

Tuesday, 18 November 1997

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:

Crimes (Mental Impairment and Unfitness to be Tried) Act

Docklands Authority (Amendment) Act

Geelong Performing Arts Centre Trust (Amendment) Act

Melbourne Sports and Aquatic Centre (Amendment) Act

Sentencing (Amendment) Act

University Acts (Further Amendment) Act

Urban Land Corporation Act

EDUCATION (PRESCHOOLS) BILL

Introduction and first reading

Received from Assembly.

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

ALPINE RESORTS (MANAGEMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. A. BIRRELL (Minister for Industry, Science and Technology).

LEGAL PRACTICE (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. LOUISE ASHER (Minister for Small Business).

GAMING ACTS (MISCELLANEOUS AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

FOOD (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

Auditor-General: independence

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Finance to a letter of 17 November from the Auditor-General which was sent to every member of Parliament. The letter states:

My freedom to independently audit the affairs of the government on behalf of the Parliament and taxpayers will be seriously compromised. In fact, under the bill, my independence will be significantly weakened.

How does the minister reconcile that with assurances he gave to the house on 14 May this year that these changes represent 'no threat at all to the Auditor-General, his role or his performance'? Who is telling the truth — the minister or the Auditor-General?

Hon. R. M. HALLAM (Minister for Finance) — One correction I would make is that I am not sure that every member received a letter from the Auditor-General. I didn't get mine.

Hon. D. T. Walpole — Why would they send one to you? You wouldn't listen to commonsense.

Hon. W. A. N. Hartigan — Did they send one to you?

Hon. D. T. Walpole — Yes.

Hon. R. M. HALLAM — On that criterion I would be surprised if the honourable member opposite got one. I am quite relaxed about the commitment I gave the house last time, and I stand by every word of that commitment.

Suicide Prevention Task Force

Hon. PHILIP DAVIS (Gippsland) — Will the Minister for Health advise the house of the government's response to the report of the Suicide Prevention Task Force?

Hon. R. I. KNOWLES (Minister for Health) — Honourable members will be aware that at the beginning of this year the government established a task force under Mr Peter Kirby to look at the tragic issue of suicide, placing particular emphasis on youth suicide, with the request that the task force consult widely and provide the government with a range of initiatives that it can embrace to reduce the impact of this dreadful social problem. Following the thorough and comprehensive work of Mr Kirby and his colleagues the government has developed a response to the task force's recommendations, and details of that response will be made available to all honourable members.

The response draws on the three underlying philosophies of the report's recommendations: that there is no one cause of suicide and thus there can be no one solution; that the responsibility for finding solutions to suicide lies with the community, business and all levels of government working in partnership; and, finally, that there needs to be better integration, coordination and focusing of existing services. The government's response has been to commit \$23.91 million in recurrent funds and \$1.6 million in one-off funds to strengthen existing prevention, intervention and postvention services, and to fund new initiatives. These initiatives particularly target people who are considered to be clearly at risk of suicide. We know that with 50 per cent of completed suicides there have been previous attempts at suicide, so those people have clearly been identified as being in the high risk category.

We have embarked on an endeavour to encourage community participation. We have accepted the task force's recommendation to establish a suicide prevention foundation, and to facilitate that development the government will commit \$1 million in seed funding. The foundation will provide an avenue for the broader community to participate in finding a solution through further research and the

development of specific services aimed at preventing suicide. All honourable members will receive copies of the government's response, and I encourage them to work with their local communities in an endeavour to help reduce this significant social problem.

Nursing homes: annual fees

Hon. M. M. GOULD (Doutta Galla) — Given that the Minister for Aged Care has confirmed that state-owned nursing homes will be charging an average fee of \$4000 a year, will he now admit that the state government is defrauding older Victorians because it has no intention of spending that money for its intended purpose, which is to upgrade facilities, and is selling the bed licences and privatising the nursing homes?

Hon. R. I. KNOWLES (Minister for Aged Care) — I do not quite understand what Miss Gould is getting at.

Hon. M. M. Gould — You are upgrading them so you can sell them!

Hon. R. I. KNOWLES — I now understand the question, and it is wrong. The nursing home licences that are being transferred are being transferred for one purpose only: to achieve new, purpose-built nursing homes to replace the old nursing homes the previous government had allowed to run down and deteriorate. The nursing homes that remain in the public area and those being administered by public organisations — whether they be hospitals or extended care centres — will operate under the commonwealth's funding model but remain in public ownership.

Hon. T. C. Theophanous — What happens to the \$4000?

Hon. R. I. KNOWLES — The funds raised will be used for the purpose of maintaining the nursing homes in which those residents live. The concept is to ensure that we maintain our nursing homes to a high standard and not allow them to deteriorate in the way they had deteriorated when this government took over. We inherited a situation where 50 per cent of nursing homes — —

Hon. T. C. Theophanous — And you have done nothing since.

Hon. R. I. KNOWLES — We have. We are halfway through getting them all up to an acceptable standard.

Hon. T. C. Theophanous — You are halfway through selling them.

Hon. R. I. KNOWLES — We are halfway through getting them up to an acceptable standard, and that is not a bad achievement in five years considering that our predecessors left 50 per cent of the nursing homes run down and unable to meet commonwealth standards.

Honourable members interjecting.

The PRESIDENT — Order! Three members shouting at once makes it difficult for Hansard to hear. I ask honourable members to restrain themselves.

Hon. R. I. KNOWLES — After five years we are halfway through fixing up the mess we inherited, and that is not a bad achievement.

Industrial relations: federal policy

Hon. C. A. STRONG (Higinbotham) — Will the Minister for Industry, Science and Technology advise the house of the likely impact on Victoria of the recently introduced federal industrial relations policy?

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — I am pleased with the success over the past year and a half of the new industrial relations environment we have as a result of initiatives by Peter Reith with the strong support of Cheryl Kernot. The industrial relations law we now have, which is the result of constitutional change in Victoria, is welcome.

I have to say, however, that we are gravely concerned about the implications of the federal Labor industrial relations policy that was announced last week. Australia would become an industrial dinosaur under the federal ALP policy on workplace relations. That policy would turn back the clock, against the interests of Victoria.

