAM** - Whatever else is said, the most important basis of judgment must surely be the record of workplace safety in the state. I hope at least that we could agree on that point. It is on that basis that I am happy to be judged on the record since 1991–92 when the Kennett government came to power.

I submit that Mr Theophanous did not lead any evidence whatsoever in his challenge to me personally. To the extent that he cited two instances where I had quoted figures to the house, I have now been able to demonstrate that on both occasions he was wrong. I suggest to the chamber that this motion should be not only defeated but simply dismissed.

**Hon. D. A. NARDELLA** (Melbourne North) — As both Mr Theophanous and the minister said, this is a very serious motion indeed. It goes to the heart of what this government is achieving out in the workplaces — the standards it promotes, the support it gives to inspectors and finally, in respect of the tragedy at
Longford, the rigour with which it gives the royal commissioner the power to investigate the incident.

The government does not stand by the principles it espoused when it was in opposition. It does not have any standards when it comes to the royal commission and the investigation of the circumstances and factors surrounding the tragedy at Longford. If it had principles and actually did not want to whitewash what it has been up to and the responsibility of the minister it would put in place the sorts of terms of reference that were established for the Tricontinental royal commission and the land deals royal commission in 1979.

That is not the view of this government. Its view is to whitewash or try to get rid of the issue. It does not want to investigate the real situation and the real culprits of Longford. It does not want to examine the responsible minister or the public servants. The inquiry should be dealing with the minister. The government wants to take it off the agenda and off the front pages of the newspapers. It does not want an investigation that goes to the heart of the matter.

I quote some words of Mr Birrell in 1990 when he was Leader of the Opposition in this place. He was arguing for an expansion of the terms of the royal commission into Tricontinental. They are important words that should be quoted back to Mr Birrell and Mr Hallam because they are the standards that should be used as a reference for the royal commissioner. At page 41 of Hansard of 29 August 1990 Mr Birrell is reported as saying:

I ask the Minister for Industry and Economic Planning —

who was at that time a former member for Doutta Galla Province, the Honourable David White —

who I hope will respond promptly on behalf of the government, to reflect on the Victoria Government Gazette of Wednesday, 20 June 1979, where the appointment of the royal commissioner into the land deals was announced. That royal commissioner was given one particular power to inquire into whether there was 'dishonesty, impropriety, malfeasance or negligence on the part of any person'.

That is the standard that Mr Birrell required of the government of the day with regard to the Tricontinental royal commission.

Hon. T. C. Theophanous — He has changed his tune.

Hon. D. A. NardeLLA — Both Mr Birrell and Mr Hallam have changed their tunes. The position they supported in 1990 is not the position they support today. It is important that the Longford royal commission investigates any dishonesty, impropriety, malfeasance or negligence on the part of any person. The government does not want to do that. It does not want to expand the terms of reference because it will get caught out. It is hiding stuff. It is hiding its performance, which has been abysmal. A major catastrophe occurred in Victoria with the gas supplies having to be cut off for more than a week. The state's GDP has been reduced by about 1 per cent and Australia-wide there has been a reduction of 0.4 per cent. It is a major economic problem.

The royal commission needs to be given the widest possible powers to consider every aspect of that disaster. The words of Mr Birrell will come back to haunt the government. The government cannot run away from the standard he was suggesting in 1990. At page 44 of Hansard of 29 October he is reported as saying:

The minister should use the land deals royal commission as a precedent. If he does not use it as a precedent, people will know that he is running away.

This government is running away from its responsibilities. It is trying to use Esso and others as scapegoats for its responsibility. It is not prepared to use the standards asked the former Labor government to implement, and which were implemented in 1990. That is not good enough. This government does not have standards or principles. It talks about propriety, but has none when it suits ministers of the Crown. The coalition does not have the standards it talked about when in opposition. At every opportunity the standards are broken and thrown away to safeguard its position. The government does not disclose the problems caused because of its policies.

Many of the points Mr Theophanous raised in the debate were not challenged by the minister. A decision on whether further action on PBR Automotive Pty Ltd is needed has been under consideration for almost a year. I refer the house to the incident investigation report on PBR. The quotes can be described as juicy or perhaps sad because the inspector has rightly brought the conditions and concerns involving this company to the attention of the authority. They have been dismissed. The minister responsible for Workcover and the Minister for Industry, Science and Technology say the claims are the result of a disgruntled employee. That is how they are attempting to discredit this inspector. The incident investigation report states:

There have been 12 improvement notices and one prohibition notice issued to the employer ... There has been one prior incident at this site involving a contractor, which resulted in a fatality. The incident happened on 24 February 1994, the incident victim died at a later date ...
There was another prior incident on 14 February 1997 where an apprentice of a contractor was injured as a result of an explosion during the installation and commissioning of the Banksia brake line...

This employer is a consistent poor performer in policing and controlling activities of contractors on site...

The file is now forwarded to PSB for review with a recommendation for prosecution.

Eleven months later nothing has happened. This employer, under the regime of this government and this minister, has not been taken to task or prosecuted over deaths in the workplace and what the supervisor says is a consistently poor performance in policing and controlling activities of contractors on the site. They are the standards this minister is upholding. An inspector has rightly expressed concerns to the Victorian Workcover Authority about what he believes is a serious situation within the authority.

The minister continues to allow the morale of the Victorian Workcover Authority inspectors to sink to rock bottom. They cannot perform their duties when it comes to prosecutions. To rub salt into the wound, the 160 inspectors have virtually been summarily sacked and have to re-apply for their positions. As the minister says, there are 900 applications for those positions. The government wants to turn it into a PR exercise. The minister wants them to dance around, have cups of coffee and be the face of the Victorian Workcover Authority. They should give them bright uniforms and frilly hats. They could employ actors because there are many unemployed actors around. The government does not want the inspectors who are already there.

**Hon. W. A. N. Hartigan** interjected.

**Hon. D. A. NARDELLA** — It has nothing to do with the union, Mr Hartigan. We are talking about experienced inspectors.

**Hon. W. A. N. Hartigan** — Members of a union.

**Hon. D. A. NARDELLA** — Inspectors are summarily dismissed.

**The DEPUTY PRESIDENT** — Order! Honourable members should know that I have asked that comments be directed through the Chair. That is the appropriate way of avoiding the interchange that is happening between members.

**Hon. D. A. NARDELLA** — The government wants its inspectors to have frilly frocks and hats. It wants them to be actors to promote the Victorian Workcover Authority, to hand out leaflets and work through return-to-work programs. I thought agents had that responsibility, not inspectors, who are supposed to be trying to protect the workplace and workers. The government wants to change that role; it wants PR people. It may as well have spun doctors carrying out the government’s role. When inspectors make recommendations to the minister and the authority they walk away from them. It has been 12 months since this has come about, and it has nothing to do with union members.

Morale at the inspectorate is at rock bottom. Why summarily sack 160 inspectors with expertise and then tell them they have to re-apply for their jobs? If the government wants to improve their skills it should help them through education rather than saying, ‘You’re worthless. We don’t want you. We have 900 people here who want to take your job, but we expect you to work at 100 per cent — at the maximum level’. The government cannot hold that over them like the sword of Damocles, threatening their jobs and saying everything is all right and they are doing the right thing. That is not the way it works or what happens in real life. The minister responsible for the Victorian Workcover Authority does not take responsibility for that position. He is proud that there are 900 people after the jobs of those inspectors. That is sad because the inspectors should be treated with respect. If their skills need upgrading they should have the chance to upgrade them. They should not be summarily dismissed and their livelihoods and jobs taken from them by other applicants.

We should be aware that it was only after the opposition raised this matter in the house that action was taken about protecting the records of the authority. The opposition was concerned that the documentation may have been tampered with because when it raised it in the house during the autumn sessional period documents were not available to our informants.

**Hon. R. M. Hallam** — Are you surprised by that?

**Hon. D. A. NARDELLA** — I am surprised because data can easily be tampered with. The terms of reference of the royal commission should be expanded.

It is not much use sending in the police or the auditors to carry out a search, the royal commission must have the authority and the power to call before it the relevant people to carry out that process, be it the police, the bureaucrats, officials or officers. It may need to examine government policy and why the pipeline from New South Wales is the size of a normal garden-variety hose rather than something akin to the $170 million that was budgeted for. The royal commission should have the ability to investigate that because it relates to the policy of this government and the minister. They want...
to use everybody else as scapegoats. They are claiming their own officials cannot be trusted. Inspectors have a real commitment to their job and workplace safety. It is important that honourable members support the motion.

Hon. W. A. N. Hartigan (Geelong) — This has been an interesting debate. It is a pity, however, that in his inimitable style Mr Theophanous has, in the absence of facts or philosophy, chosen to attack the Minister for Finance, who is also the minister responsible for Workcover. He is a minister who, regardless of the government of the day, will be remembered for some of the most far-reaching, effective and beneficial changes undertaken on behalf of the Kennett government. I refer not only to Workcover but to council reform. There is not an atom of evidence that the minister ever acted in any way but strictly honourably — in fact, to the point where I have often accused him of being too saintly. I do not suffer from that disability!

What surprises me about this debate is not Workcover, it is the Labor Party’s — and particularly the Theophanous parliamentary Labor Party — view of the world. We are talking about the Byzantine activities of members of the parliamentary Labor Party who believe conspiracy is a normal part of administrative activity. They will stab an erstwhile friend in the back to gain some short-term benefit. Nobody is more prominent or polished at that in this place than Mr Theophanous, who has changed faction more often than he changes his shirts to protect his position on the front bench.

Mr Theophanous has the temerity to talk about the minister retaining his perks of office. I have never seen anybody fight as hard as does Mr Theophanous to retain the perks of office and other perks associated with councils. There is no misunderstanding of where his dollar comes from!

Hon. G. R. Craigie — Or where it should go.

Hon. W. A. N. Hartigan — He doesn’t care where it comes from. He is hardly in a position to talk about the ethics and honour of the Minister for Finance — a man whose performance is beyond any criticism.

Somebody has just observed that Mr Theophanous’s real concern about Longford and the people injured there ceased immediately the television cameras were removed from the gallery, but I would not assert that — I will leave that to somebody else.

The relationship between the arguments put by Mr Theophanous and his interest in Workcover and a little free publicity is of relevance. The facts of the matter have nothing to do with Workcover. Mr Theophanous has had a character write to him about something that happened more than a year ago. The writer was concerned about the way he was interacting with his supervisor. The memorandum referred to is about a year old. Why was Mr Theophanous’s enthusiasm not aroused a year ago? If his concern is for the process, why is the matter more important in October this year than it was a year ago?

If the man we are talking about was really concerned about the implication, it should have been raised then because the whole idea of Workcover under this government is to prevent accidents, to take action when there is evidence of concern and to redress the problem. The government does not wish to react to accidents but prevent them.

Apparently the efficacy of the government’s work with Workcover — workers compensation — is to be judged by the number of prosecutions made of employers. The 1997–98 annual report of the Victorian Workcover Authority has been tabled in this house. If members of the opposition wish to get a little frisson from the number of people being fined they could turn to pages 110 and 111 of that report. They will find that the VWA has taken action against and prosecuted a wide range of employers. If it would make Mr Nardella happy he could sit down over lunch and get a secret thrill from discovering that the VWA has prosecuted a number of employers.

I join the minister in expressing my sincere condolences over the deaths and injuries resulting from the Longford accident, but until that disaster occurred I had heard not a word about Esso from the opposition. No suggestion had been made that the company was other than an outstanding employer in terms of dealing with its workplace accidents.

I have spent time looking at this issue in workplaces throughout the world. The industry in which I worked before coming into this place had as much interest in preventing accidents as did any employer or employee. It was not merely a question of whether there was a dollar in it, because you did your best when working with people to ensure they were not exposed to dangerous environments.

I cannot say progress has not been constantly made or that improvements are not continually being made to processes to minimise and avoid workplace accidents. But I can say that there is clear evidence, notwithstanding Mr Theophanous’s tendency to put his head in the sand, that the way the government has approached injury in the workplace has been effective, particularly because it has sat down with the objectives
of reducing the incidence of injury in the workplace, encouraging a return to work of injured workers and ensuring it did not load commerce and, in this case, industry with high costs. Curiously enough, the lower the costs employers have to bear, the more people they employ. There has been real benefit in the government’s acting to reduce the number of accidents and, consequently, the level of premiums. That is a win-win situation. To reduce the number of accidents you examine the number of components.

Hon. T. C. Theophanous — What about reducing maintenance; is that a good safety cost?

Hon. W. A. N. Hartigan — I will address that issue through you, Mr Deputy President. You attempt to reduce accidents by identifying those sectors of employment where there is a definite adverse trend. Under the circumstances some of the government’s successes can be attributed largely to the fact that the government focuses its advertising not just on the employers but also on industries. There is no doubt it has been successful in the primary objective of reducing the incidence of workplace injury.

I contrast that with the system Victoria had when the government came to government in 1992 — a system over which Mr Theophanous, with his apologia, shortly thereafter distanced himself from his Labor mates when he identified the fact that the Workcover arena had been taken over by the trade union movement. They were his words.

I should not wonder about his concern for a return to the good old days when occupational health and safety was seen as an industrial relations negotiating tool and nothing to do with safety in the workplace, because the evidence is clear that the number of accidents was increasing, not decreasing, under his own rules. Forget our figures: he should look at what happened between 1985–86 and 1991–92. How effective was the Labor government’s program? That is why in 1985 the Cain government changed the occupational health and safety system. That action was not of its making but represented a trend well established throughout the world to look at the outcomes. The objective was not to put a sticker on every boiler but to look at where accidents were occurring and focus on those areas — to get industry organised to focus itself.

Regardless of Mr Nardella’s views about the dreadful multinationals, capitalism or anything else, he cannot for one minute suggest that large manufacturers in Victoria do not have an accurate and positive interventionist role in preventing injury in the workplace. He cannot say that about Esso. Like the minister, I make no judgment about the Esso accident because in due course we will have a royal commission and a coronial inquiry. I observe, for Mr Nardella’s benefit, that the terms of reference ask the royal commissioner to decide:

2. Whether any of the following factors caused or contributed to the occurrence of that explosion, fire and failure of gas supply, namely —

The terms of reference list a number of things. They refer to:

(b) operating standards, practices and policies —

including, of course, any then in use by the VWA —

c) maintenance standards, practices and policies;

d) asset management practices and policies; …

(f) any relevant changes in the standards, practices and policies …

The terms of reference invite the royal commissioner to look at all those issues, and if he is interested in determining whether the VWA contributed to a change in practice or policy or that it had an adverse policy, I have no doubt he will do just that.

The Premier and the minister have made the point that we will place no restrictions in the way of the broadest investigation by the royal commissioner. No limitation will be placed on any evidence given or witnesses called. The Premier and the minister have made it clear that the government and its agencies, including the VWA, will meet all requests made of it.

Apparently Mr Nardella thinks a formal review should be conducted of the VWA. Our friends at the Auditor-General’s Office do that continually and they continually give the VWA a good sign-off. There is no evidence from the reviews conducted by independent people such as the Auditor-General of an inadequacy of administration.

All the statistics indicate that deaths, traumatic injuries and premiums are declining and that we have moved away from the position that the Labor Party espoused in the 1990s, which Mr Nardella suggests is the ideal to which we should return, although Mr Theophanous stepped away from that! That is a horrifying thought. The Labor Party wants to return to a system that was not only bankrupt but which had a nominal price of 3.3 per cent for premiums, and which probably should have been 5 per cent to reflect the decline in the unfunded liabilities.
Hon. D. A. Nardella — Where did you get that from?

Hon. W. A. N. Hartigan — Have a look at the 1991-92 report from the then Minister for Small Business. I am not going to read it for you. The motion is an attempt by Mr Theophanous to attack a raft of honourable people under parliamentary privilege. He produces no evidence. He has built straw men with no straw but a fevered imagination. His whole approach is consistent with the way he contacts his affairs within the Australian Labor Party — byzantine and stabbing anyone in the back with only one concern, the immediate advancement of his interests.

Many of his colleagues are as embarrassed as the government is about the way he abuses the parliamentary process. Mr Theophanous introduces nothing but a scandalous attack on people who cannot defend themselves. More importantly, he abuses the honourable and ethical stance of a minister who has established without any doubt a position to which he may reasonably aspire but will never reach. This is an unfortunate attack on the standards of parliamentary debate. It is a disappointing attack on a minister, particularly since there is no evidence and I suspect will not be any in the future.

I not only oppose the motion of the Leader of the Opposition, but I ask the house to reflect upon how unfortunate it is that such a petty, malicious, spiteful and unfounded case should be put in an attempt to support a motion that has absolutely nothing to recommend it.

Hon. T. C. Theophanous (Jika Jika) — The house has just heard another irrelevant speech from Mr Hartigan. The minister responsible for Workcover gave one of the most appalling responses to very serious allegations, documentation and charges brought to the house by the opposition. The opposition contends that the minister has made false and misleading statements to the house. He has made a false statement about the Sale office of the Victorian Workcover Authority, which was not open one day a fortnight. It was open one day every week and it is listed as so in the White Pages of the telephone book. The minister does not answer that issue. He asserts that he is correct. These issues will come back to haunt him. The Traralgon office of the authority was another deception. The minister tried to give the impression that a compensatory action took place.

Hon. Bill Forwood — Quote his remarks.

Hon. T. C. Theophanous — I did quote his exact words. I have already quoted them in full.

Hon. Bill Forwood — Quote them again.

Hon. T. C. Theophanous — I quoted them in my earlier contribution.

Hon. W. A. N. Hartigan — On a point of order, Mr President, Mr Theophanous is doing what he has done before — interpreting the comments of the minister. The house is entitled to hear the direct words of the minister.

Hon. T. C. Theophanous — On the point of order, Mr President, I am getting tired of the government’s attempts to mislead the house. I quoted the statement in full to the house in my earlier contribution. Is the minister insisting that I should quote it again? How many times in one day should I have to quote directly from Hansard? It is an absolute nonsense. It is an attempt to stop me completing my final remarks in closing the debate.

Hon. Bill Forwood — On the point of order, Mr President, it is apparent that the Minister for Finance said that the hours of the Traralgon office should be extended, but Mr Theophanous is insistent on saying, as reported in Hansard of 7 October:

I refer the minister to his statement to the house yesterday that the resources at the Traralgon office of the Victorian Workcover Authority had been increased.

It is another example of Mr Theophanous putting his own interpretation on the words of others, but quoting them and accusing the minister of misleading the house. Mr Theophanous should be ruled out of order and forced to read the minister’s words.

The President — Order! Previously I have advised the house the difficulty that arises when a member paraphrases what another member says, but then attempts to imply that certain things were said. I am not saying that Mr Theophanous has done that. It is a serious issue when a member does not accurately quote what another member has said. Having said that, I think both sides have put the views they want to put.

Hon. T. C. Theophanous — I look forward to reading the Hansard report of this debate, which will clearly show that I quoted the minister in full this morning. The point of the Traralgon incident is that again the minister attempted to mislead the house. The minister has given false information to the house on the number of deaths and traumatic injuries. He refuses consistently to give the house the true figures. He constantly refers to traumatic injuries without adding
the word ‘claim’. The minister knows there is an important difference. He has never quoted the number of serious injuries because they have increased 400 per cent. It is another attempt to create the impression that nothing is wrong. The minister refers to rigorous inspections which take 2¼ quarter hours, but he is not prepared to qualify his statement.

