ROYAL ASSENT

Tuesday, 27 October 1998

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.32 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent to:

Arts Acts (Amendment) Act
Classification (Publications, Films and Computer Games) (Enforcement) (Amendment) Act
Land (Revocation of Reservations) Act
Mutual Recognition (Victoria) Act
Road Safety (Driving Instructors) Act

LIVESTOCK DISEASE CONTROL (AMENDMENT) BILL

Introduction and first reading

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

SUPERANNUATION ACTS (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.
Read first time on motion of Hon. R. M. HALLAM (Minister for Finance).

ACCIDENT COMPENSATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.
Read first time on motion of Hon. R. M. HALLAM (Minister for Finance).

EDUCATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.
Read first time on motion of Hon. R. I. KNOWLES (Minister for Health).

QUESTIONS WITHOUT NOTICE

Workcover: Esso Longford licence

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Finance, who is responsible for Workcover, to recent claims from the Victorian Workcover Authority and Esso that the reissuing of the dangerous goods licence for the Esso Longford plant was made verbally. Will the minister inform the house whether this verbal approval was given by senior management, whether any documentation exists to substantiate the claim, and whether granting such verbal approval represents a breach of the Dangerous Goods Act or regulations?

The PRESIDENT — Order! The last part of the question seems to call for a legal opinion.

Hon. R. M. HALLAM — There were in fact three. I am tempted to give the honourable member a one-word answer and then invite him to ask in the next breath which question he would like me to reply to. I am prepared to say that I do not make any attempt to excuse the circumstances surrounding the issuing of a licence to Esso and that I have made my disappointment very clear to the Victorian Workcover Authority. However, I make a couple of points by way of background. I am assured that while the licence document had not been formally issued by the renewal...
date, which was 26 August, the application had in fact been received, the necessary inspections had been conducted, the licence fee had been paid and a receipt issued — all before the renewal date. Beyond providing that advice to the honourable member, I shall take his question on notice.

**Better Roads Victoria**

**Hon. P. R. HALL** (Gippsland) — Will the Minister for Roads and Ports inform the house of the final road funding allocations for 1998–99 from the Better Roads Victoria fund, and in particular of the impact the program has on road funding in regional and rural Victoria?

**Hon. G. R. CRAIGE** (Minister for Roads and Ports) — I thank the honourable member for his question and acknowledge that honourable members on this side of the house recognise the significance of the Better Roads Victoria fund. I am pleased to inform the house — especially honourable members on this side of the house and the people of rural Victoria — that this year, 1998–99, the fund will provide $191 million for more than 200 road projects. That figure includes an allocation of more than $75 million for new and existing projects in rural Victoria. The government will again clearly meet its commitment to rural Victoria with more than 35 per cent of the total allocation being spent on major rural projects, which are so significant for rural and regional Victoria.

Major rural projects include $8.6 million on the Black Forest section of the Calder Freeway, $108 million on the Calder Freeway—Woodend bypass, $10 million on the Midland Highway upgrade, $5 million on the Bass Highway duplication, $2.9 million on the north arm bridge replacement at Lakes Entrance, $1.6 million on the Cobden—Warrnambool road, $1.6 million on the Bacchus Marsh—Gisborne road; $1.3 million on the Murray Valley Highway, and $1.2 million on the Warrnambool—Caramut road. Those are just a few examples of the road funding this financial year.

The Better Roads Victoria fund also provides funding on a two-thirds allocation for metropolitan projects. These projects include the widening of the West Gate Freeway from three to four lanes between the Western Ring Road and the West Gate Bridge; stage 2 of the Springvale bypass — the missing link left by the previous Labor government; the duplication of the Westernport Highway between the Gippsland Freeway and Thompson Road; planning for the extension of the Eastern Freeway from Springvale Road to Ringwood; and a further instalment of the government’s $300 million commitment to facilitate the City Link project as announced by the Treasurer in September 1995.

Those items are drawn from the metropolitan component of the fund and are in addition to the totals that appear in table 2.4 of the 1998–99 budget information paper no. 1. Since the Better Roads program was established on 1 July 1993 the fund has allocated approximately $1 billion to 620 projects. Of those, 540 projects to the value of $350 million have been delivered to rural Victoria, which clearly meets the government’s commitment of the one-third component of the Better Roads Victoria fund.

The program has been so successful that the opposition is now claiming it actually supported the establishment of the fund. On 15 October the Leader of the Opposition in the other place for the time being, John Brumby, said on radio 3SR that the fund had bipartisan support. Mr Brumby might be around this week but we do not know if he will be around next week. He said the fund had bipartisan support in the Parliament in 1994 — the two important words in that statement being ‘bipartisan’ and ‘1994’. Mr Brumby has a short memory, because on 18 September in the *Weekly Times* he is quoted as saying he would promise to scrap the levy because it was a stupid tax.

Clearly the public needs to know that under its current leader the ALP will scrap the levy, but it was not debated or introduced in 1994 — it was introduced in 1993. On 12 May 1993 in another place the Labor opposition voted against the establishment of the Better Roads Victoria fund. In addition, in speaking against the bill in the other place the Honourable Ian Baker opposed it because the Labor Party thought one-third of the levy going to country Victoria was too much. Mr Baker asked, ‘Where is the equity and sense in that?’ During debate Mr Baker said there was no equity in the country receiving even one-third of the levy. He went on to move an amendment to the effect that the funds were to be used exclusively for the City Link project — none was to go to the country, it was all for the City Link project.

The people of Victoria should know that the Labor Party does not and never has supported the Better Roads fund. While opposition members continue to make statements the government will continue to deliver real projects to regional, rural and metropolitan Victoria.

**Workcover: safety inspector**

**Hon. M. M. GOULD** (Doutta Galla) — Will the minister responsible for Workcover confirm that Doug
Wyatt, the dangerous goods inspector who was given the impossible task of inspecting 102 items in 2 1/2 hours at Esso at Longford, was yesterday transported by John Hickey, the manager at Mulgrave, to Andrew Lindberg's office for a 3-hour interrogation? Will the minister now guarantee to the house that inspectors will not be threatened or directed by the VW A prior to testifying before the royal commission, if they are summoned?

Hon. R. M. HALLAM (Minister for Finance) — Again Miss Gould invites me to take up several questions and I am tempted to pick and choose.

Hon. M. M. Gould — No, the first part leads on to the next.

Hon. R. M. HALLAM — Miss Gould described it as an impossible task. If the opposition wants to have a debate about that, it can. I challenge the first claim that the task was impossible. It illustrates better than anything I can say that Miss Gould does not understand the process. She should have taken the trouble to find out about the process that she now raises in this place. If she had done that she would have found that her description was most inappropriate and does no credit to the people directly involved.

Hon. T. C. Theophanous — Why?

Hon. R. M. HALLAM — If we are to have this witch-hunt — —

Hon. T. C. Theophanous — You are the one conducting the witch-hunt.

Hon. R. M. HALLAM — Whose interests do opposition members claim to be serving? The house should consider this issue carefully. Members opposite are prepared to impugn both the role and performance of the officers of the Victorian Workcover Authority, officers whose only sin is to carry out their duties.

Hon. D. A. Nardella — That is why they are interrogated for 3 hours!

Hon. R. M. HALLAM — You are prepared to name them in this place, Mr Nardella.

Hon. D. A. Nardella — The only protection they have is us naming them here.

Hon. R. M. HALLAM — I am satisfied that the people named in this place in respect of the Longford incident have acted in the utmost good faith.

Hon. D. A. Nardella — So you will not protect them.

Hon. R. M. HALLAM — I think that is protection. I am satisfied that the officers who have been named in this place have acted in the utmost good faith on each occasion. My statement should be compared with the accusations that have been levelled. Members opposite have been prepared to rely on the advice of unidentified employees of the Workcover Authority.

Hon. D. A. Nardella — You want us to name them so you can have them interrogated.

Hon. R. M. HALLAM — I might come to that issue. That is the basis on which it is offered. No names, no pack drill. That raises some question marks about the motivation. Honourable members opposite are prepared to rely on that advice and deliberately and maliciously malign other members of that organisation. The Leader of the Opposition and, by interjection, another member of the opposition, have now determined that the only reason the officers on whom they rely for information have not been identified is the prospect of a witch-hunt.

Hon. T. C. Theophanous — That is what is happening.

Hon. R. M. HALLAM — You used the word 'witch-hunt'. We are talking about employees of the Victorian Workcover Authority. As I have said, the fact that the names of these officers have not been identified at least raises a question mark. If the information honourable members opposite want to rely on has been derived from the source they imply, we should examine what has taken place. What has happened is in my view an act of gross disloyalty to the employer, or at least an act of gross disloyalty to the other members of the organisation. It is certainly a breach of conduct and may constitute a criminal breach of the act.

Hon. D. A. Nardella — A further threat.

Hon. R. M. HALLAM — That is not a threat — it is a statement of fact. These people operate under a strict code of secrecy laid down by the act, yet members opposite are prepared to rely on those who have broken that strict code of secrecy. Opposition members are making wild accusations without any statements of fact; they bring great discredit and personal harm upon members of the organisation under the protection of parliamentary privilege. That brings no credit upon members opposite or indeed this chamber.

I am relaxed about these issues being canvassed by the royal commission. I am absolutely relaxed about the outcome of the royal commission and I hope the information that is unsourced, unidentified and thrown
around wildly by the opposition is submitted to the royal commission.

Honourable members interjecting.

Hon. R. M. HALLAM — As I said, I am absolutely relaxed about relying on the outcome of the royal commission.

Hon. T. C. Theophanous — You have established a Star Chamber at Andrew Lindberg’s office.

Hon. R. M. HALLAM — Star Chamber? You are talking to me about a Star Chamber!

Honourable members interjecting.

The PRESIDENT — Order! The Leader of the Opposition did not even ask the question, and the minister is not helped by interjections from Mr Nardella. I suggest that the minister circumscribe the answer and come to a conclusion. Has the minister finished?

Hon. R. M. HALLAM — Yes.

Stress management

Hon. M. T. LUCKINS (Waverley) — Will the Minister for Health advise the house of the recent initiatives and advances in the understanding and management of stress with a view to promoting better health and preventing illness?

Hon. R. I. KNOWLES (Minister for Health) — Stress is a reality and everyone has experienced stress at some stage in their lives, but only in more recent years have we understood the significance of stress and its impact on people’s physical and emotional wellbeing.

As part of the global examination of health care by the World Health Organisation in 1990, it was found that emotional stress played a significant factor in 5 of the 10 most significant disabling conditions. It was as a result of that finding that the first international congress on stress was held in Washington in 1994. I am pleased to advise the house that yesterday I had the pleasure of opening the second international congress on stress which is currently being held in Melbourne. Approximately 600 delegates from 52 countries comprising scientists and clinicians interested and involved in understanding and developing better ways of managing stress were in attendance.

As I have previously relayed to the house, the government has been extraordinarily active and successful in reforming health services to the extent that it is now acknowledged as the leader in Australia and internationally in focusing on mental health management. We are moving to the second phase of those reports and under the new national mental health strategy we are focusing on health promotion and mental health prevention resulting in good quality health outcomes and linkages between the way services operate and the outcomes.

The government seeks to achieve that by using new technology — and in particular, the opportunities the Internet can provide to help overcome the poverty of information available on ways of promoting good mental health. One such project, View 21, which represents a vision of readily available information and, hence, wellbeing in the 21st century, is a collaborative effort by the Victorian Mental Health Foundation, the National Heart Foundation, the National Institute of Diabetes and the National Stroke Foundation.

Stress is recognised as a significant contributor to the onset of diabetes and an inhibitor to its good management, as well as a significant risk factor in the onset of cardiac disease, stroke and mental illness. The four organisations have come together to develop a model, with the support of the state and commonwealth governments, with the aim of providing more accurate and accessible information not only for Victoria but for Australia and the rest of the world.

Many participants at the congress I referred to have shown interest in that development. It is a good example of Victoria’s using its expertise to provide better health care while developing products that will have significant economic value and export potential. It is yet another example of the government’s policies and leadership providing opportunities which were previously thought impossible but which can make a significant contribution to improving the wellbeing of Victorians and mankind in general.

Workcover: Esso Longford licence

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Finance, who is the minister responsible for Workcover, to his answer to my previous question, in which he said the expiry date of the Esso licence was 27 August 1998.

Hon. R. M. Hallam — No, I did not.

Hon. T. C. THEOPHANOUS — We will look back to Hansard. I refer the minister to his answer to my question, in which he said that the expiry date of the Esso licence was 27 August 1998 and that the application from Esso was received and processed prior to that date. How can the minister reconcile that statement with the fact that the licence renewal
document specifically states that the date on which the application was received was 28 September 1998 and that it was issued on the same day, which is three days after the Longford explosion?

Hon. R. M. HALLAM (Minister for Finance) — First things first, Mr President. Let the record show that I did not say 27 August was the expiry date of the Esso licence.

Hon. T. C. Theophanous — We will check Hansard.

Hon. R. M. HALLAM — We will check Hansard.

Government members interjecting.

Hon. T. C. Theophanous — You are not going to get out of it! He has lied again. Caught out!

Honourable members interjecting.

The PRESIDENT — Order! The Leader of the Opposition has asked a question, and the minister wants to respond. The house will settle down and allow the minister to respond.

Hon. R. M. HALLAM — I am a bit bemused as to how the opposition leader can conclude that I have lied as a result of him misquoting the date.

Hon. T. C. Theophanous — When was the application received? When did you say the application was received?

Hon. R. M. HALLAM — My advice is that the renewal date was 26 August. However the honourable member might like to — —

Hon. Louise Asher — Distort.

Hon. R. M. HALLAM — Distort. Thank you. However the honourable member might like to distort my response, I repeat that the application for renewal had been received, the necessary inspections conducted, the licence paid and a receipt issued — all before the renewal date!

Hon. T. C. Theophanous — How do you square that with the licence? You did not answer the question!

Honourable members interjecting.

The PRESIDENT — Order! I suggest the honourable member settles down. He is down to ask another question later.

Hospitals: Essendon and Preston—Northcote

Hon. ANDREW BRIDESON (Waverley) — Will the Minister for Finance advise the house of plans to sell the Essendon and District Memorial Hospital and the Preston and Northcote Community Hospital as part of the government’s plan to provide better health services to Melbourne’s outer suburbs?

Hon. R. M. HALLAM (Minister for Finance) — I thank the honourable member for his question. By way of introduction, the question could just as appropriately have been directed to my colleague, the Minister for Health. It was Mr Knowles who recently unveiled the $900 million plan to upgrade Melbourne’s health care services to provide equitable access to high-quality services into the 21st century.

Hon. M. A. Birrell — Visionary!

Hon. R. M. HALLAM — Visionary indeed, Mr Birrell! For people living in the outer suburbs of Melbourne, the building of three new hospitals, the introduction of integrated care centres and other initiatives will take high-technology health services to presently underserviced areas. That corrects an imbalance whereby although only about 16 per cent of the population lives within 8 kilometres of the CBD it has almost half the health services concentrated in the area.

As part of the process to provide better health services in Melbourne’s northern region, the government has decided to sell the Essendon and District Memorial Hospital and the Preston and Northcote Community Hospital. That area and beyond will now be serviced by new health facilities at Broadmeadows and Epping.

Once such decisions are taken and properties become available, the assets are then transferred to the Ministry for Finance as part of the process. I have responsibility for ensuring that the sale of those assets delivers the best return, not just in financial terms but in the best interests of the community, however they are viewed, with the proceeds being dedicated to new and improved health care services for the region.

The government intends to encourage private hospital operators and other medical professionals to take up the opportunities afforded at the Essendon hospital site and the existing facility. Expressions of interest have already been formally invited, and I expect that negotiations will be completed by about the middle of the next calendar year. Perhaps even more diverse potential exists for PANCH, and I hope a contract will be signed next year, depending on a satisfactory tender being received. In particular, the south block of
PANCH provides an opportunity for a satellite surgical centre, and I hope expressions of interest will take up that potential. Negotiations are already under way with North Melbourne TAFE to utilise the existing nurses home for student accommodation. If we can pull that off, Mr President, it will be a good outcome indeed! I have recently seen reports of a possible hotel-motel development on the balance of the site. Some very exciting options are currently being canvassed.

The process has now commenced. It is being handled by the Victorian Government Property Group in conjunction with real estate agents Jones Lang Wootton for the Essendon site and Knight Frank for PANCH.

We have now formally placed both properties on the market and, based on the level of interest that is currently expressed, I am confident of achieving a good outcome, particularly for the communities most directly involved with the proceeds having a direct impact on improved services for the expanding outer suburbs, thus meeting a basic commitment of the Kennett government.

Workcover: Esso Longford licence

**Hon. D. A. Nardella** (Melbourne North) — I refer the Minister for Finance, who is responsible for Workcover, to the fact that the Esso Longford plant was operating at the time of the explosion without a dangerous goods licence. Will the minister assure the house that there are no other licences or approvals the Longford plant should have had at the time of the explosion that were issued after the explosion?

**Hon. R. M. Hallam** (Minister for Finance) — Again we have a question that, of itself, is legitimate but is prefaced with an inference to which I take great exception. If honourable members want to pre-empt their questions with some challengeable preamble they should not be upset that it is the preamble to which the minister responds. I shall go back to *Hansard* to see exactly what the honourable member said, but in am not mistaken — —

**Hon. D. A. Nardella** — Weren’t you listening?

**Hon. R. M. Hallam** — We must be careful, Mr Nardella. If I remember correctly, you said Esso had no licence at the time of the Longford incident?

**Hon. D. A. Nardella** — Without a dangerous goods licence. That is correct.

**Hon. R. M. Hallam** — You say it is correct?

**Governor of Victoria Export Awards**

**Hon. Rosemary Varty** (Silvan) — Will the Minister for Industry, Science and Technology advise the house of the overall winner of the recent Governor of Victoria Export Awards?

**Hon. M. A. Birrell** (Minister for Industry, Science and Technology) — I was pleased to join His Excellency the Governor, Sir James Gobbo, recently to present the Governor of Victoria Export Awards and to present the Victorian Exporter of the Year Award. I was delighted that Compumedics Sleep Pty Ltd won that award. It is an innovative company, an exporter of some renown and is an example of a high technology-based company that is exporting product. The company has won a diverse range of contracts overseas, including a major contract with NASA, and has grown exponentially over the past five years.

The award winners overall represent Victoria’s most outstanding exporters in services, manufacturing agribusiness, information technology, education, and a new award for art and entertainment. Compumedics Sleep Pty Ltd specialises in the design and development of computer-based medical monitoring and diagnostic products. I congratulate the company on its outstanding export success, particularly in the field of sleep monitoring and analysis.

Compumedics was the first company to install computer-based diagnostic sleep centres in Australasia in 1987, and now has 70 per cent of the market share. The company is a world leader in the field of diagnostic product development for sleeping disorders. Its research and development has resulted in sophisticated and state-of-the-art equipment, which uses computer technology to assist the medical profession provide better health care. The success of Compumedics reflects the growth in innovative companies that are developing new products and taking them to the world,
not only relying on selling them in the Australian marketplace.

At the launch I was pleased to see a live transfer of information from a Victorian country hospital into its Melbourne headquarters. It is a classic example of how high technical equipment can be used remotely and is likely to be used remotely around the world. Indeed, it is used remotely by NASA in the equipment it takes up in the shuttle missions.

The growing export success of local companies demonstrates how the state has both the expertise and skills to succeed in the international marketplace. This year the Governor’s awards attracted a record number of entries which, in itself, is a reflection of the growing confidence Victorian firms have about working and trading overseas. I am pleased that the winners of the award will automatically go into the national export awards later this year. On behalf of all members, I congratulate the Victorian winners and wish them all the best in the national awards.

Workcover: Longford safety inspections

Hon. T. C. Theophanous (Jika Jika) — I refer the Minister for Finance, who is responsible for Workcover, to statements to the house on 6 and 7 October to the effect that the Victorian Workcover Authority conducted ‘a full physical examination of the Longford plant in June’. He described it as a ‘rigorous’ inspection although it lasted only 2 1/2 hours. Will the minister assure the house that during the 2 1/2-hour inspection each of 25 storage tanks, 65 storage areas, 3 manufacturing areas, 3 slug catchers, 2 crude plant areas and gas plants 2 and 3 and, finally, the flammable gas and flammable liquid areas of gas plant 1, the site of the Longford explosion that killed two workers, were subjected to rigorous inspection?

Hon. R. M. Hallam (Minister for Finance) — I thank Mr Theophanous for his question. From my recollection I am prepared to acknowledge that Mr Theophanous’s quotations of mine in the house are accurate, which is something of a change, because I happen to have the Hansard of 6 and 7 October.

Hon. W. A. N. Hartigan — Which you need with questions from him!

Hon. R. M. Hallam — Yes, I do. I realise that I cannot quote them. At page 6 of Hansard I was referring to the office hours at Traralgon being extended. The reason I need to quote that passage is that on the next day — that is, on the evening of 7 October — Mr Theophanous had me saying what he told me I had said. He asked me the basis on which I had made a statement that the staff at the Traralgon office had been increased.

Hon. T. C. Theophanous — On a point of order, Mr President, although we accept the ruling given in this place over a long time that the minister may answer the question in his own way, he is required to answer the question in a way relevant to the question asked. What I asked the minister had nothing do with what he is now referring to. It was whether he could assure the house that during the 2 1/2-hour inspection each of the storage tanks, manufacturing areas, slug catchers and so on were subjected to a rigorous inspection. The minister began his answer by saying that I had quoted him correctly. There is no justification for the minister to now go off on a tangent about the closure of the Traralgon office when my question was specifically about the 2 1/2-hour inspection and whether he could assure the house about that inspection.

The President — Order! The house had a similar issue before it recently about a motion moved by the Leader of the Opposition, when I ruled that the house could not direct an honourable member about the way an argument was presented or, in the case of the motion moved by Mr Theophanous, the way a motion is put to the house; nor in this case can I direct a minister on the way he should respond. However, the answer must be responsive to the question; so far it has not been so, but the minister has not yet finished his answer.

Hon. R. M. Hallam — Far be it from me to reflect on your ruling, Mr President, but my response was appropriate to the question because Mr Theophanous quoted my comments to the house on 6 and 7 October. As an aside I said his comments were accurate because on another occasion Mr Theophanous willfully misconstrued what I had said to the house.

I have taken the opportunity to point out that the honourable member’s track record is poor. The implication is that an inspection of a major facility which took 2 1/2 hours could not ipso facto be an appropriate inspection. That does not take into account that this was not the only inspection. As Mr Theophanous knows, there are regular inspections of the facility. I stand by what I said at the time — that is, the inspection was required to verify that all the conditions had been met.

Honourable members interjecting.

Hon. R. M. Hallam — If that is the best the honourable member can do — I repeat that he has cast
aspersions upon the role and performance of the officer who undertook — —

Hon. T. C. Theophanous — On you.

Hon. R. M. HALLAM — No, you are crucifying people who did their jobs. It so happens that the process carried out had its genesis in legislation passed by the house during the reign of a Labor government. I know you don't like to hear that, Mr Theophanous. You may be opposed to changes and I know you would reserve the right to be opposed because you have opposed everything else you can lay your hands on, but you should acknowledge that the shift in occupational health and safety was implemented under the Cain Labor government and is now faithfully maintained by the Kennett government.

Hon. T. C. Theophanous — There was no real inspection; you said it was a full examination. You lied to the house.

Hon. R. M. HALLAM — I am happy to rely on the outcome of the royal commission and I know Mr Theophanous will do exactly the same.

Retail tenancies: education program

Hon. W. I. SMITH (Silvan) — Will the Minister for Small Business advise the house of the progress of the retail tenancies education campaign?