Labor's policy would re-establish a centralised and bureaucratic system of industrial awards regulation, vastly increase union power and interfere in the freedom of employers and employees to determine the working conditions that suit them best rather than the political aims of union bosses.

Labor's policy, therefore, would destroy business confidence and, particularly in Victoria, would destroy investment prospects. We believe the only way to provide high-quality, well-paid jobs is to have efficient and competitive industries operating in Australia within a flexible industrial relations structure.

The policy advanced by the federal ALP is the complete antithesis of what should apply. We know now that we have improved the industrial relations environment and we have a healthier economy. Labor's policy would have an adverse impact on the industrial relations system because it is pro-union and anti-investment.

I guess in the wake of the fall-off in union membership in the past year, let alone the past five years, it is apparent that the Labor Party is attempting to coerce more workers to join unions.

Labor says its policy is about balance, but it is an unbalanced system that is proposed, one that distinctly discriminates in favour of unions. I can give the house an example. Federal Labor would allow unions to intrude into the agreement-making process even where they are unwanted and are not invited by the employees. I thought that was clearly discredited, even by the Keating government let alone the Industrial Relations Commission, in the 1980s. But Kim Beazley would take us back to the tightly organised federal industrial relations system, which would clearly be against the interests of workers.

Even worse, the proposal to remove the Trade Practices Act prohibition on secondary boycotts would clearly act against the interests of Victorian employers — and, therefore, employees. We reject that notion completely. We want to ensure flexibility, particularly for small and medium-size businesses, which Labor's industrial relations policy would not help.

We have faith that the public will reject those ideas — and we expect they will. I point out that on every occasion the Labor Party, state or federal, puts forward the view that it is 'for employment', it will have to contrast that with its industrial relations policy, which is out of the Dark Ages and which will work against new employment opportunities.

Honourable members interjecting.

Hon. M. A. BIRRELL — The Kennett government squarely rejects those industrial relations ideas,

repudiates those policies and makes it clear that it will oppose them at every turn.

Workcover: common-law access

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister responsible for Workcover to his proposed Workcover reforms, which remove the right of seriously injured workers to bring common-law actions. Is it not a fact that a worker who has suffered an injury at work and who is further injured by the negligence of a medical practitioner will now be barred from bringing any common-law action for medical malpractice, whereas a person who is not injured at work but who is the victim of malpractice will continue to be able to exercise his or her historic common-law rights?

The PRESIDENT — Order! I am wondering whether that calls for a legal opinion.

Hon. R. M. HALLAM (Minister for Finance) — It may be a matter for a legal opinion, Mr President.

Honourable members interjecting.

Hon. R. M. HALLAM — The answer is yes.

Gaming: machines

Hon. W. R. BAXTER (North Eastern) — I have a question for the —

Hon. T. C. Theophanous — What did he say?

Honourable members interjecting.

Hon. W. R. BAXTER — I have a question —

Honourable members interjecting.

Hon. Louise Asher — You were too busy talking.

Hon. T. C. Theophanous — Look at them — the grinning idiots!

Honourable members interjecting.

The PRESIDENT — Order! I presume the house wants question time to continue. It cannot do so unless it can hear the question.

Hon. W. R. BAXTER — I have a question for the Minister for Gaming — and given his new-found brevity, I look forward to an answer of similar

length to my question, which goes to the cap on gaming machines. When he announced the cap of 27 500 gaming machines in December 1995, the Premier said it would be reviewed only following a comprehensive study of the social and economic effects of gambling. Will the minister report on the current state of play with that study, and will he reaffirm the government's commitment to ongoing research into that vital area of social policy?

Hon. R. M. HALLAM (Minister for Gaming) — I am happy to reaffirm the government's commitment to ongoing research into the social and economic effects of all facets of gaming.

Honourable members interjecting.

Hon. R. M. HALLAM — I am also pleased to report that part of the result of the comprehensive study that was initiated by the Premier two years ago and conducted through the Victorian Casino and Gaming Authority includes a precise report on the positive impact gaming is having on our community.

I am happy to release the VCGA's third survey of gaming venues across the state, this time conducted by the authority through Hames Sharley Victoria. In particular, the survey sought to gain a better insight into what was being returned to the community in the form of assets and facilities and donations and other support to charitable, sporting and other community organisations.

Hon. T. C. Theophanous — You are not reading your answer, are you?

Hon. R. M. HALLAM — Yes, I am: I am referring to and relying on the report, Mr Theophanous.

Hon. M. M. Gould — Will the report be tabled?

Hon. R. M. HALLAM — For the benefit of Miss Gould, I point out that the report, which is dated October 1997, is entitled *Community Facilities Resulting from the Providers of Gaming in Victoria (incorporating the Third Survey of Gaming Venues)*. The study was undertaken by the Victorian Casino and Gaming Authority's consultant, Hames Sharley Victoria.

I refer to the survey's conclusion, which I will not read in total, to highlight a couple of things in response to the honourable member's question. On page x it says:

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The number of venues making contributions to the community has increased, with 72 per cent of all venues indicating that they contributed in some form to the local community in 1996 ...

I also want to put on record — —

Hon. D. A. Nardella — What a load of rubbish!

Honourable members interjecting.

Hon. R. M. HALLAM — Thank you for the interjection. I am also pleased to put on the record that in part the survey concluded:

A desire to make a positive contribution to the community appeared to be the overwhelming motivation behind venues making contributions ...

It also concluded that:

Sporting clubs, educational institutions, welfare groups, support groups and charities were among the most common recipients ...

Here comes the bottom line, and I am happy to put it on the record.

Hon. D. A. Nardella — You actually paid for this report?

Hon. R. M. HALLAM — No.

Hon. D. A. Nardella — You did not pay any money for the report?

Hon. R. M. HALLAM — No. The report says that the average community contribution made by club venues in 1997 was \$8055 and that the total revenue from clubs across the state for the years 1995 to 1997 was \$4.62 million. It also states that the average value of the community contribution coming from each hotel venue increased to \$4917 in 1997. Further:

Total reported expenditure by hotel gaming venues who indicated they made contributions and gave a dollar value for the years 1995–1997 totalled \$2.35 million ...