The most serious issue the opposition brings before the house is the document from a person who is complaining of having been nobbyed about a prosecution. The minister admits that the subject matter of that prosecution has not been followed through and that no prosecution has gone ahead, even though the report was made in October 1997. Nothing can be more clear than the fact that the minister is nobbying inspectors.

House divided on motion:

Ayes, 8
Gould, Miss
Hogg, Mrs
McLean, Mrs (Teller)
Nardella, Mr

Noes, 30
Asher, Ms
Ashman, Mr
Atkinson, Mr
Baxter, Mr
Best, Mr
Bishop, Mr
Boardman, Mr (Teller)
Bowden, Mr
Brideson, Mr
Cover, Mr
Craige, Mr
Davis, Mr D. McL.
Davis, Mr P. R.
Forwood, Mr
Furletti, Mr

Pairs
Eren, Mr
Power, Mr

Motion negatived.

Sitting suspended 1.05 p.m. until 2.05 p.m.

INTERNATIONAL TRANSFER OF PRISONERS (VICTORIA) BILL

Second reading

Hon. G. R. CRAIGE (Minister for Roads and Ports)—I move:

That this bill be now read a second time.
transfers cannot occur unless a minimum of six months of the sentence remains to be served and until the prisoner has completed all legal processes in the country in which the offence was committed.

Prisoners transferred to Australia are deemed by the commonwealth act to be federal prisoners. This is for reasons of administrative convenience. The commonwealth Attorney-General determines the way in which the sentence of the foreign court is carried out in Australia. The Victorian government must agree with the commonwealth Attorney-General’s determination before a prisoner can be transferred.

There are two methods of sentence enforcement in the commonwealth act. One is continued enforcement. This means keeping as close as possible to the sentence of the foreign court. The other is converted enforcement. This means substituting a different sentence. It is expected that the continued enforcement method will usually be used in Australia. However, the method used in a particular case may depend on a particular agreement with a foreign country.

The commonwealth act also provides for Australia to accept the transfer of persons sentenced to imprisonment for war crimes committed in the former Yugoslavia and in Rwanda. The international war crimes tribunals set up by the United Nations Security Council are empowered to convict and sentence persons for war crimes committed in those countries. Australia has been a strong supporter of these international processes.

Australia has agreed to provide a mechanism for accepting such prisoners to serve their sentences in Australia. The act has no requirement for community ties with Australia, though the intention is that some connection with Australia will be required. Unlike the general transfer scheme, a war crimes prisoner’s consent to the transfer will not be required, though the Victorian Minister for Corrections must consent. We expect very few, if any, war crimes prisoners to be transferred to Victoria.

Victoria has many hundreds more foreign prisoners in its prisons than there are Victorians imprisoned overseas. Some of these prisoners will want to serve their sentences of imprisonment in their home countries. Because there are so many more foreign prisoners in Victoria than there are Victorian prisoners overseas it is likely that there will be a net outflow of prisoners from Victoria. This will result in cost savings to the Victorian taxpayer.

This short bill contains provisions that allow the commonwealth act to operate in Victoria. The passage of legislation is only a first step. Once all the states have passed legislation the federal government will negotiate transfer treaties with foreign countries. Administrative arrangements will have to be entered into with the federal government. Once these treaties and administrative arrangements are in place, transfers will then be possible.

The bill will not only assist the reintegration into the community of prisoners participating in the transfer scheme but also help alleviate some of the hardship suffered by the families of those persons imprisoned in another country.

I commend the bill to the house.


Debate adjourned until next day.

PLANNING AND ENVIRONMENT (AMENDMENT) BILL

Second reading

For Hon. R. M. HALLAM (Minister for Finance), Hon. R. I. Knowles (Minister for Health) — I move:

That this bill be now read a second time.

The purpose of this bill is to amend the Planning and Environment Act 1987 to provide for the Melbourne Airport Environs Strategy Plan; to provide for the recovery of advisory committee and planning panel costs in certain cases; to correct the planning permit condition provisions to reflect recent changes to section 36 of the Subdivision Act; and to make two statute law revision amendments. The other purposes of the bill are to amend the Environment Effects Act 1978 to provide for recovery of inquiry panel costs and to amend the Planning and Environment (planning Schemes) Act 1996 to make further provision for transitional arrangements arising from the introduction of new planning schemes under that act.

The Melbourne Airport Environs Strategy Plan will help ensure the airport, probably the state’s most important strategic site, retains its key competitive advantages of a 24-hour curfew-free operation; an integrated passenger terminal complex; large areas of surrounding rural land, allowing minimal impact of aircraft noise on nearby residential areas; enormous potential for expansion with uncongested airspace;
unrestricted airfield capacity; and a fine weather reputation.

Melbourne is the key freight hub for south-eastern Australia. It exports $14 billion worth of goods annually. While most leave via the port an increasing proportion — approximately a quarter by value — leave from Melbourne Airport.

Environmental and urban development pressures during the 1980s saw a joint state-commonwealth working group formed to review the 1960s master plan for Melbourne Airport and to develop the Melbourne Airport strategy. This working relationship established a strong, mutually beneficial foundation between the airport, the commonwealth, state government, municipal councils and the wider community, including business, residents and educational institutions.

The introduction in 1992 of the Melbourne Airport environs areas overlay controls over severely aircraft-noise-affected areas in the vicinity of Melbourne Airport has for some years attracted the interest of the commonwealth government as a model to be encouraged nationally. No other airport in Australia has similar provisions in place. The Melbourne Airport Environs Strategy Plan will build on the effective work which was done at that time. It will also build on the current planning reform work, in particular the Victoria planning provisions in relation to the airport and the municipal local policy frameworks for the airport environs.

The bill provides the mechanism to lock in the benefits of this recent work by the preparation of a plan which both houses of Parliament will be asked to endorse. The current planning scheme provisions will continue to apply to the environs area, but any future changes will need to be assessed for consistency with the plan before they proceed. The plan will therefore be to the benefit of the airport and its operations and also to current and future surrounding owners and occupiers by ensuring that detriment from airport operations is minimised.

The bill extends the provisions for cost recovery for panels, advisory committees and environment effects inquiries. Currently there is broad and accepted responsibility that the potential beneficiaries of planning processes ought to make contributions to the public costs of doing so. The bill makes sure that these provisions also apply to processes that have to date been exempt from the cost recovery principles. It is only equitable that these changes be made.

The bill finetunes the provisions of the Planning and Environment (Planning Schemes) Act 1996 in relation to permits granted to preserve rights to use and develop land under existing schemes, as a consequence of the approval of a new scheme. It is expected that municipal councils will ask the minister to grant permits for a number of extractive industries. The existing two-year discontinuance provisions of the act impact harshly on extractive industry. It is not uncommon for quarries to cease operations for two years given fluctuating resource prices. Consistent with the objective of preserving existing rights as far as possible, the bill allows the minister to grant permits with a discontinuance period greater than two years in appropriate circumstances.

The remaining provisions of the bill relate to minor matters relating to ensuring that the planning permit conditions provisions of the Planning and Environment Act 1987 as they relate to acquiring or removing rights of way or easements (over land not covered by the permit) are brought into line with recent changes to the Subdivision Act 1988 and with making statute law revision amendments.

I commend the bill to the house.

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

LEGAL PRACTICE (AMENDMENT) BILL

Second reading

Hon. LOUISE ASHER (Minister for Small Business) — I move:

That this bill be now read a second time.

The Legal Practice Act 1996 has been in operation since 1 January 1997. The act introduced far-reaching reforms of the structure and regulation of the legal profession. Since its introduction, its operation has been the subject of close monitoring to identify any further reforms that could be introduced to ensure its smooth operation and the efficient regulation of the legal profession. In addition, the transitional arrangements under the act for professional indemnity insurance will come to an end on 31 December 1998 and it is necessary to provide legislative support for the regime that will come into operation after that.

Professional indemnity insurance

The act currently provides that the statutory mutual fund insurer for solicitors, the Legal Practitioners Liability Committee (LPLC), is to continue to provide
professional indemnity insurance to solicitors for the duration of the transitional period and that thereafter there would be no restriction as to with whom solicitors could take out insurance. However, clause 38 of schedule 2 of the act also required the Legal Practice Board (the board) to review the functions and operations of the LPLC and to report to the government as to what the future of the LPLC should be.

The board provided an interim report in 1997 and a final report in June 1998. In the course of preparing those reports the board obtained various expert insurance and actuarial advice. In its final report the board strongly recommended to the government that the LPLC should be maintained as the professional indemnity insurer for solicitors.

Since this issue was last considered in Victoria in 1996 major reviews of the question of professional indemnity insurance for lawyers have also been carried out in Canada and the United Kingdom. In each jurisdiction the relevant reports have now concluded that the mutual fund model constitutes best practice and should be supported.

Fidelity fund

The fidelity fund is set up by the act to cover money which is stolen from trust accounts by solicitors. However, money can be given to a lawyer for a variety of reasons, some of which are related to the legal practice run by the lawyer and others which are not. It is not appropriate, for instance, for the fidelity fund to act as an insurer or guarantor of bad business or investment risks and decisions taken by a client, nor should it be expected to cover hypothetical interest or income which may have been promised to the client but never actually earned. The common law entitles a client to take action against his or her lawyer in appropriate circumstances to pursue such issues.

In 1996 amendments were introduced to the Legal Profession Practice Act 1958. The aim of those amendments was to ensure that where money was given to a solicitor for the purpose of making an investment — for instance, to earn income or obtain other direct or indirect financial benefits — the loss of such money, with certain stated exceptions, would not found a claim on the fund. The current amendments confirm and clarify that earlier objective. They also ensure that if a client receives a payment of simulated interest — for instance, where the client is told that what is being received is interest or income but the payment actually constitutes a repayment of the client’s own capital or even of someone else’s capital — this payment must be brought into account when calculating the amount of any claim on the fund.

In addition, amendments are being introduced which will provide that what are effectively appeals to the Supreme Court against decisions by the Legal Practice Board to disallow a claim against the fidelity fund are usually to be taken as a last resort. These are based on provisions contained in the previous act.

Other amendments

Other amendments will improve trust account regulation, strengthen disciplinary procedures, refine the civil dispute jurisdiction and assist the more efficient operation of the recognised professional associations and the board.

Limitation of jurisdiction of the Supreme Court

Clause 32 of the bill has been included to satisfy the requirements of section 85 of the Constitution Act 1975 in respect of changes to the jurisdiction of the Supreme Court effected by section 212(2) of the Legal Practice Act 1997, as amended by clause 19(2) of this bill.

Section 212(2) currently provides that a person is not entitled without leave of the court to commence a proceeding to assert a claim against the fidelity fund unless the board has disallowed the claim wholly or partly. Clause 19 provides that proceedings to assert a claim cannot be brought until the board has considered and disallowed the claim wholly or in part and, in addition, the claimant has either exhausted alternative legal remedies or obtained leave from the board to bring the proceedings. This is to enable the better management of the fund’s resources to ensure that they are not dissipated through unnecessary and costly litigation when the board has investigated the claim and has formed a view that the claim does not come within the requirements of the act and the claimant has other viable means available to him or her of recovering the loss.

I commend the bill to the house.


Debate adjourned until next day.
LAND (FURTHER REVOCATION OF RESERVATIONS) BILL

Second reading

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — I move:

That this bill be now read a second time.

The bill provides for the revocation of permanent reservations of lands described in the schedules to the bill. The bill removes these reservations either to facilitate disposal or because the purpose of the reservation is no longer appropriate for the future use of the land. The bill also provides for the repeal of the Bendigo (Dai Gum San Village) Act 1975. I now turn to the particulars of the bill.

Clauses 1 and 2 relate to the purposes of the bill and its commencement. Clause 3 deals with two portions of Crown land in Crusoe Road, Kangaroo Flat. Both portions are reserved for water supply purposes and form part of the Coliban Water works area. These two portions of land are currently occupied by the adjoining landowner who has the land fenced into his property. Coliban Water has advised that the land is surplus to its requirements and revocation will allow for the disposal of the land. The bill also allows for the subject land to be excised from the Crown grant which affects the site.

Clause 4 deals with the former Queen Elizabeth Centre in Cardigan Street, Carlton, which is reserved for public purposes — a child-care centre. The reserve was managed by the Department of Human Services in conjunction with an adjoining portion of Crown land temporarily reserved as a baby health care centre. These sites have been declared by the Department of Human Services as being surplus to its requirements. The former occupants have been relocated to other locations. The La Trobe University Centre for the Study of Mothers’ and Children’s Health is now located in the Royal Women’s Hospital and the Melbourne Chorale is now located in the new cultural centre at the former North Melbourne town hall.

Clause 5 deals with a 6.9-hectare water supply reserve located on the Allendale Reservoir Road, Allendale, which is currently under the control of the Shire of Hepburn as the committee of management. Both council and Central Highlands Water have indicated that they have no interest in the site and the site does not possess any environmental or community values that would warrant it being kept in the Crown estate. Revocation will allow for disposal of the site.

Clause 6 deals with an 85.2 square metre portion of Fawkner Park, to the rear of the South Yarra Primary School in Paisley Street, South Yarra. The school, which is located on land reserved for state school purposes, wishes to construct an after-school play facility. To enable that to occur, the school needs to slightly extend its boundary into Fawkner Park. The new after-school play facility will replace one that is currently located elsewhere in Fawkner Park. This building will be removed, resulting in a net gain of parkland of 314 square metres. The City of Melbourne is the committee of management of Fawkner Park and supports this proposal. A planning permit has already been obtained by the Department of Education for the construction of the after-school play facility at South Yarra Primary School. The bill also provides for the excision of the subject land from the Crown grant which affects Fawkner Park.

Clauses 8 and 9 provide for the revocation of the portion of the former Fairfield hospital site, located on Yarra Bend Park Road, Fairfield, which is not included in the forensic psychiatry institute. The land is reserved for health and social welfare purposes and has been declared surplus to the requirements of the Department of Human Services, which is the current manager of the land. The site contains many of the former hospital buildings, the AIDS memorial garden and associated multi-faith chapel.

The developed area of the site contains many of the former hospital buildings and is proposed to be sold to the Northern Melbourne Institute of TAFE. This will enable the institute to establish a new campus and amalgamate the current Collingwood and Parkville campuses.

A heritage conservation management plan of the developed area has indicated that there are some historic values associated with some of the buildings. This management plan has been incorporated into the TAFE’s feasibility study and referred to Heritage Victoria.

Following revocation of the current reservation affecting the land, the remainder of the site, which includes parkland areas and the AIDS memorial garden, will be permanently reserved as a public park and memorial gardens. The Northern Melbourne Institute of TAFE has agreed to manage the site. Officers of the Victorian AIDS Council have indicated that this is likely to be acceptable to the council. The reservation of the AIDS garden area will ensure that the site remains a permanent memorial for those who have died from the AIDS virus. It will also continue to be a retreat for family and friends whose loved ones’ ashes
are spread over the site and for people living with HIV and AIDS.

The associated multi faith chapel is located within the proposed TAFE site and cannot be included as part of the AIDS memorial garden reserve. However, the institute has given its commitment that the chapel will continue to be accessible to the public. This commitment will be formalised through an agreement as part of the sale process.

The bill provides for these provisions to be proclaimed at a later date to ensure that all matters relating to the sale of the TAFE site, the agreement relating to the multi faith chapel and the reservation and future management of the AIDS memorial garden are finalised to the satisfaction of all interested parties prior to the reservation being revoked.

Clauses 11 and 12 deal with the repeal of the Bendigo (Dai Gum San Village) Act 1975 and the revocation of the recreation and public purpose reserve that is the subject of that act. The act was passed to facilitate the development of a Chinese historical village illustrating the contribution made by the Chinese community to life in and around the Bendigo goldfields during the gold mining period in Victoria. The act reserved the land and established a committee of management with representatives from the surrounding municipalities, the Bendigo Trust and nominees of the minister. The act also provided for the reserve to be leased for a term not exceeding 75 years. A lease was issued to the Bendigo Trust. However, funding was not secured for the development and works at the site never commenced.

The Bendigo Trust has surrendered its lease on the site and the City of Greater Bendigo, which now incorporates all of the municipalities represented on the original committee of management, has advised that it has no further interest in managing the site. The subject site contains stands of box ironbark which are subject to the Environment Conservation Council’s report on box ironbark forests and woodlands, which is expected to be completed in early 1999. Some remnants of mining activities carried out on the site are worthy of further consideration to determine if they have any historical significance.

The repeal of the act will enable the site to be managed by the Department of Natural Resources and Environment. It will also provide the ability to determine the most appropriate management and future use of the land taking into account the recommendations of the Environment Conservation Council’s report and the assessment of any cultural or historic values that may be present on the site.

Clauses 7, 10, 13 and 14 of the bill contain provisions which are generally applicable to land bills of this type and which detail the consequences of revocation and require the Registrar-General and the Registrar of Titles to make the necessary amendments to titles.

I commend the bill to the house.

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

Debate adjourned until next day.

CONSERVATION, FORESTS AND LANDS (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — I move:

That this bill be now read a second time.

This bill makes miscellaneous amendments to legislation to reflect the current administrative arrangements order and the Public Sector Management and Employment Act 1998 in relation to the Secretary to the Department of Natural Resources and Environment. The bill also amends the Coastal Management Act 1995 to update the membership structure of the Victorian Coastal and Bay Management Council and regional coastal boards to better equip them to deal with the challenges arising from the implementation of the Victorian coastal strategy and the government’s Bringing the Bay to Life initiative.

I turn to the details of the bill. Part 2 of the bill amends the Conservation, Forests and Lands Act 1987 and other legislation to clarify references to the secretary to the department and to update provisions to correct redundant references and to make the relevant legislation consistent with the Public Sector Management and Employment Act 1998 and the current administrative arrangements order.

The legislation sets in place a legislative framework which clarifies when the Secretary to the Department of Natural Resources and Environment is acting as the body corporate as established under section 6 of the Conservation, Forests and Lands Act 1987 and in his role as the chief administrator of the department.

Part 3 of the bill amends the Coastal Management Act 1995 to improve its operation. Firstly, it is intended to change the name of the Victorian Coastal and Bay Management Council to the more commonly used Victorian Coastal Council. The opportunity has been
taken to alter the criteria for membership of the council and the regional coastal boards from representative to skills-based. The changes will ensure the balance of skills and expertise can be brought together to achieve the objectives of those bodies. To that end, potential membership of the boards has also been increased from 10 to 12 and provision has been made to allow members of Parliament to become members of the coastal boards. The amendments reflect the commitment of government to the implementation of the Victorian coastal strategy and programs such as the Bringing the Bay to Life initiative.

Part 4 of the bill makes a consequential amendment to the Crown Land (Reserves) Act 1978 because of changes to the Coastal Management Act 1995.

Part 5 makes a small change to section 4(2) of the Parks Victoria Act 1998 to clarify the original intent of the legislation which ensures Parks Victoria's ability to take land on lease and grant subleases of that land. The bill also makes a small statute law revision to section 21 of that act.

I commend the bill to the house.

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

Debate adjourned until next day.