Hon. LOUISE ASHER (Minister for Small Business) — I thank Ms Smith for the question and for her stirring preliminary work on the legislation. The house will be well aware that the Retail Tenancies Reform Act, which came into operation on 1 July 1998, places Victoria at the forefront of Australia's retail tenancies legislation. As part of that we have embarked on a far-reaching retail tenancies education campaign which has a number of components.

The government has conducted a comprehensive series of 14 workshops in metropolitan and regional Victoria, 8 of which were held in country Victoria. We have also published an information booklet entitled *The Detail in Retail*. It must be given to every tenant prior to the signing of a commercial tenancy lease covered by the act.

We have also published a small brochure that articulates the main reforms and have arranged for Internet access to those publications. We have encouraged industry associations to host seminars: the associations are the Property Council of Australia, the Retail Confectionery and Mixed Business Association, the United Retailers Association, the Victorian Employers Chamber of Commerce and Industry and the Retail Traders Association of Victoria. I thank those associations for their work in ensuring that landlords and tenants alike are familiar with the provisions of the new legislation.

In accordance with the government's requirement that there be a multicultural aspect to so much of our work, the retail tenancies information pamphlets have been translated into Italian, Greek, Vietnamese and Cantonese so as to reflect the interest of ethnic groups in retail tenancies. I am pleased with the education campaign and, more importantly, I am even more pleased that the act has been so well received by landlords and tenants alike.

QUESTIONS ON NOTICE

The PRESIDENT — Order! I have been advised that questions on notice nos 1524 to 1539, 1551 to 1553, 1558, 1560 to 1564, 1577, 1582 to 1584, 1586 to 1588, 1622 to 1630 and 1764, of which notice was received on 7 October 1998, have already been asked during this sessional period and answers received. I have therefore directed that they be removed from the notice paper.

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) (By leave) — Mr President, I welcome what you have done. I ask that the opposition pay closer attention to matters on which it bases its questions on notice. To ask questions already asked and answered in the same sessional period is not only a breach of the rules of the house but also a waste of time of, particularly, the public servants who need to research them. Rather than simply trying to increase the number of questions asked, perhaps the opposition could pay more attention to the content of questions so we are not put through a process of having to find out, as we have done, halfway through a research session that a question has been asked and answered previously.

Hon. M. M. GOULD (Doutta Galla)(By leave) — It appears that the questions on notice relate to information sought for the period of a financial year. I accept that it was an oversight on my part, as I had not changed the named financial year on the questions. It was not a deliberate attempt to ask questions already asked, but a typographical error on my part.
BUSINESS OF THE HOUSE

Adjournment of bills

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

That —

(a) unless otherwise ordered, where a bill is introduced by a minister or is received from the Legislative Assembly after 6.00 p.m. on 13 November 1998, and a motion is moved for the second reading of the bill, debate on that motion shall be adjourned upon the conclusion of the speech of the mover until a day no earlier than the first sitting day in 1999: provided that any bill transmitted from the Legislative Assembly which is in the hands of the Clerk no later than 10.00 a.m. on 16 November 1998 may be taken through all stages; and

(b) this order shall have effect until 31 December 1998.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Bairnsdale Regional Health Service — Report, 1997-98.
Chief Electrical Inspector’s Office — Report, 1997-98.
Chiropractors and Osteopaths Registration Board — Minister for Health’s report of 19 October 1998 of receipt of the 1997-98 report.
City West Water Limited — Report, 1997-98 (two papers).
Cohuna District Hospital — Report, 1997-98.
Colac Community Health Services — Report, 1997-98.
Corangamite Regional Hospital Services — Report, 1997-98.
East Grampians Health Service — Report, 1997-98.
Environment Protection Authority — Report, 1997-98.
Hamilton Base Hospital — Report, 1997-98.
Kerang and District Hospital — Report, 1997-98.
Latrobe Regional Hospital — Report, 1997-98 (two papers).
Maldon Hospital — Report, 1997-98.
Maryborough District Health Service — Report, 1997-98.
Melbourne Market Authority — Report, 1997-98 (two papers).
Melbourne Port Corporation — Report, 1997-98 (two papers).
Metropolitan Fire and Emergency Services Board — Report, 1997-98.
Mt Alexander Hospital — Report, 1997-98.
Parliamentary Committees Act 1968 — Minister’s response to recommendation in Road Safety Committee’s Report upon Motorcycle Safety in Victoria.
Pharmacy Board — Report, 1997-98.
Planning and Environment Act 1987 — Notices of approval of the following amendments to planning schemes:

Alberton Planning Scheme — Amendment L47.
Bendigo — Greater Bendigo Planning Scheme — Amendment L78.
Glen Eira Planning Scheme — Amendment L23.
Hume Planning Scheme — Amendment L45.
Moreland Planning Scheme — Amendment L59.
Nilumbik Planning Scheme — Amendment L14.
Pakenham Planning Scheme — Amendment L167.
Stonnington Planning Scheme — Amendments L33 and L69.
Debate resumed from 6 October; motion of Hon. LOUISE ASHER (Minister for Small Business).

Hon. D. A. NARDELLA (Melbourne North) — The opposition does not oppose the Fund Raising (Appeals) Bill. The charity industry has exploded in Australia to a level where commercial operators are used to maximise returns to charities. The practices of the commercial operators have to some extent been learned from commercial enterprise. Telemarketing companies now operate for charity organisations on a commission basis. Those persons who have given to a particular charity over the telephone are often placed on charity lists with the result that commercial operators may make several representations to the same household on behalf of many charities. Allegations that such lists are sold to other organisations have been denied, but there is little doubt that telemarketing for charity is now a sophisticated industry with market research and even polling being undertaken to identify targets.

Previously a number of bodies were exempt from the requirement to maintain detailed bookkeeping records regarding their activities and all donations. The effect of the bill is to enforce more strict requirements on small charitable organisations, including telephone canvassers, to disclose what they are paid and who is paying them. Although a greater number of organisations will be required to meet certain bookkeeping requirements schools, churches and hospitals will be exempt. However, they will have to pay a GST on the funds if that is ever introduced.

Power will be vested in the minister to apply to the court to take money from organisations that have contravened the act. The bill also provides power to inspectors to review bookkeeping records, to force individuals who canvass on the streets to display badges indicating whether they are paid or unpaid, and to place stricter bookkeeping requirements on organisations conducting charity bins for clothing, an industry now worth more than $40 million a year.

The bill sets the framework for a rapidly expanding activity, which has resulted from the government’s withdrawal of funds from certain organisations in order to fund pet projects in other areas. In that context it was interesting to read an article in the Age of 25 October about the first welfare organisation to have funds withdrawn by the Kennett government. Known as the Grey Sisters, that organisation not only saves money for
the government but more importantly saves the lives and families of many Victorians who undergo financial problems and are in need of community donations. That organisation has acted on behalf of mothers and families who are distressed, looked after young babies, and is now used as a respite centre for mothers in crisis.

Debate interrupted.

DISTINGUISHED VISITOR

The PRESIDENT — Order! I interrupt debate to welcome the presence in the gallery of the Speaker of the Legislative Assembly of the Northern Territory, Mrs Loraine Braham.

FUNDRAISING APPEALS BILL

Second reading

Debate resumed.

Hon. D. A. NARDELLA (Melbourne North) — The Grey Sisters is a worthy organisation that has to go out and beg for money to enable it to survive and to provide the services required within the community. Since 1992 the Kennett government has cut funding to the organisation by $45 000. For some people working under direct control of the ministers $45 000 is not even the cost of lunch down at the local pub on one of the credit cards over a 12-month period. Some of these people are rorting the system.

Honourable members interjecting.

Hon. D. A. NARDELLA — The interjections are from the two newest government members. They were not here in 1992 during debate over the Grey Sisters. They do not care about the good services the organisation provides to the Victorian community; if they did care about mums and their kids they would be urging the government to resume funding to the Grey Sisters, but they will not.

Hon. C. A. Furletti interjected.

Hon. D. A. NARDELLA — It is on the bill. You do not like to hear it; you are cruel and heartless. The Grey Sisters and other organisations like it have to raise funds. They have to go out and beg for the money that was previously provided by the government. Honourable members may not like to hear it, but that is the case.

Hon. Louise Asher — What would you do — write open cheques?

Hon. D. A. NARDELLA — A very simple question.

Hon. C. A. Furletti — On a point of order, Mr Acting President, the house is debating a bill which is intended to achieve many of the results that Mr Nardella proposes. The bill aims to ensure that a lot of shonks and rip-off merchants currently conducting fundraising activities will be eliminated. Mr Nardella has raised the matter of the Grey Sisters organisation and suggests government members have no respect for the organisation or the work it does. That is totally erroneous. If Mr Nardella wishes to debate the bill, he should debate the bill. If he has a problem with funding he should raise it as a separate issue.

Hon. D. A. NARDELLA — The bill is about fundraising and covers organisations that come under the auspices and requirements of the bill that use fundraising organisations to raise money. The Grey Sisters is in that position and that is why I ask you, Mr Acting President, to rule the point of order out of order.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! I have been listening to the opening remarks of Mr Nardella. He now needs to develop his argument with more relevance to the bill. He was starting to stray from what I see as the contents of the bill, and I ask him to direct his comments towards the bill.

Hon. D. A. NARDELLA — The bill offers protection to organisations like the Grey Sisters that have to use these requirements to survive. It is a sad day when the requirements have to go in to protect charities.

Hon. W. R. Baxter — It has nothing to do with the Grey Sisters.

Hon. D. A. NARDELLA — It has everything to do with the Grey Sisters because, as I pointed out before, organisations like the Grey Sisters, the Red Cross, the Anti-Cancer Council and the Heart Foundation are organisations that purchase the services of professional fundraisers for their activities. If government members do not understand that, I do not know how many other ways I can put it, but that is the purpose of the bill. That is why the government seeks to impose the requirement for charities and foundations to raise money to replace the money that the government has ripped out of worthy community organisations.

The privacy requirements are also important. There are many fundraising organisations that swap lists and data, undertake market research and then sell the lists to others within the fundraising industry. That is of
concern because the names and addresses of many members and people in the community are on these databases. The privacy issue is especially important for telemarketing companies because they target their audience. There has been concern within the community as to how these organisations operate, how they sell their lists and give access to the lists to various organisations, and who has access to them. The opposition is concerned about the lists being made available to others.

There should be a requirement to disclose how much money goes to the charity. The legislation does not require fundraising organisations to disclose how much of the money they raise goes to the charity. In the past there have been examples where only 10 cents in the dollar has gone to the charity for which the money was being raised. If that is the case it should be disclosed. The amount being paid to a professional fundraising organisation to raise money for a charity should not be hidden.

Contracts that are signed by, for example, telemarketers should require disclosure of how much is going to the charity. It is not an onerous requirement. When a telemarketer phones someone they can say that if the person donates $10, so much of that $10 will go to the charity.

When making donations to charities consumers will be able to make informed decisions about worthwhile avenues for providing money and whether it is more effective and efficient to cut out the middle person. For example, if a telemarketer phones up somebody and says, 'If you donate $10, $1 of that will go to the charity', the consumer will be able to make an informed decision about whether to donate that $10 on the understanding that 90 cent of it will go to the telemarketing organisation. The alternative is to just write a cheque and send it direct to the charity.

A number of charities in the community — for example, some of the overseas organisations — disclose how much of their donations go into administration. It is one of the selling points of such charities that they consider they have an obligation to the people who put their hands into their pockets to make sure those people know how much money is going to the worthwhile causes in which they so dearly believe. Other disclosures are also important, such as making sure the money is actually used by the organisation to which it is donated. The bill provides mechanisms for checking on organisations and inspectors will have wide powers to check the books. The strict bookkeeping requirements are a positive aspect of the bill.

A serious matter raised with the opposition is the issue of memorial giving. For example, when a person passes away his or her family may publish in the in memoriam sections of the newspapers notices advising mourners that instead of sending flowers they have the option of sending money to the Heart Foundation of Australia, the Red Cross, the Anti-Cancer Council of Victoria or some other charity. That is a worthwhile option. However, the opposition is concerned that memorial giving may class the family as fundraisers.

I ask the minister to assure the charities I have mentioned that that will not be the case. I ask for an assurance that such donations will be dealt with through the regulations so that the giving of gifts will not be a problem for charities. The opposition wants to ensure there is no ambiguity, and no problems with the legislation in the future.

The bill improves accountability and the opposition welcomes it. However, there is still no provision for the disclosure of how much money goes to a charity or what percentage is taken by the professional fundraisers or telemarketers. I urge the government to look at that aspect when it revisits the bill. It is a simple requirement that will better inform people who have a heart and who believe in these causes, and will enable them to more effectively target their donations to organisations that will use their money more wisely. On that basis the opposition does not oppose the bill.

Hon. C. A. FURLETTI (Templestowe) — I am pleased to speak in favour of the bill. As usual, I am grateful the opposition has also seen fit to support it. I strongly support Mr Nardella’s final point, but in extending that support I must say I would consider it a most unusual situation if somebody who said, ‘Please do not send flowers but make a donation’, were interpreted as being caught by the act. If that were the case I would strongly support any subsequent amendment.

Hon. Louise Asher — Or having it addressed by a regulation.

Hon. C. A. FURLETTI — Yes, or having it addressed by a regulation.

The Fundraising Appeals Bill re-enacts the 1984 fundraising legislation introduced by the former Labor government and makes substantial amendments in significant areas. The bill addresses a number of shortcomings in the existing act, which has received very limited attention since its enactment in 1984. The fundraising industry has changed dramatically during the current generation and that change has probably
FUNDRAISING APPEALS BILL

Tuesday, 27 October 1998

The bill introduces some basic changes — for example, the need to revisit and amend the current act for its transparency and accountability provisions. The bill seeks to create transparency and accountability in the fundraising industry. Clause 29 requires for more record keeping and reporting on the part of fundraisers. The bill introduces some basic changes — for example, the provision for sealed containers and receptacles to be used by collectors. It will ensure the supervision and regulation, not just of collections, but of the emptying of containers and receptacles, the handling of the funds and goods collected, the banking and retention of those funds and the distribution of funds. Clauses 29 and 30 will ensure that the public has direct access to the accounts and records of fundraisers in respect of the records and reporting requirements.

The bill makes certain provisions about the disclosure of those involved in fundraising. A person who is collecting publicly — that is, door-to-door canvassers or street collectors — will be required to display his name, the name of the fundraising organisation he works for and, significantly, whether he is paid or unpaid. The provision is significant because it has come to the attention of the government that people’s attitudes are changed by whether the collectors are paid or are, in the true sense, volunteers.
Some organisations are exempt from the strict record-keeping provisions in the bill. The Fundraising Appeals Act 1984 contains 18 exempt organisations. That number has been reduced to 7, which is really a tightening of the exempt bodies. One of the reasons for the provision is that under the existing act incorporated associations, sporting and cultural bodies and organisations to which donations of $2 or more were tax deductible under federal legislation are currently exempt. Apparently it is easy to incorporate an association or organisation and become involved in fundraising but not necessarily have the most legitimate of social purposes. The bill continues to exempt from the operation of part 3 schools, hospitals and religious organisations. It was considered unnecessary for those organisations to be subjected to additional costs and the onus of record keeping and reporting as few complaints have been made about them. Political parties and trade unions were exempted because it was felt existing regulations are satisfactory to control the fundraising of those bodies. The requirement for record keeping and reporting for organisations that are no longer exempt must be balanced with the concerns that more onerous and burdensome controls may deter organisations from fundraising, so there is a need to keep bureaucratic controls to a minimum.

Canvassers who seek to raise funds by telephone and electronic means will be obliged in contacting prospective donors to disclose not only for whom they are fundraising but also who they are working for and whether they are employees. The provision will enable the donor to evaluate his or her position before making a donation.

The government is addressing the bin collection of recycled clothing and goods because genuine charitable organisations have expressed concern about the proliferation of commercial bin collection operators. But as Mr Nardella said, many charitable organisations believe it is better to accept something rather than nothing, and on many occasions they are happy to lend their names to potential commercial fundraisers provided they receive something from those activities.

Currently bin collections are not regulated. It is difficult to estimate the total funds raised from donations to bins, and it is even more difficult to determine to whom the funds are distributed. Victoria has an estimated 6000 bins that raise an estimated $38 million per annum — not a small amount! The bill will require fundraisers who operate collection bins to keep records of all receipts from recycle bins and to disclose any arrangements they have with commercial operators. It will also require greater disclosure of the organisations to which the donations are distributed, which will include maintaining records of the percentages used in dividing the funds raised from donations.

The bill contains strict enforcement provisions. The disclosure and record-keeping requirements I have referred to will undoubtedly facilitate the prosecution of breaches of the law. Inspectors are being given greater powers of access to the premises of fundraising bodies, together with the power to inspect, copy and remove records to ensure the regulations are complied with. The bill has retained some sensitivity by requiring that search warrants will be necessary to access residences where voluntary access is not granted by the owners.

The bill will help restore the confidence of the thousands of Victorians who contribute many millions of dollars annually to fundraising appeals. Although it will not eliminate all the rip-off merchants and predators who are involved in the industry, the bill will generate greater credibility and transparency in an industry that will play an increasingly vital role in our society.

It is pleasing to note the Attorney-General's intention to continue to monitor the provisions relating to disclosure and record-keeping while retaining the option of promptly introducing legislation if the need arises.

I commend the bill to the house.

Hon. S. M. NGUYEN (Melbourne West) — I am delighted to support the Fundraising Appeals Bill, which I believe is important to the community. Many charities try to raise money to fund projects, and the community has the right to know where the money they raise is spent.

I have many opportunities to assist charitable organisations to raise money. It is not easy for a community when it has a target to reach to fund a local project. In recent years many charitable groups have organised collectors to work every major intersection to ask for donations from passing motorists and passengers. I see that happening nearly every week when I travel by car.

The Fundraising Appeals Act regulates money donated for a range of charitable and community purposes by the citizens of Victoria. The community has the right to know where that money goes and how it is spent to help the poor. Members of the public feel particularly angry when they hear of charitable organisations being misused or abused by people who are supposed to be their supporters.

Last Easter season Vietnamese community organisations joined the Vietnamese human rights
newspaper, Nhon Quyen, to raise money for the Royal Children’s Hospital Good Friday Appeal. Their appeal was conducted by Radio SBS through a Vietnamese-speaking program. I take this opportunity of thanking every person and group involved in the appeal. It was the first organised in the Vietnamese language, which meant that anyone in the community could ring up and speak in his own language rather than having to worry about his English.

The appeal was advertised in Vietnamese newspapers and on SBS. Many volunteers, including scouts and students, were available to answer the phones to ensure every call was answered. I could not ring up on the day; I tried on many occasions to get through but eventually I had to give up. The appeal was so successful I hope the Vietnamese community will do it again next year.

Two weeks ago I was invited to attend a small fundraising function in Footscray organised by the same human rights newspaper, Nhon Quyen, to raise money for the Braybrook Secondary College and the Footscray police station. The aim of the project is to organise a camp to help students who have had problems with the law by bringing them back to their school and their community. The organisers of the camp are also aiming to break down the difficulties the students have to face. I offer my thanks to the people who donated to the camp on the night.

The bill will ensure that fundraisers seeking donations from the public apply proper standards to the handling and banking of the moneys they receive and produce and retain adequate records to show where funds have been raised and how they have been expended. Donors feel betrayed when they discover that funds raised for charity do not go directly to the intended recipients.

Many community organisations in Victoria depend on sponsors, donors and volunteers, while some use professional fundraisers. Many operate under a system of relationship fundraising that relies on the development of a special and lasting relationship between a charity and its financial supporters. It is similar to the voluntary giving appeals that church groups have organised for many years.

The scheme seeks to establish a relationship with the charitable organisation so that it can return on a regular basis to donors. The community should know who collects money on the street. Many unpaid volunteers from schools, scout groups, students and sports clubs assist local charity appeals but they would prefer to wear badges saying they are voluntary collectors. It would help voluntary supporters feel more comfortable in performing their duties on the street.

The bill also clarifies how much money a charitable organisation pays workers and telephone canvassers, including those who seek to sell items on behalf of fundraisers. It will be useful when public complaints are made to the Office of Fair Trading and Business Affairs. The public will feel more confident with a law that protects public funds. In some cases 10 cents in every dollar goes to the charity after paying staff and administration costs.

The bill includes new amendments about record-keeping and labelling requirements for clothing bins. Currently there are 6000 clothing bins in Victoria at railway stations, shopping centres, service stations and the like, and plastic bags for clothing bins are distributed to every household in Victoria. This growing industry totalled approximately $38 million last year. It requires fundraisers to keep records of how much they collect each year from the public. Problems have been experienced with the public dumping their rubbish in clothing bins and certain councils removing them. The opposition supports the bill.

Hon. D. McL. Davis (East Yarra) — I support the Fundraising Appeals Bill. I am glad it has the support of the opposition. That is important because it is a community issue that goes well beyond party politics. I also note the support of the opposition in the other place. The bill attempts to deal with a number of serious and important issues about fundraising activities of a whole range of different bodies and organisations. A number of changes have taken place in the economy on one level and there has been a change in the sophistication and technology involved in fundraising. The provisions of the bill have been elaborated on in detail by Mr Furlerit so I do not have to repeat his comments, which have informed the house considerably.

The growth in fundraising and general third sector activities in the economies of Australia and other countries is significant. Traditionally the economy has consisted of the government, the private sector and the so-called third or not-for-profit sector. The growth of that sector will have an impact on both the government and private sectors both in Australia and the international scene. Many of the third-sector organisations have links and networks that go well beyond Australia and our region. Those growing links with other organisations are an important background to the bill. They will enable those organisations to work for the benefit of the community both within Australia and the international environment. I shall not detail the
organisations specifically, but honourable members understand their growing importance on the economy and the ability it gives individuals to have an impact on government and private sector activities.

Volunteers also have a growing role in the economy. I was involved in the Family and Community Development Committee when it inquired into positive ageing. A number of issues were discussed about the role volunteers play in many activities. That must also be considered in the background of the bill. Other members have referred to the need for public confidence in the fundraising area, which is a central aspect of what the bill sets out to achieve. The original 1984 act was an important step because it placed those matters on a firmer footing. However, time has moved on and fundraising has become more sophisticated. One has only to examine the growth in the number of telephone calls and email messages members receive requesting contributions for various charitable organisations to realise that. An environment must be created that ensures there is confidence in the bona fides of the many charitable organisations and that those involved in fundraising do not make oversights. The bill will ensure that those who act improperly are discouraged so that the public can clearly and simply understand which are bona fide organisations that contribute to society and allow those organisations to fully reach their potential in serving the public.

A number of issues were raised with me and other honourable members by the Anti-Cancer Council of Victoria, the Australian Red Cross and the Heart Foundation of Australia expressing concern about the bill’s impact. The bill achieves a balance between administrative issues, the requirements of reporting and the ability to adequately achieve the objectives of the act, which are to inspire public confidence to enable the public to discriminate adequately between organisations that have bona fides and those that do not. I know the Heart Foundation of Australia was concerned about certain provisions in the bill, but it is not necessary to detail them precisely, suffice it to say that it was about the reporting requirements.

I have no doubt that the Attorney-General’s approach will successfully enable those organisations to undertake their various important activities. I draw attention to the achievements of the Heart Foundation of Australia. That incorporated body has made a huge contribution to the reduction in the incidence of heart disease in Australia and, as I said earlier, internationally. Over the years it has raised millions of dollars and funded useful research. The foundation has been at the forefront of activities such as attempts to reduce the incidence of smoking in the community and in implementing dietary initiatives. In the past 30 to 35 years it has been responsible in some way for the approximate 70 per cent reduction in the incidence of heart disease in the Australian community. Such achievements are important and must be respected.