I make the point that the conclusion of the independent survey also says:

Taken together, the contributions paid by hotel gaming venues to the Community Support Fund, the community contributions made by club and hotel gaming venues and the value of building and

renovation works undertaken by venues suggest that there have been —

wait for it —

significant contributions made to the community by gaming venues.

Hon. D. A. Nardella — This is independent?

Hon. R. M. HALLAM — It is independent. I know plenty of negative comments have been made about the contribution of gaming to the community. I am delighted to put some positive results on the record, and I commend the document from which I have quoted to all members of the chamber.

Workcover: work experience students

Hon. D. A. NARDELLA (Melbourne North) — I refer the Minister for Finance to the proposed Workcover changes. Is it not the case that work experience students who are seriously injured as a result of their employers' negligence will receive weekly benefits which are a proportion of their weekly payments of \$25 until such time as they would have completed their studies, which might take a number of years? Can he further confirm that the same students will also not have the right to sue their employers for damages?

Hon. R. M. HALLAM (Minister for Finance) — I thank Mr Nardella for his question. There are special conditions that apply to those doing work experience, because the salary attributed to their training is relatively low. I recall a great deal of discussion took place on how those trainees may be best protected. I cannot remember the specifics of the legislation. I am happy to take the question on notice and report back in detail.

Road safety: drugs other than alcohol

Hon. SUE WILDING (Chelsea) — Will the Minister for Roads and Ports inform the house on the current status of the government's response to the Road Safety Committee's inquiry into the effects of drugs other than alcohol on road safety in Victoria?

Hon. G. R. CRAIGE (Minister for Roads and Ports) — All honourable members recognise the work conducted by the Road Safety Committee on the effects of drugs other than alcohol on road safety and the government's position on accepting the 41 recommendations. I am pleased to advise the house

that at the recent transport ministers conference the Australian Transport Council endorsed the Victorian government's decision in response to the committee's inquiry into the effects of drugs other than alcohol. In particular, ministers from all jurisdictions have endorsed a Victorian proposal to conduct a pilot study on behalf of other Australian states to assess the role of drugs in accident causation. Importantly, the research will be carried out by the Victorian Institute of Forensic Pathology, where the presence of drugs in drivers killed in road accidents will be analysed and then related to accident cause.

The Victorian study, which has been operating since 1993, enables the relative risk of a driver being involved in a crash when drugs are present to be determined. Information obtained from these studies can be used to identify high-risk groups and develop appropriate educational approaches.

The combination of data across Australia and a coordinated effort such as this will be a significant first step because in the past each state has always done its own thing. I have no doubt that coordination will result in savings to the community overall and will develop a more effective measure in countering this issue. The Victorian government is pleased to be setting a standard.

The pilot study is in response to recommendations of the Road Safety Committee's inquiry into the effects of drugs other than alcohol on road safety. I am also pleased to report that the task force to oversee work resulting from the 41 recommendations approved by the state government has been established. The task force will commence its work immediately on the development of proposed legislative changes for the testing of drug impairment in drivers as well as implementing an education program. This complementary work is being undertaken in conjunction with the Victorian government's \$100 million Turning the Tide strategy against drug abuse.

Land tax: changes

Hon. D. T. WALPOLE (Melbourne) — I refer the Minister for Small Business to an article published in the *Age* of 14 November which noted that the government's changes to land tax mean that some small businesses will pay land tax for the first time because the tax threshold will be reduced from \$200 000 to \$85 000. Did the minister consult any small business organisations or small businesses

about the proposed tax hikes; and, if so, will she inform the house which small businesses or organisations supported her position?

Honourable members interjecting.

Hon. LOUISE ASHER (Minister for Small Business) — I thank Mr Walpole for the second question from the ALP during this sessional period. I inform Mr Walpole that taxation matters are the province of the Treasurer; nevertheless I shall comment on the issue.

Hon. D. A. Nardella interjected.

Hon. LOUISE ASHER — I am well aware of my portfolio — are you aware of yours? I am happy to inform Mr Walpole —

Honourable members interjecting.

The PRESIDENT — Order! The house cannot operate if proceedings cannot be reported. If the house does not settle down I will terminate question time.

Hon. LOUISE ASHER — Although taxation is the province of the Treasurer, I am delighted to point out to Mr Walpole that these land tax changes have a particular impact in favour of small business. The first area where there will be a favourable impact on small business is that the family home will be removed from the land tax equation. The second area where there will be a favourable impact on small business —

Hon. T. C. Theophanous — Do you understand the system?

Hon. LOUISE ASHER — Do you understand that land tax payments are aggregated?

Honourable members interjecting.

The PRESIDENT — Order! I cannot hear the minister. Honourable members should allow the minister to be heard.

Hon. LOUISE ASHER — It appears that I will have to give a lesson in aggregation to opposition members. The second area where the land tax changes will be of enormous significance to small and medium-sized businesses is that the scales have been readjusted and many small businesses will receive significant tax cuts as a result of this policy.

I invite opposition members to examine the tax regime to see where the enormous benefits in favour of small and medium-sized businesses will cut in and argue that it is not an overall advantage to small businesses, because it is overall.

Small business: professional advisers

Hon. G. B. ASHMAN (Koonung) — Will the Minister for Small Business advise the house of the latest developments of the panel of professional advisers for small business established in February this year?

Hon. LOUISE ASHER (Minister for Small Business) — I am delighted to provide the house with an update on the panel of professional advisers for small business that were the result of an excellent initiative of the government. The basic concept was to get together a group of advisers from the private sector, such as lawyers, accountants, people involved in business systems and legal issues, information technology and so on to aggregate a panel of advisers to small business.

The concept was for a panel of advisers from the private sector to provide advice to small businesses when they ring either Small Business Victoria or First Place asking for advice of a particular nature.

The advice available to me last week was that we have secured 703 members on the panel of professional advisers. I have no doubt that those advisers will be delighted to convey information to small business not only on land tax changes but also on water reform changes that the government has instituted which on average to a non-domestic consumer will save about \$2000 a year. A major tax reform will also be delivered to small businesses. I am sure the accountants on the panel of professional advisers will be delighted to convey that information.