QUESTIONS WITHOUT NOTICE

Health: VRE

Hon. M. M. GOULD (Doutta Galla) — I refer the Minister for Health to the fact that the Alfred Hospital has confirmed that it has four patients with the super bug, Vancomycin-resistant enterococcus (VRE). Is it a fact that a single patient was the initial cause of the disease, that the patient was transferred from the Latrobe Valley Hospital to the Alfred Hospital, that no-one from the Latrobe Valley Hospital told the Alfred Hospital staff that the patient had VRE, and that the Alfred Hospital staff had to be informed about it by relatives of the patient? Will the minister investigate whether there has been a fundamental breakdown in proper infection control that underlines the crisis in Victoria's public hospital system?

Hon. R. I. KNOWLES (Minister for Health) — I am not aware of the circumstances of the particular case. VRE is an issue of significance in public health in Australia as it is in the Western world. Some people are developing a resistance to antibiotics, which is a matter of increasing concern. Two years ago the Department of Human Services promulgated guidelines as to how hospitals should manage cases of VRE as a way of reducing the risk of transferring the infection. My advice is that hospitals by and large are responding appropriately when cases of VRE are identified. That is best seen by the way in which hospitals have responded when the issue arises.

I thank the Deputy Leader of the Opposition for her question because it allows me to refute and reject the approach of the shadow minister for health and community services who has run an appalling campaign over the past 24 hours which has sought to frighten and scare the general public when there is no justification for that. The approach the opposition has taken runs the risk of deflecting from what needs to be our primary focus in this area — to promote the appropriate use of antibiotics in health care.

The issue has nothing to do with staffing or with cleaning, as stated by the opposition. The government has given a high priority to infection control strategies, to the extent that Victoria is regarded as a leader in this area. It was the first state to promulgate guidelines. Victoria has developed an infection control strategy and contributed significant resources, including a record increase in funding this financial year and an increase in funding of more than 10 per cent to the public hospital system. If the opposition wants any credibility in this area it should embark on what has been the traditional approach by oppositions when an issue of public health is raised. It should respond in a responsible way that focuses on the important aspects of a public health issue. That strategy would serve this community much better than the opposition's attempt to scare the public when there is no cause for fear.

A relatively small number of people have been infected with VRE as a result of developing a resistance to antibiotics. The government will continue to work with the health system to ensure that an appropriate strategy is implemented to minimise the risk of the occurrence of VRE or its spread among hospital patients where it has occurred.

Workcover: annual report

Hon. BILL FORWOOD (Templestowe) — I refer the Minister for Finance to the 1997-98 annual report of the Victorian Workcover Authority and ask: can he inform the house whether the authority has effectively achieved financial stability while reducing the number of workplace deaths and injuries?

Hon. R. M. HALLAM (Minister for Finance) — I thank Mr Forwood for his question and continuing
interest in workplace safety in Victoria. One of the Victorian Workcover Authority's primary responsibilities and one of my personal commitments is to ensure the financial stability of the scheme. I am delighted to have the opportunity to report on the outcome of the scheme for the year ended 30 June 1998. Notwithstanding the legislative changes in respect of common law and the impact we knew that would have on the long-term funding of the scheme, I am pleased to report that Workcover ended the financial year with a funding level of 96 per cent, an increase from the 92 per cent level for December 1997. I am confident that in the foreseeable future we will achieve full funding. I hope that will be recognised to be a good outcome in the eyes of all honourable members.

It is not just the issue of funding that is of significance in the charter of the Victorian Workcover Authority. The report shows a continued reduction in both the number of traumatic injuries and reported deaths in Victorian workplaces. We went through a sad debate this morning where the opposition again tried to denigrate both the role and the performance of the Victorian Workcover Authority. I am glad the audited report of the Victorian Workcover Authority has been tabled. We can now say that there is ample evidence of a substantial shift in workplace safety across the state. I, for one, am quite happy to be judged on the record of that improvement.

I shall mention two key features about the report of the past financial year. One of them goes to the issue of roll-over protection on tractors, which I have previously mentioned in the house. The report highlights that the Victorian Workcover Authority made available a $2 million subsidy. As a result, there are about 14 000 additional tractors across the state with roll-over protection. I know the opposition has the propensity to denigrate everything, but 14 000 families across country Victoria are now safer as a direct result of an initiative taken by the government.

Another highlight has been the investment of $900 000 into the Monash University Accident Research Centre. It will provide research on injury prevention in workplaces, beginning most importantly with the construction industry. It is important to note the reported reaction to the publicity campaigns that have been conducted by the authority. The campaign has resulted in unprecedented levels of awareness.

As is its wont, the opposition is not prepared to accept the word of the minister or the report of the Victorian Workcover Authority. I invite the opposition to again consider the Upjohn report into workplace health and safety, which was undertaken by a recognised independent international authority.

The accomplishments of Workcover are described as remarkable, and the institute invites the community, including you, Mr Theophanous, to take great pride in the knowledge that it has the best workers compensation scheme in Australia providing the highest benefits for injured workers at the lowest cost to the employers and the community. I, with my colleagues, am prepared to be judged on the performance and the record disclosed in this report, a record of dramatically improving safety standards across the Victorian community.

Workcover: Mulgrave office

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Finance to the recommendation of the chief investigator at the Mulgrave office of the Victorian Workcover Authority made 12 months ago today to proceed to prosecute PBR Automotive Pty Ltd following breaches of the Occupational Health and Safety Act that led to the electrocution of a 22-year-old apprentice. Given that 12 months has passed and the file is still under active consideration, will the minister indicate to the house the average length of time recommendations for prosecution by inspectors are kept under active consideration?

Hon. R. M. HALLAM (Minister for Finance) — This is too cute by half: Again Mr Theophanous is referring to a report on which he relied ad nauseam in debate earlier today. He relied upon the document he cited at great length about a dispute in relation to a written reprimand.

Hon. T. C. Theophanous — And then he was promoted. Why was he promoted?

Honourable members interjecting.

The PRESIDENT — Order! I ask honourable members to settle down. The time assigned for questions is 20 minutes, and that time will be enforced unless there is better cooperation.

Hon. R. M. HALLAM — I go back to the hypothetical question I posed earlier this morning: why does this honourable member seek — —

Hon. T. C. Theophanous — Why has it been 12 months under active consideration?

Hon. R. M. HALLAM — Why is Mr Theophanous bent to the point of obsession about taking on the Victorian Workcover Authority? Why is he not
prepared to encourage workplace safety? What drives the obsession he seems to have? He is not supported by anybody in the chamber, including his colleagues. This is the first time I have seen this document. I shall take the trouble to read it and perhaps I will respond.

Small business: regulations

Hon. PHILIP DAVIS (Gippsland) — Will the Minister for Small Business advise the house of the government’s latest steps to reduce regulations having an impact on small business?

Hon. LOUISE ASHER (Minister for Small Business) — Regulation reform is of real significance particularly to small businesses. It has been shown that the compliance burden on small businesses is far greater than on large businesses. In 1992 the government began a program of quantitative reduction of regulations. From an all-time high under the previous Labor government, from 1987 to 1997 the impact of regulations on business has been reduced by 62.9 per cent. That is an extraordinary reduction in the number of regulations that have been removed. The government has now moved to its next phase of regulation reform, which is a more qualitative phase. It has adopted an industry-wide approach and is looking at the situation industry by industry to see where regulatory burdens can be reduced, particularly on small business which, as I said, has a far greater compliance cost.

Last year I instituted a tourism regulatory audit process to identify regulations that have adverse impacts on business. I received that report some time ago. The bulk of the recommendations have now been implemented. A number of legislative amendments will have to be made this sessional period, but more importantly a whole range of regulations that have an impact on small businesses in the tourism sector will be removed. There will be substantial reforms on bed and breakfasts.

Recently the government announced two additional industry-wide regulation audits, the first in aquaculture, which is of enormous significance in the provinces of Mr Philip Davis and Mr Hall. The second is a regulation reform process in the cut-flower and nursery industry, which is of significance to the Silvan province. Both processes commenced in September. The task forces will report to me in March 1999 and then the real work of implementation will commence.

The cut-flower review process is headed by the honourable member for Monbulk in the other place who has a keen interest in the issue. The aquaculture reform task force is headed by Mr David Harris, chairman of the Victorian Aquaculture Council. The key features of the process are, firstly, consultation. The entire process is based not only on submissions, which is appropriate for the peak associations, but importantly for the small business sector an opportunity to write simple letters indicating regulations that impose burdens and costs on them. Most importantly, the task forces will hold a series of meetings across the state to ascertain quickly and easily from small business operators the regulations that stand in their way.

The second feature is the budgetary focus on the removal of burdens across portfolios so that small businesses can flourish. The regulation review program is an important part of the small business portfolio with in-depth studies and then considerable time and effort focused on implementation. It is important to remove unnecessary regulatory burdens on industry. It is even more important to remove them from the small business sector. So far small businesses have been dominant in the three industry groups analysed. I look forward to reporting in greater detail to the house in due course.

Taxis: driver training

Hon. PAT POWER (Jika Jika) — Is the Minister for Roads and Ports aware of a speech made by the chief executive officer of the Victorian Taxi Association to the 1998 Australian taxi conference? Can the minister confirm that at that conference the chief executive officer concluded his comments with the following statement?

Is training meeting the current needs of the taxi industry? The answer is generally no!

At a national forum he was therefore criticising training provided to taxidrivers by the Kennett coalition government. What does the minister intend to do about that embarrassing reality? When will Victorians be afforded taxidriver training of the very highest standard?

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I shall answer the first question. No, I was not aware of the speech delivered by the chief executive officer of the Victorian Taxi Association at a national conference.

Hon. Pat Power — That is shameful.

Hon. G. R. CRAIGE — It is no more shameful than Mr Power not being present at a meeting of the Victorian Road Transport Association when the Leader of the Opposition was present. We noticed Mr Power was not at that meeting. The Leader of the Opposition
made some grand statements. I am sure the Leader of the Opposition was well advised by Mr Power.

I am glad Mr Power, who is a strong believer in training, raised the issue of taxidriver training. The government has introduced a method of training in Victoria that is constantly under review. Demands are being placed on the training institutes for them to be reasonably flexible in the way they deliver their courses, as training involves many issues. I assure the Victorian people that they are better off today than they were in 1992.

Mildura Base Hospital

Hon. B. W. BISHOP (North Western) — Will the Minister for Health advise the house of the current status of the Mildura Base Hospital project?

Hon. R. I. KNOWLES (Minister for Health) — I thank Mr Bishop for his question. He and Mr Best have taken a keen interest in this project since the board of management at the current Mildura Base Hospital recommended to the government that it look at being involved in a new build-own-operate hospital in Mildura. The government accepted that recommendation and commenced the process of selecting a consortium to build and operate the new Mildura Base Hospital.

As a result of that process, Alpha Health Care Ltd, an Australian company based in New South Wales, has been selected as the preferred consortium to build and operate the new hospital. Negotiations are continuing with that company to finalise a contract, the signing of which is expected to occur in November. The company will then set about building the new hospital on a site opposite the private hospital in Mildura, which will lead to not only a continuation of all the existing services but also an expansion in aged care, child and adolescent, mental health and rehabilitation services and a further expansion of community mental health services, as well as the construction of a hydrotherapy pool at the hospital.

Some negative comment about the project has been fuelled by the opposition and the Independent member for Mildura in another place suggesting that Alpha is not a suitable company for that purpose. Alpha is a well-respected Australian company. It already operates, I think, nine hospitals in New South Wales. It has a minority shareholding — about 38 per cent — from the Sun Health Care Group in America. That investment was approved by the Foreign Investment Review Board as an appropriate investment in Australia. I have every confidence that Alpha will not only build a first-class hospital but will continue to provide a more extensive range of services for the people of Mildura and Sunraysia. I look forward to the development of the new hospital.

In the meantime, the current base hospital will continue to provide first-class services. I acknowledge the leadership provided by Sid Duckett, the chief executive officer of the present hospital. I have spoken to the staff on a number of occasions and it seems there is huge excitement among them about the opportunity the plan presents for the provision of first-class services and the expanded range of services that will be available once the new hospital is built and commissioned. That is expected to occur in early 2000. The people of Mildura and Sunraysia can look forward to an ongoing extension and expansion of health services in that area. The government is committed to working in partnership with them to achieve that outcome. I know their interests are continually represented by Mr Bishop and Mr Best, which will lead to the best outcome we can deliver.

Minister for Police and Emergency Services: pecuniary interests

Hon. D. A. NARDELLA (Melbourne North) — I refer the Minister for Roads and Ports to the announcement by the Minister for Police and Emergency Services in the other place on 5 December 1997 of $90 000 state government funding to improve the access road to the Horsham industrial estate and, therefore, to Harvest Grain Australia, a company in which the minister has a financial interest. Was his department, in allocating the government funding, advised of the interests of the Minister for Police and Emergency Services in property that would benefit from the roadworks?

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I thank Mr Nardella for his in-depth and well-thought-out question. I wish to apologise to every person living in rural Victoria because I do not know the details of every one of the 540 projects delivered in rural Victoria since this government came to office. I also apologise to country Victorians because I do not know details of the $90 000 grant as part of the $350 million total this government has spent on country Victoria.

Hon. D. A. Nardella — So you do not know?

Hon. G. R. CRAIGE — Members of the public, especially those in rural Victoria, are entitled to know that the government funds many significant projects in rural Victoria. I shall name some of those to give the
house and Victorians an idea of the flavour of the projects funded from my portfolio funding.

From the Better Roads program the government has funded work on the Calder Freeway to the tune of some $8.6 million in this financial year and will spend $10 million on the Midland Highway upgrade, $5 million on the duplication of the Bass Highway and $2.9 million on the North Arm Bridge replacement program. The government will spend $1.6 million on the Cobden–Warrnambool Road and a similar amount on the Bacchus Marsh–Gisborne Road. Again I apologise that I have to read the list to the house because I cannot possibly remember the entire 540 projects on which the government has delivered.

When raising questions like this Mr Nardella needs to provide a little more detail rather than simply mirroring the question of a member of the other house. He should do more research about road allocations and ensure he gets his facts right.

Road safety: Safety First strategy

Hon. SUE WILDING (Chelsea) — Will the Minister for Roads and Ports inform the house of the latest study to be released that focuses on road safety in Victoria?

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I thank Mrs Wilding for her question and, importantly, for her interest in road safety. She is a valuable member of the all-party Road Safety Committee. Mrs Wilding and all members of that committee work hard on road safety issues.

I am pleased to report to the house that the latest Monash University Accident Research Centre study has highlighted the effectiveness of this government’s Safety First road safety strategy.

The report reveals that without the projects developed by the government, such as the accident black spot program, the hard-hitting education, publicity and enforcement programs targeting speed and drink-driving, the number of serious casualty accidents in Victoria would have been nearly 30 per cent higher in 1996. In other words, had the programs not been in place an additional 2500 serious casualty accidents would have occurred in 1996. The figures are based on statistical modelling undertaken by MUARC, which assessed the influence random breath testing, speed cameras, improvements to the road system and other factors had on road trauma. The results of the study clearly support the government’s current strategic directions.

There has been a substantial reduction in road trauma in Victoria since 1989, and our road fatality rates are now the lowest of any state in Australia and among the lowest in the world. This has been achieved not by ad hoc measures but by the key road safety agencies: Vicroads, the Transport Accident Commission and the Victoria Police. They have coordinated their efforts and they deserve the highest praise. Without the coordinated program targeting education, random breath testing and improvements in the road system, those results would not have occurred.

Over the next 12 months the government proposes to collate the recommendations of not only this report but also other reports to develop a five-year strategy for road safety. It is important that the reports are not left on the shelf, but that they are used to make sure we plan properly for the future.

Gas: Longford explosion

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the minister responsible for Workcover to the fact that the Victorian Workcover Authority issued a dangerous goods licence to the Esso Longford plant despite the June ice blockage incident and that the Victorian Workcover Authority has not conducted statutory inspections of the plant and equipment for a further two years. I further refer to the fact that the authority closed the Sale office two months prior to the Longford explosion. Despite this damning evidence the government has refused to include a specific reference in the terms of reference of the royal commission, arguing that the terms of reference are broad enough to examine those issues. Will the minister undertake to write to the royal commissioner advising him that inquiries into the Victorian Workcover Authority role at Longford should be in the terms of reference and that he is welcome to inquire into them?

Hon. R. M. HALLAM (Minister for Finance) — As a member of cabinet, of course I was involved in the framing of the terms of reference, as Mr Theophanous would no doubt expect. I am happy to stand by the terms of reference and I have no doubt that Mr Theophanous would expect nothing more. I challenge the basis of Mr Theophanous’s accusations. It is another example of him coming into this house and making accusations on the basis that they constitute fact. I do not accept the premise of the question. I will take it on notice. If I find the data Mr Theophanous presents as fact is accurate then, and only then, shall I respond to his question.
Business: millennium bug

Hon. B. N. Atkinson (Koonung) — The
Minister for Industry, Science and Technology would
be aware that the millennium bug is a major and urgent
challenge to the computer industry, but it will also have
a potential impact on business and government
agencies. What steps has the government taken to raise
awareness of the millennium bug threat to Victorian
businesses?

Hon. M. A. Birrell (Minister for Industry,
Science and Technology) — I share Mr Atkinson’s
concern, as I hope all honourable members do, about
the potential impact of the millennium bug on
businesses throughout Victoria. I want to particularly
ensure that small and medium-size businesses are
taking preparatory action which clearly a number of
larger corporations are doing. The state government is
implementing a major awareness campaign for the
business sector focusing on the millennium bug, or
Y2K, to ensure businesses are aware of its imminent
arrival on 1 January 2000.

Businesses will be hardest hit when the turn of the
century arrives, yet many firms have not yet properly
addressed the millennium bug. The government already
has a detailed strategy in place to ensure government
bodies are working to overcome the millennium bug. It
is now time for all businesses to ensure they do the
same.

It is a crucial issue for Victorian businesses because
they can avoid costly compliance problems if they act
now. The government’s campaign includes a telephone
hotline operating with trained operators, a practical
information booklet that gives jargon-free advice that
businesses want and a web site that provides
information about the millennium bug.

Businesses must accept that although they did not
create the problem it is one for them to address.
Unfortunately, there is no quick solution and certainly
no solution can be found without management applying
itself to the issue. The government’s millennium bug
home page has information about the bug, an eight-step
review process to see if a business could be at risk, an
extended question-and-answer facility, practical case
studies, lists of firms that could help and a registration
facility for those who have already shown they have
addressed the problem.

The issue extends further than just computers in a
business. It applies to the electronic supply chain and
any business that has machinery or an embedded chip
as part of its operations system. It applies classically to
the desktop computer, but may equally apply to a
farmer’s irrigation system, a security system, a lift
system, an airconditioning system and, to focus the
minds of small business people, to the accountant’s
computer that has a list of people owing the firm
money. All that information could be lost or
compromised on 1 January 2000.

The government has run a number of seminars
throughout country and urban Victoria and I thank
those honourable members in this chamber and in the
other place who have assisted with that program. A
recent program in Geelong which was assisted by
Mr Cover was highly successful. It is an illustration of
how people are interested in finding useful information.

The millennium bug will affect any system or program
that uses a date to function or relies on other systems or
equipment that use a date to function, so it has wide
implications. It is a global issue that does not affect just
the Victorian or Australian economies. In Victoria the
government is alerting businesses to the fact that they
need to take action themselves and that they should do
so fairly soon.