The activities of the Anti-Cancer Council of Victoria are no less important. That organisation was established in the 1930s by an act of Parliament, which was modified in the 1950s. The Anti-Cancer Council, which is held in high public esteem, has been important in the field of medical research in Victoria and in putting itself at the forefront in the fight against cancer. We should not underestimate the importance of organisations like the council and the Heart Foundation.

I also note in this context a number of points made by Mr Nardella in his contribution to the debate. I know of his general support for the bill, but he commented on government economies and so forth as significant in forcing organisations to undertake fundraising. That is a simplistic and unhelpful view, because the real driver behind the bill and the real matter of fact behind the need for the bill, which has the support of both sides of the house, centres on the changes in and the sophistication of fundraising techniques and the growing significance of fundraising in the economy generally. That worldwide trend or broad economic shift, which has nothing to do with Victoria in the immediate sense, is occurring across the world’s third sector and is not something that may have occurred more narrowly in Victoria alone.

I also note the public comments of some opposition members, particularly the honourable member for Geelong North in the other place. His dreadful comments may have been made in haste but they have been unhelpful for the Heart Foundation; they do him and the foundation no good. Before people are prepared to be critical of a significant public organisation that has an excellent track record it behaves them to check their facts carefully and to make certain that what they say is factual because damage can be done to organisations through unsophisticated or careless political comment. In the case of the honourable member I am sure it is no more than that; I am sure his comments were not motivated by anything else.

Hon. Louise Asher — A lack of sophistication.

Hon. D. McL. Davis — I am generous enough to admit that his comments are motivated by no more than that. There is no evidence of anything more than that behind any of his comments, and in a moment of quiet reflection I am sure he would have taken a different point of view.
The bill will strike a sensible and reasonable balance between the administrative and other requirements for fundraising organisations or individuals to comply with the law. It is important not only that they comply but also that they are seen to comply because the public needs to secure such safeguards. There is always a balance in such matters. This bill certainly achieves that balance.

The concerns that have been expressed by some organisations will be able to be handled at some level within the objectives of the legislation. I look forward to seeing the bill become law and to the public having confidence in the fundraising of important large organisations and many of the smaller organisations that grow or appear from time to time. The confidence can only strengthen this sector of the economy with its important contribution to social life generally and to the strength of Victoria as an economy based in part in a growing sense on service and in part on the third sector.

Motion agreed to.

Read second time.

Committed.

Clause 1 agreed to.

Clause 2

Hon. LOUISE ASHER (Minister for Small Business) — I thank honourable members who participated in the debate, particularly Mr Nardella and Mr Nguyen on behalf of the opposition and Mr Furletti and Mr David Davis on behalf of the government for their comments and support of the bill, which is aimed at increasing or securing public confidence in charities. I also wish to respond to an issue of concern raised by Mr Nardella but fully explained to the house by Mr David Davis about donations in memoriam.

I understand the Anti-Cancer Council of Victoria, Red Cross Australia and the Heart Foundation of Australia were concerned that they would be covered by this fundraising legislation in the case where gifts may be made in lieu of providing flowers at a funeral, in the example given by Mr Nardella. Although it is unlikely that the Office of Fair Trading would prosecute for non-compliance in such a case, I am advised that the Minister for Fair Trading is acutely aware of this issue, which has been raised with her particularly by those charities. When she drafts regulations she will examine the issue.

Clause agreed to; clauses 3 and 4 agreed to.

Clause 5

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

1. Clause 5, page 6, lines 7 and 8, omit “Part 1 of the Lotteries Gaming and Betting Act 1966” and insert “the Gaming No. 2 Act 1997”.

This amendment is made on the advice of parliamentary counsel on the basis that the Lotteries Gaming and Betting Act 1966 has been superseded by the Gaming No. 2 Act 1997.

Amendment agreed to; amended clause agreed to; clauses 6 to 8 agreed to.

Clause 9

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

2. Clause 9, page 11, line 17, omit “unpaid” and insert “volunteer”.

Volunteer is the more commonly understood terminology.

Hon. D. A. NARDELLA (Melbourne North) — The opposition supports the clause. I note that the honourable member for Dandenong North in the other house raised the issue of using ‘volunteer’ collector instead of ‘unpaid’ collector. I applaud the government for considering this amendment and incorporating it in the bill. Many volunteers provide services to the community. It is recognised that ‘volunteer’ is a better word. Unscrupulous fundraisers cannot wear badges saying ‘unpaid collector’.

Amendment agreed to; amended clause agreed to; clauses 10 to 73 agreed to.

Reported to house with amendments.

Remaining stages

Passed remaining stages.

NATIONAL PARKS (AMENDMENT) 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 bill makes several significant additions to Victoria’s parks and reserves system. It creates the Terrick Terrick National Park and adds significant areas totalling some
9500 hectares to Victoria's system of parks and conservation reserves. A total of 3770 hectares of Terrick Terrick National Park will comprise a major reserve in the northern plains and include the existing state park with its granite outcrops and remnants of plains and grassy woodland. Some 1277 hectares of freehold was recently acquired because of its very high native grassland values.

The legislation also creates additional reserve areas in East Gippsland. Three significant areas will be reserved: the Ellery Creek to Errinundra National Park, Martins Creek and the Goolengook flora and fauna reserves. As many members know, they contain significant areas of conservation value and will contribute to nationally agreed targets for the reservation of damp and wet old growth forests and will provide some enhanced protection of rainforest and box/ironbark forests.

Other additions include two areas covering 204 hectares to be added to the Kamarooka State Park in central Victoria just north of Bendigo. As a result of a generous bequest an area of 19 hectares near Pomonal will be added to the Grampians National Park.

The legislation refers to the significant Basalt Hill Quarry, located in the Alpine National Park adjacent to the Bogong High Plains Road. It was a major source of stone during construction of the Kiewa hydro-electric scheme of the 1950s. The former Land Conservation Council recommended that the quarry continue to be used for the production of stone as required by the then State Electricity Commission and other authorities.

**Hou. E. G. Stoney** — They might build Parliament House with it!

**Hou. PAT POWER** — I hope they build it with something quickly! The opposition believes the bill has mixed merit. It welcomes the proposed expansion of the Terrick Terrick state park and the addition to Victoria's system of national parks and state reserves. However, it needs to be understood that little of the 15 per cent of Victoria protected by our national park system includes native grasslands. Indeed, only about 400 hectares of native urban grassland are protected. Although the opposition welcomes the Terrick Terrick addition it argues that the government must act to protect the scattered remnants of grassland spread across Victoria. For example, the Craigieburn grasslands on the outskirts of Melbourne are most important but their fate at this time is uncertain because of the proposed alternative routes for the Hume Freeway extension. The opposition shares the view of some community groups that there is a danger those grasslands could be lost. Friends of Merri Creek, who would be well known to people aware of conservation in the northern suburbs, are concerned that an option has already been selected in relation to the Hume Freeway extension.

In correspondence dated 12 June 1998 the Friends of the Merri Creek expressed concern to the opposition:

> The Victorian government has announced its intention to purchase 330 hectares of the Craigieburn grasslands.

The opposition and Friends of the Merri Creek welcome the decision to purchase 330 hectares but note that the Australian Heritage Commission lists the area as measuring some 400 hectares. In purchasing only 330 hectares the government has left 70 hectares unprotected. This is of concern to the opposition and to organisations such as Friends of the Merri Creek because the 70 hectares includes an important wetland in the north-eastern corner.

There are reasonable grounds to be concerned that the government may already have made a decision about the Hume freeway extension and as a consequence a decision in relation to those grasslands. At times road development in Victoria — for example, the City Link project — has proceeded prior to any release of an environmental effects statement. The opposition shares the view held across significant sectors of the community that there is a lack of confidence in both process and outcome in relation to these issues.

The opposition is concerned about the effects of the proposed privatisation of Victoria's railway system on grasslands. Important remnant grasslands are often located on road and rail reservations. The opposition wants the government to assure the house and the community that any new owners or lessees will be advised of their obligations under the Flora and Fauna Guarantee Act to ensure that any acknowledged and defined remnant grassland areas are protected. If that does not occur there will be community concern that many of these areas could be wiped out.

The legislation refers to the Basalt Hill quarry in the Alpine National Park. It is an existing quarry that is being transferred to private activity. Honourable members will not be surprised to know that the opposition is deeply concerned about quarrying and mining activity, which the opposition believes is totally inappropriate.

The government has a poor record in management of the Alpine National Park. Recently there was an excision of land from the Alpine National Park around Mount McKay to create a ski resort. The opposition is
concerned that this first excision from a national park will set a precedent. The excision was carried out without consultation and against advice.

Recently the government defied scientific evidence and advice by reissuing grazing licences in the Alpine National Park; I am sure Mr Stoney will be familiar with this issue. The decision was made against the clear advice of consultants who said that it would cause damage and make it impossible to protect the values of the national park.

The core problem is that the government’s priority in relation to national parks is commercialisation instead of conservation. Recently at Wilsons Promontory Victorians have witnessed the start of that commitment to commercialisation at the cost of conservation. Tidal River is now administratively separated from the rest of Wilsons Promontory and is being treated and operated as a holiday resort.

The environmental management of Tidal River is being jeopardised. The lighthouse has been closed to the public because it currently houses workers who are preparing a track from the lighthouse around the coast through wilderness areas. A commercial developer is to lease the lighthouse, put up permanent camps and operate commercial walks around the wilderness area. The development is driven by a commercial operator’s needs rather than the obligations to manage the parks with conservation as a priority.

Customer service rangers have been introduced at Tidal River, and the environmental rangers — the people most of us would accept as the real rangers — are being relocated to Yanakie. Proposals have been put forward for a licensed restaurant, private backpacker accommodation and, of course, the notorious 45-bed lodge. The area already has out-of-character and inappropriate cabins and luxury facilities.

Members of the house would be aware of the public meeting held at Tidal River on 28 June of this year. At that meeting the following motion was carried:

This meeting of concerned Victorians expresses deep anxiety at the state government’s commercialisation of Victoria’s parks, and in particular the treatment of our premier park, Wilsons Promontory.

All of the parks are under attack of commercialisation and the government is following the disastrous North American plan. We call upon Minister Tehan and the government

(1) To immediately cease the cutting of a coastal track through pristine wilderness in the far south of the Prom.

(2) We believe the overall implementation of the government’s Tidal River master plan July 1997 to be absolutely detrimental to the environs of Tidal River and will lead to the despoiling of it and the whole of the park.

(3) Rangers are recognised world wide as the principal custodians of national parks, possessing the skills in natural resource management enabling them to exercise their role as park custodians and educators of visitors to the parks ...

(4) We believe that existing camp sites available to Victorians and their families should not be reduced in number or in individual size.

(5) That the government must forthwith implement a development moratorium and must consult with the public ...

(6) We urge the government to listen to the voices of Victorians and to act in accordance with their expressed concerns and desires.

I conclude my comments by referring to the Port Campbell area and the Twelve Apostles. I acknowledge that the government has recently announced the construction of a kiosk and car park near the Twelve Apostles, but outside the national park area. However, the opposition argues that only a public outcry stopped the proposed centre being built inside the park. I demonstrate the opposition’s concern about the National Parks (Amendment) Bill by formally moving the following reasoned amendment. I move:

That all the words after ‘That’ be omitted with the view of inserting in place thereof ‘this bill be withdrawn and redrafted to provide protection for national parks under the National Parks Act 1975 from the dangers of commercial exploitation’.

Hon. P. R. HALL (Gippsland) — I will comment on clauses 12 and 13 of the National Parks (Amendment) Bill. I will also refer to the issues raised by Mr Power and the reasoned amendment he has moved. Clause 12 (2) amends schedule two of the principal act and deals with the addition of the Ellery Creek catchment area to the Errinundra National Park. Clause 13 proposes to insert part VIII in the principal act, and proposed sections 51 and 52 of that part create the Goolengook Flora and Fauna Reserve and Martins Creek Flora and Fauna Reserve. Those two areas are in the eastern part of my electorate and are important to the timber industry and the conservation movement in East Gippsland.

The addition of 1275 hectares to the Errinundra National Park brings the total area of the park to almost 27 000 hectares. It will be a very significant park. The creation of flora and fauna reserves at Goolengook and Martins Creek involve areas of 1200 hectares and 5500 hectares respectively. Both areas have been put into the reserve system of forests in East Gippsland because of their biological and biodiversity significance. The three areas have been added to
national parks in East Gippsland as a result of the regional forest agreement process, and without exception all the areas contain old-growth forests. I mention the regional forest agreement process because it has been significant in assessing the future use of Victoria’s native forests.

The regional forest agreement process was established by the federal and state governments to formulate definitive plans for the use of our forest resources over the next 20 years. The process was intended to reach a final decision on the use of our forests — whether they should be used for timber production or for conservation purposes. It was intended the process would settle the long and continuing debates that have taken place between people involved in the forest industry and conservationists.

I phrased that carefully because the people involved in the forest industry are just as concerned about conservation issues as those who dedicate themselves to conservation. The forest industry people I meet and those I represent are particularly concerned about retaining biodiversity in forests. After all, the forest is their livelihood and they want to ensure that sustainable harvest levels are maintained so they will have jobs in the future. Timber industry workers value conservation as highly as do the people in the conservation movements.

The regional forest agreement is an exhaustive process that took some years to develop and is probably the best scientific study that has been done to assess the future use of forest resources. The East Gippsland Regional Forest Agreement — the first signed in Victoria — was signed a little over 12 months ago, the Central Highlands Regional Forest Agreement was signed only recently and the Gippsland Regional Forest Agreement is in the process of being assessed. The process is exhaustive. It allows for input from interested parties, and that opportunity has been well used.

In East Gippsland the regional forest agreement process extended the areas of old-growth forest to be used for conservation purposes. The relevant clauses I have referred to implement some of the commitments that were signed off in the process. While on the one hand the process has led to a reduction of the resource available to the timber industry, on the other hand it has provided some security to the timber industry. At least the industry knows where it stands for the next 20 years, and it has been prepared to abide by that decision.

The real issue I raise is my disappointment that some people still refuse to abide by the umpire’s decision in respect of regional forest agreements. I am extremely disappointed about the small number of people who still engage in illegal protest actions that cost timber harvesting contractors thousands of dollars every day and put their economic livelihoods in serious jeopardy. Such behaviour has been going on since the signing of the regional forest agreement and is still going on today. In particular the protests have taken place in the Goolengook area. If the timber people can accept significant reductions in resource availability and be prepared to accept the umpire’s decision, how far do we have to go to appease the small minority of conservationists who embark upon illegal activities day after day?

It is worth putting on the record that the East Gippsland area has been the subject of great scrutiny and many studies, including two studies conducted by the Land Conservation Council, as well as the regional forest assessment process. In the late 1980s East Gippsland was forced to take a 50 per cent quota cut as a consequence of the establishment and extension of the national parks in those areas. The timber industry has responded admirably to the significant cutbacks despite having had to undergo a 50 per cent reduction in resource availability.

The regional forest agreements further cut back the resource availability, yet the industry is prepared to accept the umpire’s decision and has earned my great admiration and respect for doing so. It is about time other people also accepted the umpire’s decision and ceased their illegal protest actions in the Goolengook area immediately. I do not think that sort of action should be condoned by anybody. After all, the Land Conservation Council studies and the regional forest agreement process were the most comprehensive scientific studies undertaken. It is reprehensible that some people refuse to accept the outcomes of those exhaustive processes and continue to put at risk the livelihoods of many honest, hardworking people in East Gippsland.

I remind honourable members that Australia continues to import almost $2 billion of timber and timber-related products. Although we applaud more resources coming from plantations there will always be a need for some timber operations in state forests. Yet, as Mr Power said, 15 per cent of Victoria’s land mass is now dedicated to national parks and a large proportion of that is forested. Various studies have proved that the preservation of old growth forest for future generations is not at risk. I believe there is a legitimate role for timber harvesting in state forests as distinct from national parks, particularly as almost $2 billion of timber and timber products are imported from
Indonesia and other Third World countries. Australia will only reduce the amount of imported timber and timber products if harvesting operations continue to take place under the planned schedules set out in the regional forest agreements.

Mr Power raised concerns about the continued operation of the Basalt Hill Quarry in the Alpine National Park. The Land Conservation Council inquired into the operation of the quarry and recommended its continuation. Although some honourable members may not agree with the continuing operation of the quarry, I believe we should accept scientific studies undertaken by people more expert than us. The government agrees with the recommendation of the LCC and will allow the quarry to continue its operations.

I reject totally Mr Power’s comments regarding commercial activities destroying the nature of the Wilsons Promontory National Park. I cannot believe any person who visits and appreciates the area believes commercial activities have spoilt it. Commercial activities in the park have been going on for many years. Tidal River has been a commercial yet popular camping ground for almost 100 years. Only two years ago people said the old-style accommodation at Tidal River was an eyesore. The new roofed accommodation that is there now is magnificent and fits in with the environment better than the prefabricated huts. It is a marvellous addition to the facilities at Wilsons Promontory.

For a period of some years accommodation has been provided at the lighthouse. I have visited it and seen the commercial accommodation provided. The real issue raised by Mr Power related to the guided tour to the lighthouse and a stopover point to help people appreciate the area. Without guidance I would have never undertaken the hike from Tidal River to the lighthouse. The track is not that well defined and one could easily get lost without being accompanied by a person who knew the area well. It is a four-wheel drive track that the lighthouse attendants use about once a week, so it would be easy for people to get lost along that route. It does not surprise me that people get lost in the Wilsons Promontory National Park.

I believe the upgrading of the walking track and the provision of guided tours to one of the most beautiful parts of the state is a better use of our national parks and is certainly not exploitation of the parks. I commend the government and the Department of Natural Resources and Environment for the improvement plans being implemented for the Wilsons Promontory National Park, which is still my favourite park. Those improvements will enhance the amenity. It is a gross overstatement to say there is too much commercialisation of the park because, as I said earlier, for many years the park has operated on a commercial basis.

I support the bill, particularly the additional reserve areas in East Gippsland. Since the 1980s when the timber industry in East Gippsland was forced to reduce its timber production by 50 per cent the industry and the people involved have suffered severe hardships. I believe the studies by the Land Conservation Council and the regional forest agreement process have appropriately assessed and balanced the requirements of timber resources and conservation. I call on all Victorians to accept the decision of those processes, and for the minority who continue their illegal protests to cease those activities immediately.

Hon. E. G. STONEY (Central Highlands) — I support the National Parks (Amendment) Bill and oppose the reasoned amendment. I was disappointed that Mr Power rolled out some of the dated dogma and I plan to show that Victoria’s national parks are not under threat from tourism, but have integrity, are well managed and that Victoria has the best ranger and management system since the Alpine National Park and others were created.

I am particularly interested in the provisions that deal with the arrangements between the government and Parks Victoria. The bill establishes the Secretary to the Department of Natural Resources and Environment as the purchaser of park management services from Parks Victoria. This excellent initiative will lift the morale of staff of Parks Victoria and ensure that it will emerge as a powerful and influential organisation in its own right. It will give its rangers and employees a sense of esprit de corps, which is important in environmental and conservation management.

The challenge facing Parks Victoria is in managing the benefits from the dramatic increase in tourism to Victoria’s national parks. I refute Mr Power’s comments completely — he was extremely negative. Last year Victoria had 12 million visits to its national and state park systems. The challenge for government and land managers is managing the yield from tourism while not threatening the environment. It goes without saying that tourism and the management of our parks must be sustainable because, if that does not occur, the very thing people come to see will be destroyed.

The government is conscious of Mr Power’s concerns. It acknowledges that the balance between conservation and tourism is a thin line. However, the balance can be
found if all interest groups are realistic, practical and far-sighted. The Basalt Hill Quarry in the Alpine National Park is one example of a practical solution being found by allowing the quarry to continue while maintaining the integrity of the park.

Not only is Victoria facing how to find a balance, but the other Australian states and many other countries are examining the issues we have canvassed.

A couple of weeks ago I attended a conference in Albany, Western Australia, where Ann Wessing from Heritage Tasmania was the guest speaker. She ran through the hot topics currently under debate in Tasmania — hunting, the impact on walking tracks, protective burning, the overcrowding of camp sites, horse riding and the development of tourism infrastructure. The issues in Tasmania are exactly the same as those we are considering here in Victoria.

Not only is Parks Victoria walking a fine line in considering those issues, but Tourism Victoria is assisting in a positive way. Tourism Victoria and Parks Victoria have developed a healthy symbiotic relationship that will benefit both conservation and tourism. Each is as conscientious as the other about the environmental issues in our parks system. Tourism Victoria’s strategic business plan for 1997 to 2001 includes conserving the state’s natural assets for future generations, and it identifies natural assets as an important link in Victoria’s tourism success.

The strength of Parks Victoria lies in its park rangers, the people at the coalface. The rangers are out there talking with and advising the public every day while policing and protecting Victoria’s assets. An interesting dynamic of human behaviour can be observed when people leave their own environments and go on holidays. When country people come to Melbourne and city people go to the country, they change. They may panic a little or make poor decisions about their travel arrangements, such as where they should go next or where they should camp. They may even become a little aggressive or feel daunted by suddenly finding themselves camped in the middle of a national park at night surrounded by strange noises. They can feel out of sync in those situations.

Having a ranger on the scene can assist tremendously in making visitors feel comfortable and encouraging them to stay longer. Visitors to national parks respect the badge and the uniform: they like the Toyota to come along with the badge on the door; and they like a ranger who steps out neatly dressed, kind, full of knowledge about the local area and at home in the bush. It gives people who might otherwise feel a little out of their depth a sense of confidence sufficient for them to say, ‘Perhaps we will stay a few more nights’.

Rangers can play an even more pivotal role in tourism. They can suggest other places outside the park where people can go — for example, to the local winery or perhaps a bed and breakfast where they could stay. A symbiotic relationship can develop between attractions within a national park and those outside it, and that coming together can play a strong role in the future of tourism in Victoria.

I live a 12-minute horse ride from the entrance to the Alpine National Park, which Mr Power referred to. Never has the national park been better managed, and never has more scrutiny been applied to its management. I believe there are great things in store for the park. I say that with background knowledge, because last week I opened the Eastern Victoria rangers conference at Mount Buffalo. I stayed there for the day, listening in on the workshops for the rangers who were getting to know each other and learning about new management techniques and the issues that arise in that large and lovely eastern part of Victoria. I mention in particular Stewart Ord, the Eastern Victoria manager, and Chris Rose, the alpine park manager.

The rangers were keen, switched on, and conscious of the issues confronting them. Importantly, they were conscious that closing up Victoria’s national parks is no longer a management option. Rangers now accept that ways have to be found to better manage our parks. We have to establish the appropriate infrastructure to allow people into our parks while avoiding too many crowding into popular camping spots with no basic toilet facilities, and we have to avoid the erosion of walking tracks. The provision of basic infrastructure will dramatically increase the sustainable use of our parks. That concept may be hard to come to grips with, but the new breed of Victorian ranger is considering it. The issue was raised time and again during the afternoon at Mount Buffalo.

I have great hopes for Victoria’s national parks system, which accounts for a large percentage of Victoria’s total area. It is important that funds are found to manage our national parks and where necessary increase their infrastructure, because they will play an increasingly significant part in Victoria’s tourism. I support the bill and oppose the reasoned amendment.

Hon. K. M. Smith (South Eastern) — I join with my colleagues on this side of the house to support the National Parks (Amendment) Bill — for all the right reasons. The government should be commended on the way it has looked after and upgraded Victoria’s
national parks. I am sure Mr Power would like to know that the government has added 130,000 hectares to the national parks system since 1992. It has done an excellent job and been far more aggressive in establishing national parks than the Labor Party ever was.