Since February we have received 850 inquiries and each week we are receiving a steady increase in the number of inquiries. This important service has now been expanded to regional Victoria, and Small Business Victoria has incorporated software into many regional offices to enable the service to be expanded into country Victoria. It is an important initiative. That is a very good example of the private sector advising the private sector.

Hon. T. C. Theophanous — You are still catching up with what we used to do!

Hon. LOUISE ASHER — No, Mr Theophanous, you did not do that. You tried to institute a system on a much lower level that meant the taxpayer paid for it. This service is paid for by the private sector to support the private sector, with government facilitation. It is an outstanding service at no cost to the taxpayer.

Hon. T. C. Theophanous — In other words, you have abrogated your responsibility.

Hon. LOUISE ASHER — No, we have not. We have 700 people to advise small business —

Hon. T. C. Theophanous — What are you doing?

Hon. LOUISE ASHER — We facilitate and match the inquirers and advisers. Through the professional advisers the private sector is giving excellent advice to the private sector at no cost to the taxpayer. The service developed by Small Business Victoria is outstanding, and I look forward to its continuing expansion.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 11

Hon. P. A. KATSAMBANIS (Monash) presented *Alert Digest No. 11 of 1997*, together with appendix and extract from proceedings.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Avoca River Management Authority — Minister for Agriculture and Resources' report of 12 November 1997 of failure to submit 1996–97 Report to him within the prescribed period and the reasons therefor.

Broken River Management Board — Minister for Agriculture and Resources' report of 12 November 1997 of receipt of the 1996–97 Report.

Bullock Creek Improvement Trust — Minister for Agriculture and Resources' report of 12 November 1997 of failure to submit 1996–97 Report to him within the prescribed period and the reasons therefor.

Corner Inlet Waterways Authority — Minister for Agriculture and Resources' report of 12 November 1997 of failure to submit 1996–97 Report to him within the prescribed period and the reasons therefor.

Crown Land (Reserves) Act 1978 — Minister's Order of 6 November 1997 giving approval to granting of a lease at Heide Park and Art Gallery Reserve.

East Gippsland River Management Board — Minister for Agriculture and Resources' report of 12 November 1997 of receipt of the 1996–97 Report.

Environment Conservation Council Act 1997 — Minister for Conservation and Land Management's notice of amendment of request for the Environment Conservation Council to investigate Victoria's marine, coastal and estuarine areas.

Glenelg River Improvement Trust — Minister for Agriculture and Resources' report of 12 November 1997 of failure to submit 1996–97 Report to him within the prescribed period and the reasons therefor.

Grants Commission — Report, year ended 31 August 1997.

Institute of Marine Sciences — Report, 1996–97.

Intellectually Disabled Persons' Services Act 1986 — Report of Community Visitors, 1996–97.

Lake Wellington Rivers Authority — Minister for Agriculture and Resources' report of 12 November 1997 of failure to submit 1996–97 Report to him within the prescribed period and the reasons therefor.

Lower Goulburn Waterway Management Authority — Minister for Agriculture and Resources' report of 12 November 1997 of receipt of the 1996–97 Report.

Mitchell River Management Board — Minister for Agriculture and Resources' report of 12 November 1997 of receipt of the 1996–97 Report.

Murray Valley Citrus Marketing Board — Report, 1996–97.

National Environment Protection Council — Report, 1996–97.

North East Waterways — Minister for Agriculture and Resources' report of 12 November 1997 of receipt of the 1996–97 Report.

Pental Island River Improvement Trust — Minister for Agriculture and Resources' report of 12 November 1997 of failure to submit 1996–97 Report to him within the prescribed period and the reasons therefor.

Planning and Environment Act 1987 —

Approved Amendment No. 108 to the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan.

Notices of Approval of the following amendments to planning schemes:

Bairnsdale (Shire) Planning Scheme — Amendment L59.

Bendigo — Greater Bendigo Planning Scheme — Amendment L69.

Darebin Planning Scheme — Amendment L32.

Delatite Planning Scheme — Amendment L11.

Frankston Planning Scheme — Amendment L103.

Geelong — Greater Geelong Planning Scheme — Amendment R203.

Melbourne Planning Scheme — Amendment L244.

Mildura (Shire) Planning Scheme — Amendment L57.

Moonee Valley Planning Scheme — Amendment L31.

Pakenham Planning Scheme — Amendment L143.

Stonnington Planning Scheme — Amendment L21.

Werribee Planning Scheme — Amendment L123.

Whitehorse Planning Scheme — Amendment L3.

Yarra Planning Scheme — Amendment L52.

Police Board — Report, 1996–97.

Snowy River Improvement Trust — Minister for Agriculture and Resources' report of 12 November 1997 of failure to submit 1996–97 Report to him within the prescribed period and the reasons therefor.

Tambo Nicholson River Management Board — Minister for Agriculture and Resources' report of 12 November 1997 of receipt of the 1996–97 Report.

PODIATRISTS REGISTRATION BILL

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Tarwin Bass Waterways Authority — Minister for Agriculture and Resources' report of 12 November 1997 of failure to submit 1996–97 Report to him within the prescribed period and the reasons therefor.

Upper Goulburn Waterways Authority — Minister for Agriculture and Resources' report of 12 November 1997 of receipt of the 1996–97 Report.

Upper North East River Management Authority — Minister for Agriculture and Resources' report of 12 November 1997 of receipt of the 1996–97 Report.

Victorian Coastal and Bay Management Council — Report, 1996–97.

Victorian Relief Committee — Report, 1996–97.

Water Training Centre — Minister for Agriculture and Resources' report of receipt of the 1996–97 Report.

PODIATRISTS REGISTRATION BILL

Second reading

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

That this bill be now read a second time.

Current legislation regulating podiatrists is the Chiroprodists Act 1968. It reflects an old model of regulation: even the term used for the profession has altered since the act was introduced. 'Podiatrist' is the term now widely used in the community, and preferred by the profession itself, for the type of practitioner previously known as a 'chiroprodist'.