HEALTH SERVICES (FURTHER AMENDMENT) BILL

Second reading

Hon. R. I. Knowles (Minister for Health) — I
move:

That this bill be now read a second time.

This bill amends the Health Services Act to improve the
operation of that act in a number of important areas.
The major elements of the bill are as follows.

1. Repeal of sunset provision regarding
multipurpose services

In 1995 the act was amended to insert a new part 4A to
enable the establishment of multipurpose services. The
purpose of these amendments was to facilitate the
redevelopment of health services and to improve the
quality and range of health services in rural areas. The
multipurpose service program which is targeted to
isolated rural areas is a joint state–commonwealth
initiative in which health, aged and community care
services are drawn together to provide for more flexible
and coordinated services which are tailored to local
needs. The 1995 amendments automatically created
three services. Three more have been established
subsequently by order in council.
Through this program six communities in more isolated settings now enjoy health services which are broader and more flexible. They are able to set local priorities for community-based and home-based services in addition to or as a replacement for the more limited bed-based services of the past. The multipurpose service program complements other government initiatives to improve the range and quality of health services to rural communities, such as the rural Healthstreams program and the implementation of the recommendations of the Small Rural Hospitals Taskforce with respect to service planning and capital works.

The 1995 amendments also contained a sunset provision, the effect of which is to provide that part 4A of the act will expire in December 1999. If this sunset provision takes effect, it will not be possible to create any new multipurpose services after that date. In addition, while the act contains a savings provision which appears to allow a service created prior to the expiry date to continue, it does not permit new members of boards of management to be appointed. It is also uncertain as to how other necessary requirements in the act would continue to apply.

The sunset provision was included to enable an evaluation of the effectiveness of the new provisions and to determine whether the current system of joint state and commonwealth responsibility would continue. The commonwealth has recently indicated that it intends to expand the program by developing up to an additional 30 sites nationwide.

Multipurpose services have proven to be a valuable model for service provision in rural areas. They establish a mechanism under which the one health services agency can provide a wide range of services and provide a mechanism for responding to the changing needs of rural communities. As the program is to continue at a national level, it is desirable for the act to enable the continued creation of these bodies. Therefore this bill repeals the sunset provision.

2. Principles for delivery of public hospital services

On 27 August the Australian health care agreement between the state of Victoria and the commonwealth was signed. This agreement provides for the funding of public hospital services for the five years from 1 July 1998 to 30 June 2003. This agreement replaces the Medicare agreement, which expired on 30 June 1998.

I am pleased to inform the house that, under the agreement, commonwealth payments to Victoria for public hospitals and other health services will increase by more than 15 per cent through to the year 2003 and provide greater flexibility to support successful initiatives such as Hospital in the Home.

The commonwealth has acknowledged the extra burden our public hospitals have had to shoulder as a result of the fall in private health insurance. They have agreed to automatically increase our level of funding if there is a fall in private health coverage. The signing of the agreement means that Victorians can be assured that hospital funding has been secured at sustainable levels for the next five years.

Now that the new agreement has been finalised, it is necessary to make a consequential amendment to the Health Services Act. Section 17AA of the act currently describes the Medicare principles and commitments which are to guide the delivery of public hospital services in Victoria. These principles are based upon the old Medicare agreement. The new agreement outlines the principles that are to guide the delivery of public hospital services for the next five years. It is appropriate for the act to reflect the current agreement between the commonwealth and the state rather than the principles as stated in an agreement which has expired.

Accordingly, the bill inserts a new section 17AA which states that the delivery of public hospital services in Victoria will be guided by the principles as outlined in the relevant agreement between the state and the commonwealth as in force from time to time. This is preferable to stating the principles directly in the act, as it will mean that there will automatically be consistency between the act and the agreement that is then in force.

3. Application of trusts

The bill contains a range of technical amendments which are designed to address problems that have come to attention regarding the application of trusts to the various public health care agencies created under or regulated by the act.

In 1995 the act was amended to enable the aggregation of metropolitan hospitals into larger health care networks. This was necessary to fundamentally reorganise Melbourne's public hospital system to better meet the changing health needs of the community. The act provided that a network is the successor in law of the aggregated metropolitan hospitals which it replaces. All of the assets and liabilities of the former metropolitan hospitals vest in the successor network. This generally accords with the other provisions of the act that apply to amalgamations involving registered funded agencies and multipurpose services.
An amalgamation will proceed where the creation of a new public health care agency out of the old agencies will be in the public interest and will enable the better provision of health services throughout Victoria or in a part of the state. The act generally provides that whenever a new agency is formed out of and replaces the original agencies following an amalgamation, the assets and liabilities of each of the original agencies transfer to the new agency that is created. This is appropriate, as essentially the new agency stands in the shoes of each of the original agencies.

When the act was amended to enable the aggregation of metropolitan networks, it was intended that distributions under a trust made to a former metropolitan hospital could generally continue to be made to its successor in law. Trusts, particularly charitable trusts, are a significant source of revenue for public health care institutions such as hospitals. At present, where a trust in favour of an original amalgamated agency confers an absolute entitlement to property held on trust for that agency, then the property generally passes to the new agency. However, a trust does not always confer property upon a beneficiary. Some trusts, known as discretionary trusts, do not do so. Instead, the trustee has a discretion as to whether to distribute any benefit under a trust in favour of the agencies who are eligible under the trust.

The government is aware that a network has received legal advice that it is ineligible to receive a distribution under a particular charitable discretionary trust. The current wording of the act does not always operate so as to transfer eligibility to receive a distribution under such a trust to a network created following an aggregation. It has also become evident that the other provisions of the act do not permit the application of a benefit under a discretionary trust to other types of successor agencies under the act. As such a trust does not create a right to property which can pass to the successor. The particular wording of some trust instruments may also prevent distributions to a successor agency.

The amendments seek to remedy these deficiencies in a holistic fashion by making technical amendments to the various provisions of the act which enable an agency created or recognised under the act to be abolished and replaced by a new successor agency. It is appropriate for the same regime to apply throughout the act. The bill therefore applies to the following:

- amalgamations of registered funded agencies under section 65;
- aggregations of metropolitan hospitals that led to the formation of metropolitan health care networks under section 65C;
- amalgamations that involve the creation of a multipurpose service, or which involve the subsequent amalgamation of a multipurpose service, under section 115U; and
- the creation of a multipurpose service from a single body by declaration under sections 115A or 115V.

These amendments are intended to apply to all categories of trust, including discretionary trusts, and regardless of the wording of the particular instrument creating the trust. They are also intended to apply equally to charitable and non-charitable trusts. For the purposes of the bill, a trust is defined to include an outright gift or disposition of property.

The bill amends the relevant provisions by providing that where a former agency is eligible or entitled to benefit under a trust, this eligibility or entitlement is conferred upon its successor following an amalgamation. It does this in two complementary ways. Firstly, it provides that the trust will be construed as referring to the new successor agency rather than to the original agency. Where a trust was created in relation to an agency which was amalgamated some time ago, and there has been a sequence of subsequent amalgamations or aggregations involving the various successors of that agency, the ultimate current successor is to be able to benefit under that trust. This is appropriate as over the years some agencies have had their status transformed a number of times.

Secondly, the bill deems the new successor agency to be the same body as the agency it replaces for the purposes of any trust. It is therefore entitled to receive any benefit that any of its predecessors were eligible to receive, including predecessors which can be traced as part of a series of earlier successions. However, to respect the wishes of the person who has created the trust, the bill also makes it clear that if he or she has specified the particular purposes of the agency for which the trust is created, such as the treatment of children, then the trust may only be applied to the successor agency for a similar or corresponding purpose.

4. Directors of health care networks

Section 40G of the act provides that the directors of a board of a metropolitan hospital (known as health care networks) can only be removed during their term of office on the grounds of physical or mental incapacity, finding of guilt for an offence which affects suitability
to be a director, absence from all board meetings without leave over a six-month period, or insolvency. The original rationale for this provision was to guarantee stability of board membership to enable network boards to be able to proceed with planning for the redevelopments within their then newly established network of campuses.

The government has the utmost confidence that the directors of the boards of governance of networks will carry out their important functions effectively and with great care. Nonetheless, as a rule acts confer a general power to remove directors or members of boards of public bodies. This is appropriate to ensure adequate accountability by directors to government and the community. There is such a general power in relation to members of boards of management of rural public hospitals under the act and for directors of state business corporations under the State-Owned Enterprises Act.

The amendments are generally consistent with these processes. They provide that:

- directors may be removed by the Governor in Council on the recommendation of the minister. In practice such a power could be used in relation to directors who do not perform their duties satisfactorily; and

- the minister must recommend removal where a director is physically or mentally unable to act as a director, has been found guilty of an offence which the minister considers renders him or her unsuitable to be a director, is absent without leave from all board meetings for six months, or is insolvent.


I make the following statements under section 85(5) of the Constitution Act 1975 of the reasons why clauses 6 and 13 of the bill amend the Health Services Act 1988 (the act) to alter or vary section 85 of the Constitution Act 1975.

(a) Validity of things done by trustees

Clause 13 inserts a new section 178 into the act. Clause 12 provides that it is the intention of the new section 178 to alter or vary section 85 of the Constitution Act 1975. New section 178 contains two savings provisions relating to the acts or omissions of trustees. The amendments to sections 65, 65D, 65F, 115A, 115U and 115V of the act contained in this bill relating to trusts apply in relation to amalgamations, aggregations and to declarations of a multipurpose service which took effect prior to the commencement of clause 13 of this bill.

The act, as amended by this bill, has effect with respect to these orders and declarations, and with respect to trust instruments in relation to each former agency of a successor agency created by the order or declaration, as if all of these amendments were in force when the orders and declarations were made. They apply retrospectively to confer an entitlement or eligibility under a trust which applied in relation to each former agency upon each new successor agency from the date that the relevant order creating the successor agency took effect. This is to validate any distributions that have already been made under a trust on the mistaken basis that a successor agency was eligible or entitled, as a result of the then existing provisions of the act, to benefit from a trust because its former agency was so eligible or entitled.

New section 178(1) provides that anything done or omitted to be done before the commencement of clause 13 by a trustee that would not have been a breach of trust if this bill was enacted at the time of the act or omission is not to be regarded as constituting a breach of trust and the trustee is not liable for breach of trust.

The reason for this limitation of the jurisdiction of the Supreme Court is that it is appropriate to protect trustees and those who have benefited from trusts where the trustee has distributed a benefit on the mistaken basis that a successor agency was eligible or entitled to benefit under a trust that applied in relation to one of its former agencies. This protection accords with the intention of the bill to validate such distributions.

New section 178(2) provides that nothing affected by this bill is to be regarded as making a trustee liable for a breach of trust on account of anything done or omitted to be done before the commencement of clause 13 that would not have constituted a breach of trust had this bill never been enacted.

The reason for this limitation of the jurisdiction of the Supreme Court is that it is appropriate to protect a trustee, and those who have benefited from trusts administered by the trustee, where the trustee has acted lawfully in the past. There is to be no liability in relation to any act or omission where liability might otherwise now arise solely as a result of the retrospective application of the changes to the law contained in this bill. For example, if a trustee had correctly considered that the eligibility of a former agency to benefit under a particular trust was not
PETROLEUM BILL

conferred upon its successor agency by the act as it was then in force, no-one should be able to challenge that decision as a result of the effects of this bill.

(b) Public hospital services principles

Clause 6 substitutes a new section 17AA into part 2A of the act. Clause 12 provides that it is intended that new section 17AA(2) will alter or vary section 85 of the Constitution Act 1975.

New section 17AA is to be the only section in part 2A. As I have already indicated, it provides that the principles contained in any agreement in force from time to time between the commonwealth and Victoria with respect to the provision of public hospital services are established as guidelines for the delivery of public hospital services in Victoria. It also states that public hospital services include services to public hospital patients provided by privately operated hospitals. This new section replaces the current section 17AA, which specified particular Medicare principles to guide the delivery of public hospital services.

New section 17AA(2) provides that nothing in part 2A gives rise to or can be taken into account in any civil cause of action. In particular, it states that it does not create in any person legal rights not in existence before the commencement of clause 6. This replaces a provision to the same effect that currently applies in relation to the existing section 17AA.

The new section does not take away any legal rights that currently exist; however, it does make it clear that it does not create any new legal rights. The reason for limiting the jurisdiction of the Supreme Court in this way is that it is appropriate to continue to prevent liability arising as a result of the new section. The purpose of the amendment is to give statutory recognition to the principles for the delivery of public hospital services as a reflection of the importance of those principles. This recognition is not intended to create any legal entitlements or to enable the principles to be enforced through the courts.

6. Conclusion

This bill addresses a number of problems that have arisen in relation to the act’s operation. In particular, the resolution of difficulties relating to trusts will enable bequests and donations to bodies to be used in the provision of health services. The bill will also ensure that there is no need for a trustee to engage in expensive legal proceedings to determine how the trust may be distributed, in those circumstances where the amalgamation, aggregation or declaration would have otherwise created doubt as to the appropriate course of action. The repeal of the sunset provision regarding multipurpose services will ensure that existing services can continue to operate effectively, and will enable new services to be created where this is appropriate in rural Victoria.

The bill also ensures that the act is consistent with the current and future state and commonwealth agreements for public hospital services.

I commend the bill to the house.

Debate adjourned on motion of Hon. M. M. GOULD (Doutta Galla).

Debate adjourned until next day.

PETROLEUM BILL

Second reading

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I move:

That this bill be now read a second time.

The bill is an important new step in encouraging exploration and production activity in the Victorian petroleum and mining industries. It repeals the current Petroleum Act 1958 and replaces it with contemporary legislation for onshore Victorian petroleum exploration and production.

The petroleum industry has provided Victoria with a local source of oil and gas for the last 30 years from the offshore Bass Strait oil and gas fields. Onshore Victoria is also prospective for small to medium oil and gas field discoveries. Such discoveries provide major benefits to regional Victoria, as seen at Warrnambool and Portland, which are supplied by the onshore Paaratte gas field. This legislation will encourage petroleum exploration activity so that Victoria’s onshore petroleum potential is realised and utilised for the benefit of Victorians.

This bill will provide greater certainty to petroleum explorers within a legislative framework that protects the environment and respects the interests of private landowners.

The legislation provides a licensing regime that allows, through the holding of various authorities, the exploration for and production of petroleum from beneath land onshore in Victoria. While reaffirming the state’s ownership of all petroleum on or below the surface of any land in Victoria it maintains mechanisms for the private sector to find and develop
these resources for the benefit of industry and all Victorians.

Authorities

This bill provides for four types of authorities that reflect the resource exploration and production process. Exploration permits will allow holders to explore for petroleum within their authority area giving them exclusive rights to develop — subject to planning approval — any petroleum discoveries. Retention leases will allow exploration permit-holders to retain petroleum discoveries which are not currently commercially viable but which might be in the future. Production licences will allow exploration permit and retention leaseholders to produce from their petroleum discoveries. A fourth type of authority, a special access authorisation, will allow holders to undertake exploration activities to gain geological information for their use or for sale but does not confer any rights to petroleum discoveries or allow drilling. The introduction of the retention lease shifts the risk profile in a direction which will encourage exploration expenditure.

Consistent with competition reform policy, land must initially be offered for petroleum exploration through an open competitive tendering system based on the best exploration program bid. However, if tendering is unsuccessful the land can be made available for application. Exploration permits will be issued for longer initial terms of five years, rather than the current two years. This change will provide explorers with a longer initial fixed period, related to the time needed for a cycle of exploration and evaluation of prospects, thus enabling them to explore in a progressive and logical manner. The bill also provides the certainty that all explorers want to develop a petroleum discovery. Explorers must be granted a retention lease or production licence over their discovery if they have complied with all these legislated requirements.

Exploration permits are offered for a maximum 10 years: an initial five-year term followed by an option to renew for a further five years over up to 50 per cent of the land area. Returning half of the land for tender provides regular contestability of the land, encourages increased exploration intensity and facilitates opportunities for a larger range of upstream explorers. This bill also ensures that any known petroleum resources not held under an authority can be offered for development only through an open tender process.

Clear mechanisms are provided for authority holders to relinquish their authorities if they choose to do so. The minister may cancel authorities where their holders have not exercised their authority rights by exploring, evaluating or producing a resource in a timely manner.

Explorers submitting the winning work program bid are bound to undertake that work in the initial five years of the exploration permit. This work will be unambiguously confirmed in writing by the minister as key activities to be completed. If an explorer elects to renew an exploration permit for a further five years a new set of activities to be completed will be agreed with the minister. Completing work is required in the absence of extraordinary circumstances. Failure to do so means that the licence may be cancelled.

Underground storage

This bill preserves the ability of a production licence-holder to undertake storage of petroleum in underground natural reservoirs. Such activity is expected to provide important gas market benefits to Victoria in the immediate future through providing for greater gas supply diversity and security.

In recognition of the expected future importance of underground storage a mechanism is provided to ensure that suitable reservoirs are made available for underground storage and not left idle within a production licence. On the application of a potential storer the minister can excise unused reservoirs from licence areas and make them available for storage through open tender. This provision supports the underlying principles that authority holders must remain active on their authority area and that land can only be offered through an open competitive tender.

Land access

Petroleum resources may underlie any land, irrespective of the status given to that land. All Victorian land may be included in a petroleum authority. The legislation recognises differential environmental values ascribed to parks and other Crown land and sets appropriate access regimes for petroleum activities.

This bill provides for four categories of Crown land in recognition of the various environmental values that are ascribed to Crown land. These categories are:

- Wilderness Crown land covers wilderness zones, wilderness parks and reference areas. Petroleum operations are prohibited in these areas.
Parks Crown land includes the national, state and other parks within this category where only the Minister for Conservation and Land Management can consent to petroleum operations. The existing provisions under section 40(2) of the National Parks Act 1975 have been preserved.

Restricted Crown land is defined and is largely linked to approved recommendations of the former Land Conservation Council. The consent of the Minister for Conservation and Land Management must also be obtained for operations over this category of land.

Unrestricted Crown land is all remaining Crown land representing some 50 per cent (approximately 4 million hectares) of all Crown land in the state. The Minister for Conservation and Land Management must be consulted before any significant operations occur over this land.

Private landowners' interests are recognised and protected. No petroleum operations can be carried out on any private land unless compensation has been agreed with the landowner or settled through the Victorian Civil and Administrative Tribunal. The bill also requires that advance notification of operations must be given, that consultation be undertaken on the nature of the operations and that appropriate rehabilitation is undertaken.

Compensation

In setting out compensation for private landowners, this bill broadens the compensation now payable and aligns these compensation provisions for petroleum operations with those of mining which are contained in the Mineral Resources Development Act 1990. The mining compensation model has operated effectively and this bill will now give private landowners a common mechanism and rights relating to explorers wanting to access resources under their land.

This bill also recognises that petroleum operations over Crown land may result in the Crown or other authorised Crown land users suffering loss or damage. The bill provides that the minister may require holders of petroleum authorities to pay compensation for loss or damage in prescribed circumstances. In considering compensation to the Crown the minister will take into account the benefits that may accrue to the people of Victoria from the petroleum operations.

Planning matters

Exploration will be authorised without requiring multiple approvals. Exploration carried out under a petroleum authority will not require a planning permit nor be prohibited under any planning scheme approved under the Planning and Environment Act 1987. Production carried out under a production authority granted under the bill cannot be prohibited under any planning scheme approved under the Planning and Environment Act 1987. A petroleum production project that has been the subject of an environment effects statement will not also require a planning permit. Victorian planning provisions will be amended to ensure consistency with this bill.