Hon. Pat Power — That is a scurrilous comment.

Hon. K. M. Smith — It is not scurrilous, it is true, because the government has done the right thing.

I was interested to hear Mr Power talk about what has been done down at Wilson's Promontory, as did Ms Garbutt in the other place. At this stage that amounts to not an awful lot, apart from the great improvements to the place! Mr Power spoke about the track leading from Waterloo Bay to the lighthouse that will take the pressure off existing tracks. I can say without doubt that Mr Power has not been there, and I would say that Ms Garbutt has not been there either. I know for a fact that none of the greenies from the protest meeting took up the invitation to go down to look at the work being done by the team of great people cutting the track through the bush.

It was a privilege and honour for me to go down there, given the protests made by Ms Davies, the honourable member for Gippsland West in the other place — but not for much longer — and Noel Maud, the president of the local conservation group and a journalist with the Sentinel Times, who took great liberties with the truth in reporting what occurred at the so-called public meeting. Mr Maud was the acting editor at the time, so he had complete editorial control. He wrote on the front page that over one thousand people attended the meeting. I know there were fewer than 500 people at the meeting — that is lie no. 1.

Mr Maud spoke of all the perceived dreadful things that would happen at Wilson's Promontory, but they were lies. That was especially so when he was on his feet talking as the so-called Independent green leader. He had no idea what was to be done. It was scaremongering at its worst. He continued along the same lines the following week. The honourable member for Gippsland West and Noel Maud, who does a lot of work for the honourable member in the form of press releases and promoting her in the newspaper, are working hand in hand trying to beat up the improvements at Wilson's Promontory.

Five people from Tasmania won the tender for the cutting of the track. Five kilometres of the 7-kilometre track have been completed and I walked along about 4 kilometres of it. There was no way anybody could drive in or out from the track because everything was cut by hand. From the air one cannot see a break in the canopy or the trail. When one walks along the track one cannot see through the canopy. Not even small machinery can travel along it. The trees that have been felled are now part of the track and the construction team carried in rocks. Although they have done a marvellous job the greenies still whinge about the work being done. None took up the opportunity when offered to examine the work.

Those working on the track carry in their own food supplies and gear because they have to walk in and out. When they are five kilometres in they continue working on the track for five days at a time. They are dedicated to the environment, as is the government. I had the chance of seeing how small Tidal River is in the scheme of Wilsons Promontory. The development is only a speck within the whole area. Up to 99 per cent of Wilsons Promontory will not be touched. It is only the village at Tidal River, the walking track and the roads in and out.

I am disappointed that Mr Power listened to what the opposition said in the other place and has taken notice of what he has read and what some of his greenie mates have said. Mr Power will not support the government in protecting national parks. The government has done great work in this state, and national parks will be preserved in their pristine condition for generations to come. I support the bill and reject the reasoned amendment.

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

Ayes, 30

Asher, Ms
Ashman, Mr
Atkinson, Mr
Best, Mr
Birrell, Mr
Boardman, Mr
Bowden, Mr (Teller)
Brideson, Mr
Cover, Mr
Craigie, Mr
Davis, Mr D. McL.
Davis, Mr P. R.
de Fegely, Mr
Forwood, Mr
Furletti, Mr

Hallam, Mr
Hartigan, Mr
Kastambanis, Mr
Knowles, Mr
Lucas, Mr
Luckins, Mrs
Powell, Mrs
Ross, Dr
Smith, Mr
Smith, Ms
Stoney, Mr
Strong, Mr
Varty, Mrs
Wells, Dr (Teller)
Wilding, Mrs

Noes, 7

Hogg, Mrs
McLean, Mrs (Teller)
Nguyen, Mr
Power, Mr
Pullen, Mr
Theophanous, Mr
Walpole, Mr (Teller)
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 Mr Stoney, Mr Hall and Mr Smith for their contributions. I note Mr Power's contribution. Mr Smith's contribution was one of the more notable and diplomatic contributions to the debate. I will pass his remarks on to the Minister for Conservation and Land Management in the other place.

The bill is notable in particular for the creation of the Terrick Terrick National Park. I welcome the implementation of that initiative. Honourable members who have not been to the area would find that national park to be an unusual part of Victoria with its granite outcrops and grassy woodlands. Anyone wanting to understand what Australia was like before European settlement should visit that park, which has been only farmland over about three years and after a long period of negotiation about 1200 hectares have been purchased. The land has been lightly grazed. Since European settlement one family has run a small number of sheep over large areas of grasslands. It is virtually untouched and is a part of Australia that most people would not appreciate, because they are used to seeing Europeanised farmland throughout most of Victoria. I am sure all honourable members will enjoy a visit to the Terrick Terrick National Park.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Hon. PAT POWER (Jika Jika) — The opposition does not oppose the Planning and Environment (Amendment) Bill. The bill contains changes that raise a number of important issues associated with the administration of planning policies. Honourable members who are familiar with the bill will know that it provides for a Melbourne Airport Environments Strategy Plan and for the recovery of advisory committee and planning panel costs. It amends the Environment Effects Act to enable the recovery of inquiry panel costs and the Planning and Environment (Planning Schemes) Act to provide for transitional arrangements arising from the introduction of a new planning scheme.

Clause 3 relates to Melbourne Airport. All honourable members would support and acknowledge the need for that provision. Those who visit Melbourne Airport to participate in interstate or perhaps international travel take for granted what an important transport and economic hub the airport is not only for Victoria but also for Australia. It is critical that appropriate strategy plans are put in place to ensure the way the airport operates — that is, its capacity to move people and freight — is protected so it can become increasingly important as a contributor to the economies of Victoria and Australia.

The opposition regards the decision to establish Melbourne Airport Environments Strategy Plan as similar to the decision taken in the 1970s on the Upper Yarra and Dandenong Ranges Strategy Plan. The Melbourne Airport plan is designed to build on existing controls around the airport and to ensure they remain in place. Melbourne Airport competes with a number of major airports throughout Australia and, as I said, plays a most important part in the Victorian and Australian economies.

The initiative now being debated should reduce the potential for ad hoc planning around Melbourne Airport. Approximately $14 billion worth of goods are exported annually through that key freight hub of south-eastern Australia. The figure demonstrates the importance of addressing and protecting that infrastructure resource so its economic contribution can be sustained.

Many honourable members would remember when Tullamarine airport, as it was then called, was established as an airport in rather open country. The kinds of steps inherent in this strategy plan need be taken to ensure no inappropriate development, particularly residential development, occurs over time to create a circumstance in which pressure is placed on the government of the day or other statutory authorities.
to interfere with the way the airport is managed and operated.

The Melbourne Airport legislation is absolutely fair to those who have invested in and use the airport, because their rights need to be protected. It is also fair because people will be unable to establish residential developments, knowingly or unknowingly, in inappropriate areas.

It is important to understand the critical importance of the Melbourne Airport. It is very easy for Melburnians to take the airport for granted. Too often it is looked upon as a terminal from which interstate and international passenger traffic emanates, but its role in export freight is absolutely vital. Melbourne Airport has an important impact on the state economy, and increased airport use has the potential to affect residents and land users who may occupy areas inappropriately. The opposition argues that the plan will enable Melbourne Airport to grow economically.

I shall make a passing reference to the Upper Yarra and Dandenong Ranges Regional Strategy Plan. The opposition acknowledges that the need for the Melbourne Airport strategy plan is similar in importance to the need for the Upper Yarra Valley and Dandenong Ranges strategy plan that arose during the 1970s. I put on the public record that the opposition calls on this and subsequent state governments to ensure that the principles governing the Melbourne Airport Environs Strategy Plan are not in future years picked apart, as happened recently with the Upper Yarra Valley and Dandenong Ranges strategy plan. It was agreed by all sides of politics in the 1970s that that plan was necessary as a stringent planning control to reduce and one hoped prevent ad hoc planning. Governments from the 1970s onwards promised in a bipartisan way that the Dandenong Ranges would be locked away from development in perpetuity.

It is now general knowledge that since 1995 the coalition has not adhered to that formerly bipartisan commitment. The Kennett government gave a commitment to Victorians that it would keep the Dandenong Ranges free from inappropriate development. Sadly, that has not been the case. The minister responsible has intervened on a number of occasions and set precedents that flout the principles of the planning controls inherent in the strategy plan for that region. The government did not deliver on the Upper Yarra Valley and Dandenong Ranges strategy plan but it must absolutely deliver in relation to Melbourne Airport.

The Planning Authorities (Repeal) Act is an example of a minister's misuse of legislation. The bill was introduced in late 1994. It was made clear that the government's intention was to protect the Dandenong Ranges and the Upper Yarra Valley region from development. However, just two years later the minister amended the act about 10 times to allow development that was clearly contrary to the principles of that plan. Each amendment introduced multiple development proposals or was a general amendment to a policy of the plan applying to a large number of lots.

I conclude my comments on the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan by using it as an example of the need to recognise the Melbourne Airport strategy plan as having bipartisan support and as something that the broader community acknowledges is necessary to protect the airport into the future and to ensure inappropriate development does not occur around that precinct. On behalf of the opposition I call on this and all future governments to ensure that the strategy plan is adhered to and not picked apart as a consequence of increasing local and political pressures.

Clauses 6, 7 and 9 introduce a new power that enables the minister to require contributions from some parties towards the cost of planning panels, advisory committees and inquiries into works or proposed works. Those amendment should ensure that the cost of a number of aspects of the planning process are shared more fairly between government and planning applicants. That concludes my comments. The opposition does not oppose the bill.

Hon. N. B. Lucas (Eumemmerring) — I am pleased to support the bill. I note that Mr Power's contribution, which he has just concluded, was a regurgitation of Mr Dollis's speech in the lower house. I also note that the opposition is supporting the concept of further strategic planning for the Melbourne Airport and the concept of costs being recovered in certain circumstances. It is sad that someone of Mr Power's calibre is to move away from Parliament. The opposition needs talent and I put on the record that I respect Mr Power and his views although I do not agree with many of them. It is sad that he is to leave this place.

As I have said, the Melbourne Airport Environs Strategy Plan is one of the main issues dealt with in the bill so I will initially comment on that. In providing for a new strategy plan for the airport the bill builds on existing controls. It is important that with this plan Parliament safeguard the continuing efficient operation of Melbourne Airport. Certainly we do not want any
negative perceptions regarding the airport and this plan will lock in place many of its tremendous advantages.

The airport is extremely important for Victoria’s economy. As the previous speaker mentioned, in the past 12 months $14 billion worth of goods were exported through Melbourne Airport — a huge amount of freight. Certainly Melbourne Airport is significant in south-eastern Australia as a key freight hub. The 14 international stands, 28 domestic stands and 6 multipurpose stands at Melbourne Airport provide an excellent facility for the passage of Australian citizens as well as international guests entering and departing from Melbourne.

It is important to build on that advantage and ensure that it works efficiently. Interestingly Melbourne Airport has on site in the order of 12,000 employees. The fact that it has curfew-free 24-hour-a-day operation is a factor that is a significant advantage to Melbourne. Many members will have been on morning business flights to Sydney, as I have. On many such occasions I have had the opportunity of taking a scenic flight over the Blue Mountains in a Boeing 737 or A300 and seeing the mountains in the early morning sunlight with the orange hue on the cliffs. It is a fantastic sight. However, it is not fantastic if you are trying to land at Mascot Airport and get on with your business.

In Melbourne there is the advantage that aircraft can easily get in and out of Melbourne Airport. There is concern about whether the Sydney airport will be able to deal with the huge increase in air traffic when the Olympic Games are held in that city. It may well be that Melbourne Airport, Melbourne and Victoria will gain considerably from the Olympics through international and domestic flights having to fly to Melbourne rather than Sydney.

City Link will be partially opened early next year and will provide a wonderful gateway into our city. Melbourne Airport is only 21 kilometres from the city which, with the tremendously efficient City Link, will provide wonderful connectivity between the airport and the CBD. The original decision in the 1960s to locate Melbourne Airport in a greenfield area was far sighted. In those days the airport was considered to be a fair way from the city. It proved to be a wonderful decision and we are certainly well in front of our colleagues in Sydney in having this resource relatively close to the city and so easily accessible.

The environs strategy plan shores up the advantages for Victorians. In recent times Melbourne Airport has been developed, with the extension of the international terminal at a cost of $3.5 million, and the new car park at a cost of over $20 million. The extensions have brought Melbourne Airport up to a standard of which we should all be very proud.

There is room for a north-south and an east-west runway extension. The airport can easily expand to provide for the increase in traffic that it is assumed will occur in the future.

Since the airport was opened in 1970 there have been changes in the types of aircraft using it, increased usage, and an increased volume of freight. There have been changes also in the internal operations of the airport.

By comparison with airports around the world Melbourne Airport comes up to scratch. We should be proud of the airport and ensure that it continues to operate in an efficient manner.

Proposed section 46S, which is inserted by clause 3 of the bill, empowers the Governor in Council to declare an area of land to be the Melbourne Airport environs area. The next proposed section states that the minister may, at any time, prepare a strategy plan for the Melbourne Airport environs area, and that is to be known as the Melbourne Airport Environs Strategy Plan. Certainly we will see results as the plan is put into practice. Firstly, it will encourage the maintenance of the large areas of surrounding rural land so that they will not be developed and impinge on the airport environs, causing problems arising from the effect of noise on an expanding population.

Secondly, it will ensure the minimal impact of noise on existing residential areas. Thirdly, it will allow for the potential expansion of the airport given the uncongested air space around it. Fourthly, it will enable maintenance of the unrestricted capacity of Melbourne Airport.

The plan will also reduce the possibility of ad hoc planning decisions being made, and that is a worthwhile aim. It is good to see the government and the opposition supporting the bill.

Clauses 6, 7 and 9 refer to the minister being given the power to specify amounts of costs that can be recovered by the government in three areas — panels, advisory committees that can be appointed by the minister, and cases where proposed works are the subject of an inquiry under the Environment Effects Act. It is reasonable that one should be able to recover costs from people who in many cases have the potential, if the decision goes their way, of receiving a significant benefit.
The concept of people deriving income from a decision and contributing funds back into the community has been raised in the past.

In this case it is a halfway measure for recovering costs incurred by the government in relation to hearings and administration of panels and committees, together with investigations regarding works under the Environment Effects Act. That seems reasonable; in my view there is no reason why potential beneficiaries should not contribute to the costs of the planning process.

I have no problem with the minister having the ability under the act to specify the amount to be contributed. For example, if a provision were included in the bill stating that it was to be a specified figure a situation could occur where, for example, charitable organisations or people who did not have the capacity to pay would be bound to come up with some amount of money that they could ill afford, or in the case of a charitable body, where it was unreasonable that they should pay such costs. The minister has the discretion to set a reasonable figure. I support that proposal.

Clause 10 amends the Planning and Environment (Planning Schemes) Act. It inserts proposed section 23(5), which provides that the minister may grant a permit under section 96(1) of the principal act for the use of land or the development and use of land for an extractive industry.

Where the minister grants such a permit, the permit may specify that it expires if its use is discontinued for a period of not less than two years. In this case the proposal relates in particular to extractive industries, and the minister will be allowed to grant permits for the use of land for an extractive industry with a discontinuance period greater than two years.

Honourable members will be aware of the fluctuating demands in the quarry industry, where the price of and demand for materials goes up and down. It seems illogical for a quarry with an existing permit that scales down its operation to start going through the planning process again to obtain a new permit. In such a case the bill will preserve the rights of quarrying operations to continue carrying out such operations. As a result some certainty will be provided to operators, which seems appropriate.

I conclude by saying I support the bill and wish it a speedy passage.

Hon. S. M. NGUYEN (Melbourne West) — The purpose of this bill is to amend the Planning and Environment Act 1987 to provide for the Melbourne Airport Environs Strategy Plan. The bill also seeks to establish and properly resource an advisory committee and planning panel to deal with planning issues in the airport vicinity and to amend the Planning and Environment (Planning Schemes) Act to make provision for new planning schemes.

Melbourne Airport plays a crucial role in the operation of the Victorian economy and its output accounts for a significant proportion of the state’s gross domestic product. My electorate of Melbourne West Province incorporates a number of the designated flight paths en route to Melbourne Airport. The airport also provides considerable employment opportunities, both directly on site and indirectly through the strategic location of industry in close proximity to the airport.

I welcome the opportunity for parties such as local government and community interest groups that have an interest in influencing the future shape of the airport and its environs to participate in the development of a Melbourne Airport Environs Strategy Plan. The Melbourne Airport strategy, developed some 20 years ago, has been useful in setting the perimeters for the development of the airport and its integration into a Melbourne-based freight transport hub. However, there are a number of significant social and economic dynamics which relate to the north and western Melbourne regions and which require us to review planning objectives.

Firstly, there is a need to ensure that new pressures for development of land in the north-western region for industrial purposes is balanced against the increasing demand for quality residential urban development. The west has experienced a housing renaissance in recent years with the gentrification of inner city suburbs such as Williamstown and Yarraville and the development of new quality housing estates spanning the circumference of outer western and northern metropolitan Melbourne. All of these suburbs exist within the designated flight path under which Melbourne Airport operates.

At the same time the construction of the Western Ring Road has helped open up the area to new opportunities in warehousing and manufacturing on greenfield sites. The economic advantages of doing business in the region are enormous and there is great potential for future economic and employment growth if things are managed in a proper and strategic way.

The competition between residential and industrial land uses is likely to become an emerging issue in this neck of the woods. It is therefore crucial that all parties with interests in these fields have access to useful planning information and gain effective input into the planning process. In the short term the 2000 Sydney Olympics
will bring obvious new tourism opportunities for Victoria. It is important that facilities at the airport cater well for tourists and that the tourism potential of the airport surrounds are exploited commercially. In some respects economic planning can be Melbourne-centric. It is important to utilise the reasonable proximity of Melbourne Airport to places such as the Bendigo goldfields region, Daylesford and even the Brisbane Ranges in integrating tourism infrastructure with airport planning.

Secondly, there is a need to ensure that Melbourne Airport is effectively planned so that it is efficiently integrated with other passenger and freight transport modes. This is needed to secure a transport economic advantage for Melbourne and ensure it reaches the objective of optimum environmental sustainability in planning. There are two issues involved: the need to clearly define the boundaries of the planning coverage and the need to fuse environmental values into the planning process.

One might think prima facie that Laverton and Avalon are a reasonable distance from Melbourne Airport, but they are less than 10 minutes in flight time. They are also sites for potential expansion of commercial air freight activity. The prospects for growth in this form of commercial transportation in a faster moving and global economy are enormous. Roughly one quarter of freight generated through Melbourne’s transport hub is air-based — and it is growing fast.

We must ensure that Melbourne Airport is properly integrated into the transport infrastructure as it develops. Together with the need to consider the ramifications of flight paths on urban development this issue requires a rather ambiguous view of what would constitute a boundary for Melbourne Airport planning purposes. Clearly the airport environs are larger than the immediate approaches and airport facility itself. It is also important to place on record the significance of transport in generating greenhouse gases and various forms of pollution, and the need to recognise environmental values in the strategic planning of goods and passenger transportation.

Thirdly, and sadly, as a result of the previous actions of the government there is a need to provide more surety with planning laws and processes.

The shadow minister for planning and major projects, the honourable member for Richmond, when speaking on this bill in the other place, said that the Minister for Planning and Local Government has exercised ministerial discretion on some planning matters relating to areas of Melbourne that are subject to a general planning scheme and planning objectives. I refer honourable members to the example given by the honourable member for Richmond in the other place with respect to the Dandenong Ranges.

It is crucial in ensuring confidence and integrity in the planning laws and process that clear and sound planning objectives are realised in practice. It is also crucial that the government does not ignore the findings of advisory panels. Parties actively interested in planning issues should have a sense of ownership in the outcome of the planning processes if they are invited to participate in such processes. To disregard their input is to invite public discontent and open antagonism to the process and to the government. To an extent those sentiments gave rise to the development and flourishing of the Save Our Suburbs movement. Noisy people are not nuisances — they should be heard, acknowledged and involved.

The opposition supports the bill and hopes it will lead to a constructive discourse on planning matters as it concerns the future development of Melbourne Airport.

Hon. B. N. ATKINSON (Koonung) — I welcome the opposition’s support for the bill and the comments of Mr Lucas and opposition speakers. I will not cover the same ground, because honourable members who have contributed to the bill have addressed the principal matters of concern.

Mr Nguyen referred to competing land uses and the demands of the Melbourne Airport environs and surrounding suburbs for quality residential, commercial and other uses. I understand his concern about competing land uses and the desirability of development in that corridor because of its proximity to Melbourne. However, when I talk to people about planning issues I am amused that some people focus on the issues at hand while not seeing the broader picture.

I have spoken to members of Save Our Suburbs who refer to the problems with medium density development in suburban areas of Melbourne. I say to them, ‘What do you say about using the most productive farmland for residential development?’ Invariably they say, ‘We are not in favour of that. We should maintain productive farmland and not develop it’. The two propositions are not sustainable.

The increasing demand for housing means we must consider using more productive land or encroaching on the airport environs or some other appropriate suburban development to accommodate new residential growth. People require new housing, new workplaces and new
community facilities and the government must accommodate those interests.

A common theme among opposition members is that the Minister for Planning and Local Government is a meddlesome tyrant who is involved in various issues across Melbourne. In fact he is involved in few issues, but those in which he is involved are often brought to him by municipalities that seek changes to their planning schemes or wish to accommodate particular developments that are against their policies or local planning schemes. Most of the issues in which he is involved are brought to him by local government. Irrespective of that, planning is always more the sandpaper than the silk. It is the means by which we test new ideas and proposals, review community policies and strategies for urban development and the areas encompassed by this bill — the airport environment — and decide how much space we need for such facilities today and into the future.

The government has a good record in planning and administration. It has taken planning a step forward with the development of new planning schemes and municipal statements as part of the process of identifying important issues in local areas and metropolitan Melbourne in the future. It will ensure that land-use management is appropriate. The bill is a major step forward because it will build on the effective work done by the Victoria Planning Provisions and the municipal local policy frameworks for the airport environs, including the work done by the City Of Hume, which has considered how the land around the airport might continue to be used and what levels of development might be allowed into the future.

The people who decided on the site of Melbourne Airport showed remarkable foresight. It is one of the best located airports in the world and its facilities are outstanding. Honourable members will have noted the development occurring at the airport in the past five years. It is a tragedy that Qantas has not recognised that the facility is capable of supporting a much greater volume of air traffic than it is currently routeing through the airport. Through the legislation the government is continuing to plan into the future and recognise the foresight shown by the people who established Melbourne Airport. It will ensure that the successful operations of the airport continue and that the amenities and economic values that have made it one of the world’s outstanding airports are well secured into the future.

I welcome the fact that the bill is supported by both sides of the house. It is an important piece of legislation that will take the airport forward and provide great benefits to the people of Victoria.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank those honourable members who spoke in the debate. As Mr Atkinson said, the bill canvasses a number of important and sensitive issues, and I congratulate honourable members on the brevity and thoughtfulness of their contributions. I am delighted, as was Mr Atkinson, to hear the opposition not only supporting the bill but speaking in its favour.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 6.32 p.m. until 8.03 p.m.

LAND (FURTHER REVOCATION OF RESERVATIONS) BILL

Second reading

Debate resumed from 21 October; motion of Hon. M. A. BIRRELL Minister for Industry, Science and Technology).

Hon. PAT POWER (Jika Jika) — The opposition does not oppose the Land (Further Revocation of Reservations) Bill, which provides for the revocation of permanent reservations to facilitate disposal or because the purpose of the reservation is no longer appropriate. The bill also provides for the repeal of the Bendigo (Dai Gum San Village) Act.