For some time now, Victoria has been progressively introducing modern and consistent legislation for the regulation of the health care professions. This new model of regulation has thus far been put in place for medical practitioners, nurses, optometrists, chiropractors and osteopaths. It is the intention of the Podiatrists Registration Bill to adopt the regulatory model already established in those acts relating to medical practitioners, nurses, optometrists, chiropractors and osteopaths. It is also the intention of the Podiatrists Registration Bill to observe Victoria's obligations under the national agreements on mutual recognition and competition policy.

The bill establishes a new Podiatrists Registration Board, which is to have seven members. Four members of the new board will be registered

podiatrists, one will be a lawyer and two will be persons who are expressly not podiatrists. This contrasts with the composition of the current board which does not include laypersons.

The board will be incorporated and independent of government. It will have the capacity to employ its own staff and contract in its own name. The board will be responsible for the registration of podiatrists and for investigations into the professional conduct of registered podiatrists. This is a core area of the bill. I do not propose to outline these provisions in detail. They are designed to ensure that the board has sufficient power to investigate allegations of misconduct against podiatrists; board hearings are more open than is presently the case; rights to attend hearings and to make submissions are given to complainants; investigations into cases of alleged professional misconduct are conducted fairly and natural justice provisions are included for any podiatrists whose actions are under scrutiny; and suitable review mechanisms are included.

The bill also deals with advertising of podiatry services. Generally, it will permit advertising of those services but provides for standard consumer protection provisions such as offences for false, misleading or deceptive advertising.

I now wish to make a statement under section 85 of the Constitution Act 1975 of the reasons why clause 53(3) alters or varies section 85 of that act in relation to the jurisdiction of the Supreme Court. Clause 87 declares the intention of clause 53(3) of the bill to alter or vary section 85 of the Constitution Act 1975.

Clause 53(3) of the bill provides that no action for defamation lies against the board or its members for giving a notice under clause 53(1). Clause 53(1) requires the board to give notice of any determination to impose conditions, limitations or restrictions on the registration or suspend or cancel the registration of a podiatrist in the *Government Gazette*; to registration authorities in other states and territories and in New Zealand; to the Health Services Commissioner; to the employer of the podiatrist, where the podiatrist is an employee; and to any podiatry registration authority outside of Australia or New Zealand requesting such information.

Clause 53 of the bill is therefore necessary to ensure that conditions, limitations, restrictions, suspensions and cancellations of registration are properly communicated to relevant authorities. The reasons

for limiting the jurisdiction of the Supreme Court are that it is necessary to ensure that the board and its members can perform such communication without the threat of civil action for defamation.

The purposes of the act will not be fulfilled if a podiatrist can continue to purport to be a registered podiatrist because notice of the board's action has not been communicated to the relevant persons or authorities. I am confident that this bill will ensure the continuing provision of high-quality podiatry services to all Victorians.

I commend the bill to the house.

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

Debate adjourned until next day.

PLANNING AND ENVIRONMENT (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The main purpose of the bill is to amend the Planning and Environment Act 1987 to confer certain powers relating to the compulsory acquisition of land, the closure of roads and the removal of easements, restrictions and covenants on the Secretary of the Department of Infrastructure in relation to development projects of state or regional significance.

These proposed powers reflect similar powers contained in the Urban Land Authority Act 1979. That act is proposed to be repealed by the Urban Land Corporation Bill, currently before Parliament. As outlined in the second-reading speech for the Urban Land Corporation Bill, it is proposed to remove statutory powers that are superfluous to the operation of the new corporation, including the powers relating to compulsory acquisition of land, road closures, and removal of easements and covenants. The second-reading speech for the Urban Land Corporation Bill also foreshadowed the government's intention to propose amendments (now contained in this bill) that provide for the continued availability of these powers for projects of state or regional significance.

These new powers will ensure that projects of significance for the development of the state are not unnecessarily delayed.

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.

LOCAL GOVERNMENT (MISCELLANEOUS AMENDMENT) BILL

Second reading

Debate resumed from 29 October; motion of Hon. R. M. HALLAM (Minister for Finance).

Hon. PAT POWER (Jika Jika) — As the redoubtable John Clarke might say, this is not just bad but very bad legislation. The opposition will vigorously oppose this bill which is one in a series of amending bills the government continues to introduce as it seeks to take the 'local' out of local government and to make local government simply an arm of state administration.

Honourable members will be aware that since May 1993, when the local government juggernaut was released on Geelong and the Bellarine Peninsula, the government has made draconian changes to local government resulting in periods of taxation without representation, in politically appointed commissioners managing newly constructed municipalities on behalf of the state government, in those commissioners implementing compulsory competitive tendering, and in the nod of approval being given by the government to the appointment of chief executive officers. Since then, things in local government have continued to worsen. This bill is absolutely consistent with that pattern.

Victoria has experienced situations where the capacity of municipalities to raise rate revenue has been frozen by the government's politically driven decisions. Also, the unfunded superannuation liability has been addressed by the government in a most unfair and inequitable manner; Victorian households have been required to make extra contributions to local government revenue simply as a result of the government's strategic action.

Hon. R. M. Hallam — What would you have done?

Hon. PAT POWER — The minister asks what the opposition would have done. When the matter has been discussed during question time, on the adjournment debate or by way of substantive motion, the opposition has made it clear it supported the view of the Local Authorities Superannuation Board, the Municipal Association of Victoria and Victorian councils. The opposition believes the unfunded liability which had flowed as a direct result of the downsizing demanded by the government and implemented by its politically appointed commissioners should be a financial responsibility of those that had perpetrated it — that is, the government — and not have led to a cowardly and dishonest action through which Victorian households, which had no part to play in making the original decision or in forcing it upon municipalities, were made to foot the bill.

Hon. R. M. Hallam — Where would you have got the taxation?

Hon. PAT POWER — The minister asks where the taxation would have come from. The minister, in his current portfolios and when he was responsible for local government, proudly boasted about the savings and efficiencies that would come from local government changes.

Hon. R. M. Hallam — That did come.

Hon. N. B. Lucas — Some \$263 million in the first year.

Hon. PAT POWER — Mr Lucas says \$263 million: quite clearly, the funds were available for the government to pick up the unfunded liabilities.

Honourable members interjecting.