Land protection

The bill ensures that measures are set down for protection of the land before petroleum operations are undertaken.

In seeking acceptance for a petroleum operation, an authority holder is required to put forward an operation plan. The requirements of this plan will be detailed in regulation and will include the need for authority holders to demonstrate that they will operate to an acceptable environmental code of practice and have developed appropriate environment plans for the area they wish to operate on.

The bill also ensures that measures are in place for land rehabilitation following petroleum operations. Petroleum authority holders will be required to provide rehabilitation bonds. These may be utilised for rehabilitation, clean-up and pollution prevention work on private or public land should the authority holders not meet their obligations in this area. If the bond is insufficient the minister can recover such debt from the authority holder.

Land protection measures are strengthened by enabling the minister to require that petroleum authority holders hold insurance against expenses and liabilities that may arise from their exploration and production activities on private and public land.

Native title

The bill recognises the rights of native title holders as provided for by the commonwealth Native Title Act 1993 and therefore ensures its validity and the validity of authorities issued.

Royalties

The bill retains the current royalty on petroleum production at 10 per cent of wellhead value. However, it is now possible for a production titleholder to enter into a different royalty arrangement with the agreement of the minister and after consultation with
the Treasurer. This flexibility will allow other revenue arrangements to be agreed between the state and a producer. It will also allow, when appropriate, a lesser royalty rate to be set to enable the continued operation of economically marginal fields and marginal new discoveries. This provision will help maximise the level of petroleum production and minimise any waste of Victoria's petroleum resources.

Authority holders who occupy Crown land on an ongoing basis while undertaking their petroleum operations are expected to pay rent for occupying that land. Exploration operations are usually transient activities lasting only days to a few months and there is no intention to level rent for such short-term activities. However, where equipment or facilities occupy Crown land on an ongoing basis as part of a production operation authority holders will be liable to pay rent to the minister.

Information

The bill improves the provision of the public geological database of Victoria by requiring authority holders to submit all geological information gained through their petroleum operations. The bill clearly sets out when such information will be released into the public domain but ensures that authority holders have exclusive use of their information during much or all of their authority terms through appropriate retention times for the information. Authority holders benefit through open access to the geological information gained through past exploration of their authority areas. They in turn provide the information they gather for the benefit of future exploration.

Inspectors

The bill provides for the appointment of petroleum inspectors to ensure compliance and now provides a formal means for the minister to provide directions to authority holders through improvement and prohibition notices.

It is intended that the petroleum inspectors also undertake enforcement of occupational health and safety matters in relation to activities under this Petroleum Bill. The government intends to introduce amendments to the Occupational Health and Safety Act 1985 to enable delegation to the Secretary to the Department of Natural Resources and Environment of the required functions and powers. This will recognise the primacy of the Occupational Health and Safety Act 1985 and its consistent application to Victorian industry while at the same time ensuring efficient and effective delivery of industry-specific regulations under the petroleum legislation.

Transitional provisions

The transitional provisions provide for existing explorers and producers to continue their current operations and benefit from the passage of the Petroleum Bill. Current exploration permit-holders may apply for a once-only five-year renewal of their permits. This provides certainty of term where currently they only have two-year terms with discretionary one-year extensions. Current petroleum producers can continue to produce from their petroleum leases until they are surrendered or cancelled. This provides producers with continuing certainty whereas currently they have only discretionary and shorter fixed terms.

Current legislation is silent on the eventual release into the public domain of interpretative information — that is, basic data enhanced by scientific analysis — arising from petroleum exploration. Consistent with other Australian jurisdictions, this bill now provides such a mechanism. To ensure that no current exploration permit-holder is disadvantaged, the earliest release time will postdate expiry of the renewed exploration permit term. The bill also provides for a formal appeal mechanism.

In putting forward this bill the government is mindful of the economic benefit that the petroleum industry can bring to this state. The bill seeks to develop a more competitive market for exploration and production of this state’s petroleum resources which in turn will contribute to a more competitive supply market for petroleum.

This proposal provides Victoria with contemporary petroleum legislation that encourages development of this state’s petroleum resources while maintaining a high level of protection for the environment and the rights of private landowners.

I commend the bill to the house.

Debate adjourned for Hon. T. C. THEOPHANOUS (Jika Jika) on motion of Hon. D. A. Nardella.

Debate adjourned until next day.
VICTORIAN INSTITUTE OF MARINE SCIENCES (REPEAL) BILL

Second reading

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I move:

That this bill be now read a second time.

Victoria’s marine and freshwater environments are vitally important to the health, wellbeing and prosperity of Victoria. They also support an abundant biodiversity which forms an important part of our natural heritage. Commercial and recreational fishers, water authorities, the agriculture, forestry and petroleum industries, local government, community groups, tourism operators and recreational groups all have a strong interest and involvement in the continuing maintenance and use of Victoria’s aquatic marine and freshwater habitats and resources.

Since 1974 the Victorian Institute of Marine Sciences and its successor the Marine and Freshwater Resources Institute (MAFRI) have been at the forefront of providing technical advice on the maintenance and enhancement of Victoria’s aquatic resources and environments. The institute has built an enviable national and international reputation for its work and all Victorians should be proud of its achievements.

In August 1997 a review of MAFRI was commissioned as part of a series of reviews aimed at ensuring the research institutes servicing the department are focused on the needs of their customers, are well managed, are in the strongest possible position to respond to the opportunities presented by future change, and deliver services efficiently and effectively. The future success of the institute will be particularly dependent upon its capacity to provide relevant, high-quality services to the aquatic resource industries of Victoria. These services must be based on the principles of sustainable management to realise the potential of Victoria’s aquatic assets while improving the health of the natural environment.

MAFRI is a valuable asset for Victoria. Its staff have demonstrated their commitment to the work of the institute. It is important that their talents continue to be utilised to the maximum benefit of the marine and freshwater environment and of those who value and utilise it.

A key review finding was that MAFRI’s research focus and effort would be optimised by retaining it as a separate research institute but more closely aligned with the strategic management of our aquatic resources. Therefore, MAFRI will continue as an institute under similar arrangements as apply to other research institutes within the Department of Natural Resources and Environment. Reporting through the director, fisheries, it will work closely with the staff of the department and community partners to ensure the long-term sustainable management of our aquatic resources.

The bill repeals the Victorian Institute of Marine Sciences Act 1974 and transfers the institute’s assets and liabilities to the state. All employees of the institute will be transferred to the employ of the department on existing terms and conditions.

The government would like to take the opportunity to thank the board and staff of the institute for their endeavours and work over the past few years. The new organisational arrangements will ensure that the institute continues to be able to provide a world-class research facility and to develop closer links with its main customers and alliances with its stakeholders.

I commend the bill to the house.

Debate adjourned for Hon. T. C. THEOPHANOUS (Jika Jika) on motion of Hon. D. A. NardeUa.

Debate adjourned until next day.

CONSUMER CREDIT (FINANCE BROKERS) BILL

Second reading

Hon. LOUISE ASHER (Minister for Small Business) — I move:

That this bill be now read a second time.

The bill repeals the Finance Brokers Act 1969 and re-enacts selected consumer protection provisions in the Consumer Credit (Victoria) Act 1995. The bill implements the recommendations of a national competition policy review by removing unnecessary restrictions on the finance broking industry while retaining and improving essential protections for clients of this industry.

The bill abolishes the requirement for finance brokers to be licensed. The national competition policy review concluded that licensing was not necessary to achieve the objective of the existing provisions. Instead, the bill puts in place a tailored series of prohibitions to exclude those who might present an unacceptable risk of
fraudulent or predatory behaviour. Application for permission to practise despite some disqualifying factors will be able to be made to the Business Licensing Authority, as is the case under the Estate Agents Act 1980 and the Motor Car Traders Act 1986.

The bill also abolishes statutory caps on fees chargeable by finance brokers and valuers in connection with finance broking. Similar changes have in recent times been made in relation to estate agents’ fees and pawnbrokers’ rates and are designed to increase competition and innovation in the finance broking market.

The bill continues and clarifies the existing ban on up-front fees, so that brokerage fees are not chargeable until a loan as described in the broker’s appointment is secured by the broker and accepted by the client. This ban addresses the problem of brokers intentionally taking non-refundable fees from clients knowing that no credit will be able to be secured.

As an exception to this ban, the bill provides for an agreed termination fee representing the broker’s reasonable costs if a client voluntarily withdraws from a broking arrangement. Strict conditions will apply to the termination fee to prevent predatory behaviour by unscrupulous brokers.

Penalties for non-compliance with the provisions have been increased. The bill further protects clients of finance brokers by allowing disputes about brokers’ fees to be taken to the Victorian Civil and Administrative Tribunal as a low-cost alternative to the court system.

The bill will apply to the broking of consumer credit, in line with the position under the Finance Brokers Act 1969 and the position in New South Wales and the Australian Capital Territory. Exemptions reflecting those in the Finance Brokers Act 1969 will be made by the Governor in Council in accordance with other parts of the Consumer Credit (Victoria) Act 1995.

The bill’s provisions represent a significant improvement over the existing provisions and have been drafted to reflect approaches in interstate legislation to the same issues. The bill fulfils Victoria’s obligations under national competition policy while at the same time putting in place enhanced and balanced consumer protections.

I commend the bill to the house.

Debate adjourned on motion of Hon. D. A. NARDELLA (Melbourne North).
can be controlled because that medium has no restrictions on such matters. The only restriction is self-regulation. If people know where the material resides or people tell their friends, they can view the material, much of which is disgusting. That material can also be shared around after it is printed.

Today with colour inkjet and laser printers people can print photographic images for distribution. With computer enhancement the material can be published on high quality paper. I do not know how that material can be dealt with other than through this type of legislation, which deals with commercial quantities. However, ultimately parents must stop the material being made available to their children. Parents and guardians can explain the effect of such material on young people and institute policing methods or restrictions on the web sites young people view. It is impossible to deal with those who are trading and selling such material, and that is what the bill seeks to do.

There should be some way of getting through to people that such material is unacceptable on the Internet. I know it is impossible to stop it. Another problem is that young children innocently looking for material on the Internet sometimes come across pornographic material. It only requires a word to be searched and young students can be exposed to such material. That can be done inadvertently, and such material can affect the perceptions and views of our young people. A number of studies have been carried out on how pornography affects sexual deviants in our society, especially earlier in their lives. That is of concern to the opposition because we do not want such material being made available.

The effect of this material on people is not scientifically measurable, but the evidence, in so far as it is possible to evaluate it, shows that such material does have an effect. The opposition is concerned about that. A number of studies have shown that extreme pornographic material may desensitise the views of people and encourage them to further explore or undertake criminal activities. Striking a balance is important.

Other changes in the bill concern the quantity of, for example, videos that people can purchase and the way large quantities of refused-classification or X-rated videos are treated by the police. In the past, as was discovered by the parliamentary committee chaired by Mr Smith, if araid on a shop unearthed perhaps 50 or 100 copies of the one video, each copy would need to be viewed in its entirety and classified before any prosecutorial action could be taken, which was absurd. The bill deals with that situation and will assist in cracking down on either X-rated or refused-classification videos.

Recently a number of raids in Victoria have led to the seizing by police of a number of offensive videos, but little action could be taken because of the expense involved in launching prosecutions under the old legislation. The opposition is concerned about that as, no doubt, is the government. The bill simplifies that requirement because in future the 50, 60 or whatever number of the same X-rated videos discovered by the police will be regarded as being for sale.

The bill also deals with the personal use of X-rated videos. If people are discovered holding a large number of such videos they can be regarded as trafficking in that product and the police will be able to act.

The bill takes into account what occurs after the forfeiture of material, and the opposition has no problems with that provision. I understand the bill also simplifies police powers to use search warrants; the present legislation does not provide the police with the power to legally search for offensive videos and publications.

Penalties against bodies corporate are increased to a maximum of $600,000, but the discretion of a judge concerning minimum penalties or in relation to determining the severity of an offence is not removed. The opposition welcomes that change. It is important to have appropriate penalties available for offensive material that goes to the core of debasing our society. Ultimately it is a matter of trying to protect our vulnerable young. That balance is important.

Some computer games can be purchased in their modified version at, for example, local computer stores, but then various add-ins, or plug-ins as they are known, boost the pornographic or violent content of the games. For instance, it is possible to buy plug-ins for the video Tomb Raider with Lara Croft, leading to Lara trying not to have her clothes removed. I understand many people who play that game are trying to find the secret code to enable the removal of her clothes — not that I would do that! The Internet provides that option, particularly for young people.

The opposition welcomes and does not oppose the introduction of the bill.

Hon. B. N. ATKINSON (Koonung) — I welcome the bill as legislation that tries to take a uniform approach to a range of issues that obviously cross borders and affect all Australians. The sorts of issues
canvassed in this bill — that is, the control of pornography and obscene material — are not a problem that can be addressed only in Victoria, because it is a national, and as Mr Nardella has said, an international problem.

Despite the classification system certain materials are already unable to be distributed in Victoria through retail networks but are available by mail order from Canberra. That causes difficulties in policing certain products. The Attorney-General and her counterparts throughout Australia continue to debate that issue in the appropriate national ministerial forums. As Mr Nardella said and as the minister said in her second-reading speech, the bill expands a system of classifying our products and provides a better regime of enforcement of those classifications.

The object of the legislation is to protect children from exposure to offensive or inappropriate materials. The bill introduces new penalties for the production of computer games or films that have been refused a classification. They cover some of the subject matters that Mr Nardella mentioned, including excessive violence, bestiality and the involvement of minors. I believe the whole area of censorship and classification should be reviewed. I do not see this legislation as a destination, but as part of a continuum. Apart from anything else I am concerned about the level of penalty, which includes 10-year imprisonment and fines of up to $600,000 for producing 50 videos — that being regarded by the legislation as a commercial quantity. In some instances offences relating to unsavoury activities, particularly child pornography, may require the use of the provisions, but in others the penalties may well be heavy handed when compared with a range of other crimes on the statute book which the community would regard as far more serious and which carry lesser terms of imprisonment or fine. As I said, this is part of the continuum. I welcome and support the legislation but it is an area that we need to continue to review.

Some of the inputs to that continuing review include the fact that a new classification is expected to be adopted later this month by federal and state ministers responsible for censorship and classifications. I understand the ministers are likely to vote for a new classification called non-violent erotica, which is welcomed by the Eros Foundation, one of the major lobby groups, and is supported by the community as an appropriate classification for a range of material that people may choose to view.

The federal government is currently reviewing the guidelines and further restrictions are likely to be used, including a new category of M for mature publications. That change in the publishing of non-violent erotic literature is likely to occur early in the new year. In that context the legislation is part of the continuum and will be examined to see whether it is achieving its objectives of providing a properly controlled regime in which material can be accessed by people appropriately without the prospect of it being viewed by children inadvertently or where inappropriate and offensive material is widely circulated.

Further down the track penalties need to be reviewed to ensure that they are effective. The continuing review of the legislation is also important because of black market activities in pornographic material. Invariably, the black market material, because of its distribution system, starts to push at the edges and can move into the more objectionable material. Some material involves criminality in its production. We need to be mindful of that.

Although the legislation regulates the conventional means of distribution — publications, videos and computer games — we should realise that they are the easy ones to regulate. Although we can be vigorous in policing those activities, other methods by which people can access the material are unregulated and are far more accessible to children than any of the material dealt with by this legislation. Our kids are far more likely to use the Internet to access this material than if they were to go to a newsagent, let alone an adult bookshop.

As Mr Nardella said in his contribution, it is a continuing problem for governments. How do they police a free domain? How do they stop children getting access to material that most of us would regard as inappropriate? Some of the material may not be so harmful, but some of it is vile and is easy to access through the Internet. Material can come into our homes via the video satellite. Companies such as Ecstasy Television, a Canadian-Taiwanese firm, the Spice channel from the USA and the Red Hot Dutch channel from the Netherlands offer a range of material. Video material is being beamed to subscribers in Victoria. It is possible now to collect the material and distribute it, giving it wider circulation. It is of major concern.

I have spent some time examining some of the Internet web sites. We already have the problem that what is available in the Australian Capital Territory under its classification laws is not supposed to be distributed to other states. But the Internet is of greater concern because of its wider use by children. It is largely unregulated and uncensored. I have examined a range of adult sites on the Net and have been alarmed at the
type of material that can be accessed quickly and without any restrictions or age verification. Sites can be accessed by using basic words. One can use innocuous words or word combinations, or even use some words inadvertently, and one may trip over sites which in many cases are objectionable. Many of the words used are not beyond the vocabulary of 10-year-olds, but they open up sites far more sexually explicit than material covered in this legislation. When one tries to leave those adult sites more explicit pages cascade down the screen in an effort to promote subscriptions. Without subscribing or accessing full catalogues of movie pictures and sexually explicit text one can take free tours and samples. In fact, it is possible to access bestiality, rape and pornographic sites. The community and certainly parents should be alarmed by the range of hard-core pornographic material and images that can be accessed without any age verification or subscription, simply by logging in to the right pages which come up as part of the general milieu that is presented on the Net every time one uses key words — for example, words like nudity can turn up some extraordinarily explicit sites which people in the community would be alarmed about.

We have a problem with an emerging medium that is a free domain and, as Mr Nardella said, basically unregulated and difficult to censor. It is pumping out material that is accessed and used by children. Indeed, we are encouraging children to use it because we recognise its potential as an education tool and information source. At the same time enormous problems are being created by the content of the material which is published and therefore accessible but which is beyond the reach of the bill and most of our legislative controls.

Although some of the sites require age verification, the integrity of the process is in doubt. One of the reasons I looked at a couple of the sites and saw the problem was that somebody said a child had taken a credit card and typed in the parent's details and accessed a range of sites, which was not discovered until a month later, when the credit card account came in.

Most of the Internet pornographic sites appear to be more intent on generating subscriptions from age verification than on protecting minors from accessing the sites. With the Internet increasingly becoming the domain of young people, the community and legislators must continue to address the problem of the availability of offensive and inappropriate material on the Internet. Although the bill is worthwhile, given that we are trying to stop people gaining access to certain material at video stores or newsgencies, many of the people we are trying to protect are far less likely to come across such material in either of those venues than they are to find it — and much worse — on the Internet. It is a real challenge for us.

Along with Mr Nardella I am at a loss to come up with solutions to tackle the problem. Legislators are engaged in a wide-ranging international debate. As has been mentioned, some of the many papers that have been produced are about social issues relating to pornography and its impact on children while others are about censorship and the free-domain aspect of the Internet. We need to address the problem, which clearly is not addressed in the bill. Therefore, as I said, as legislators we need to continue to pursue solutions to it.

I have suggested an interim measure that I will be urging the Attorney-General to adopt — that is, to prevail on the retailers of computer hardware and software to alert parents to what is available on the Internet and to inform them about the guard products that restrict access to certain sites. That is only a small step, but at least parents who are forewarned are forearmed. Many of them would be alarmed if they understood the nature of some of the pages I have been able to access easily on the Internet, compared with what they perceive is available. We are talking about something very different from a 12-year-old lad having a copy of Playboy under the bed. We are talking about serious and obscene material, some of which is sadistic and would by broad community standards be considered objectionable.