Clause 3 deals with two portions of Crown land in Crusoe Road, Kangaroo Flat, reserved for water supply purposes. Coliban Water has advised that the land is surplus to requirements and revocation will allow for the disposal of the land.

Clause 4 deals with the former Queen Elizabeth Centre in Cardigan Street, Carlton. The land has been declared by the Department of Human Services as surplus to its requirements. The La Trobe University Centre for the
study of mothers’ and children’s health has been relocated to 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 water supply reserve located in Allendale. The Shire of Hepburn and Central Highlands Water have indicated they have no interest in the site and the revocation will allow for the disposal of the land.

Clause 6 deals with a portion of Fawkner Park in Paisley Street, South Yarra. The South Yarra Primary School wishes to construct an after-school play facility. It needs to slightly extend its boundary into Fawkner Park to achieve that.

Clauses 8 and 9 provide for the revocation of a portion of the former Fairfield Hospital site, which is located on Yarra Bend Park Road, Fairfield, which is not included in the land occupied by the forensic psychiatry institute. 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.

Clauses 11 and 12 deal with the repeal of the Bendigo (Dai Gum San Village) Act, of which I am sure Mr Best will make mention. The Bendigo Trust has surrendered its lease on the site and the City of Greater Bendigo has advised that it has no further interest in managing the site. Repeal of the act will enable the site to be managed by the Department of Natural Resources and Environment.

The closure of the Fairfield Hospital in 1996 was a great shame. It was a bad decision that resulted in a loss of institutional knowledge, the break-up of the research base and the loss of cooperation and collaboration that came from having researchers, clinicians and patients co-located. Victoria lost a world-class research institution.

The Rosanna forensic psychiatry unit is nearing completion and the opposition certainly supports the construction of a new facility. It is certainly needed. The opposition opposed and still opposes the alienation of public parkland, and in its view the Yarra Bend Park was simply alienated for the new project. It has become the first in a long line of government attacks on Melbourne’s parklands. The government’s view is that parklands are free real estate available to be seized from the public to be used for whatever project the government has in mind. Yarra Bend Park is a remarkable piece of bushland close to the city centre and is to be reduced in size to provide land to accommodate the forensic hospital.

**Hon. R. I. Knowles** — You either support the institute or you don’t.

**Hon. PAT POWER** — Despite the unruly provocation from the minister, the opposition does not oppose the bill.

**Hon. R. A. BEST** (North Western) — I support the Land (Further Revocation of Reservations) Bill. As usual, a number of bills have been introduced to deal with land revocation. However, in this bill two parcels of land in the Bendigo area are of interest to me. One deals with land in Crusoe Road, Kangaroo Flat, which is currently designated as a reserve for water supply purposes and forms part of the Coliban Water Board’s area in and around Crusoe Reservoir.

The land is to be excised from the title and freehold granted so the current adjoining owner, who has fenced the land now leased by Coliban Water, can purchase it. Coliban will be able to generate income through its transfer of the land previously reserved for water supply purposes to a full title for the benefit of the adjoining landowner.

The second area of land that interests me is the land covered by clauses 11 and 12, which repeal the Bendigo (Dai Gum San Village) Land Act. This also interests many Bendigo people because the village was meant to be a demonstration of the heritage and culture contributed to the Bendigo community by the Chinese community. The area of land in question is the Jackass Flats area close to my previous home in Jacobs Street. People should recognise the wonderful contribution made by our Chinese friends since their arrival at the Victorian goldfields not only to the diggings but to the cultural heritage in the Bendigo area.

The formerly proposed Dai Gum San Village was seen as an opportunity to create in Bendigo a precinct similar to Sovereign Hill in Ballarat. It was anticipated that the village would celebrate Chinese heritage and be an attraction for Australian and international tourists, particularly from Hong Kong and China, and would also attract contributions of artefacts from the community. Because of a range of circumstances the land was transferred to the welfare of the Bendigo Trust. A number of conditions in the act resulted in the establishment of a committee of management.

Prior to amalgamation the representatives of the City of Bendigo, the Borough of Eaglehawk and the City of Marong, as well as of the Bendigo Trust, were appointed to the board of management to operate the Dai Gun San Village site. Sections of the Bendigo community were somewhat disappointed when the
village project did not get off the ground. However, many of the residents in and around the proposed site were against the establishment of that village.

The establishment of the Bendigo Chinese Museum and the Bendigo Chinese Gardens as outstanding tourist facilities or precincts is a credit to people such as Russell Jack and many people in the Chinese association who worked to establish monuments to the proud traditions of the Chinese people. One need only see the Easter parade in Bendigo, a highlight of which is the Clan McLeod band supporting the Chinese museum and the Chinese community, to realise that. The concept of a Scottish band of the Chinese people in Bendigo is an interesting one, and represents the excellent cross-cultural integration of people within the Bendigo area. It highlights the history associated with the Easter parade.

Over the years artefacts have been collected by people such as Allan Guy. The wonderful people at the Bendigo Trust and other charitable organisations who have supported the village proposal through their fundraising and contributions have ensured that the Chinese tradition remains as a feature of the Easter parade and is recognised as a significant contributor to the present culture of Bendigo.

The land will be transferred to the Department of Natural Resources and Environment. As I said, the Bendigo land that is the subject of the bill is a place where my children often played and is almost adjacent to the property where they were raised. In her second-reading speech, prepared by the department, the minister referred to the land as a place:

... subject to the Environment Conservation Council’s report on box-ironbark forests and woodlands.

That is not quite as I remember it. However, the departmental officers are the experts in the conservation area and I am a mere observer.

Although the Bendigo community is delighted with the role it has played in establishing the cultural heritage of its Chinese community, it is appropriate that now the parties — that is, the Bendigo Trust and the Bendigo City Council — who have relinquished the lease have the land pass back through the department so that a reserve can be established under the auspices of the department.

It is with pleasure that I support the bill. A number of bills that come before the house in each sessional period revoke reservations of parcels of land and pass them from one use to another. It is appropriate that the two parcels of land described in the bill, one identifying land now used by Coliban Water and the other under the control of the Bendigo Trust, be passed on to more appropriate uses.

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.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

LEGAL PRACTICE (AMENDMENT) BILL

Second reading

Debate resumed from 21 October; motion of Hon. LOUISE ASHER (Minister for Small Business).

Hon. D. A. NARDELLA (Melbourne North) — The opposition does not oppose the bill. The Legal Practice (Amendment) Bill arises out of the Legal Practice Act, which is the Attorney-General’s major reform of the legal profession. The bill is directed towards making superficial changes to the act and in particular ensuring that there is no question of claims being made on the fidelity trust by people who are involved in scams.

The effects of the bill can be divided into four categories. The first concerns professional indemnity insurance. When the bill was first debated the opposition said the government’s attempt to deregulate and introduce competition into the legal professional insurance scheme would fail, that no market would emerge and that it was a waste of time and money. After an initial extension of the old scheme the bill now simply admits failure and legislates for the ongoing mutual fund model to continue. It is therefore a return to the situation that existed before the Legal Practices Act was proclaimed. The opposition was correct. There is no marketplace for that type of deregulation.

It is with pleasure that I support the bill. A number of bills that come before the house in each sessional period revoke reservations of parcels of land and pass them from one use to another. It is appropriate that the two parcels of land described in the bill, one identifying
therefore supports the retention of the previous scheme, which it supported right from the beginning.

The second part of the bill concerns the fidelity fund. The changes clarify the current legislation to preclude people who have invested money in solicitors’ trust accounts for business purposes from making claims on the fund. It is an important aspect of the bill because the fidelity fund is there to protect consumers who claim upon the fund due to legal work; the fidelity fund is not there for investments or other activities carried out by solicitors.

The opposition supports this aspect of the bill. In the past solicitors have provided funds, and still provide funds, for a number of investors both small and large on a needs basis, but that should not come under the protection of the fidelity fund. In the past when financial institutions were heavily regulated solicitors provided a source for finance that differed from that offered by banks. Many people went to solicitors to find alternative vehicles for their investments. The solicitors have maintained that service, but obviously a fidelity fund that has been set up for solicitors to deal with claims due to legal work should not be used to provide funds to investors. On a number of occasions consumers of legal services have called upon the fidelity fund because solicitors or barristers have been found wanting in their advice on the appropriate use for that money.

The third effect of the bill is to restrict appeals to the Supreme Court by stating that one can appeal to the court in respect of a fidelity fund only if the board has made the decision either wholly or partly to refuse the application and where an applicant has gone through all other reasonable avenues and remedies and three months has not elapsed. Again, the opposition sees this as worth while and regards the time frame involved as acceptable. In the briefing on the bill officers related instances showing that reasonable legal remedies could be used so that the fidelity fund was a last resort for claims against solicitors. This clarifies the operation of the appeals.

Other amendments include alterations to make it unnecessary to disclose fee statements in certain circumstances — for example, where clients have received such disclosure statements in the past 12 months. There are other technical amendments in the bill.

The Law Institute of Victoria fully supports the bill, in particular its first effect, which concerns the retention of professional indemnity insurance as it currently stands. On that basis the opposition does not oppose the bill.

Hon. C. A. FURLETTI (Templestowe) — I am very pleased to support the bill and thank Mr Nardella for the support he expressed on behalf of the opposition. As Mr Nardella said, the bill comes before the house with the support of most of the people who are affected by it. It makes a number of what I would term housekeeping amendments. It makes a number of relatively serious amendments and it makes some very significant amendments to the law with respect to professional indemnity insurance for legal practitioners and to the fidelity fund provisions, which were referred to by Mr Nardella.

I welcome the changes because they make some finetuning amendments to the provisions of the Legal Practice Act, which was introduced in 1996 to take effect from 1 January 1997. That was promised by the Attorney-General in her second-reading speech. It is the result of monitoring the effect of the act and finetuning it. The housekeeping amendments relate to the opening of new trust accounts and disclosing particulars of those trust accounts to the Legal Practice Board. That is the disclosure requirement which I remember having been in effect from when I started practice in the early 1970s. It seems to have been an oversight in the Legal Practice Act.

Clause 25 requires registration of business names of corporate entities. It is another requirement which is logical and which my recollection tells me existed in the early 1970s.

A significant amendment is that the recognised professional associations (RPAs), the Legal Practice Board and the Legal Ombudsman will, on the enactment of the legislation, be able to apply to the Full Tribunal of the Legal Profession Tribunal for orders varying a practitioner’s practising certificate if that practitioner is charged with a criminal offence, whether the charge be laid in Victoria or elsewhere. It is appropriate that practitioners with charges hanging over their heads should be restricted in their areas of practice and that consideration be given to whether they should be entitled to continue to practise if the circumstances so warrant.

I welcome the amendments in clause 11, which will ease some of the burdens imposed on lawyers by the legislation with respect to requirements for disclosure and reporting to clients. I recall when speaking in the debate on the Legal Practice Bill in 1996 stating that those requirements were onerous and may not be effective. The amendment in the present bill is welcome.
Clause 13 clarifies what constitutes a dispute under the act so that the issues can be more clearly defined and people cannot take advantage of the consumer protection provisions merely for the sake of putting off payment of accounts and the like.

As Mr Nardella indicated, the two main areas addressed by the bill are professional indemnity insurance and applications to the fidelity fund. They are two quite different aspects. Professional indemnity insurance relates to negligence on the part of a practitioner in the conduct of his or her practice and allows a client of a practitioner to sue his or her solicitor in the event of negligence on the part of the solicitor. With the complexities that have arisen over the years in terms of the law, professional indemnity insurance is incredibly significant, not so much for the lawyer — because today people can hide behind the corporate veil or transfer funds into other entities — but as an essential protection for the client who uses the services of people who hold themselves out as qualified, proficient professionals.

I recall in the debate in the house in October 1996 discussing the difficulties that would arise if practitioners’ professional indemnity insurance were open to the market. At that time Mr Nardella said the opposition opposed the amendments. He feels vindicated by the fact that that opposition was warranted.

In her second-reading speech in 1996 the Attorney-General said the government would discuss the consequences of the changes introduced at that time with representatives of the insurance industry and the profession between June 1996 and the next spring sitting of Parliament. Those discussions have taken place and reports have been prepared for the Legal Practice Board. The reports incorporate a considerable amount of expert evidence and opinion from insurers and others. The Attorney-General should be congratulated on reaching the conclusion that the system currently in place should remain.

The system is the mutual fund model where all members of the profession contribute to a fund. Under section 227 of the Legal Practice Act practitioners must maintain professional indemnity insurance at all times while practising law. As I said during the debate on the Legal Practice Bill in October 1996 the legal profession is one of the few professions where professional indemnity insurance must be in place as a condition precedent to practise.

Part 8 of the Legal Practice Act contains 23 sections that control and relate to the issue and provision of professional indemnity insurance. Section 228 of the current act sets out the minimum terms and conditions of insurance, and that section is to be substantially amended by the bill. In my years in practice from 1971 until 1996 the transition from a voluntary insurance base occurred. I recall not being overly concerned about insurance in the early days of my practice, but with the passage of time and the development of some maturity it became obvious to me that professional indemnity insurance was vital.

In 1976 the Solicitors Liability Committee was established, and it became compulsory for all solicitors to have legal indemnity insurance as a precondition to practice. That system worked very well because some private insurers in those days would seek in one way or another to avoid liability under their insurance contracts — for example, erroneous disclosure in a proposal form or failure to disclose prospective claims early enough.

One of the reasons for the Law Institute of Victoria proposing the mutual type of professional indemnity system was that private insurers caused a considerable amount of angst. They were also able to cover solicitors for a period and then suddenly withdraw that type of insurance cover.

One of the advantages of the Solicitors Liability Committee and the mutual fund system, not only for solicitors but, more importantly, for the clients of solicitors, was that once a claim had been accepted it was accepted. There was no element of seeking to avoid that claim because that would have defeated the whole purpose of having compulsory insurance cover.

For those reasons I am pleased to support the retention of the mutual system that is currently in place. The act explains the obligations of the now Legal Practitioners Liability Committee in respect of reinsurance. While the system has proved to be somewhat more expensive than private insurance the higher cost is appropriate and justified for the insured and for those who need to make claims.

The other main issue addressed in the bill is the fidelity fund amendments. As you well know, Mr President, having practised as a solicitor, the fidelity fund was initially established from the interest generated by trust accounts held at banks. Many clients wrongly believed that solicitors’ practices had the benefit of the interest on trust moneys in their accounts, yet that interest established a substantial fund to accommodate defalcations. The fund was initially set up as a public relations exercise when, from memory, in the early 1950s a few solicitors happened to abscond with some
dollars. It was not compulsory, but the Law Institute felt it would benefit practising solicitors to band together so that if any of their brethren did the wrong thing the public could be satisfied.

Membership of the fund rapidly became obligatory following an increase in the number of defalcations. I can say from personal knowledge that defalcation is very much frowned upon by the legal fraternity. However, there are 8000 or so solicitors in practice and on a percentage basis the 7 or 8 defalcations a year represent an infinitesimal number. Honest solicitors frown upon the few dishonest ones. As the number of defalcations has increased over the years the fidelity fund has become a significant part of the structure of legal practice in Victoria.

The proposed amendments are intended as much as possible to preserve funds in the fidelity fund for the purpose for which it was established — compensation for people who lose money paid to a practitioner for the purposes of a legal transaction, but not for funds paid to a practitioner for the purposes of a business or commercial enterprise or investment. In the event that a client who has paid moneys for the purposes of investment receives any payment back by way of interest, or supposed interest, that amount can be taken into account in the event that a fidelity claim is approved if the funds are paid out of the capital of that client or the capital of any other client of the solicitor.

As Mr Nardella has pointed out, there are provisions for appeal against decisions of the Legal Practice Board on claims against the fidelity fund. The intention of the legislation is to ensure that claimants exhaust their legal rights in other areas before they claim against the fund. I am perfectly comfortable with that, because the fund is set up not as an issuance or guarantee fund for people who lose money but rather as a last resort to ensure that people who lose money and cannot recover from any other source can resort to the board. Importantly a fair amount of the fund’s capital is expended on litigation appealing to the Supreme Court for claims the board has rejected. That course has been restricted in the amendments before the house.

It is with great pleasure that I strongly support the bill. It is a good piece of finetuning. I am sure it will not be the last time amendments to the Legal Practice Bill are debated in this house. However, I am pleased to see the issue of professional indemnity insurance has been resolved to the satisfaction of all concerned. I commend the bill to the house.

The PRESIDENT — Order! I am of the opinion that the second and third readings of this bill are required to be passed by an absolute majority. As there is not an absolute majority of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

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

Required number of members having risen:

Motion agreed to by absolute majority.

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 particularly Mr Furletti.

The PRESIDENT — Order! I again ask honourable members supporting the motion to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

INTERNATIONAL TRANSFER OF PRISONERS (VICTORIA) BILL

Second reading

Debate resumed from 21 October; motion of Hon. G. R. CRAIGE (Minister for Roads and Ports).

Hon. D. A. NARDELLA (Melbourne North) — The opposition supports the International Transfer of Prisoners (Victoria) Bill, which facilitates the international agreements entered into by the commonwealth government for the purpose of allowing Australian prisoners in certain overseas jurisdictions to serve out their sentences in Australia and reciprocal arrangements allowing prisoners from those countries serving sentences in Australian prisons to serve out their sentences in their home countries.
A key feature of the bill is that it will allow reciprocal arrangements to apply only to countries that are signatories to the European Convention on the Transfer of Prisoners. The convention comprises 16 countries, including most western and eastern European countries, as well as the United States and Canada.

Other key features include arrangements being invoked only in relation to offences that would normally attract a prison sentence in Australia; prisoners must be willing to be repatriated; a legal requirement that the prisoner must carry out the terms and requirement of the sentence and that the Minister for Corrections must negotiate the future management of the sentence; and the home jurisdiction of prisoners repatriated under the scheme is obliged to accept the prisoners.

The bill is the culmination of procedures initiated by the former federal Labor government and is part of complementary legislation being enacted by the commonwealth and state governments. It is generally considered more humane and conducive to the rehabilitation of prisoners for them to serve their sentences in their home locations. The number of prisoners estimated to be eligible for repatriation to Victoria is about 42, while the number of prisoners in Victorian gaols eligible to be repatriated to overseas jurisdictions is estimated at around 200, so there is an ancillary cost saving.

The reason behind the reciprocal arrangements scheme is that the rehabilitation of prisoners will be assisted if they are in custody in the countries of their birth. The legislation will allow for the repatriation of prisoners only where those prisoners so desire it. Prisoners with families in Victoria, for instance, would be assisted by being repatriated to this state because they would have the benefit of support structures that may assist in their rehabilitation. The families and relatives of prisoners in overseas gaols are extremely concerned about their wellbeing. Australian prisoners in overseas gaols who do not have any linkages to assist them and their rehabilitation would benefit greatly if they were repatriated to their homeland.

Honourable members are aware of cases of Australian prisoners in overseas gaols living in abhorrent conditions, living like animals, with no dignity. Their life expectancy is shortened and their punishment is beyond what they would expect in an Australian prison environment. The repatriation of prisoners does not mean that the authorities are not recognising the crimes committed in overseas countries, and the legislation takes that into account.

I urge the government to take up within the federal councils in which it is involved the expansion of the countries involved in the repatriation program, especially some Asian countries where many Australians are currently in gaol. Unfortunately there are no formal agreements with many of our Asian neighbours and often the punishment meted out to Australians incarcerated in Asian prisons is much worse than that which occurs in Australia. However, the current statistics of deaths and mutilations in our privatised Victorian gaols and their lack of accountability and supervision make one wonder whether prisoners in overseas gaols would be better off in Victorian gaols. If they had a choice I believe they would choose to go anywhere rather than into the privatised Victorian gaols, because the mortality and mutilation rates have greatly increased under this administration.

Honourable members interjecting.

**Hon. D. A. NARDELLA** — Honourable members should read recent newspaper reports to find out what is happening. A number of studies into privatised prisons, especially at the Metropolitan Women’s Correctional Centre, have indicated what has occurred since the prisons have been privatised. It is a major concern of the opposition and of the many civil liberties groups in Victoria.

**Hon. P. A. Katsambanis** interjected.

**Hon. D. A. NARDELLA** — No, they do not. You were not listening.

**Hon. P. A. Katsambanis** — That is basically what you claim!

**Hon. D. A. NARDELLA** — One needs to balance out whether in some of the privatised prisons they are better off, because the mortality rates and lack of accountability in those prisons are of great concern. One only has to look at the statistics for the privatised women’s prison —

**Hon. P. A. Katsambanis** — Is this a new phenomenon?

**Hon. D. A. NARDELLA** — It is a new phenomenon, because from memory there had been one fatality at the women’s prison in the previous 40 years. In the short time since its privatisation there has already been one fatality, and that is of concern to our community.

Once the prisoners are returned to Australia they must be rehabilitated and encouraged to refocus their lives.
and become reintegrated into the community without becoming recidivists. It is society's responsibility to ensure that prison programs, the parole system, the way sentences are served and the support mechanisms available in the community are all effective in preventing released prisoners from becoming menaces to society and again committing crimes. Having visited many prisons both in Victoria and in New South Wales and Queensland, I am aware that recidivism is a major concern in Australia, and one that must be tackled urgently.

On that basis, the opposition will be supporting the bill. It has some concerns about the increase in prisoner numbers in Victoria, but the bill provides the possibility of reducing that by about 200. If I were cynical, I would say that may be one of the major reasons why the government is putting the procedure in place, but I am not. The opposition supports the bill.

Hon. R. H. BOWDEN (South Eastern) — I support this important bill with pleasure because its emphasis is on rehabilitation and on humanitarian considerations that involve a range of people including prisoners, their families and the large number of people who interact with prisoners in the prison system.

The bill will allow Victorians who are being held in overseas prisons for any number of crimes to return home, with an emphasis on their being rehabilitated and equipped to successfully re-enter the Victorian community. The bill is not judgmental about the crimes those individuals may have committed; it focuses instead on the desirability of rehabilitation. A number of Victorian prisoners are serving sentences overseas for moderate crimes, and the appropriateness of their returning to Victoria is a feature of the bill. A safeguard is built into the bill, requiring that all parties must agree to the international transfer of prisoners — that is, the commonwealth government, the government of Victoria, the foreign government concerned and the prisoner.

The bill complements the federal International Transfer of Prisoners Act, which was passed in 1997. It is intended to be Victoria's contribution to the work that has been done since 1992 by the standing committees of Attorneys-General of the various states and territories and the commonwealth to put in place a treaty to achieve the desirable goals of the commonwealth legislation. The propensity of the authorities to charge people varies widely from country to country, and prisoner numbers in some places around the world are escalating rapidly. Unfortunately, the number of prisoners around the world is also increasing.

Under the interstate transfer of prisoners scheme, which has operated successfully in Australia since 1983, prisoners who are convicted in one jurisdiction are able to serve their sentences under precisely the same arrangements in other jurisdictions that are parties to the scheme. Under clause 13 it will be possible to continue to transfer prisoners within Australian jurisdictions.

Some hundreds of prisoners will be affected by the bill. I understand that although 42 Victorians are being held in foreign prisons about 480 foreign prisoners are being held in Victorian prisons, of whom 212 are from European convention countries. It should not be automatically assumed that there will be a great rush of prisoners wishing to leave Victoria or that there will be a massive movement of prisoners back to Victoria. However, this is a sensible and supportable arrangement because it will bring our citizens back and treat foreign prisoners humanely.

The consent of the prisoner is important, because the implications of returning prisoners overseas must be considered. The bill requires a duality of prison requirements — in other words, the crime must involve a prison sentence in both the overseas country and Victoria for the mechanism to operate. The bill provides for two types of enforcement: one is continued enforcement, which would involve the serving in Victoria of a sentence prescribed by the judicial system overseas; and the other is converted enforcement, which would be determined by the commonwealth and Victorian authorities.