Hon. PAT POWER — The interjections are particularly interesting. I am happy to continue with this issue. The government's downsizing in the SEC and the education sector was fully funded. There was no subsequent call for a superannuation shortfall to be made up by Victorian taxpayers.

Hon. B. C. Boardman interjected.

Hon. PAT POWER — The government discovered the enormous problem only as a consequence of the policies and strategies it was implementing; it demanded Victorian households should foot the bill. The young and honourable Mr Boardman asks, 'What happened in 1988?'. There

is a stark difference between what happened in 1988 and what the government did in this instance.

Hon. W. A. N. Hartigan — On a point of order, Mr President, the comments of Mr Power have nothing to do with the proposed legislation. I do not mind the debate being broad or the subject being discussed, but this is neither the time nor the place for it.

Hon. PAT POWER — On the point of order, Mr President, I appreciate Mr Hartigan's interest in this matter. The bill significantly changes the legislation. It refers to financial reporting and to performance indicators. To properly debate the bill it is necessary to paint a picture of what has existed in local government since 1993. The financial circumstances in which the government is now placed, especially the requirements in this bill for financial reporting and performance indicators, make my preamble comments appropriate.

The PRESIDENT — Order! It is true, as I have reminded the house previously, that a bill like this should not generate debate on the principal act but on the amendments proposed in it. Debate can be expanded by comments made by the minister in his second-reading speech. The purposes of the bill, as outlined in clause 1, include the modification of 'the provisions concerning mayoral and councillor allowances'; the bill also refers to 'councillors elected for wards' and to generally improving the operation of the act.

However, the bill later refers to provisions which deal with the matters referred to by Mr Power in relation to, for example, financial statements. Generally, the lead speaker is given a bit of leeway. So long as Mr Power keeps those issues in mind when addressing the matter he may continue. Certainly, it is not a rerun of the restructure of local government.

Hon. PAT POWER — Thank you for your ruling, Mr President. The actions taken by the government since 1993 are consistent with the intentions of the Local Government (Miscellaneous Amendment) Bill. The opposition and the majority of those involved in local government believe this is a further attempt by the government to take the notion of 'local' out of local government and to further diminish the authority and status of councillors who are elected from time to time and also to strengthen the role of the chief executive officer. With a few exceptions, the chief executive officers, who have been given enormous authority by the government, were

appointed during the period of management by commissioners when significant political decisions were made while local government was being run as an arm of state administration.

The bill introduces a number of changes that the government says will ensure councils remain accountable to their communities and increase their operational efficiency. The opposition believes, as do many in the community, that the government's actions in this and previous pieces of legislation diminish the accountability of councils to communities and their capacity to be efficient.

The legislation visits issues relating to allowances for mayors and councillors. In his second-reading speech the minister said:

In order to have an independent analysis of allowances ... the minister ... had appointed Mr Vern Robson ... to conduct an independent review of mayoral and councillor allowances.

Hon. N. B. Lucas interjected.

Hon. PAT POWER — I support the interjection by Mr Lucas that Vern Robson is a good man and that he is respected by the majority of those who have worked in local government or are familiar with it. I can only wonder how he felt when he heard the Premier pre-empt his independent review of mayoral and councillor allowances by putting his view. As with other statements made by him in recent times in relation to the Auditor-General, one can only assume that the Premier's utterings will be supported by others in his government, that Vern Robson will not be able to conduct an independent analysis and review and that he will be forced to bring down some recommendation that is consistent with the Premier's publicly stated preferences.

The legislation also addresses electoral provisions such as the review of internal boundaries. This is one of the more controversial aspects of the legislation, and I have not the slightest doubt that Mr Hartigan will address this matter if he speaks on the bill because of the way it will have an impact on the City of Greater Geelong.

Hon. W. A. N. Hartigan interjected.

Hon. PAT POWER — In his second-reading speech the minister said:

... it is proposed to amend the act to enable the minister ... to make an order to set internal boundaries

and the number of councillors to be elected in a municipality either in individual wards or elected at large or both.

He continued:

The minister proposes ... to introduce this system for elections for the Greater Geelong City Council to be held in 1998 on the basis of four ward councillors and five councillors elected at large.

I said at the outset that local government legislation has systematically and incrementally attacked the notion of 'local' in local government. That is the view of the opposition and of an increasing number of people in the community — I am sure it will be an issue in the Mitcham by-election — who quite strongly believe the government has little or no time for local government or the right of communities to be meaningfully involved in decision making at the local government level.

The two provisions on which I have quoted the minister's second-reading speech will enable the minister — not even a broader representation than that — to tell any of the 78 municipalities how many councillors their municipalities ought to have and whether those councillors are to be elected for individual wards or for the municipality as a whole or as a combination of both. The minister nods his head in agreement. I do not doubt he enthusiastically supports the right of the minister to do that.

Hon. R. M. Hallam — No, the responsibility of the minister.

Hon. PAT POWER — The minister supports the minister's right and responsibility to do that. I am happy for the National Party and, indeed, the coalition to have the opportunity to indicate its view on democracy at the local level. However, the proposal is undemocratic, and it in no way guarantees that people will be meaningfully involved in decisions about the structure and future of the municipalities in which they live and work.

I referred earlier to the minister deciding that he will impose these provisions on the City of Greater Geelong at the next election on the basis of four single-member wards and five councillors at large. That undemocratic structure is being imposed in a most undemocratic way. The ratepayers and residents of the City of Greater Geelong read about the changes in the newspaper. They were not consulted by the government.

Notwithstanding that, the Minister for Finance says it is the right and responsibility of the relevant minister to do this. I have no difficulty standing alongside the community and registering a strong protest about this undemocratic process. It is undermining and unrepresentative. It is a right and an obligation of ratepayers and residents to be meaningfully involved in the decision-making process that affects their municipalities.

The legislation refers to coastal boundaries. As I indicated in my point of order, sections of the bill relate to financial, compulsory competitive tendering and performance statements; there is also a narrow reference to rates.

This is bad legislation; it is consistent with the way the government has approached the local government sector. I suspect it is one of the harshest pieces of local government legislation we have faced.