The problem needs to be tackled, and it is appropriate that Mr Nardella made some remarks in the same vein. Legislators should take the opportunity to think about the issues while debating a piece of legislation which is designed to do a job of work it will no doubt accomplish but which will not address other important problems. The opposition has indicated its support for the bill; but we face a much greater challenge in the same field, and we need to consider it. At the moment few people, including those taking part in the international debate, have any solutions. We must address the problem, and I trust that we will continue to be vigorous in our attempts to find solutions.

Hon. E. J. Powell (North Eastern) — I am pleased to support the bill, which amends the Classifications (Publications, Films and Computer Games) (Enforcement) Act. Mr Nardella has explained the main purpose of the amendment, but I refer again to the four components listed in the explanatory memorandum. The bill will amend the act:

to create offences in respect of commercial quantities of certain prohibited material; and
to provide further for forfeiture of seized items; and

to require all category 1 restricted publications to be sold in
sealed, plain opaque packages; and

to increase penalties against bodies corporate.

I congratulate the Attorney-General on introducing the
bill, which I believe the community will support
wholeheartedly. Mr Nardella said the opposition
welcomes the bill, and he gave a number of reasons for
supporting it.

The bill creates a number of new offences. It will be an
offence to sell a commercial quantity of films
classified X, or films, publications or computer games
that have been refused classification. It will also be an
offence to possess or copy a commercial quantity of
films classified X, or films, publications or computer games
that have been refused classification, with the
intention of selling, exhibiting or demonstrating the
material.

The bill defines a commercial quantity as 50 items. The
clarification will help the police when large numbers of
items are found or seized. If 500 items are found, only
the first 50 will need to be classified as prohibited to
constitute an offence. Therefore prosecutions will be
speeded up. Offences will be punishable by a maximum
of 10 years imprisonment, and a corporation may be
fined up to $600,000. The increased penalties are an
indication that the government considers commercial
dealings in illegal films, publications and computer
games to be serious offences. The bill sends a clear
message to the whole community that such actions
should not and will not be tolerated.

People who have pornographic material in their homes
may be concerned about the bill, but the chargeable
offence created is the possession of a commercial
quantity—that is, 50 items of materials that have been
refused classification or are X-rated.

I believe the whole community condemns the use of
innocent children in the production of child
pornography. The jury is still out on whether watching
child pornography is a catalyst for increasing the sexual
abuse of children. However, I believe it is and it must
be stamped out. I am a member of the all-party
parliamentary Family and Community Development
Committee, along with Mr David Davis, Mrs Hogg and
Mr Nguyen. The committee is conducting an inquiry
into the effects of television and multimedia on children
and families in Victoria. We have heard from many
expert witnesses, including psychologists who have
talked about adolescent behaviour and school
representatives who have taken us through what

happens on the Internet and how computers are being
used in schools.

Recently a member of the Victoria Police Force
presented some interesting evidence. His comment on
the possible correlation between the viewing of
pornographic material and the types of rapes that are
being committed should be of concern to the whole
community.

The committee's terms of reference require it to assess
the likely impact on children and families of new and
emerging forms of multimedia technology.

Mr Atkinson spoke at length about different sorts of
technology and how access will not be able to be
monitored or policed. We have to find ways where
technology can enhance family life rather than detract
from it.

The emergence of the Internet opens up a new world
for our children. Most experiences are beneficial,
interesting and educational, but not all. A number of
speakers, including Mr Nardella and Mr Atkinson, have
talked about how easy it is to access the Internet.

Parents have little control over what their children
watch on the Internet. These days many young people
have computers in their bedrooms or can visit friends'
homes to use their computers to hook into the Internet.

Now there are even computers in many libraries and
schools, where children can hook onto the Internet
online.

With television, parents are at least able to watch what
their children are viewing and either turn it off or
change the channel. That is even more difficult with
computers because many parents are computer illiterate
and do not know what their children are watching and
how easy it is to access sites on the Internet. Our
committee believes the commonwealth government
will face significant challenges over censorship laws
relating to multimedia technology. Mr Atkinson spoke
about the implications of censorship, which is a diverse
and sensitive issue. A balance must be found between
the community's interests and people's individual
rights.

When I was a councillor of the former Shire of
Shepparton, the council received a number of letters
from the community objecting to a particular sex show
being shown on a local television station in the general
viewing timeslot of 8:30 p.m. Parents wrote to the
council saying that the program was inappropriate
because of its sexual connotations and its timeslot.

I spoke to my two teenage sons, who had watched the
show, and they explained to me that they thought it was
supposed to be educational. I sat down and watched an episode with them. They were squirming in their seats with embarrassment, and in the end they could not watch it with me. A program such as that is typical of the types of viewing parents must monitor to ensure that they have control over what their children watch. The supposed educational episode I watched was on bondage. I have to say that I did not find it educational at all. I found it sexually explicit and inappropriate for the timeslot.

As I said, the council received a number of letters of complaint, including some from the Country Women's Association. The mothers of a number of councillors were also members of that association, so the issue was strongly taken up. Many letters to the editor of the local newspaper complained about the show. The council decided that as the show was not in the best interests of the community it would hold a public meeting about it. It invited all interested members of the community, together with representatives from the churches, the CWA and the media, to discuss the issues they had raised. The main community complaints were that the content of the show and the timeslot were totally inappropriate. The general opinion was that 8.30 p.m. was far too early to put a show with that content to air.

The outcome of the meeting was positive. The show was moved to a later timeslot, at around 10.30 p.m. The community felt it had had a win because the new timeslot was more appropriate. Members of the community had let it be known that their children had to be protected from offensive material.

Clause 8 will go a long way towards protecting children and the community generally from exposure to offensive material. Mr Nardella talked about restrictions on material on public display in supermarkets, milk bars, petrol stations and so forth. Clause 8 will ensure that material classified as Category 1 for sale or delivery is in sealed packages made of plain, opaque material and that both the packages and the publications bear the determined markings. Such material must be sold only to people over 18 years of age.

I am pleased to support the bill, which the community will see as worth while and responsible. I commend the bill to the house.

Hon. J. W. G. ROSS (Higinbotham) — It gives me satisfaction to speak on the Classification (Publications, Films and Computer Games) (Enforcement) (Amendment) Bill. I acknowledge the contributions made by my government colleagues and by Mr Nardella, and I thank the opposition for its support of the bill.

The main objective of the bill is to assist law enforcement agencies, particularly the police, by detailing precisely the evidence required for proof under the principal act. In the spring session of Parliament three years ago we began the task of determining some agreed moral standards on pornography and gratuitous violence in light of new and emerging technologies. Our aim was to strike an appropriate balance between several competing rights and responsibilities relating to information that could be loosely described as personal entertainment.

Before moving to the specifics of the bill, I make another point that goes to the heart of the role of Parliament and the law in what we like to regard as a modern and civilised society. The prima facie role of our parliamentary system is to codify acceptable limits of social behaviour and provide appropriate sanctions and penalties when those limits are transgressed. However, I happen to believe that the system goes further than that. Rather than being focused solely on penalties, the law has a responsibility to articulate basic moral and ethical community values.

The law is one of the most important reflections of the ethical principles on which our civilisation is based. In many instances it is difficult to envisage how in society such moral and ethical dimensions can even be judged, let alone enforced. Mr Atkinson's contribution about the intrusion of the Internet into everyday life was a good example of the dilemma confronting society.

I accept a model of the work of Parliament that extends beyond determining penalties to codifying society's attitudes, values and beliefs. Parliament is an important reference point for parents, teachers, politicians and leaders of community opinion throughout society. The standards it sets should be acknowledged, respected and abided by without the need to resort to penalties imposed by the law and the police.

In many ways the bill is an intensely practical adjunct to an act that I would describe as moral legislation. No doubt with the current march of technology and the advent of phenomena like the World Wide Web, the potential exists for the almost infinite availability of every form of intellectual and bestial computer content. At this very moment we are railing against the limits of our ability to legislate on human values. Through the bill we are reaching the outer regions of our ability to enforce the law.
The principal act dealt with values and enabled parliamentarians to fulfil to some degree their role as arbiters of public values. I will list some of those values for the public record: firstly, to ensure the rights of adults to have relatively free access to the plethora of media information in the form of books, magazines, videotapes and various forms of computerised personal entertainment; secondly, to impose moral standards to protect children from material that is likely to harm them. Thirdly, there is a need to ensure as far as practicable that people are not exposed to unsolicited material that they find offensive; and finally, there is a need to avoid the behavioural and attitudinal consequences that can arise from the depiction of gratuitous violence or by demeaning certain individuals or groups within our community.

It also appears that the inability of government to control gratuitous violence and pornography on the Internet has already had its impact on current classification criteria — for example, an article in the Herald Sun of 12 June 1997 described an interactive car-kill video game as an outrage. It states:

A new video game that glorifies hit-run car murders has been described as sick and insensitive by road authorities and a victim's family.

The racing car game, which awards bonus points for running down pedestrians and running over dismembered body parts, has angered authorities who spend tens of millions of dollars promoting responsible driving.

The article reports further:

Carmageddon — Murder on the streets — 'trivialised' road trauma and would add to the grief of families coming to terms with the loss of a loved one.

But here is the rub, referred to by Mr Atkinson: demand for the game has been enormous because of the availability on the Internet of a similar game, which has been receiving about 4000 hits each week. The article also states:

TAC spokesman Ian Forsythe said he had briefly viewed the game and found it went against everything Vicroads, the police and the TAC had worked towards.

'It trivialises road trauma and the suffering that people go through and I don’t believe this is a game that should be generally available'.

I hasten to add that the style of game that is currently available on the Internet is often heavily edited before receiving a classification in Australia, and that presents a real dilemma.

An article in the Herald Sun of 1 October 1997 reports on the furore over violent games:

A violent computer game featuring a deranged man on a killing rampage will be on sale in Melbourne by Christmas.

Players gather points as the killer ‘postal guy’ uses weapons, described as ‘everything a good sociopath needs’, including a shotgun and flame thrower, to kill innocent bystanders, churchgoers and a marching band.

The final obscenity is:

A player can end the game at any time by shooting himself in the head.

With the current spate of youth suicides and what has been described to me by teachers in my electorate as a Russian roulette mentality among students, the implications are clear.

Violent pornography was also cited as a hidden factor behind mass murders in News Weekly of 18 May 1996, where an article focused on the media frenzy following the Port Arthur massacre. It states:

 Barely mentioned, however, is the role which violent pornography played in the tragedy, although just enough has been published to indicate that Martin Bryant — like previous serial killers in Australia — had fed himself on a steady diet of violent pornography... Several serial killers, including Wade Frankum in Sydney, Julian Knight and Frank Vukovic in Melbourne, had all fed on a steady diet of violent pornography before committing their crimes.

Other cases have had similar tragic consequences. A Victorian Supreme Court judge, Justice Jane Mathews, found that the murder suspense film Nightmare at Shadow Woods had triggered the senseless killing of a woman in front of her two children in 1990.

Dr Don Thomson described the sociopathic antecedents to various forms of mass murder; and the same conclusion was reached in 1988 by Richard Read, a Crown prosecutor, in a paper delivered to the Australian Children’s Television Action Committee.

Mr Read states:

My experience over many years as a Prosecutor for the Queen has left no doubt in my mind that constant exposure to violent or explicit sexual material, whether on television or in magazines, will not only harm the mental development of young minds, but in some cases, it will be the trigger factor which leads a young person to commit a crime of violence or sexual violence.

If one adds to that the intimacy implied by the interactivity of some computer games, one sees the compulsion for Parliament to act in this regard. I suggest honourable members are dealing with some of the most serious problems that have confronted our country this century. Law enforcement is a problem, and that is what this bill is all about. It attempts, in a very practical way, to address the problem of enforcement and the nature of physical evidence. Unfortunately, Victoria has the reputation of having a
flourishing pornographic industry. It is well known that in the past there have been instances of the police being aware of offences but not having the statutory wherewithal to bring offenders before the courts. The bill will go some way towards addressing those problems.

My colleagues have adequately described the fine detail and the specifics of the penalties provided in the bill. This is tough legislation and in some ways it is symptomatic of the failure of traditional methods to deal with complex moral and ethical issues. Nevertheless, faced with that dilemma, the government has provided significant penalties that are clearly intended to provide the strongest statement of leadership as well as a significant deterrent. I have great pleasure in commending the bill to the house.

Hon. D. McL. DAVIS (East Yarra) — I note the support for the Classification (Publications, Films and Computer Games) (Enforcement) (Amendment) Bill from both sides of the house. I also note that aspects of the bill have been covered in considerable detail. I respect Dr Ross’s knowledge in this area and his understanding of the impact of a number of these types of videos and other electronic presentations. I also note the contribution to the debate of Mr Atkinson and his discussion of the technological changes in this area.

This is a difficult topic with which the community must deal. It is also difficult, not so much in terms of the videos that have been discussed, but more in terms of the technological changes that are occurring and the technology convergence already referred to by Mr Atkinson.

My colleague Jeanette Powell, Mr Nguyen and Mrs Hogg share with me membership on the parliamentary Family and Community Development Committee. It has a current reference to examine the impact of multimedia on children and families in Victoria. The hearings and the material that has been put before the committee have impressed all of us and left us deeply affected and very aware of some of these areas and the fact that the community will need to deal with them as technological and other changes take place.

I have also been impressed with what I have heard from my electorate. I have undertaken some consultation with parts of my electorate via the committee’s discussion paper and a reference group I have in my electorate to provide me with broad community input. That group, chaired by Dr Anona Armstrong, has provided valuable input in this area.

It is becoming increasingly difficult to police the technological changes in these areas and to make community values and views effective, and that will become more difficult with the convergence of technologies, as the material provided on video becomes more widely available on the Internet and other electronic methods of delivery, including satellites and the impact of digitisation on broadcasting and other methods of electronic delivery are realised. Although these are very difficult issues to handle and to legislate for, Dr Ross’s point is absolutely correct. There is something the government can do.

I have been impressed by evidence given by witnesses appearing before the Family and Community Development Committee about the need to ensure that positive material is available to all sections of the community, particularly children and families. There is also a need to ensure that helpful and constructive advice is available to families so that they can undertake some control in decision making and gatekeeping of their own accord. It is important that positive material is available to parents so that the values of society can be affirmed and they can make choices with which they can feel comfortable. I believe we often allow ourselves to be captive to what is put before us. The community must ensure that it has positive material available that is both instructive and helpful. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank all honourable members who have contributed to the debate. It is fair to say they were all good contributions. They were certainly informed and led to a better understanding of the need and reason for the legislation.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.
MacKILLOP FAMILY SERVICES BILL

Second reading

Debate resumed from 7 October; motion of Hon. R. I. KNOWLES (Minister for Health).

The ACTING PRESIDENT (Hon. B. W. Bishop) — Order! I have had the opportunity of examining the bill and in my opinion it is a private bill.

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

That this bill be dealt with as a public bill.

Motion agreed to.

Hon. M. M. GOULD (Doutta Galla) — The MacKillop Family Services Bill is enabling legislation. In July last year three Catholic organisations were incorporated to form MacKillop Family Services. The bill allows for any bequests or amounts of money left through wills or trust deeds to organisations under those three religious groups to go to the new organisation, MacKillop Family Services. The schedule on the last page of the bill sets out the seven agencies under the three congregations that were incorporated at that time. The origins of the seven different agencies date back more than 150 years.

During the course of my research into the bill, I spoke to the CEO of MacKillop Family Services, Mr Paul Linossier. He forwarded to me a history which I will refer to so that honourable members can follow the reason for the introduction of the bill. There were seven services under the auspices of three Catholic orders — namely, the Christian Brothers, the Sisters of Mercy and the Sisters of St Joseph. The seven agencies include St Augustine’s, which was originally established in 1857 in Queens Road, Newtown. In 1859 the Sisters of Mercy arrived to care for the girls. The St Augustine’s organisation looked after young girls, and in 1862 the Sisters of Mercy founded a separate institution for girls. In 1878 the Christian Brothers took over St Augustine’s orphanage. In 1939 St Augustine’s moved to Highton and in 1988 to Whittington. In 1995 the Christian Brothers Child, Youth and Family Services was formed. In 1997, under this new incorporation, it became part of MacKillop Family Services.

There is a long history attached to each of the seven services which I will not go into, but I will cite the other organisations. St Vincent’s of South Melbourne, which was originally established by the St Vincent de Paul Society, commenced with six children in Prahran. The Mercy Family Care Centre was established by the Sisters of Mercy, who arrived in Geelong to care for the St Augustine’s schools. In 1887 St Joseph’s Receiving Home was established in Carlton. The St Joseph’s Foundling Home in Broadmeadows was established in 1901. St Anthony’s of Kew was established in 1922. St Joseph’s in Surrey Hills was established in 1890 by the local parishioners of St Peter and Paul Church. In 1854 St Vincent’s Black Rock established an organisation to care for orphans in Prahran.

Even though there were seven organisations — and I referred to more than seven — in 1995 St Augustine’s, St Joseph’s and St Vincent’s, which were all run by the Christian Brothers, formed one organisation called the Christian Brothers Child, Youth and Family Services which is overseen by the Christian Brothers. There were also the two agencies for the Sisters of Mercy and the Sisters of St Joseph. The congregations of the three orders formed an amalgamation transition committee which was all part of the decision to bring these three orders under the one roof. Today they form the MacKillop Family Services.

The agencies currently employ more than 277 staff, including 128 full-time staff and a large number of part-time and casual staff. The organisation is also serviced by a large number of volunteers drawn from the communities of the various three Catholic orders that formed MacKillop Family Services.

The funding goes to more than 100 different types of services across Victoria. Some 75 per cent comes from the government and 25 per cent from donations and bequests. The bill will enable those bequests to be made. It has been difficult to identify some of the services because, over time, services have been amalgamated. MacKillop Family Services was formed on 1 July when the incorporation came into being. The bill will enable bequests to be forwarded to MacKillop Family Services and those bequests will, so far as possible, be distributed in the manner intended. In 1994–95 the services spent more than $8.3 million; in 1995–96 more than $10 million; and in 1997–98, $11.2 million. This financial year it is expected to be in the order of $12 million. In March 1996 when the decision was made to establish MacKillop Family Services it indicated clearly that the purpose was that:

Under the governance of the three religious congregations, the new organisation will be a collaborative outreach, providing greater flexibility and range of services, ongoing research and more powerful advocacy for disadvantaged children, young people and their families.

Last year the house debated the Anglican Welfare Agency Bill, which represented the amalgamation of a

MacKILLOP FAMILY SERVICES BILL

Wednesday, 21 October 1998 COUNCIL 201
number of services. The opposition expressed concern about big being beautiful and the best way to go. The MacKillop report found that the amalgamation of three congregations to form MacKillop Family Services would ensure that the philosophy and strengths of the past and the present would continue into the future through the mission and values of the new organisation. However, the report also says that the reason behind the amalgamation is the need to have the strength of a larger organisation to cope with funding cuts. Catholic child welfare in Victoria 1841–1997 says the following about policy issues:

Severe reductions in government funding to welfare agencies in the 1980s and particularly the 1990s, sparked an unprecedented period of reports, reviews and evaluations of existing programs. Additionally, Catholic religious orders, as a result of declining numbers and ageing membership, were inviting an increasing number of lay people to head up their various ministries. In 1991 the Catholic Child and Family Welfare group began consideration of the future of Catholic child welfare services … This process led to the decision in 1995 to amalgamate the services …

Because of the funding cuts mentioned in this place and another place which led to restructuring in youth and family services, a number of organisations — namely, the Barwon Family Resource Centre, the Geelong Rape Crisis Centre and other agencies in Geelong, including Mallee Family Care — expressed concern about the impact in country areas. The Eastern Domestic Violence Outreach Service and other agencies in the Maroondah area have expressed concern about funding cuts. A number of other welfare organisations, including Melbourne City Mission, Good Shepherd Youth and Family Services and the People Together project have also expressed concern. Insufficient funds are available to support those outreach organisations that provide services far more cheaply than the government could provide. They have a large number of volunteers on whom they can call because of the networks they operate.