Under the bill Australia can accept the transfer of persons convicted of war crimes — in particular, in the former Yugoslavia and Rwanda. It is not envisaged that there will be significant numbers of persons in that category, although Australia has been a strong advocate of the measures taken by the international war crimes tribunals conducted by the United Nations. The bill contains clear guidelines by which Victoria and Australia can contribute to the punishment of people convicted of war crimes.

Clause 16 is a desirable and important aspect of the bill. Sad cases arise when Victorian citizens overseas are imprisoned or placed into custody because of mental illness. Through arrangements with the commonwealth the bill makes it possible for those who have genuine mental illnesses to be compassionately considered. It is the commonwealth's responsibility to negotiate the subsequent treaties with the countries listed. Therefore the commonwealth act can operate in respect of Victoria. This is Victoria's first step towards the commonwealth's effort to put this mechanism in place.
Although the commonwealth, states and territories will be working together on the practical arrangements, the commonwealth will negotiate the treaties. Over a period the bill will give Victoria’s corrective services and law enforcement personnel an enhanced understanding of rehabilitation, correctional services and the prison systems of other countries. If anyone has the false notion that the bill will assist Australian citizens who engage in that most undesirable trade of illicit drug running to commit offences and then return home with an easy ride they will be sadly mistaken.

The bill provides that the foreign, commonwealth and Victorian governments are required to give consent to the international transfer of prisoners. If people unwisely engage in the illegal drug trade they can expect no sympathy.

An optimistic and sensible expectation of the legislation is a substantial cost saving. However, I emphasise again that the key humanitarian goal is to ensure that Australian citizens are able to conclude their sentences in this country under conditions we recognise as being acceptable. Rehabilitation with access to families will give hope to people who are not necessarily imprisoned overseas for major crimes. It will enable them to return to Australia and have contact with their families. The rehabilitation expectation is high. I support the bill because it embodies noble, sensible, practicable and cautious considerations.

Hon. JEAN McLEAN (Melbourne West) — I am pleased to speak in support of the International Transfer of Prisoners (Victoria) Bill, an eminently sensible bill based on a humanitarian proposal to return prisoners to their own countries to serve out their sentences. The bill is complementary legislation to that being enacted by the commonwealth and other states. Its purpose is to facilitate international agreements that have been entered into by the commonwealth. The bill applies to 39 countries that are signatories to the European Convention on the Transfer of Prisoners. They are mainly western and eastern European countries as well as the United States of America and Canada.

The bill will be invoked only for offences that would normally attract prison sentences in Australia and where prisoners are willing to be repatriated. Prisoners must serve the terms to which they have been sentenced when returned to their home countries. As pointed out in the second-reading speech:

It also applies to persons who have been charged with a criminal offence but who for reasons of mental illness have not been sent to prison but have been detained for mental health treatment.

This issue has been canvassed for many years by human rights organisations because to be incarcerated in a foreign country and separated from family and friends means a much greater punishment than just the loss of liberty. In the second-reading speech the minister referred to the benefits of returning prisoners to their home jurisdictions. That has been recognised in Australia since 1983 when the interstate transfer of prisoners came into effect. The benefits include the ability of prisoners to be close to their families. Given that most prisoners come from the lower socioeconomic bracket, it is unlikely that their families could travel interstate to visit even once and certainly not regularly. Family contact is considered vital for any form of prisoner rehabilitation. The same would be equally true in the case of overseas prisoners from here or elsewhere. The large proportion are incarcerated for drug-related crimes. If they receive long sentences isolation could be unbearable.

In many overseas gaols prisoners must have their food supplied by their families. I know that to be true because I have spoken with Australians who have been gaoled overseas for short and sometimes long periods, including Father Gore in the Philippines. The prison conditions, while primitive, are not always unbearable but certainly they need to have food, clothing and other necessities brought in from outside.

Some overseas gaols are very crowded. Anybody who goes to Brazil should work hard at keeping out of gaol because its prisons are extremely overcrowded. Every so often there is a riot and the police go in and clean out the gaols. Prisoners are killed. Some gaols, like ours, are overcrowded. The possibility of violence and rape is a worldwide problem in gaols. We should do something about that internationally, but the most terrible part of being gaoled in a foreign country is the lack of outside support.

The second-reading speech says that Victoria has many hundreds more foreign prisoners in its gaols than there are Victorians in prisons overseas. I understand the number of prisoners eligible to be transferred to overseas prisons is 212 from 16 convention countries and that the number of Victorians eligible to be repatriated back to Australia is about 40. That suggests the passing of this bill would result in an increase in the number of available prison beds of at least 160.

The prison system in Victoria is overcrowded. Prisoners are being kept in police cells that should not be used for long-term custodial purposes. Our prisons, especially the private prisons such as Port Phillip Prison in my electorate, face numerous difficulties. I hope any gain from an increased number of prison beds as a
result of the exchange of prisoners will not result in more incarcerations. Recently I have been told by a magistrate that the decision to gaol somebody depended mainly on the availability of beds.

Hon. K. M. Smith — You do the crime, you do the time.

Hon. JEAN McLEAN — It does not always work that way, Mr Smith. The measure of a truly humane society is one that uses prisons only as a last resort. I was stunned to read recently in the Herald Sun under the heading ‘Inmate numbers up’ a report that:

Victoria’s gaol population has hit a record high — and police minister Bill McGrath is proud of the record.

‘It is fair to say there are more people in prison today than ever before in Victoria’s history.’

Hon. B. C. Boardman — You could also say it is a safer society.

Hon. JEAN McLEAN — There has been no drop in the number of crimes and it has had no effect on safety. Mr Boardman knows that as well as I do. Crime rates increase when prison occupancy increases; it does not work in the opposite direction.

The reason for having the greatest number of prisoners in our prisons today, according to the minister, is the government’s strong commitment to law and order. But our prisons now house more than 2725 prisoners. American prisons hold more than 1 million prisoners and some law enforcement officers there predict that by 2000 that number will have increased to 2 million. There is nothing to suggest the incidence of crime has decreased in proportion to the rise in incarceration. If Mr Boardman does not believe that, he should look at the crime figures in the United States. The level of crime has more to do with unemployment and bad drug laws than crowded prisons.

Some of the countries on the list that are party to the European convention have good records with their prisons, but some have bad records. In most cases cultural and language problems mean the European Convention on the Transfer of Prisoners will be of great benefit to the people and the countries involved. I hope the list of countries will increase to eventually cover every country. I strongly support the bill.

Hon. B. C. BOARDMAN (Chelsea) — I am rather indifferent to the points made by the opposition. I welcome the opposition’s support for the ethics and ethos behind the bill, which may be relatively small but is important for the corrections system in Victoria and Australia.

Some points raised by Mr Nardella and Mrs McLean are not only hypocritical but arguably unsuitable in this environment. Mrs McLean is trying to promote an argument that there is some nexus between crime levels and prison populations. That is completely unrelated to the bill. Victoria’s prisoner levels may be higher than ever, but the converse is that the incidence of crime in Victoria is at one of its lowest levels. Victoria’s crime statistics show that this state is Australia’s safest.

The relationship promoted by Mrs McLean between prison populations and crime rates has no relevance whatsoever. Crime rates, crime prevention and community policing are more relevant — not the number of people brought before the courts or the way they are being punished.

Mr Nardella makes a wonderful case for the rights of prisoners. His contribution was characteristic of contributions to the debate by opposition speakers not only in this chamber but in the other place. I enjoyed listening to the argument about the rights of prisoners because the opposition always fails to mention that prison is an absolute last resort. A sentencing magistrate or judge has a multitude of options when determining punishment for criminal convictions. Before an offence reaches the courts an offender can be cautioned by the police or, once a charge is in the court, he or she can be placed on a bond, with or without conviction. Community-based orders, bonds and other conditions can be placed on offenders. Only if a person has committed a serious indictable offence or become a repeat offender will he or she go to prison.

The community and the government’s stance in relation to its criminal justice system is not based on the number of people that are put in prison; the objective is to make the community a safer place. That is not achieved by putting people in prison, and earlier I referred to certain options.

Mr Nardella mounted a disgraceful argument when he said that a new phenomenon in Victoria was the incidence of deaths in custody. That is a disgraceful act of gutter politics in that he was politicking sometimes unavoidable and unfortunate circumstances.

Honourable members interjecting.

Hon. B. C. BOARDMAN — The opposition says there has suddenly been an increase in the number of deaths in custody. In 1987 there were 19 deaths in custody and 15 deaths were recorded in 1988. The year 1987 was the year of the tragic Jika Jika division fire at Pentridge Prison. Everyone knows about the terrible
I have visited the former Pentridge Prison in a professional capacity. I have inspected the facilities and seen the way prisoners had to live their lives. It is no wonder the government did the right thing, closed down the facility and explored more appropriate facilities. In the last recorded full year — 1997 — there were eight deaths in custody in Victoria. I am disgusted to introduce that fact into the argument because each of those deaths was a tragedy and should not be used by the opposition to gain political advantage or substantiate some of the faults and concerns expressed about Victoria’s correctional facilities at the moment. I make no secret about the fact that the system has faults. However, the minister recently announced a review of correctional facilities to correct those faults. The government’s objective is not to return to the good old days under the Labor government with its archaic prison system. It wants correctional facilities that put the emphasis on rehabilitation and integration into the community. The bill gives the government the opportunity to combine that aim with the provisions in the bill concerning the international transfer of foreign nationals who are prisoners in overseas gaols.

I admit I had some initial concerns about the legislation. I understood and appreciated the implications of the commonwealth legislation and its relevance to the states in terms of enacting enabling legislation. I was also aware of some of the differences associated with international correctional systems. Here in Victoria the focus is very much on rehabilitation and integration. Overseas the focus in many of the countries I visited as well as those I researched is simply on punishment. There is a stark contrast between the management and administration of those correctional facilities and those of the facilities in Victoria.

Recently I was in Singapore and visited Changi prison. I will not say I had the pleasure of visiting there. Changi was used as a prisoner of war correctional facility during World War II when Singapore was occupied by the Japanese. Although there have been some improvements and upgrades it is still a very dark, disturbing place with facilities I would describe simply as inhumane. If one compared the conditions in Changi with the conditions in Victoria’s correctional institutions one would find a stark contrast.

In his second-reading speech the minister focused particularly on prisoners gaining the necessary skills for integration into the community once they have served their time, suffered the punishment and accounted for the offences committed. One hopes they then go back into society and do not re-offend. The dilemma is how one interprets the word ‘punishment’. My personal view — possibly many honourable members will not agree with me — is that punishment is first and foremost a deterrent. It is not there to say, ‘If you get caught you will be punished’. It should say, ‘If you are caught certain sanctions must be applied to you’. Deterrent and rehabilitation are two crucial issues. During my experience as a Victorian police officer I learnt that the thought of punishment was not part of the psychological decision-making process of a person who was about to commit a crime. Such a person usually believes he or she will not get caught. The courts know that. That is why I reiterate that incarceration is an absolute last resort.

As previous speakers said, Victoria has approximately 2800 prisoners of whom approximately 470 are foreign nationals, mostly nationals of participating European countries and the USA. One would therefore assume that the enactment of the new legislation will greatly benefit the reduction of Victoria’s prison population.

Some countries impose harsher penalties than those imposed for the same crimes in Australia. However, the bill allows the minister to decide whether to continue such penalties after taking into account the appropriate Victorian penalty. All states in Australia will be party to this important bill. The nonsensical argument about prison populations and crime rates put forward by the opposition is absolute rubbish and I condemn it. All that aside, I support the bill.

Hon. SUE WILDING (Chelsea) — I shall make a few comments on the International Transfer of Prisoners Bill. Its aims, which are twofold, are based on humanitarian grounds. The first aim is that overseas prisoners return home to complete their sentences so they can have the support of families and friends and be rehabilitated into their own communities. The second is to allow foreign prisoners in Victorian gaols to return to their countries for family support and to become accustomed to joining their home town communities.

At present 35 countries are parties to the European convention on the transfer of international prisoners. There are also a number of countries that I regard as non-member parties to that convention. Those countries include Canada, the United States of America and Australia. At present 167 Australians are prisoners overseas. Of those, 75 have already been sentenced and the other 92 are either awaiting trial or have been convicted and are now awaiting sentence. Of those, 50 per cent are in Greece, Thailand, New Zealand or the United Kingdom. Of the 167 Australian prisoners 12 have named Victoria as their home state or where.
their next of kin live. It is estimated that a further 20 or so prisoners wish to come back to Victoria to serve the balances of their sentences. In a number of cases the full details are unavailable so the number could be higher than that.

When I first read the bill I was concerned at the length of sentences given to some Australian nationals, particularly in certain Asian countries. I made further inquiries and would like to share with you, Mr Deputy President, the realities of those sentences. The figures to which I refer were provided by the Department of Foreign Affairs and Trade and relate to Australians released from Thai prisons after serving drug-related sentences.

A female was sentenced to imprisonment for natural life and released after 10 years. A male was sentenced to death, which was commuted to imprisonment for natural life. The sentence was further commuted to 35 years but he was released after 11 years. Another man was sentenced to imprisonment for natural life. The sentence was commuted to 40 years imprisonment and he was released after 10 years. Another male was sentenced to death. The sentence was commuted to imprisonment for natural life and he was released after 9 years. A male was sentenced to 25 years imprisonment and was released after 6½ years. Another male was sentenced to 25 years imprisonment and released after 13 years. Those figures confirm that Thai officials sentence their prisoners to terms of imprisonment of 40 or 50 years or even to the term of their natural lives.

In reality they are pardoned much earlier in Thailand because there is no parole system in that country. Offenders spend about the same time locked away.

Prior to a transfer either to or from Victorian prisons not only must everybody be in agreement on the fact that the prisoner will be transferred, but the parole period, the length of sentence and all other details must also be agreed to by the prisoner and both the governments concerned, and approved by the Victorian Minister for Corrections.

There are some 212 prisoners from European convention countries in Victorian gaols, and the majority of them are most likely to want to leave our gaols and go back to their home countries such as the United Kingdom, the United States of America and Canada. They are the most likely prisoners to apply to be returned to their home towns. The final result will be that more prisoners will be leaving Victorian gaols than will be returning to Victoria.

The legislation has arisen from the European Convention on the Transfer of Sentenced Prisoners, to which Australia would become a non-member party. The scheme has already been agreed to by the commonwealth and state Attorneys-General and the legislation is reciprocal to the commonwealth International Transfer of Prisoners Act 1997.

I support the bill.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank honourable members for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

BUSINESS OF THE HOUSE

Sessional orders

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

That so much of the sessional orders be suspended as would prevent new business being taken after 10 p.m. during the sitting of the Council this day.

Motion agreed to.
Debate resumed from 21 October; motion of Hon. G. R. CRAIGE (Minister for Roads and Ports).

Hon. T. C. THEOPHANOUS (Jika Jika) — The opposition does not formally oppose the bill, much of which flows from federal legislation and has been supported in the past by the opposition. However, I want to make a number of points and I would like also to take the bill into the committee stage because the opposition is concerned about a number of the clauses.

Hon. G. R. Craig — Do it now while you are debating it.

Hon. T. C. THEOPHANOUS — The opposition has decided not to make an issue and call for a division on the bill, but it wants to go into committee for the reason that the minister does not want it to go into committee, and that is because in the committee stage we might be able to ask the minister some questions about the bill. If the minister does not feel like answering the questions, he does not answer them; that is the way he likes to operate.

Obviously the minister has no idea of what the bill is about if he is so concerned about going into committee and answering a few questions on the bill that he has brought before the house — which is the way this place is supposed to operate, for the minister's information. That is what the opposition is supposed to do — scrutinise legislation, ask questions and see whether the minister has any answers.

The purpose of the bill is to encourage exploration and production activity in the Victorian petroleum and mining industries. It does this in two ways: firstly, by providing operators with a greater security of tenure; and secondly, by reducing constraints on potential development.

Increasing the rate of exploration will have virtually no effect on the market for petroleum within Victoria. It will, however, lead to a short-term increase in employment in the oil exploration industry. Insofar as the exploration is successful it may also lead to a short-term increase in the value of royalties received by the state.

The opposition has some concerns about the legislation in that arguably it provides excessive encouragement at the cost of the environment. The key features of the bill are that it was initiated by industry and developed after the review of the Petroleum (Submerged Lands) Act; it is modelled on the Mineral Resources Development Act 1990.

There are four types of exploration permits: initial five-year leases with an option for renewal over 50 per cent of the land area for a further five years; retention leases, which grant the right to retain petroleum discoveries for future development; production licences; and special access authorisation, which is the right to explore but not to discover or drill.

All land under the legislation will be covered by competitive tender. If underground storage areas are left idle the minister may excise unused reservoirs and make them available by competitive tender.

Petroleum operations are prohibited on wilderness Crown land. On parks Crown land, which includes national, state and other parks, operations may take place on application to the minister. Application must also be made to the minister for operations on restricted Crown land. For operations to take place on unrestricted Crown land a minister must be consulted.

The bill deals with a broad range of issues. The bill provides for operations on private land with compensation, advance notification, consultation and rehabilitation. It provides for exploration where no planning permit is necessary. Production cannot be prohibited under the legislation. The bill also provides for rehabilitation bonds and royalties on production at 10 per cent of wellhead current value, but with the agreement of the minister and following consultation with the Treasurer differing royalty agreements may be entered into. It also provides for the appointment of petroleum inspectors to ensure compliance and enforcement of occupational health and safety matters. I will say more about that during the course of the debate.

The proposed extension of the exploration period from two to five years will provide explorers with the capacity to develop their work programs over a longer period than is currently permitted, while at the same time enabling them to vary their activities in accordance with the business cycle. On balance this proposed change seems reasonable and is not opposed by the opposition. It is hoped the extension of the exploration permits by a further three years to five years will enable a greater level of planning in exploration in Victoria.

Retention leases will provide explorers with the opportunity of delaying the development of their discoveries for up to 15 years. That is the sort of standard criteria which is applied from time to time and which is designed not necessarily to force discoveries to
immediate production but to encourage activity in exploration even when there is no likelihood of life for the development of the fields for up to 15 years. There may be some concerns about retention leases, but the bill is designed to allow for an orderly process of discovery and development of the fields.

The bill proposes some safeguards against any unreasonable speculative delay in development. Specifically clause 44 provides that the minister may require the holder of a retention lease to evaluate the commercial viability of petroleum production in the lease area and report to the minister in writing the results of the re-evaluation. The minister may require the leaseholder to apply for a production licence in respect of the area covered in clause 45. The opposition has some concerns about clause 44, and I intend to raise those concerns with the minister in the committee stage. Broadly speaking the opposition seeks an assurance that the minister will seek such advice as he or she requires in order to make the decisions provided for in clause 44.

Clause 11 provides that the bill will apply to all land in Victoria, although under clause 12 the minister may exempt land from the application of the act. Clause 38 requires the consent of the minister for the carrying out of petroleum operations on any land. Clause 37 bars petroleum operations on wilderness land. However, unlike the Minerals Resources Development Act the bill provides almost unrestricted access to land for petroleum operators. The Minerals Resources Development Act specifies which land is not available for exploration, mining and searching, and it is a pity the government did not see fit to include the section of that act which identifies and specifies the land that is not available for exploration and instead chose this broad-brush approach.

In addition the Minerals Resources Development Act provides that the minister may require an environment effects statement if in the opinion of the minister any proposed work will have a material impact on the environment — and it would have been good to have included section 45 of the Minerals Resources Development Act in that context.

Clause 156 of the bill enables the minister on the application of the holder of a production licence to vary the royalty rate previously specified. This provision will enable production to take place from sources that would otherwise be uneconomic. The opposition has some concerns about clause 156. It is another of the clauses I will refer to the minister in the committee stage. There appears to be no provision in the bill for independent and objective verification of the decisions that would be made under the clause. For example, the bill does not provide for the variations that might be granted under clause 156 to be published in the Government Gazette. That means variations can be made and kept secret. The opposition will raise that issue in the committee stage and seek a response on it from the minister.

There has been inadequate consultation on planning and environmental control issues. Proper consultation should have occurred on exploration and production rights that do not require full planning approval. The bill should contain a greater level of safeguards. The house may not be aware that the bill is extremely broad and applies not only to small exploration areas where drilling may occur but also to the production of petroleum. It takes within its ambit such matters as the production and exploration facilities at Shell, Esso and other major companies.

Recently the community has become increasingly concerned at the safety and inspection of the production and exploration facilities in this industry. The two significant events that occurred recently, the explosion at the Esso Longford plant and certain incidents at the Shell refinery in Geelong, are a grave concern to all Victorians.

The provisions in the bill deal with inspections and, consequently, cover issues relating to the authorisation of inspectors, emergencies, offences and the range of powers provided to inspectors so they can carry out their functions. The opposition applauds the inspection-related clauses because they are stronger than the current provisions applied under the Occupational Health and Safety Act. The provisions relating to safety and inspections introduced by this bill are a significant improvement on the watered-down provisions and regulations introduced by the government under the Occupational Health and Safety Act. However, I make the point that when the bill was introduced and the new provisions were canvassed, they were welcomed on the basis that they would apply to the petroleum production and exploration areas.

Since the introduction of this bill, the government has introduced further legislation that effectively removes the power of occupational health and safety inspectors to inspect petroleum production and exploration facilities. Apparently, approximately six inspectors at the Department of Natural Resources and Environment will carry out the inspections of petroleum production and exploration facilities. It is another example of the government not having a clue about safety inspections and is a real cause of concern. At the end of the day nobody will know who is supposed to inspect what. Will it be the inspectors at the Department of Natural
Resources and Environment or those at the Victorian Workcover Authority, which has taken over the role of the former occupational health and safety inspectors? The opposition wants those questions answered and it is one reason why the bill should be committed. It is impossible to obtain answers to these questions unless the minister is forced to answer them during the committee stage.

Given that the bill deals with safety issues and inspections, I refer the house to the Shell petroleum refinery at Geelong. The history of the Shell Geelong plant is extraordinary. In September 1994 several explosions and a fire occurred which resulted in the death of Mr Stanley Martella and burns to 80 per cent of Mr Peter McColl’s body.

The matter was investigated by none other than the current head of the organisation, Mr Glenn Sargent, who attended the site.

In April 1995 another major incident involved the rapid and uncontrolled release of hydrochloric acid, which sprayed an apprentice named David Wright, who was an employee of Dannan United Engineering Pty Ltd, subcontractors of Shell. In mid to late 1995 the Country Fire Authority, through its risk manager, formally complained to the VWA about the appalling occupational health and safety and dangerous goods standards that prevailed at the Geelong Shell refinery, and the CFA asked the authority to get fair dinkum about Shell at Geelong. Finally, the CFA undertook an audit of the Shell refinery in conjunction with the Workcover Authority, which found some 150 items that were not in compliance.

That happened back in 1995. Since then safety has been deregulated and Victoria has had an inspection regime that is not, as the Treasurer has attempted to say, up to world best practice. The inspection regime proposed by the bill is a significant improvement on the previous regime.

In August and September 1996 major industrial action was taken by workers at the Shell refinery, who were completely fed up with the delaying tactics of Shell management, which continued to show open contempt for safety processes and inspections. As a result of that industrial action, a safety inspector attended the site. After speaking with all the parties to the dispute, he concluded that the workers had reason to be concerned and issued a prohibition notice. Unfortunately, the prohibition notice was reluctantly withdrawn by the then inspector on instructions from his superior at the VWA. Soon after, there was prolonged industrial action at the refinery involving a walkout by workers and the assembling of picket lines. That is the extent to which the workers at Shell had to go to get some action on safety at the refinery!