In order to be sure that our attitude and response to it was broadly and legitimately based, the opposition consulted widely with mayors and councillors, a range of municipalities, peak organisations in local government and professional and trade union associations. The message was strong and consistent — it did not matter whether we spoke to municipalities that might be seen as having a close alliance with the Labor Party or to municipalities that, in their words, have strong associations with the conservative parties. Mayors and councillors expressed their anger at the direction inherent in the legislation; they were angry and frustrated about how, consistent with the government's response, they are treated like mushrooms.

Hon. N. B. Lucas — You rang up a few of your mates.

Hon. PAT POWER — Mr Lucas suggests I rang up a few of my mates. I can say to Mr Lucas —

Hon. N. B. Lucas — And you are speaking through the Chair.

Hon. PAT POWER — I certainly am.

Hon. D. A. Nardella — You are the one who interjected, you idiot!

Hon. PAT POWER — All the consultation I had on the bill was face to face. There are people in your electorate, Mr Lucas, who can vouch for that; there

are also members of the conservative parties who feel ashamed about it.

Hon. K. M. Smith — Name them!

Hon. PAT POWER — You know who they are; you know who all of them are!

Clause 3 refers to boundaries that apply to municipalities on Victoria's coastline. The clause provides that the municipal boundary will move from the high watermark to the low watermark. The opposition has grave concerns about that provision, and I will address them in detail later. Clause 5 amends section 11 of the act to allow for the first two-named non-resident owners or occupiers to be automatically on the voters' roll. Again the opposition has some concerns about that provision.

Clause 12 amends the Local Government Act to allow for polls to be conducted by postal voting only. Consistent with views it has previously expressed about postal voting, the opposition is concerned about that issue. Clause 14 allows the minister to establish different allowances for councils in particular categories. The opposition is strongly opposed to that provision. Clause 20 permits the minister to opt for a ward and whole-of-district electoral structure. Such a structure is to be imposed in Geelong.

Some of the provisions make steps forward. Clause 5 amends section 11 to provide that the first two-named non-resident owners or occupiers will automatically be entitled to be on the voters' roll; it also amends section 13 to clarify that a corporation may appoint only one person to be on the voters' roll, and only once in a particular ward. The clause also amends section 13A as it relates to the City of Melbourne; again, that a corporation may appoint two persons but they may vote only once in a particular ward. Section 14 is also amended by this provision to clarify that a person may vote only once in a ward.

I refer particularly to the amendment to section 11, which is highly desirable. As I said, clause 5 allows section 11 to be amended to provide that the first two-named non-resident owners or occupiers will be automatically entitled to be on the voters' roll. It seems that since we have had elections in the new 78-council structure an increasing number of instances have cropped up where the second-named person in a household, who quite often and traditionally is a woman, has not been on the roll. In

the past it was necessary for the second-named person to make sure he or she was on the roll. The legislation provides for the people named on the rate notice to automatically go onto the roll. For instance, it would not be necessary for Mrs Brown to apply to be put on the roll, which is a sensible change and will be welcomed broadly. Because of the rejigging of councils it was necessary to create rolls for the new 78 municipalities.

A number of people found when they went to vote they were not on the roll even though they were technically eligible; and they had to go through the process themselves of ensuring they were placed on the roll. The government is to be commended for this action.

Clause 10 amends section 40A to clarify that in the City of Melbourne an infringement notice can be served on a corporation whose representative fails to vote. It is my understanding that there was some doubt about whether an infringement notice could be served. The opposition supports the view that if you are on the roll you should be required to vote, and if you do not vote there should be a subsequent process. Clause 14 clarifies that a mayor cannot receive both a mayoral and a councillor allowance.

Hon. N. B. Lucas — Do you support that one?

Hon. PAT POWER — Absolutely. This issue has been discussed at some depth and with some enthusiasm in the Labor Party.

Hon. N. B. Lucas — You are going to upset a few of your mates.

Hon. PAT POWER — If it upsets a few of my mates, they have only themselves to blame. It is absolutely clear that the mayoral allowance ought to reflect the role and responsibility of the mayor. The allowance for a councillor, whatever the figure, ought to recognise the role and responsibility of a councillor. I might be speaking to a different audience at the moment, but I make it absolutely plain that the opposition considers it to be double dipping if the mayor also receives a councillor's allowance.

I want to strongly commend the government on that. The government's view on this matter can be seen as leadership. It is a matter that needed to be resolved. The opposition is in fierce agreement with the government's proposals on this issue.

Notwithstanding my reference to those areas of the proposed legislation the opposition supports, it opposes the legislation as a whole. Therefore, I move:

That all the words after 'That' be omitted with the view of inserting in place thereof 'this house refuses to read this bill a second time until such time as the rights of ratepayers and residents are protected and democracy, transparency and accountability in local government decision making is guaranteed following direct consultation with all municipalities concerning changes to boundaries, electoral structure, entitlement to enrol, conduct of polls and mayoral and councillor allowances'.

I made passing reference to the issue of mayoral and councillor allowances, which are covered by clause 14. The explanatory memorandum states:

The clause clarifies that a mayor cannot receive both a mayoral and a councillor allowance and that an allowance must be paid in the manner specified in the Order in Council. An order made pursuant to section 74 may specify that different amounts and limits for allowances are to apply in respect of specified categories of councils. Allowances for the Lord Mayor and councillors of the Melbourne City Council may be fixed independently of the amounts fixed in relation to other councils.

As I pointed out, the opposition has no difficulty with the notion of a mayor receiving an allowance and a councillor receiving a different allowance. It has no difficulty with the reference to allowances for the Lord Mayor and the councillors of the Melbourne City Council being fixed independently, because it takes the view that the Melbourne City Council is not responsible only to its ratepayers and residents but, as Melbourne is the capital city of Victoria, has broader, perhaps international, obligations. The opposition is, however, concerned about the provision that enables the minister to decide that different allowances will be paid to councillors as a consequence of their being in a different category.

I do not understand the theory behind that. I can only assume that the government might be saying that municipalities with large populations will be placed in a category where the allowance for councillors and the mayor will be higher than the allowances for councillors and mayors in areas with smaller populations. I do not think that is sensible or workable.

Hon. N. B. Lucas — Why not?