The chief executive officer of MacKillop Family Services indicated when the bill was introduced that there were a number of incidences of former clients being concerned about abuse. The chief executive officer has advised that MacKillop Family Services has established from its own funds — not from government funds — a service to provide former clients with access to files, counselling and advocacy services. Three groups, the Sisters of St Joseph, the Sisters of Mercy and the Christian Brothers, are still responsible for anything that may have taken place prior to 1 July last year, when the services came under the auspices of MacKillop Family Services.

The bill provides that bequests to the former seven organisations be forwarded to MacKillop Family Services. However, former clients are still able to express concern about those organisations. For the benefit of the community the bill allows for the pooling of funds rather than managing myriad separate funds.

Although the opposition does not oppose the bill it acknowledges that clients will still have the opportunity to address their concerns. The bill allows for the pooling of resources. Because of funding cuts even the Catholic churches are going down the big-is-beautiful road and merging services. The legislation will allow for legal action to be taken so that bequests will become easier to pool. The opposition supports the bill.

Hon. M. T. LUCKINS (Waverley) — I am pleased that the opposition supports the bill. On 28 April 1997, following the amalgamation of three Catholic congregations, MacKillop Family Services Ltd was formed and was incorporated under the Corporations Law of Victoria. The three congregations, as Miss Gould mentioned, are the Christian Brothers, the Sisters of Mercy and the Sisters of St Joseph, also known as the Brown Joeys. The three agencies worked together through their mutual conviction that, according to the second-reading speech:

the biblical idea of justice continually challenges Christians to respond to the poor and those in need;

the congregations should respond to the needs of the poor and disadvantaged with renewed energy, informed and strengthened by good research, policy development and advocacy …

I note that the opposition, prior to the amalgamation of the three bodies, raised a concern about the organisation’s capacity to deliver. Obviously the three congregations decided that the amalgamation would give them the opportunity for better policy development and advocacy ability. The third reason they amalgamated was that they believed:

the church, in the Catholic tradition, should continue to be a disturbing, prophetic voice in today’s society.

MacKillop Family Services Ltd comprises seven agencies, including the Mercy Family Care Centre in North Geelong, which provides care for the girls, children and families of Geelong; St Anthony’s Family Service at Footscray, conducted under the auspices of the Sisters of St Joseph, which cares for and educates children in Kew and Footscray, and St Augustine’s Adolescent and Family Services at Geelong, which is operated by the Christian Brothers and the Sisters of Mercy.
The remaining four of the seven merging organisations are St Joseph's Babies and Family Services in Glenroy, which looks after pregnant women at Broadmeadows, Carlton and Fitzroy; St Joseph's Homes for Children, Flemington, which is run by the Christian Brothers; the St Vincent's Boys Home in South Melbourne, which provides care and education for boys and girls; and St Vincent de Paul Child and Family Services at Black Rock, which is auspiced by the Sisters of Mercy.

Those combined agencies currently provide assistance to more than 2000 clients a year, particularly families, children and pregnant women in need. MacKillop Family Services estimates that the cost of its provision of services to those clients this year will exceed $12 million. It employs about 300 professional and support staff, in addition to being assisted by hundreds of volunteers. Without the commitment of so many volunteers charitable organisations like MacKillop Family Services Ltd would have a limited capacity to deliver on their obligations and would have their services severely curtailed.

The St Vincent de Paul Society, with which my family has had a long association, is one of the organisations to combine into MacKillop Family Services. Its literature calling for volunteers says that in doing something to help others, you also help yourself. Volunteering is a tremendous Australian institution. An incalculable number of Australians give freely of their time and use their skills to assist those less fortunate than themselves and work tirelessly for the betterment of society as a whole. These people derive personal satisfaction from helping others.

Many Australians are so committed to the principles of social obligation that they choose to make provision for the continual support of families through bequests. Many of the agencies that have combined to form MacKillop Family Services have operated for more than a century and have changed their locations, services and names over the years. This has led to difficulties in establishing succession for some bequests, donations and trusts.

Late last year representatives from MacKillop approached the Minister for Youth and Community Services in the other place to seek his support to ensure the continuation of bequests to MacKillop-affiliated agencies. Problems have arisen in establishing the newly formed MacKillop Family Services as the appropriate beneficiary of some of the bequests made in wills some time ago to an old service which no longer exists but whose history can be traced to the newly formed MacKillop Family Services. The service has been seeking confirmation of the legitimacy of the flow of money from bequests through the courts on a case-by-case basis.

Clause 5 of the bill establishes a statutory scheme which means that charitable gifts do not fail because the institute named in a bequest no longer exists. The institution's successor, which in this case is MacKillop Family Services, is deemed to be conducting similar services and to be committed to the same purposes as its predecessor — that is, the provision of services to children, families and the young.

As mentioned by the opposition, the bill is similar to the Anglican Welfare Agency Bill that was passed by the house last year, but only in relation to bequests because, as I said earlier, MacKillop Family Services Ltd is incorporated in Victoria whereas Anglicare has not been incorporated.

MacKillop has consulted with the three congregations — the Christian Brothers, the Sisters of Mercy and the Sisters of St Joseph — to ensure they are happy with all aspects of the bill which, according to its outline, provides for:

- the vesting in MacKillop of certain property given for charitable purposes ...

and

- that certain gifts and trusts for charitable purposes do not fail but have effect as if made or declared to or in favour of MacKillop; and

- to enable MacKillop to establish investment pools for the collective investment of trust funds for charitable purposes.

The opposition raised concerns about the liabilities of the organisations that have now formed MacKillop. My advice is that the bill will not affect any liability of the congregations in relation to any claims made against them as a result of alleged past physical or sexual abuse cases. MacKillop has not inherited debts, liabilities, claims or obligations resulting from operations prior to amalgamation on 1 July 1997.

As Miss Gould mentioned, MacKillop Family Services Ltd was established with its own funding, not government funding. It provides assistance and an information service to enable former clients to access, for example, their records for adoption or parental purposes, or whatever. I commend the bill to the house.

Hon. S. M. NGUYEN (Melbourne West) — The MacKillop Family Services Bill represents the Victorian government's response to the amalgamation in April 1997 of a range of community-based family services previously provided by several Catholic orders — that is, the Christian Brothers, the Sisters of
Mercy and the Sisters of St Joseph. Those services are provided through a number of agencies spread across Melbourne and are targeted at assisting families and young people at risk of marginalisation.

In many respects the work carried out by the MacKillop Family Services and associated organisations carry on the legacy of people like Sister Mary MacKillop whose life was dedicated to the service of families and, in particular, children in need. Their work is an expression of the values of justice and compassionate service that we should look to proliferate in our society.

The bill provides for the establishment of a new legal apparatus to govern property and financial concerns under which MacKillop Family Services can operate as a new organisation and effectively discharge its charitable works. The amalgamation of services under the umbrella of MacKillop Family Services will provide obvious organisational benefits, including the benefit from economics of scale in purchasing goods and services, and improved coordination of service provision across the range of services offered through MacKillop.

The organisation also has as part of its charter a proactive component in providing useful research on child and youth-related social problems. The amalgamation will assist in expanding the capacity of MacKillop to let us know what services are needed in our community. As part of Victoria's non-government organisational sector, MacKillop Family Services provides an important role in channelling community benevolent moneys into worthwhile causes.

MacKillop also plays an important role in coordinating over 350 volunteer workers. Organisations like MacKillop provide an important means through which people committed to volunteer community service can develop and practise their skills for the benefit of our community.

MacKillop Family Services is presently operating in my electorate through its new offices in Paisley Street, Footscray, and also through St Anthony's Family Services, which has been based in Footscray for some years. St Anthony's provides family counselling and social work for families encountering problems. This includes substance abuse family support, effective parenting workshops and intensive assistance to families who have children with disabilities to assist them in developing skills that will enable them to integrate into society. St Anthony's also provides a specialised Vietnamese parenting group service. In 1998 approximately 180 families will be assisted by St Anthony's and the number is expected to increase to about 240 families by the year 2000.

I take this opportunity to commend St Anthony's and MacKillop Family Services generally on the fine work they undertake with families and children in the western region. It is my hope that this bill in its present form adequately addresses the specific need of MacKillop Family Services to rationalise the assets and bequests associated with the new organisation. I wish MacKillop Family Services the best of luck in its humane endeavours and I commend the bill to the house.

Motion agreed to.
Read second time.

Third reading

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

That this bill be now read a third time.

I thank all honourable members for their contributions to the debate.

Motion agreed to.
Read third time.

Remaining stages

Passed remaining stages.

BUILDING (PLUMBING) BILL

Second reading

Debate resumed from 7 October; motion of Hon. R. M. HALLAM (Minister for Finance).

Hon. PAT POWER (Jika Jika) — The Building (Plumbing) Bill is a significant piece of legislation, which the opposition will oppose. It has examined the bill in great detail and has consulted with a number of organisations and interest groups.

The purpose of the bill is to amend the Building Act to replace the Plumbing Industry Board with the Plumbing Industry Commission, establish a Plumbing Industry Advisory Council, regulate refrigeration mechanics and generally improve the operation of part 12A of the act.

In 1996 the Building Act was amended to introduce a new part 12A which established the Plumbing Industry Board. This board assumed the licensing function of the Plumbing Gasfitters and Drainers Registration Board
and took over responsibility for technical plumbing regulations from water authorities. The measure was introduced to facilitate water and gas reforms and to ensure maintenance of appropriate levels of consumer protection and public health and safety as they relate to plumbing work.

The new arrangements involve the replacement of the old costly system of full inspection by a system of self-certification of work. The level of inspection and audit has been reduced from 100 per cent to 5 per cent in many cases. The Plumbing Industry Board is an eight-member board comprising a chairperson with substantial industry expertise, various industry representatives and representatives of the ministers for agriculture and resources, education, planning and local government, and the Treasurer.

The Plumbing Industry Commission will consist of a single commissioner who will have the responsibility of registration, licensing, discipline and enforcement. A Plumbing Industry Advisory Council is to be established with wide industry representation and expertise.

The opposition is concerned about two provisions in the bill. Clause 3 will insert proposed section 221ZZR, which provides for the establishment of the new Plumbing Industry Commission, and proposed section 221ZZXA, which provides for the establishment of the Plumbing Industry Advisory Council.

The opposition is unable to support the legislation. It acknowledges that there is some merit in certain aspects of the bill, but those aspects are part of an overall package at the centre of which is the abolition of the Plumbing Industry Board. The opposition believes that will be a disaster for the industry. As I said, the Plumbing Industry Board will be replaced with a Plumbing Industry Commission, which will consist of a single commissioner who will take responsibility for registration, licensing, discipline and enforcement.

The members of the Plumbing Industry Board have a great deal of expertise, and they have played an extremely important role. The board comprises a chairman and chief executive officer, representatives from the Barwon Regional Water Authority, the Building Control Commission and the Office of Training and Further Education, the director of the Office of Gas Safety, the executive director of the Master Plumbers and Mechanical Services Association of Australia, a hydraulic engineer from Connell Wagner — a major engineering company — and, sensibly, the national secretary of the plumbing division of the communications electrical plumbing union (CEPU).

The opposition is unconvinced that abolishing a board with such broad expertise and experience is a step forward, especially when it is proposed to replace it with a commission made up of a single commissioner. We acknowledge that an advisory board will be established, but it is important to understand that it will be just that and will not have the authority and capacity the Plumbing Industry Board currently has.

The proposed legislation requires that a builder see the plumbing certificate for plumbing work before he or she issues an occupancy certificate for the site on which the work has been carried out. The legislation will bring refrigeration mechanics under the jurisdiction of the plumbing and building industry. It is proposed to introduce a system of photo identification for plumbers for the protection of consumers, and everybody would acknowledge that as desirable. The bill clarifies the instances in which one plumber can certify works begun or completed by another member of the trade when the latter is incapacitated. The opposition acknowledges that that is sensible.

Plumbers will be obliged to pass on to owners certificates of compliance for completed work. The legislation requires plumbers to be present at random inspections and audits of their plumbing work. Plumbers will be obliged to give consumers documentation of their business and insurance details, which is also desirable. The bill contains provisions relating to infringement notices and penalties for noncompliance.

At the outset I said the opposition acknowledges that the legislation has some merit, and I have indicated which aspects of the bill we consider meritorious. But at the end of the day we are concerned that an industry board with members as qualified and as experienced as I have described is to be made redundant. Of course, redundancy is something that comes naturally to the government.

The opposition has been contacted by a number of plumbers who are unhappy about the matters I have raised. Industry experts have also expressed concern about some of the amendments in the bill. Members of the plumbing division of the CEPU believe that the abolition of the Plumbing Industry Board and the creation of a Plumbing Industry Advisory Council will remove their voice from the industry. That is a reasonable fear, and the minister should address it in his response. Currently the Plumbing Industry Board guarantees access to and can deliver advice and
recommendations on issues affecting the plumbing industry. The opposition shares the concern expressed by industry experts and the plumbing division of the CEPU that that guaranteed access and that source of advice and recommendation are under threat.

Industry representatives will no longer have the capacity to make decisions. Instead, they will be able only to advise the commissioner, who will advise the minister. Our experience of the model for building control illustrates our concern. The minister has ignored the various recommendations of the Building Advisory Council, despite the problems that continue to arise with building controls. If the bill is intended to strengthen the hand of the minister and to create a circumstance in which a minister receives only advice on which he is not required to act, the bill will be successful. In that sense, it is consistent with a wide range of legislation the government has introduced.

The opposition rejects the bill on the basis that it interferes with and circumvents a successful process that has ensured that appropriately qualified industry representatives who are recognised across the sector can be members of a board that gives advice that government acknowledges, accepts and acts on. The comment made to the opposition about the Building Advisory Council being an example of the unsatisfactory consequences of the bill is worth considering.

In the view of the opposition and many people in the building sector the proposed structural changes have the potential to destroy the principle of having an independent, self-funded industry board that acts in the interests of consumers, protects public health and safety, and maintains the highest possible plumbing standards. The opposition is also concerned about the haste in dealing with the bill. Given the important role of the Plumbing Industry Board, why is the legislation being pushed through Parliament as quickly as it is?

I conclude by again acknowledging that some aspects of the bill have merit and will create better circumstances for consumers. But the opposition is unable to support legislation that does away with accepted processes and will do to plumbing what the former Building Advisory Council did to building. The opposition believes the minister should be required to act on the advice and recommendations given to him by an appropriately qualified board. It rejects any move to make the board redundant and create a new structure, the advice of which the minister will be able to consider but not be required to act on.

Hon. K. M. SMITH (South Eastern) — I support the Building (Plumbing) Bill because it improves the principal legislation, which was introduced approximately 18 months ago. All good legislation, like good wine, improves with age. Changes that make good legislation even better must be supported.

The bill will replace the current board with a one-person commission. The government is also considering setting up a plumbing advisory board to give advice to the commissioner. That is a good idea because it will create a suitable gap between the commissioner and the people giving advice. The representatives of the plumbing union told Mr Power that they felt they would not be properly represented on the proposed board. Currently they have one representative on the eight-member Plumbing Industry Board. The government will put 3 employer union representatives and 3 employee union representatives on a board of 14.

Hon. Pat Power — You are getting soft.

Hon. K. M. SMITH — We probably are.

Hon. Pat Power — You are losing your nerve.

Hon. K. M. SMITH — If I had received quality advice I would not have any! The truth of the matter is that we are dealing with an industry in which employers and employees have to work together to achieve the highest possible standards because they are there to protect people's health. The new 14-member board will have representatives from the water and gas industries, education and consumer affairs, someone nominated by the minister, 3 employee representatives, 3 employer representatives, the plumbing commissioner and the building commissioner. That is fairer union representation than presently exists, Mr Power. I would like you to report back to your friends in the plumbing union that the government believes they are being adequately looked after.

Hon. Pat Power — They reckon they have been shafted!

Hon. K. M. SMITH — I wish I was able to say they were, but I cannot because we are doing the right thing by them. The truth of the matter is that we are trying to give plumbing consumers around Victoria the best possible protection and the best possible tradespeople.

Hon. Pat Power — Will this demonstrably improve plumbing works in Flowerdale?

Hon. K. M. SMITH — I will talk briefly about that. I was a plumbing contractor for some 25 years and all
BUILDING (PLUMBING) BILL

Wednesday, 21 October 1998

COUNCIL

our work was checked. Whatever we did, inspectors had to come out and issue certificates of approval. We had to book for tests, and we had to appear whenever they were carried out. None of that takes place now. A certificate has to be lodged when work is about to commence, and currently that can be phoned in to the board. That practice will continue under the new commission.

Under the present regulatory regime 5 per cent of all plumbing jobs are audited. That means inspectors drop in to check jobs and ensure that the work is of the best possible standard. Plumbers also have to issue certificates of compliance, which means they take full responsibility for the work they have carried out. When I was a plumbing contractor the responsibility rested on the shoulders of the inspectors who came out to inspect the work. If work that had been approved by an inspector turned out to be faulty, the plumber was able to say, ‘You approved it, not me!’ The bill proposes that plumbers will have to accept responsibility for the work they do. Building surveyors, particularly those involved with new houses and major extension works, will have to sight plumbers’ certificates of compliance before issuing certificates of occupancy. That is an advance on the current situation, where occupiers are entering premises before work is completed.

The emphasis will be on work being completed before compliance certificates are issued. The bill will give consumers confidence because they will know that plumbers are licensed to do the work. Plumbers’ workmanship will be covered by a 10-year guarantee, which Mr Power will be pleased to see. Consumers will have guarantees on labour as well manufacturers’ guarantees on materials.

The bill also removes the exemption for refrigeration mechanics. Previously, refrigeration works did not fall into any category so they were able to be carried out by unlicensed plumbers. The bill proposes that refrigeration works must be done by licensed plumbers, because that work is an important aspect of many air conditioning systems, particularly cooling towers with water connections, where legionnaire’s disease can occur.

Insurance cover for plumbers will be compulsory, and that was organised some time ago by the original board. However, the Master Plumbers Association instigated the guaranteeing of work and the provision of insurance cover.

In the 18 months since the board was established, faults with installations have dropped from 30 per cent to 7 per cent. Plumbers are having their work inspected on the basis that an inspector could possibly drop in, so it has to be right. The drop in the number of instances of faulty work is a great achievement.

Since the new board was established 10 000 plumbers have been retrained and licensed to carry out gasfitting work. When the 10 000 were first tested, 16 per cent could not successfully complete the work. They have now been retested and licensed. Sixteen per cent of 10 000 is an awful lot of plumbers!