Recently a number of inspectors from the CFA and the Workcover Authority went down to the Shell refinery at Geelong and found some horrendous problems, many of which had been identified in the 1995 joint examination by the Country Fire Authority and the VWA. It has been suggested that up to 75 per cent of the issues identified in 1995 have still not been addressed. That is indicative of the fact that the government keeps washing its hands of the significant safety issues involved in the running of major refineries, which have the largest amounts of dangerous goods in the state.

Essentially, Victoria has four or five major areas that are at extreme risk from the explosion of flammable goods — Coode Island, the Shell refinery at Geelong, the Mobil Altona refinery, and the Esso plant at Longford. Each of those four areas is at the highest level of acute danger.

In the past few months Victoria has seen major crises develop at both Shell in Geelong and Esso in Longford. The attitude of the government has been, ‘It’s not our fault. It doesn’t matter that Esso didn’t have a dangerous goods licence when the explosion occurred down there. It doesn’t matter that the dangerous goods licence was granted on a 2¾-hour inspection of 102 separate items. It doesn’t matter that over the past two years the massive site has been inspected an average of 18 times a year when in the previous eight years prior to the government’s deregulation of safety the average number of inspections a year at the Longford plant was not 18 but 120’. In the eight years prior to deregulation there were six times as many inspections at Longford as there have been in the past two years!

The absurd situation then arose of the Minister for Finance coming into the house and saying, ‘Eighteen inspections a year is not too bad’. He made a big thing of 37 inspections having been carried out over the past two years, until he suddenly realised that the previous 950 inspections over the previous eight years may have been a better record! Safety in the state is being compromised because of the government’s actions.

At the end of the day if there is not a police force one cannot blame the community for increased crime. If we do not have safety inspectors one cannot blame employers for a reduction in safety requirements in the workplace. Employers have a responsibility to ensure safety in the workplace, but the government is
responsible for ensuring that the workplace is properly monitored and inspected. That is the central point. It is no different from any other area the state regulates. It is the driver’s responsibility to drive a car safely but it is the responsibility of the government and the police force to ensure that laws are enforced and that people live up to their responsibilities. That has not taken place at the Longford site or at Shell in Geelong.

The government has failed in at least two of the four most dangerous areas. The bill seeks to upgrade the inspection regime in the petroleum industry, which the opposition welcomes, but it is somewhat late. The problem is that, having introduced legislation to allow occupational health and safety officers to make inspections, the government will introduce other legislation on the sly that will take away the right of those inspectors to inspect exploration sites. The government will hand that over to inspectors of the Department of Natural Resources and Environment. The government gives with one hand and takes away with the other.

We had the absurd situation earlier today where the minister responsible for safety in this state informed the house that the Victorian Workcover Authority had received the licence application from Esso before 26 August, yet the actual licence application lists the date as 29 September. The government and the minister have been caught out time and again on the presentation of information to the house.

Safety has become an acute problem that must be addressed comprehensively, but it is not being addressed by the government. I hope the government will take seriously some of the provisions in the bill that relate to safety inspections and put resources, energy and real will into safety inspections and into ensuring safe workplaces in the state.

The opposition will not oppose the bill. However, during the committee stage it will seek assurances from the government about specific provisions.

**Hon. PHILIP DAVIS (Gippsland)** — I am delighted to have the opportunity to speak on the Petroleum Bill, which is important for this state because it brings into a contemporary framework the legislative regime under which Victoria’s onshore petroleum exploration and production industry operates. The bill will replace the principal act of 1958, which is now 40 years out of date. It has had few modifications over that period. With the evolution of contemporary business practice and mining exploration technology it is evident that the provisions of the principal act are redundant and present difficulties.

Without dwelling on the important contemporary nature of the bill, it must be understood that the industry is vital to the state. Oil and gas exploration have become a central component to the economic wealth and health of Victoria since the commencement of production from the Gippsland Basin in the late 1960s.

It is with some pride that I declare that not only do I have an interest in the legislation but I also represent an area of the state where the first oil discoveries were made. In 1924 the first oil discoveries were made at Lake Bunga near Lakes Entrance in Gippsland. I understand they were the first discoveries in Australia. That led to investment in approximately 100 wells during the 1920s in Gippsland to determine the extent of available oil. Those explorations did not confirm commercial yields but indicated the presence of oil and gas. It was from that early base that further discoveries were made offshore. It is important that we recognise the importance of the onshore exploration activity.

**Hon. T. C. Theophanous** — Is there still one at Bunga?

**Hon. PHILIP DAVIS** — There are no active wells onshore. However, although the Lake Bunga well provided limited quantities for some time, it was not commercially viable. There are exploration leases throughout the Gippsland Basin. It is of some interest to me that at one time I owned a parcel of land that had one of the Woodside Petroleum wells on it. It was securely capped. When moving mobs of sheep past that well I sometimes contemplated the challenge of removing the cap to investigate the available production. However, because I was conscious of compliance requirements I resisted the temptation because I knew I would have to apply for an exploration licence.

It goes without saying that such a significant piece of legislation has been given full and proper consideration by the government. As part of that consideration a significant effort has been made to consult with the key stakeholders. The industry, in the form of explorers, has been invited to discuss the legislation with the government. Further, the industry, represented by the Australian Petroleum Production and Exploration Association, has been consulted, as have the Victorian Farmers Federation and the Environment Protection Authority. Comments have been sought also from conservation and land management groups. Therefore it is important to recognise the effort the government has made to ensure that all issues have been taken into account in deliberating on the introduction of the bill to bring forward to contemporary standards the proper framework for the exploration and production industry.
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It is important to note that not only have the significant discoveries of gas and oil in the Gippsland Basin added to our wealth but also that geographically western Victoria has significant further potential. Therefore we need to understand something about the history of the Otway Basin. As early as 1892 the first attempts were made to discover oil in the Otway Basin when wells were drilled at Kingston in South Australia as part of an early attempt at discovery, but not until the 1980s were commercial quantities of gas found and harnessed from the Otway Basin. We understand the cities of Portland and Warrnambool are now supplied with reticulated gas from the Otway Basin; they are now the only Victorian locations with on-tap natural gas supplies not derived from the Gippsland gas fields.

My remarks will go to the essence of the bill. Its purpose is to assist the industry by providing encouragement to reduce the burden of regulatory impost on the industry, securing the rights of the explorers in investment returns from their efforts, particularly in capturing the benefit of the intellectual property they may develop in undertaking their explorations, and ensuring they are encouraged to pursue that goal while not at risk of losing the benefit of the efforts they have made.

On balance, that comes down to establishing a proper licence for the ownership of the intellectual property. The bill deals with that aspect. It is also important to the balance of and access to the ownership of the resource to ensure there are proper access arrangements to private and public land. The bill sets out a clear structure which enables all parties to understand their rights and obligations. It is important to recognise that the opportunity exists under the bill to provide access to Crown land, including parks, but with important codicils attached to ensure there is no adverse impact on the environmental and conservation values of those sites. Where there is production from wells on private land there will be a recognition of the rights of the land-holders in regard to the impact of the activity on the sites, and of the fact that the Crown should receive appropriate royalties.

I could make a more significant contribution to the debate, but given that the second-reading speech was so extensive in outlining the provisions of the bill and that the house will move to the committee stage, as I understand what the Leader of the Opposition said during his contribution, there will be ample opportunity for me to substantially expand on further points during the committee stage. Therefore I intend to conclude my remarks by signifying my support for the bill, and I look forward to joining the debate in the committee stage.
I am pleased to report that my commonwealth colleague, the Minister for Communications, the Information Economy and the Arts, has provided a grant of $10 million to assist in capital developments at the college.

The Victorian government is providing $300,000 to finance an endowment campaign to generate an independent income stream to support the college programs. This extends a grant of $2.5 million previously made by the government to provide equipment for multimedia programs in the college’s School of Film and Television.

The Victorian College of the Arts is fortunate in its relationship with the University of Melbourne with which it is affiliated. The degrees which are offered are those of the university and programs are approved by the university’s academic board. However, the college is a separate legal entity and employs its own staff so that an arts culture which differs in some important respects from the academic culture of a major research university can be maintained.

Last year the government undertook a review of governance arrangements in Victorian universities. That review made a number of recommendations to reduce size of councils, streamline administrative arrangements, and simplify necessary government approval mechanisms. It also clarified the complementary roles of councils for strategic policy development, governance and accountability; academic boards for oversight of academic affairs; and institutional administrators for management decisions. The changes that were recommended were incorporated in legislation to amend university acts in 1997. They are now in operation and are working effectively.

The Victorian College of the Arts is not a university and its governance arrangements were not considered in last year’s review. However, the principles which were followed in making recommendations for universities are equally applicable to the college, and the current financial pressures that it faces make it essential that its governance arrangements are as efficient and effective as possible.

Earlier this year my colleague the Minister for Tertiary Education and Training established a review committee comprising Mr Peter Laver, Chancellor of Victoria University of Technology and former chair of the National Board of Education and Training; Emeritus Professor Elwyn Davies, Chair of Victoria’s higher education committee; and Dr Ian Allen, Deputy Secretary and Director of Higher Education in the Department of Education, to review governance arrangements at the college.

The committee was asked to apply the principles of the governance review which had been applied in the universities review but to take account of the particular circumstances of the college including its special relationship with the University of Melbourne, its small size, and its special focus on the arts.

The committee visited the college on a number of occasions, consulted with students, staff and council and with the University of Melbourne, and presented its report to my colleague in June this year. The committee made a number of recommendations which he has accepted and which are incorporated in the legislative provisions contained in the bill.

I would like to acknowledge the government’s appreciation of the work done by the review committee and to thank the committee members for their contributions.

Major provisions of the bill include:

- Reducing council size from 26 to 18 members and removing several categories of membership to provide greater flexibility in appointing to the council individuals with the special expertise which is required.
- Provision for appointment of overseas members to the council as has been done for universities.
- Simplification of the processes for filling casual vacancies on council and approval of statutes.
- Amendment of the membership and purpose of the Board of Studies to provide a sharper focus on academic matters.
- Amendments to powers to borrow money and acquire and dispose of property to bring them into line with corresponding arrangements for universities.

Council membership changes will take effect from the beginning of next year. The bill includes transition arrangements for the move to the new council structure which follow the pattern used for amendments to university councils last year.

I commend the bill to the house.


Debate adjourned until next day.
EDUCATION (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The Education (Amendment) Bill 1998 amends the Education Act 1958 to facilitate the holding of religious pageants, special events or celebrations of festivals in state schools. The bill will also repeal outdated provisions relating to special education in state schools.

Many state schools in our culturally diverse state celebrate significant religious events with pageants or celebrations as part of the religious and cultural life of the school community. Parents and students delight in participating in activities that hold special meaning for them and for other members of the school community.

The preparation for the pageant or the holding of the pageant may include some element of religious instruction. For example, it may involve an address by a minister or priest, or the teaching of the meaning and significance of a religious song.

At present any religious instruction associated with the preparation and holding of a pageant must comply with section 23 of the Education Act. That section limits the circumstances in which religious instruction may be given in state schools. Section 23(2) provides that when religious instruction is given in any state school during the hours set apart for the instruction of pupils, it must be given by accredited representatives of religious bodies who are approved by the minister, it must be given on the basis of the normal class organisation of the school (except where the particular circumstances of the school cause the minister to authorise some other basis) and attendance for religious instruction must not be compulsory.

This section requires that any religious instruction associated with the preparation for religious pageants, special events or celebrations of festivals can be undertaken at school, during normal instruction hours, but only on a class-by-class basis. If the religious instructors want to bring a number of classes together to practise, they can only do so during lunchtime, before or after normal school hours or off the school premises.

If the pageant, special event or celebration of a festival involves a religious address or other religious instruction to pupils, a school can only conduct the pageant or celebration during lunchtime or other non-instruction time, or off school premises.

This complex situation has the potential for creating unnecessary barriers to communities celebrating significant events, and for creating unfortunate anomalies. For example, a school with a convenient nearby facility could permit its students to spend time during school hours at the facility preparing or conducting a religious event. Meanwhile, another school that permitted its classes to combine for a short time on school premises on a single occasion to prepare for or celebrate a religious event could be in breach of the act.

To remedy these anomalies and to facilitate the holding of pageants, the bill authorises the minister to permit religious instruction to be given in state schools during the hours set apart for the instruction of students on a basis other than a class-by-class basis, if the religious instruction forms part of the preparation or conduct of a pageant, special event or celebration of a festival.

We live in a culturally diverse society that includes people with various religious beliefs, people with no interest in religion and, in some cases, people with strongly held opposition to any teaching of religion. In recognition of the diversity of our community and the range of beliefs about religion, the bill provides that any event that involves religious instruction will continue to be voluntary, as mandated by section 23(2)(c) of the act.

I turn to the other matter the bill deals with — namely, the repeal of division 2 of part 4 of the Education Act 1958. This government is committed to providing all students with disabilities and impairments access to the highest quality educational opportunities. Consistent with that commitment, the Program for Students with Disabilities and Impairments enables parents of students with disabilities and impairments to choose where the student is educated, whether that is in a regular state school or a special school. Parents with the assistance of their local school are requested to provide the department with information and expert opinions about their child. The department then determines whether additional funding should be allocated to the school chosen by the parents to meet the needs of the student and the level of funding that will be made available.

Division 2 of part 4 of the act refers to ‘handicapped children’, a term which is no longer used. It imposes a duty upon parents of children who appear to be handicapped to notify the minister in writing and gives the minister the power to direct a child to undertake...
special education. It also refers to the establishment of special schools, which duplicates the powers in section 21 of the act, and it gives the minister the discretion to establish a special education authority.

The provisions of division 2 of part 4 are outdated and no longer reflect the choices currently available to parents consistent with the Program for Students with Disabilities and Impairments conducted by the department. The special education authority is not used to assess a child's disability, and parents are no longer directed to present their children for examination, nor is a child directed to undertake special education. Parents are given as much choice as possible about where and how their children will be educated.

The bill repeals division 2 part 4 of the act and a new provision, section 25AA, will replace section 64I. Section 25AA states that a parent is not required to contribute to the cost of providing additional support in a state school for a student with a disability or impairment.

Accompanying the repeal of this division, and as announced earlier this year, the Department of Education is to establish a panel of experts to assist the secretary in reviewing individual applications made to the Program for Students with Disabilities and Impairments.

The panel will be called upon to advise and assist the secretary to the department to review applications for funding under the Program for Students with Disabilities and Impairments. It will comprise three members drawn from a list of seven persons each of whom will be experts in a particular field of disability or impairment. It will be able to operate without formality, and to provide independent recommendations to the department.

I commend the bill to the house.

Debate adjourned on motion of Hon. M. M. GOULD (Doutta Galla).

Debate adjourned until next day.

TRANSFER OF LAND (SINGLE REGISTER) BILL

Second reading

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

That this bill be now read a second time.
of the Transfer Of Land Act 1958. These applications are expensive, as the applicant must prove ownership to the Registrar of Titles. In 1986, the Transfer of Land (Conversion) Act was introduced, which provided three additional conversion schemes to bring general law land under the Torrens system more quickly and cost effectively.

The key feature of these schemes is that the cost and time taken in conversion is reduced by enabling the Registrar of Titles to rely on the investigation of the transactions which establish ownership made by legal practitioners on behalf of their clients. The registrar can convert the general law title to a Torrens system title by relying on a legal practitioner’s certificate establishing that the applicant has a good safe holding and marketable title, without any examination of title by the registrar. Although these simplified schemes have worked well in practice, the anticipated rate of conversion has not been achieved. Accordingly, the government proposes to seek to accelerate the rate of conversion.

This bill will continue, but further simplify, the conversion schemes introduced in 1986. It will close the register kept by the Registrar-General under the Property Law Act 1958 to further registrations; it will require the recording of transactions in general law land to be made under the Transfer Of Land Act; and it will provide a simplified procedure for conversions to be initiated by the Registrar of Titles.

The changes proposed will mean that, in practice, all general law parcels which are transacted will be converted to the Torrens system. Land which has been long held by institutional owners, family trusts and the like, government land such as railways and roads, and other land not normally transacted may be brought under the Torrens system by voluntary applications or by conversions initiated by the registrar. The result will be a significant increase in the rate of conversion leading to the ultimate elimination of general law land.

Apart from the legislative changes proposed, the government has already introduced a number of initiatives designed to encourage conversion of general law land. Specifically, those initiatives are:

1. the creation of a library of general law title searches, any of which are available to customers for only the photocopy costs. The copy search, updated if necessary, can be used in a conversion application, significantly reducing title search costs;

2. the payment of a subsidy to cover the majority of the cost of a title search where a copy search is not yet available from the search library;

3. a significant reduction in the fees payable on certain applications for conversion;

4. the identification, from existing records, of general law parcels and the creation of a title plan for each parcel identified; and

5. the undertaking of surveys of two areas of the state for which no survey information has ever been available, enabling accurate identification of general law parcels and the preparation of title plans for these parcels.

In this context, on behalf of the Minister for Conservation and Land Management I am pleased to announce that over $4 million has been made available from the Estate Agents Guarantee Fund to finance these initiatives and the conduct of a community education program to encourage voluntary conversion. The funding has been approved by the Minister for Fair Trading and I would like to take this opportunity on behalf of the Minister for Conservation and Land Management to thank both the Estate Agents Council and the Minister for Fair Trading for their support for these important initiatives.

I now turn to the bill. The bill repeals the land dealings registration provisions in the Property Law Act 1958 and provides that no document affecting land may be registered under that act. This change will require any party dealing in general law land who desires registration to proceed under the Transfer Of Land Act 1958.

The bill repeals all the existing conversion provisions in the Transfer Of Land Act 1958 and re-enacts the three legal practitioner’s certificate-based conversion schemes introduced by the 1986 legislation. The procedures for conversion under these schemes will remain unchanged, save that any transaction may be evidenced by the simpler form of document already approved for use under the Transfer of Land Act 1958. Also, the registrar will not require a formal plan of survey where other evidence can sufficiently identify a parcel of land.

In addition to these conversion schemes, three other means of conversion are provided for in the bill. The first new conversion scheme requires a person seeking registration of a document which evidences a transaction in general law land to register under the Transfer of Land Act. The second new conversion scheme provides for an application to be made for
conversion without requiring production of a legal practitioner’s certificate. The third new conversion scheme allows the registrar to initiate a conversion.

The bill introduces two additional forms of folio of the register — namely, identified folios and provisional folios. An identified folio may be created by the registrar when a parcel of general law land is identified. The folio will usually contain only a description of the land. Notifications of interests may be recorded on such a folio and the registrar may create a folio upon a notification of an interest being lodged. A recorded notification will have status and authority much the same as a caveat under section 89 of the Transfer of Land Act.

An identified folio will be essentially a Torrens system tag for a general law parcel. No registered proprietor will be disclosed in an identified folio and a certificate of title will not be issued. General law priority rules will continue to apply. The folio will continue to be affected by all subsisting general law interests.

The other new type of folio is the provisional folio, which replaces the limited and qualified folios in the existing schemes. A provisional folio will have the usual characteristics of a Torrens title, but will remain subject to subsisting general law interests and may be subject to other restrictions. A certificate of title will issue for a provisional folio, and the restrictions affecting it will be notified on the folio.

Land in a provisional folio cannot be subdivided or consolidated with other land. The folio would need to be made ordinary before subdivision or consolidation could proceed. A provisional folio may be granted to an adverse possessor on meeting the requirements for the issue of a folio.

Creation of a provisional folio will result from any of the conversion methods which do not require the submission of a legal practitioner’s certificate. In all of these cases the general law title will reflect all registered interests under the Property Law Act, but will not have been examined by a legal practitioner or by the registrar. Where the registrar considers it appropriate, a provisional folio may be created from a lodgment or application that is accompanied by a legal practitioner’s certificate. However, the registrar’s experience of the existing conversion schemes suggests that few, if any, provisional folios will be created for this reason.

The bill maintains the present position that a defect in title, indicated by a warning on the provisional folio, ceases to affect land after 15 years. The extinguishment of any conflicting rights after 15 years accords with the usual 15-year limitation period applying to actions relating to land. A provisional folio based on adverse possession will become free of warnings, except as to description, after 15 years, but only after notice and caveat provisions have been complied with. An application may be made at any time to remove a warning, if it can be proven that the defect in title no longer affects the land. This would usually be proven by production of a legal practitioner’s certificate.

At any time before or after the creation of an identified or provisional folio, the last registered owner under the general law or the registered proprietor, as the case may be, may apply for the creation of an ordinary folio. An application will need to be supported by a full title search, evidence of capacity to deal with the land and a legal practitioner’s certificate.

Enhanced caveat and notice provisions will ensure that appropriate protection is given to persons who have or may have an interest in land the subject of a conversion or where a warning is sought to be removed from a title. A mortgagee may apply for conversion, either in connection with the exercise of a power of sale or otherwise. The bill deems all general law mortgages affecting converted titles, both existing and future, to be mortgages under the Transfer of Land Act. This provides uniformity of procedures and greater certainty for mortgagees when exercising their powers.

The bill confers discretionary powers on the registrar to accept conversion applications. It also contains deeming provisions, intended to provide clarity and uniformity in the administration of the Transfer of Land Act and to protect the efficacy of documents prepared in the simpler form required by the Transfer of Land Act where, for some reason, conversion does not occur. The bill will allow the registrar to return general law deeds relating to a conversion application or dealing to the lodging party. This will enable historically interesting or important documents to be retained by the property owner.

The effect of this bill on conveyancing procedures will be minimal. In fact, document simplification should assist legal practitioners, lenders and others involved in property transactions. The fee concessions and other initiatives of which I spoke earlier should act as an encouragement to conversion.

This is an important bill for the law of real property in Victoria. The bill provides the legal mechanisms to encourage the conversion of general law land and, together with the other initiatives already taken, will accelerate the process of conversion in an economic
and efficient manner. Extensive consultation with academics, the legal profession and other interested groups has seen unanimous support for the elimination of general law land. The economic benefits of this bill such as simpler conveyancing, greater certainty of title and the existence of a single register of all privately owned land will enhance property development in this state.

I commend the bill to the house.

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

Debate adjourned until next day.

LIVESTOCK DISEASE CONTROL (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The purpose of this bill is to amend the Livestock Disease Control Act 1994 to provide for the introduction of a permanent identification scheme initially for cattle and to improve the operation of the legislation.

The Australian livestock industries are operating in an environment of intense competition and concerns about the safety of livestock and livestock products produced for international and domestic trade. Incidents involving the safety of meat and meat products have seriously impacted on their international standing and this in turn has impacted on Australian prices for livestock and livestock products.

International concerns are being addressed through the development of quality assurance systems, certification schemes about the origins of livestock and monitoring schemes proving freedom from the occurrence of diseases, conditions and residues to which livestock are subject.

The amendments to the act contained in this bill will allow the implementation of the national scheme for the permanent identification of cattle from later this year. The scheme will be implemented in Victoria through the use of permanent whole-of-life identification devices produced to national standards. While the process of approving devices will be standardised by a national advisory body, states will remain responsible for administering the scheme by granting identification numbers, approving manufacture of devices, and ensuring the integrity of operating systems.

The new devices will provide for machine reading by a device that can be operated by persons such as abattoir operators, stock agents and livestock owners. Having the devices machine read will speed capture of the information electronically and enable its use in international and domestic certification and quality assurance processes.

The implementation of the permanent identification arrangements will require additional resourcing by the livestock industries following an initial injection of resources by government. Ultimately the livestock industries will provide the resources necessary long term and the Australian cattle industry is committed to its introduction.

The amendments in the bill provide for ensuring the definition of disease and exotic disease includes a reference to both diseases and conditions being covered for controls able to be exercised under the act.