Hon. Pat Power — How many is it?

Hon. K. M. SMITH — It is an awful lot of awful plumbers! I am not into doing quick mathematics tonight. The board has also brought the private sector and the plumbing contractors together. Companies like Rinnai, Southcorp and RMC have been carrying out free training around Victoria in how to work on their appliances. It is not just a matter of their saying, ‘We are having a training night in Melbourne. Come down if you want to’. A caravan has been set up and the plumbing board has been sending an inspector out with the mechanic representatives from the companies to show the plumbers in country Victoria as well as the city just how to work on these new appliances.

Free training is also being conducted — I am sorry the Minister for Small Business is not here — with Small Business Victoria to assist plumbers in setting up their businesses and learning how to run plumbing businesses properly. Often plumbers are in the same position as many small business people. Their aim is to survive in business, not so much to run the business properly. With the backing of Business Victoria and the plumbing board plumbers will be able to manage their businesses properly, thus continuing to generate income and employ people, and that is important.

Over the period the plumbing industry has had compulsory insurance the fees have dropped some 10 per cent, which means there has been an improvement. The insurance industry has not received as many claims as it expected for the works that have been done. Honourable members should remember that this insurance is unlimited for claims relating to the repair of faulty work.

The current Plumbing Industry Board has also provided a telephone voice response service for people wanting to book in for tests or notify the board of their intention to carry out plumbing work. In fact, some 30 per cent of the telephone calls received by that service are received after normal working hours. That demonstrates that the board is responding to industry needs.
What is happening is good. The board is now requiring plumbers to have licences with photographs on them. When plumbers go to clients' houses they have to identify themselves and the company they work for, which may be their own or somebody else's. They must also provide a card showing their name, address and licence number — it could even be a business card — that they must hand to the clients when they come to the door. That gives clients some confidence that they are dealing with professionals; they will know all about the person who has come to work in their home. That is important for people to understand. The plumbers must also provide clients with an explanation of the unlimited nature of the insurance on jobs worth more than $500 and tell them that any gas work requires a certificate of compliance.

The government is just tweaking up — if I can put it that way — very good legislation that has been in place. It is changing the board to a commission and making it more professional. It will have more experts on it, so it will be able to offer expertise to the commissioner, and that will give the public some confidence when dealing with the plumbing industry.

Unlike Mr Power and some of his mates from the plumbing union, I totally support the bill. Having had some 20 years experience as a plumbing contractor out in the field I believe the plumbing industry has great confidence that this will be far better legislation than that introduced 18 months ago — and it was excellent legislation then. I totally support the bill.

House divided on motion:

**Ayes, 30**
- Asher, Ms
- Ashman, Mr
- Atkinson, Mr
- Baxter, Mr
- Best, Mr
- Birrell, Mr
- Boardman, Mr (Teller)
- Bowden, Mr
- Brideson, Mr
- Cover, Mr (Teller)
- Craige, Mr
- Davis, Mr D. McL.
- Davis, Mr P. R.
- Forwood, Mr
- Furletti, Mr
- Gould, Miss (Teller)
- Hogg, Mrs
- McLean, Mrs
- Nguyen, Mr
- Powell, Mrs
- Ross, Dr
- Smith, Mr
- Smith, Ms
- Stoney, Mr
- Strong, Mr
- Vardy, Mrs
- Wells, Dr
- Wilding, Mrs

**Noes, 8**
- Bishop, Mr
- de Fegely, Mr
- Eren, Mr
- Hall, Mr
- Hallam, Mr
- Hartigan, Mr
- Katsambas, Mr
- Knowles, Mr
- Lucas, Mr
- Nightingale, Mr
- Power, Mr
- Pullen, Mr (Teller)
- Theophanous, Mr
- Walpole, Mr

Pairs
Bishop, Mr
de Fegely, Mr
Eren, Mr

Motion agreed to.
Read second time.
Committed.

Committee
Clauses 1 to 3 agreed to.
Clause 4

Hon. R. M. HALLAM (Minister for Finance) — I move:
1. Clause 4, omit "(a)" and insert "(aa)".
2. Clause 4, line 9, omit "(aa)" and insert "(ab)".

I give a commitment to the committee that the amendments are simply to overcome typographical errors.

Hon. PAT POWER (Jika Jika) — On behalf of the opposition I accept the unusual circumstances in which these amendments come forward and acknowledge that they simply correct typographical errors.

Amendments agreed to; amended clause agreed to; clauses 5 to 16 agreed to.

Clause 17

Hon. R. M. HALLAM (Minister for Finance) — I move:
3. Clause 17, page 20, line 19, omit "(5)" and insert "(4)".

I again give the committee a commitment that the amendment is to overcome a typographical error.

Amendment agreed to; amended clause agreed to; clauses 18 to 20 agreed to.

Reported to house with amendments.

Remaining stages
Passed remaining stages.

BUSINESS OF THE HOUSE

Adjournment

Hon. R. I. KNOWLES (Minister for Health) — I move:
That the Council, at its rising, adjourn until Tuesday, 27 October.

Motion agreed to.

ADJOURNMENT

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

That the house do now adjourn.

Hospitals: redundancy payments

Hon. C. J. HOGG (Melbourne North) — I refer the Minister for Health to a matter of concern to certain employees in country hospitals. What is the rationale for targeted redundancy payments being $5000 lower for an employee over 55 years and $10,000 lower for a younger employee, compared with targeted redundancy payments made in similar circumstances over the past two years? I am sure the minister is aware of examples at the Maldon Hospital of those lower payments for employees over 55 which have caused distress to the people involved. I ask the minister to explain this change in the calculation of targeted redundancies.

Members: misleading statements

Hon. BILL FORWOOD (Templestowe) — Mr President, on 6 September 1994 you distributed to the house a statement headed ‘Misleading statements’. The third paragraph of that statement reads:

As May (21st edition page 119) indicates, the making of a deliberately misleading statement may be treated as a contempt. Such an abuse is compounded if it involves the deliberate misrepresentation of the language of another member.

The words that are important are ‘deliberately’ and ‘misleading’. On 6 October Mr Theophanous asked the minister responsible for Workcover a question, which is reported on page 3 of Hansard, about Workcover and the Sale office, to which the minister replied:

At the same time, the hours of the office at Traralgon were extended.

The following day — —

Hon. T. C. Theophanous — Keep quoting. Don’t stop there. Finish the quote!

Hon. BILL FORWOOD — I am invited to finish the quote. The minister is reported as stating:

At the same time, the hours of the office at Traralgon were extended. As a result of the decision taken about the Sale office, no safety standard has been put at risk — in fact, the reverse applies. I am happy for the Victorian Workcover Authority to stand on its record of safety across the state.

The following day, Wednesday, 7 October, on the adjournment debate reported in Hansard at page 99, Mr Theophanous raised a matter headed ‘Workcover: Traralgon office’:

I refer the minister to his statement to the house yesterday that the resources at the Traralgon office of the Victorian Workcover Authority had been increased to compensate for the closure of the VWA Sale office.

That is in direct contradiction to what the minister said, which I again quote:

At the same time, the hours of the office at Traralgon were extended.

It seems that this falls within May’s ruling about the making of a deliberate and misleading statement. Mr President, I ask you to take the appropriate action.

Food: genetic engineering

Hon. JEAN McLEAN (Melbourne West) — I bring to the attention of the Minister for Health my continuing concern about genetically engineered food. Monsanto Ready soya beans have been in Australian food now for almost two years without any assessment or monitoring. Other imported foods may be engineered also, with 30 crops grown in the USA being imported here, yet no general labelling of engineered food is planned. New scientific evidence reveals the potential for major health impacts on the immune system. There is now new evidence that herbicide-tolerant superweeds can pass their genes down to future generations creating major environmental management problems.

The recently completed United Kingdom experiments show that genetically engineered food can stunt the growth of rats and damage their immune systems, prompting more concerns about the effect on humans. In the experiment rats were fed modified potatoes for 100 days. Professor Arpad Pustai said that he would not eat genetically modified food. Genetically modified food has been removed from the menu of the House of Commons. Will the minister inform the house whether he intends to recommend similar action in the Victorian parliamentary dining room?

Nunawading: retail development

Hon. B. N. ATKINSON (Koonung) — I raise a matter with the Minister for Roads and Ports. The minister met with Whitehorse council representatives last Monday on a state cabinet visit to the City of Whitehorse. I understand that at the meeting the
minister discussed a range of traffic issues with the council. The minister may be surprised to learn about a retail development at 286 Whitehorse Road, Nunawading, which received planning approval from the City of Whitehorse in February this year.

The centre, which has some 7200 square metres floor space, is a factory outlet complex of 40 to 50 brand retailers. It is in the furniture strip along Whitehorse Road. In my view the centre will cause significant traffic and parking problems in the area and could potentially have an impact on the safety of Whitehorse Road. The planning permit was issued under delegation by council officers and has not been generally subject to public knowledge until the past week. Because the application was dealt with under delegation and at in camera meetings of the Whitehorse council, I have been unable to determine whether traffic issues associated with this development have been examined. I would be particularly concerned, as would Whitehorse Road users, if the council has any plans for traffic lights to control traffic movements associated with the proposed development. There are already seven sets of traffic lights on the 3.5 kilometre strip between Surrey and Mitcham roads. The strip already has traffic and parking problems.

What discussions did the Whitehorse council have with VicRoads about the development proposal at 286 Whitehorse Road prior to the issue of the planning permit, and was VicRoads asked for formal comment on traffic implications?

PTC: employee dismissal

Hon. S. M. NGUYEN (Melbourne West) — I raise for the attention of the Minister for Roads and Ports, who is the representative of the Minister for Transport in another place, the dismissal in 1997 of a former Public Transport Corporation employee of nine years and three months, Mr Wayne McKie. Mr McKie informed his local member that he had a good driving and attendance record and was employed by the corporation for eight years before facing disciplinary action. It is Mr McKie’s belief that, as I will explain, the media involvement in an accident in 1996 led to what he believes was unwarranted victimisation that eventually led to his dismissal in 1997.

On 12 March 1996 a complaint was made to fleet operations by a customer who alleged that Mr McKie was drunk while driving a tram. The caller did not leave a full name and address or contact number. However, an officer investigated the complaint and was satisfied that Mr McKie was not under the influence of alcohol. This was confirmed by a breath test conducted at Mr McKie’s insistence.

On 7 October 1996 a passenger made a similar complaint both on radio station 3AW and directly to the PTC. Mr McKie was informed that he was to be relieved of his duties and directed to take a breath test. He refused that direction. Instead, he voluntarily went to the South Melbourne police station and undertook a breath test that resulted in a negative blood alcohol reading.

Returning to the depot with the test results, Mr McKie was stood down and told to appear before a disciplinary panel. The initial panel hearing demoted Mr McKie to a conductor for a period of two years. That was eventually reduced to six months on appeal in October 1996. Mr McKie returned to driving on 6 March 1997 but was warned that he was on notice and would be watched closely by PTC officers.

On 23 July 1997 his depot manager informed him that seven charges had been laid over an argument between Mr McKie and a maintenance worker. His union representative informed him off the record that an original statement of complaint was returned because there was not enough to get him on. The complaints related to an incident when Mr McKie was off duty but in PTC uniform.

On 1 September 1997 Mr McKie attended a disciplinary panel and was dismissed. He was told that the decision of the panel was not unanimous. Will the minister investigate this case to assess whether Wayne McKie received fair treatment compared with previous decisions of the PTC?

Workcover: annual report

Hon. T. C. THEOPHANOUS (Jika Jika) — I raise a matter for the attention of the Minister for Finance, who is the minister responsible for Workcover. It concerns the Victorian Workcover Authority annual report. I refer the minister to page 2, which states:

The number of compensated fatalities, i.e. the total number of work-related deaths which includes work-related heart attacks and diseases has increased marginally from 110 in 1996-97 to 118 in 1997-98.

Will the minister inquire of the Victorian Workcover Authority its reasons for providing me with the table I quoted into Hansard earlier today? The table listed the number of deaths in 1996 as 120 and the number in 1997-98 as 118. That suggests a drop of two fatalities whereas the annual report shows an increase of eight fatalities. Will the minister inquire how the table was put together and whether the table I received had the
correct figures or whether the figures in the annual report are correct?

**Fair trading: Coles**

**Hon. D. A. NARDELLA** (Melbourne North) — The matter I direct to the attention of the Minister for Small Business representing the Minister for Fair Trading in the other house concerns an advertisement in the *Preston Post-Times* of 22 July headed ‘Super savings all this week at Coles Reservoir’. The advertisement states, for example, that bananas will be on sale at 98 cents a kilo.

The Coles store opposite the Reservoir railway station, a few yards from the Reservoir post office, was not offering the discounts offered in the advertisement. The constituent who has complained to the opposition talked to the manager of the Coles Reservoir store and was told that the advertisement was for the Coles store in Plenty Road, which technically is in the Reservoir postal district but is remote from Reservoir and services a different population.

The Coles head office was contacted. Its customer service section representative told the complainant that the advertisement was worded properly and was meant to cover the Reservoir store and its substore in Plenty Road. The constituent talked to the manager of the Coles Reservoir store and relayed what he had been told by the customer service section at the Coles head office. The manager returned and said head office had reversed its position. Other people came into the Reservoir store and were disappointed at not getting the bananas and other goods at the advertised prices. The bananas had been advertised at 98 cents but actually cost $1.98 a kilo. The Coles people were not prepared to honour their advertised prices.

**Hon. M. A. Birrell** — Can’t you take it up with Coles?

**Hon. D. A. NARDELLA** — I am taking it up with the Minister for Fair Trading in the other place.

**Hon. Bill Forwood** — Buy shares and go to the annual general meeting.

**Hon. D. A. NARDELLA** — I am not like you, Mr Forwood. I ask the minister to take up the matter with Coles to ensure that such an incident does not occur again. It may be an opportune time for Coles to readvertise its special or apologise for its position to the customers of the Reservoir store.

**Responses**

**Hon. R. I. KNOWLES** (Minister for Health) — Mrs Hogg raised with me the calculations of voluntary departure packages.

**Hon. C. J. Hogg** — Targeted packages.

**Hon. R. I. KNOWLES** — Targeted packages are straightforward. A whole-of-government policy which has been in place for many years was introduced in the first instance to accommodate a substantial downsizing of the public sector. The policy framework is that if voluntary departure packages were the same for all age groups nobody would actually leave the public service at retirement without a voluntary departure package. Therefore, the policy was introduced to ensure consistency, so that people retiring at age 55 were not at a disadvantage over those seeking voluntary departure packages. The policy also applies to the public hospital sector, particularly for hospitals seeking to cover costs through such measures.

Targeted packages are different because the employee in that case has no choice. As I understand it, that package is calculated on a consistent basis irrespective of the person’s age. I will take further advice and later reply to Mrs Hogg.

Mrs McLean raised with me the issue of genetically engineered food. This matter has been the subject of much debate and will be resolved in this country by the Australian and New Zealand Food Authority (ANZFA).

**Hon. Jean McLean** — It is very slow.

**Hon. R. I. KNOWLES** — It was debated at the meeting last July but a complete solution has not been arrived at. We have asked for further work to be done. ANZFA agreed that any genetic engineering process that materially changes a food’s composition must be registered and the food labelled. That is consistent with the approach being taken in North America. In Europe the authorities have gone further and required any genetically engineered food to be labelled.

Health issues concerning the right to incubate food are involved, and the not insignificant issue of how we ensure appropriate trade relations continue is also in question. At its last council meeting ANZFA took a decision to at least start the process and embrace the recommendation developed with the support of all jurisdictions. ANZFA asked for further work to be done, and the question will be considered at its next meeting.
I would not advocate and do not believe that Victoria should move in isolation. It is a national issue and we will work through the framework established for reaching a conclusion, which will apply to all Australian states and New Zealand.

Hon. R. M. HALLAM (Minister for Finance) — Mr Theophanous raised with me an issue arising from the Victorian Workcover Authority report tabled today. I shall refer that to the VWA.

Hon. G. R. CRAIGE (Minister for Roads and Ports) — Mr Atkinson raised with me an issue concerning traffic congestion at retail developments at 286 Whitehorse Road, Nunawading. I understand the City of Whitehorse has had no dialogue with VicRoads about traffic in this area, let alone discussed the installation of traffic lights. I would encourage the council or the developers to have that dialogue because it is important in areas like Whitehorse Road, especially in the Nunawading region, to look at all the methods needed to manage traffic.

We must take into consideration some of the important aspects of Whitehorse Road, in particular its capacity in its present form to serve through traffic and the high number of traffic movements that occur in that area. For example, on Whitehorse Road between the Station Street and Mitcham Road intersections, about 4 kilometres apart, nine sets of traffic lights are installed. Another set of traffic lights would add even more delays.

I would encourage the City of Whitehorse and/or the developer to commence discussions about what form of traffic control alterations they are thinking of for that area. I am certain VicRoads will have a close look at what can be done.

Mr Nguyen raised a matter for the attention of the Minister for Transport concerning a Mr McKie. I will refer the matter to the minister so he can investigate the issues raised by the honourable member.

Hon. LOUISE ASHER (Minister for Small Business) — Mr Nardella raised with me the alleged price of bananas at a Coles supermarket in Reservoir. It is an unusual issue. I am more than happy to pass the issue on to the Minister for Fair Trading. Given that Mr Nardella is the shadow minister for consumer affairs, I should have thought if he wanted to show how effective he was he would have raised the issue with Coles management, although I would not expect him to get on the telephone to Dennis Eck. Staff of the Office of Fair Trading and Business Affairs will always ask whether you have raised the complaint with the business establishment. Leaving that aside, if Mr Nardella provides me with a copy of the Preston Post-Times containing the advertisement and a signed letter from the person who raised the issue, I will be more than happy to raise it with the Minister for Fair Trading.

The PRESIDENT — Order! Mr Forwood raised with me a matter arising from a statement to the house made by the Minister for Finance on 6 October and a reference to that statement the next day by the Leader of the Opposition. He did so in the context of a statement I made to the house on 6 September 1994. I was concerned that some members were misstating in the house the views put by other members, and that they did so in a way that in my view amounted to a contempt. My statement of 6 September 1994 reads:

With the commencement of a new session of the Parliament I desire to make some comments in relation to statements by members in questions and during debate.

The Westminster system sets great store on the need to be able to rely on the veracity of statements made in the Parliament by members. It is therefore incumbent on members that they take great care to ensure that they do not unwittingly or unwittingly mislead the house. As May — 21st edition, page 119 — indicates, the making of a deliberately misleading statement may be treated as a contempt. Such an abuse is compounded if it involves the deliberate misrepresentation of the language of another member.

In recent times I have detected that some members have included in their questions or statements in debate a form of words which implies a factual situation when, in some cases, it has become evident that there is no basis in fact for those statements.

I then proceeded to give some examples. Mr Forwood asked me to take some action relating to that matter. Actions relating to the issue of contempt are of course matters for the house itself. A number of appropriate motions could be put to deal with such an issue, including the referring of a particular case to the Privileges Committee of the house. I do not think there is a further role for me to take.

In relation to the matter of privilege, under sessional orders I can rule whether a particular matter should be given precedence but it is a matter that is ultimately in the hands of the house indirectly or through its committee.

Motion agreed.

House adjourned 6.35 p.m. until Tuesday, 27 October.