The provisions of the act governing the Sheep and Goat Compensation Fund currently provide that the capital of the fund may only be directed to the payment of compensation for sheep and goats slaughtered to control ovine Johne’s disease. The fund was established on this basis in 1997 at the request of the Victorian sheep industry.

The ovine Johne’s disease control program is to be broadened to a national control program and the Victorian sheep industry now wishes to make a financial contribution from the fund to the national control program. At present only the interest on the capital of the fund may be used for projects and programs such as the national ovine Johne’s disease program.

The amendments in the bill provide for the widening of the provisions of the act dealing with payments from the fund to allow for payments to be made from the capital as well as the interest on the capital of the fund for programs or projects for the eradication or control of diseases of sheep or goats. This will enable the Victorian sheep industry to contribute to the national program.

In dealing with the possible occurrence of fire blight in Victoria last year, it became necessary to deal with honey bees potentially contaminated with the fire blight agent. The Plant Health and Plant Products Act 1995 is being amended to ensure that
contaminated bees will be dealt with under that act for disease control purposes.

The bill provides for widening of the provisions for persons who can operate to assist owners in paying their stamp duty on sales of cattle, sheep and goats. Unless owners of cattle, sheep and goats pay all eligible stamp duty on sales of livestock, they are ineligible to receive compensation for animals that are required to be destroyed. Widening the provisions for persons to act as approved agents, whether on the sale or purchase of livestock, will provide greater opportunity for ensuring livestock owners pay their due stamp duty.

The bill provides a widening of the situation where information collected under the provision of the act can be released. The secretary will be able to release records such as property tail tag information to classes of persons, bodies and organisations in order to facilitate the certification of livestock and livestock products. There is also a provision to allow release of disease information to interstate authorities about Victorian properties where there has been movement of disease-affecting livestock. Release of information invariably identifies the identity of the Victorian property but the information has to be released in the interests of disease control and certification processes generally.

The bill also contains a number of minor changes that generally improve the operation of the legislation.

I commend the bill to the house.

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

Debate adjourned until next day.

SUPERANNUATION ACTS (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The purpose of the bill is to continue the government's second-term program of superannuation reform and to adopt superannuation initiatives recently introduced into commonwealth legislation. The bill contains amendments to enable the Hospitals Superannuation Board to make a valid election for the Hospitals Superannuation Fund to become regulated under commonwealth supervision.

Now that the defined benefits scheme of the Hospitals Superannuation Fund is fully funded, the need for ongoing direct state government involvement in the fund has been reduced to one of an employer responsible for the accruing costs of superannuation for its employees, which is the same responsibility for all other employers involved in the fund (private hospitals and private sector health care providers). With this reduction in the involvement by the state government and as part of the ongoing state public sector superannuation reform program, the bill contains transitional provisions and repeals the Hospitals Superannuation Act 1988 to enable the Hospitals Superannuation Board to make a valid election for the Hospitals Superannuation Fund to become regulated under commonwealth supervision from 1 January 1999.

Amendments are proposed to ensure that the current superable salary rules apply to all current or former public sector executives who are members of the revised, new or transport schemes of the State Superannuation Fund but are not employed under the Public Sector Management and Employment Act 1998. Currently, where a person is not employed under that act, the power to restrict superable salary to 70 per cent of that person's remuneration package cannot be enforced, although, in practice, most employers apply this rule for the staff concerned. The proposed amendments to the definition of 'contract officer' in the State Superannuation Act 1988 and the Transport Superannuation Act 1988 will ensure all employers apply this rule.

The bill includes amendments to provide the Victorian Superannuation Board, the Hospitals Superannuation Board and the Emergency Services Superannuation Board with an option to allow the relevant board to offer full commutation to a person who is or will be entitled to a pension if that pension is $520 per annum or less. Commutation will occur only if the offer is accepted by the person. A provision is also inserted to allow the minister to determine the annual threshold from time to time to ensure the ongoing effectiveness of the commutation offer.

The period between when the Victorian Superannuation Board notifies employers of a change in the contributions they are to pay into the State Superannuation Fund and when that change takes effect is currently the later of four months after notice or 1 July after the making of the determination by the board. At the request of the board, an amendment is
being made to this provision to have the four-month period apply only to any notification of change.

Provisions are being inserted into the rules governing board membership of the three major public sector superannuation boards to allow the Minister for Finance the option to nominate a person to fill the vacancy of a board member who had been appointed on the nomination of the minister. If the minister chooses not to take up this option, the appointed deputy is to fill the vacancy. The standard provisions relating to the early release of benefits is being extended to include persons who have beneficiary accounts within the three public sector accumulation schemes.

Standard provisions relating to the appointment of deputies to members of the board are being inserted into the governing rules of the Emergency Services Superannuation Scheme as the Emergency Services Superannuation Board is the only public sector superannuation board that does not currently require deputies to be appointed.

Other amendments are being made to the governing rules of the Emergency Services Superannuation Scheme in response to requests from the Emergency Services Superannuation Board. The definition of 'contributor' is being amended to clarify that the application of the definition is to employees who are eligible to contribute to the defined benefits scheme of the Emergency Services Superannuation Scheme. The definition of 'participating employer' is to be extended, to remove the current restriction which only allows participation in Essplan by employers who are also eligible to contribute to the defined benefits scheme of the Emergency Services Superannuation Scheme.

This amendment will allow other employers within the emergency services industry to apply for participation in Essplan. Another amendment proposed ensures that the final average salary — that is, the average of the final two years salary — is the salary used for all defined benefit scheme benefit calculations, which is in accordance with an agreement reached in 1993 with the three major emergency service unions. A further proposed amendment will enable former police officers whose State Superannuation Fund pensions are administered by the Emergency Services Superannuation Board to be allowed to roll over any eligible lump sum benefits into beneficiary accounts within Hosfund so that both pension and lump sum benefits are administered by the same board.

Following requests from the Hospitals Superannuation Board, provisions are being inserted in the Hospitals Superannuation Act 1988 to permit members of the accumulation scheme, Hosfund, to continue death and disability cover after ceasing employment with a participating employer and to allow the board to accept the transfer of eligible rollover amounts into beneficiary accounts within Hosfund.

Two amendments are proposed to be made to the Superannuation (Portability) Act 1989. One will allow the minister to determine the time period for a person to elect to take the transfer amount benefit. The current provision restricts the time period to two months. The proposed amendment will extend that provision to allow the minister to nominate a longer time period where this has been agreed to. The other proposed amendment will replace a current provision and allow the transfer amount benefit to be placed in a beneficiary account of the appropriate Victorian public sector superannuation scheme if the benefit recipient has not elected where the benefit is to be paid.

Amendments are proposed to be made to the Public Sector Superannuation (Administration) Act 1993 to reinstate repealed provisions relating to former State Casual Employees Superannuation Fund contributors who transferred membership to the Victorian Superannuation Fund in 1995. The 1995 amendment act initiating this transfer and providing for the continuation of entitlements for the people transferred was repealed in 1996. The proposed amendments reinstate the relevant empowering provisions back to the date of repeal to ensure all transferred members continue to receive the same entitlements that applied before the transfer.

To maintain compliance with the commonwealth—state heads of agreement in relation to the implementation of commonwealth superannuation initiatives, legislation governing all Victorian public sector superannuation schemes subject to the commonwealth surcharge legislation passed in June 1997 is being introduced making it a duty of the governing body administering these schemes to comply with this new commonwealth taxation law and provide them with the power to request members’ tax file numbers for the purposes of the surcharge legislation.

The commonwealth also passed amendments in 1997 to permit superannuation contributions (both compulsory and voluntary) for all employees beyond age 65. Because of the benefit structure of Victorian public sector defined benefit superannuation schemes, current provisions which require member contributions to cease at age 65 will remain and amendments are included in the bill to codify policy that employer contributions into defined benefit schemes in respect of accrued benefits also cease at that time. Any contributions for defined
benefit scheme members continuing employment beyond age 65 will be through the appropriate public sector accumulation scheme or any other complying superannuation fund agreed to with the employer.

The bill contains amendments to permit voluntary superannuation contributions to be made into Victorian public sector accumulation schemes by or on behalf of all employees between the ages of 65 and 70 provided they are gainfully employed — that is, they are employed for at least 10 hours per week. Current legislation is already available to allow accumulation schemes to receive the compulsory employer contributions now required by commonwealth law to be remitted on behalf of all employees over age 65.

I commend the bill to the house.

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

Debate adjourned until next day.

ADJOURNMENT

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

That the house do now adjourn.

Schools: drug counselling

Hon. C. J. HOGG (Melbourne North) — I raise a matter for the attention of the Minister for Health, and in doing so I acknowledge the pivotal role he has in the government’s drug strategy. A metropolitan Catholic boys secondary college has identified a number of its students at serious risk of drug taking or being caught up in the drug culture. The school has done a great deal of work to try to assist these students and to alleviate the problem. It has devoted considerable resources of its own; however, it needs a small amount of additional assistance.

The school has identified a need for the services, one day a week, of a Vietnamese-speaking youth worker and counsellor. The worker has been found, but the money to appoint him has not. The amount required is less than $10 000 in a full school year and I ask the minister whether he can identify a source of funding for this much-needed position, in a school that has done a great deal itself to assist its students.

Bridges: River Murray

Hon. W. R. BAXTER (North Eastern) — I raise for the attention of the Minister for Roads and Ports issues relating to bridges crossing the River Murray. As the house will be aware, there are some 23 to 24 crossings of the River Murray between Bunroy and the South Australian border. As the River Murray is actually in New South Wales, theoretically it could be said that the bridges should be the responsibility of that state. Nevertheless, Victoria in its usual generosity has, since 1936, shared equally with New South Wales the maintenance of the bridges. It ought to be conceded there is some advantage both to Victoria and the nation as a whole in having a good connection with southern New South Wales because it enables primary produce from the great irrigation areas of the Riverina to come to Victoria and to be exported through the ports of Melbourne, Geelong and Portland to the mutual benefit of Victoria and the farmers in the Riverina.

The house will be interested to know that prior to the federal election the Deputy Prime Minister announced funding of $12 million to replace the John Foord bridge at Corowa; $15 million to build a second bridge at Echuca; and $17 million to replace the ageing but long bridge at Robinvale. Although these allocations are extremely welcome, it is probably not in the priority order we might have in mind. The bridges at Howlong and Cobram are in poor condition and although the bridges at Corowa and Echuca are also in my electorate and I welcome the funding for them, I urge the minister to do his best to encourage the New South Wales government to come to the party.

I also ask the minister to advise the house of the funding commitments the commonwealth government announcement has imposed on Victoria because, as welcome as the funding is, it seems that it is light on in terms of completing the projects. The minister may indicate whether the shortfall will be made up and whether it will explain to the commonwealth government that if it wants to make its largesse available it ought to allocate the correct amount.

Fishing industry: shellfish poaching

Hon. M. M. GOULD (Doutta Galla) — I raise for the attention of the Minister for Industry, Science and Technology, as the representative in this house of the Minister for Conservation and Land Management, an issue raised in a letter I received from a Mr Arthur O’Bryan of the Surfrider Foundation Victoria. He writes concerning the alarming increase in the number of divers and beachcombers seen poaching shellfish along the Flinders to Cape Schanck coastline. He is concerned that with the oncoming summer season this activity will increase. He makes the point that there is no community hotline for reporting poaching. He suggests that the minister should introduce a 24-hour...
100 number so the community can report the incidence of poaching to the Department of Natural Resources and Environment.

The community is concerned about poaching and I believe there should be an increase in the penalties applying to poachers. People who poach fish or shellfish from our shores ought to be treated in the same way as people who poach native birds. The fact that poaching on our waterways is largely done out of sight is no excuse for not introducing regulations to penalise poachers. I ask the minister to request of his colleague in the other place the introduction of a 24-hour hotline so that poachers can be reported to the department and action taken.

Workcover: benefits

Hon. B. N. ATKINSON (Koonung) — I refer the Minister responsible for Workcover to the situation of Mr Leon Garden, a constituent who called at my office last week. He is concerned about Workcover benefits for a disability he suffers as a result of an industrial accident. Mr Garden ran his own business, which he had structured so that it rewarded him with a package that included the use of his home as part of the office supporting the business and the use of company vehicles. When he suffered his injury he was eligible to receive only Workcover benefits associated with the cash component of the package he had structured through his business.

In talking to Mr Garden I established that he realised that was within the parameters of Workcover and that he had no expectation that Workcover would extend as an insurance scheme would to cover the sorts of benefits an employer might given himself or herself as part of a package as an owner-operator. Understanding that, he argued that many people starting out in their own businesses would structure them to save taxation. Mr Garden understood that, and in the discussions I had with him I imparted my understanding of the fact that Workcover is not meant to cover those extra benefits.

The government must ensure that owner-operators of businesses in positions similar to Mr Garden's understand the need to consider some other form of insurance — perhaps products such as key-man insurance — to cover extra aspects of their remuneration packages or the extra benefits their businesses provide over and above those covered by Workcover. Will the minister consider giving that sort of advice to small business owners?

Housing: first home buyers

Hon. S. M. NGUYEN (Melbourne West) — I ask the Minister for Health to refer to the Minister for Housing in the other place the recent figures for land sales in Victoria, which show that the median price of a Melbourne home has jumped 8.4 per cent to $141 000 in 1997, up from $130 000 in 1996. In some places like Altona North in the western suburbs of Melbourne house costs have risen by 27 per cent, and costs in Maidstone have risen by 22 per cent. They are becoming expensive places to live. Rents have soared, and people cannot afford to live in the western suburbs of Melbourne. Will the minister please advise when the housing scheme to assist first home buyers, the share equity scheme that was promised during the 1996 election, will be available to those who need to buy their first homes?

Media: harassment of patients

Hon. D. T. WALPOLE (Melbourne) — I raise a matter for the attention of the Minister for Health. I preface my remarks by saying that the matter was brought to my attention by a close relative. On Thursday last week my two-year-old grand-daughter was attacked by a dog, sustaining severe facial injuries. She was transported from Bacchus Marsh to the Royal Children's Hospital by ambulance for urgent surgery. When she arrived at the hospital members of the press — in particular, from Channel 9 — had gathered to try to obtain film of the injuries. It reached the stage where my relatives, a hospital nurse and the media liaison person from the hospital had bed sheets with them to prevent her being filmed. As it turned out that did not occur as the media representatives were persuaded to back off. Channel 9 also turned up at the clinic that the child was taken to in the first instance, seeking to interview people there and obtain my daughter's address so they could interview her at home.

Intrusive behaviour of that sort when parents are very distressed — and my daughter and son-in-law were obviously very distressed by what had occurred — is the last thing they need. That particularly applies to media people trying to take photographs. I was curious to know how the press came to find out about it. I now understand that they monitor ambulance broadcasts and by doing so find out what is happening so they can be Johnnies-on-the-spot.

I ask the minister to investigate ways of protecting patients and families in those circumstances. From my
children’s point of view the event is over and done with, but these sorts of things will happen to other people who turn up at hospitals with relatives who have been the victims of severe accidents or attacks by dogs, persons or whatever. I ask the minister to consider whether there is some way — I am not an expert in the area — of ensuring that ambulance broadcasts cannot be monitored by the media so that those things do not occur, although I concede that is probably difficult.

Can the minister find some way of providing security at hospitals to prevent the press from getting to those people? If they wish to be interviewed, that is fine, they can go to the press; but if they do not, the press should not be allowed to harass them when they arrive at the hospital. Will the minister examine what might be done to provide security for those people to prevent them from being harassed in that manner?

Warrnambool and District Base Hospital

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister responsible for Workcover — it will also be of interest to the Minister for Health — to the situation of Mrs Marg Carter of Warrnambool, who was an employee of the Warrnambool and District Base Hospital. Mrs Carter had been an employee of that hospital for most of the time since she began her nursing training in the early 1970s. She suffered a ruptured disc while working in the hospital dialysis unit on 26 April 1995. She returned to work later in 1995 with minimal medical restrictions on her duties at work, and since January 1997 she had been running the hospital’s pre-admission clinic.

Mrs Carter’s common-law claim was settled on 30 June this year, around the same time she was advised that the pre-admission clinic where she had been working was being moved to another ward. Mrs Carter was assured that her job was not in jeopardy, that she was most definitely required and that the unit manager had specifically requested that she work in the new ward. The hospital requested a letter from Mrs Carter’s doctor setting out her restrictions. When she queried whether that would affect her relocation, she was again reassured that her position was not in jeopardy and that the letter was simply required as part of the process.

The letter set out minimal restrictions and Mrs Carter’s doctor believed she would have no difficulty undertaking the position because the duties were largely the same as those undertaken by her in the pre-admission clinic since January 1997. One week after the letter was received by the hospital Mrs Carter was told to take her annual leave and to resign. The hospital stated her restrictions, which the doctor had placed on her, but despite what the doctor had said would not allow her to take up a new position.

Despite there having been other suitable positions recently filled in appropriate areas, such as medical records, they were not offered to Mrs Carter as alternative employment. It seems all her employer is prepared to offer is unemployment and has suggested she contact Centrelink. The hospital has not even been prepared to offer her anything in the way of redundancy. Mrs Carter has so far not responded to the hospital’s demand for her to resign. However, it has taken her off the roster from 16 October. In fact she was escorted from the hospital on that day she reported for duty.

I also understand that Mrs Carter is the latest case of the hospital’s poor handling of employees with workers compensation claims. For a number of years the hospital has engaged in behaviour that could be described only as harassment designed to drive numerous injured workers, including nurses, cleaners, orderlies and allied health professionals, from the payroll.

On Mrs Carter’s behalf I seek the intervention of the government, the minister responsible for Workcover or the Minister for Health to have the Warrnambool and District Base Hospital live up to its obligations under the legislation. The matter has been raised in the press. I spoke with Mrs Carter when I visited Warrnambool recently. The Warrnambool Standard of 17 October reports the hospital management as having said:

Hospital management has denied the claims, with chief executive officer Andrew Ray saying Mrs Carter was among a minority of injured workers for which no suitable alternative work could be found.

If a public hospital with many hundreds of employees is allowed to discard its workers and not fulfil its obligations under the Workcover legislation by giving them suitable employment what hope do we have getting private employers to live up to their obligations under the act?

Will the minister, in consultation with the Minister for Health, take action and ask the Warrnambool and District Base Hospital to ensure that Mrs Carter is suitably employed in an appropriate position?

Responses

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — Miss Gould raised a matter with me in my capacity as the minister responsible for the Minister for Conservation and Land Management in the other place about concerns raised
by Mr O’Brien of the Surfrider Foundation Victoria. I shall be pleased to pass on the matter to the minister.

Hon. R. I. KNOWLES (Minister for Health) — Mrs Hogg raised with me a matter about a metropolitan Catholic boys secondary college that is seeking to provide a better response for students who are experiencing difficulties with drugs and the need to employ for one day a week a Vietnamese-speaking youth worker. She seeks $10 000 for that service within the education system. The government’s approach to tackling the problem is a whole-of-government approach. I shall pass on her request to the Minister for Education.

Mr Nguyen raised with me a matter for the attention of the Minister for Housing in the other place seeking advice on some share home equity arrangement. His concern and request will be passed on to my colleague.

Mr Walpole raised an issue based on the personal experience of his grand-daughter and the tragedy she experienced by being bitten by a dog and on arrival at the Royal Children’s Hospital being confronted by the media. I believe many individuals and families have had similar experiences. It is an invasion of privacy and a matter of concern. As the honourable member would appreciate, it is not easily resolved because as a society we want to provide freedom to the press but at the same time that freedom carries with it significant responsibility. I have received many complaints of incidences where the media have certainly intruded on people’s privacy, even in a hospital setting, where they have filmed within the hospital without the approval of either the hospital or the individual being filmed.

I shall take the honourable member’s request on notice because it may be an area where we may develop a bipartisan approach. I believe that is the only way we will obtain a satisfactory response. I understand the frustration Mr Walpole’s daughter may have had about his grand-daughter being filmed without any previous agreement or permission being granted. I shall take the matter on notice and report to Mr Walpole individually.

Hon. R. M. HALLAM (Minister for Finance) — Mr Atkinson raised with me the circumstances of a constituent, Mr Garden, who sounds to me like a sole proprietor who was able to structure his employment package to include a number of arranged benefits other than salary. Without going into the motivation for that salary package — I suspect it had something to do with the impact of income tax — following a claim for workers compensation Mr Garden was informed that only the salary component of the package would be compensable. Mr Atkinson reported that that is fair.

However, there may be others in similar circumstances who should be reminded that because there may be restrictions on the amount of compensation they may need other forms of income protection.

As an aside, the government decided to include superannuation in the base salary for workers compensation premium computations for perhaps slightly different reasons. However, that had the same effect that Mr Atkinson has directed to my attention.

The honourable member suggests we might consider advising other small operators who potentially might be caught up in the same circumstances that there are two sides to the salary packaging issue. I am happy to take that on board and think it through carefully.

Mr Theophanous raised the very sad circumstances of Mrs Carter. I suggest to him that the circumstances confronting Mrs Carter are more a matter of workplace relations than of workers compensation. I will quickly be able to give Mr Theophanous a detailed response because I, along with several of my colleagues, am quite familiar with the general background to Mrs Carter’s claims. I can say by way of an aside that a member of my staff has been in contact on a number of occasions with Mrs Carter and the Warmambool and District Base Hospital about at least certain aspects of her case.

Hon. G. R. CRAIGE (Minister for Roads and Ports) — Mr Baxter directed an important issue to my attention. He quite rightly said that the New South Wales-Victoria bridges are assets of New South Wales and that Victoria, because of the 1936 agreement, provides 50 per cent funding for maintenance of and improvements to those bridges.

I have had several meetings with my New South Wales counterpart, Mr Scully. We have confirmed the commitment of our respective governments to the 1936 agreement and have committed ourselves to continue to share equally the current arrangement for maintenance and rehabilitation costs of River Murray crossings.

A consultant has been engaged to carry out studies into the economic importance of each of the River Murray crossings. We are now in the process of preparing a maintenance agreement between New South Wales and Victoria and will shortly announce the details of that agreement. Mr Baxter raised the important issue of the recent announcement by the federal government about the funding of three of the many crossings of the River Murray. The state government welcomes the federal government allocation of funding, as Mr Baxter quite rightly illustrated.
Hon. R. M. Hallam — A promise, not an allocation, of funding.

Hon. G. R. CRAIGE — Yes, a promise of funding for the three bridges. Our concern is twofold: firstly, that the current structures in New South Wales are not subject to an open tender process — that all the projects are controlled by in-house labour — which is of grave concern to us. We would certainly urge the federal government to ensure that, once it has made a commitment following its promise of funding, there be an open tender process for work on the bridges. Clearly it is a significant issue in Victoria and we will continue to fight for that practice to happen.

Secondly, the concern is that a shortfall exists on the allocation of funding for work on the bridges. The problem is that although Victoria has an arrangement — that is, to pay for 50 per cent of whatever is spent on their rehabilitation — it is quite likely that the majority of the necessary work will be on the New South Wales side of those bridges. We do not want to pay for 50 per cent of the works done in New South Wales because Victoria would effectively be propping up New South Wales.

It is not simply a matter of building the bridges but of the significant work to be done to the bridge approaches in New South Wales. We will make our point clearly to the federal minister that there needs to be real equity in the funding arrangements. In one instance in particular the extensive work to be done on the New South Wales approaches to one bridge will cost nearly half the allocation for the entire bridge project. Victoria would not be spending anything like that amount on its side of the border. I hope we do not end up supporting the New South Wales projects to that degree.

I assure Mr Baxter we will do everything in our power to ensure that we get the funding, that the bridges are maintained and that Victoria does not face short shrift in the financial arrangements.

Motion agreed to.

House adjourned 11.46 p.m.
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