Hon. PAT POWER — That is easy to demonstrate. I take as an example the Shire of Murrindindi. Compared with the City of Casey, the Shire of Murrindindi has a small population. I do not think anyone would dispute that the challenges of governance in Casey in relation to growth and infrastructure are significant. But I do not accept that the challenges faced by municipalities such as Murrindindi, Mitchell, Buloke or Campaspe are any less critical, any less important or any less vital to the future of those regions. Those of us who have had experience in non-metropolitan Victoria and those members who represent provinces in non-metropolitan areas would argue that there are special reasons for saying that the government's proposals make no sense at all for country Victoria. In a municipality like the City of Casey it is relatively easy for councillors or the mayor to find their way around, across, through and over the municipality, but in the shires of Murrindindi, Mitchell, Northern Grampians or Southern Grampians — and some of the municipalities in your province, Mr Deputy President — there are issues of distance and there are issues that are particular to non-metropolitan Victoria. The allowances and the support councillors and mayors in such shires receive ought to be similar to if not the same as those of their urban or provincial colleagues.

I accept that if one looks at the issues purely in a statistical sense — perhaps the budget, or the population, or the level of capital work investment — one could argue that municipalities in urban or provincial areas have more onerous responsibilities. Essentially, those differences can be addressed in the local government management structure. Councillors in country Victoria have to travel long distances and, as a consequence of time away from the workplace or the home, incur costs that councillors and mayors in city areas do not experience. I completely reject the notion that there ought to be different categories of councils. That is because mayors and councillors would receive allowances fixed by that process.

I have mentioned the appointment of Vern Robson. It is unfortunate that, in the manner for which he is only too well known, the Premier has pre-empted any determinations Vern Robson might make by announcing his preferred position. I again refer to the interjection from Mr Lucas, who said Vern Robson is well respected. I have not the slightest doubt that any independent review he undertook would receive broad support across the local government sector.

As I said, the Premier has declared his preferred position. I feel certain that as a consequence, Vern Robson's work will now be tarnished. Rather than viewing his report as independent, people across the local government sector will view it as falling into line with the publicly stated preference of the Premier.

I make a passing reference to the roles of mayors and councillors. The opposition strongly supports the broadly held view that elected local government representatives should, in the same way as state and federal representatives, and within reason, be able to manage their municipalities in the best interests of ratepayers and residents.

Notwithstanding the strong partnerships between and the separate responsibilities of state and federal governments in our federation, the community believes there should be a proper relationship between federal, state and local governments, not the unequal and, some might say, dictatorial relationship that exists at the moment.

Since 1993 the Kennett government has sought at every turn to take the 'local' out of local government, to reduce the authority and capacity of elected councillors and, through legislation and regulation, to create the circumstances in which chief executive officers have become the administrative arm of the state government, ensuring that, so far as it is possible, each of the 78 municipalities dances to the tune of the state government.

The opposition shares the community's view that the mayors of the 76 municipalities that are currently under democratic management are the apex of local government.

Hon. N. B. Lucas interjected.

Hon. PAT POWER — I take up the interjection of Mr Lucas, who says the administrator in Darebin and the commissioners in Melton have been democratically appointed. I have not the slightest doubt that the results of recent surveys of voter intentions for the Mitcham by-election are heavily influenced by the arrogance and the anti-democratic views of people such as Mr Lucas.

There is no doubt that many members on the government benches believe they have the right to sack councillors and appoint administrators. They are sure that preventing the election in Melton was the correct thing to do. Their argument that the administrator in Darebin and the commissioners in

Melton were democratically elected is part of the reason why the polls on voter intentions for the Mitcham by-election are as they are.

I welcome the interjection by Mr Lucas because it reminds voters in Mitcham and right across Victoria that he would consider the replacement of City of Whitehorse councillors by an administrator or commissioners to be democratic. It is undemocratic and anti-community and demonstrates the Kennett government's view that local government has no real role to play and should simply be a local arm of the state government.

The opposition shares the view that the role of mayor is critical to the good management and future success of the council team — not just the councillors but the staff who work for and with the municipality. Unless we have the right structure in place, those municipalities right around Victoria that cannot attract competent people to become councillors and mayors will wither and fall behind as the rest of the state moves forward.

The opposition strongly argues that it is no longer feasible for councillor and mayoral positions to be filled by volunteers. The opposition supports the view that that is particularly so in rural areas. We argue that the role of mayor has to be determined locally, that municipalities across Victoria have different expectations of the kinds of roles that mayors and councillors should play, and that mayors and councillors have to be adequately remunerated.

Mayors and councillors play essential roles in representing their communities in a range of circumstances. One can argue that they are ambassadors and advocates for their municipalities and that their challenge and responsibility is to provide leadership, vision and direction. Like us and our federal colleagues, local councillors are symbols of the democracy that is so integral a part of our nation. More than ever before, mayors are functioning as business ambassadors with the role of attracting companies and employment to their municipalities.

It is important to understand that the institution of mayor does not belong to any individual. Notwithstanding that, it must be acknowledged that the leadership style of a mayor can greatly influence the way a council deals with issues affecting gender, class and ethnicity. Those of us who have had the good fortune to meet mayors and shire presidents

around Victoria applaud the competence of those individuals.

We all know that women have different leadership styles from men. It is important to realise that participating in local government has enormous potential to involve women. The mayoral role can be used to enhance the ways in which women participate in government structures everywhere. The mayor is an embodiment of local democratic aspirations and has a different role from that of the chief executive officer.

Those of us who are in regular contact with mayors and shire presidents know about the particular strains they encounter in carrying out their duties. Mayors and councillors alike report that their roles are more complex and demanding than they were. They frequently deal with issues as complex as those that state or federal parliamentarians deal with.

I am concerned about the significant disparity between the remuneration received by chief executive officers and the remuneration received by mayors and councillors. In the state and federal spheres there is not the same disparity between the remuneration of those elected to represent their constituents and the remuneration of the officers with whom they work. The enormous disparity at the local government level is not healthy and does not lead to good governance.

Communities can see that local leadership is being undermined as attempts are made to reduce the role, authority and remuneration of the mayor while enhancing the role, authority and remuneration of the chief executive officer. It may be a cocktail that suits the political agenda of the state government, but it will not lead to good governance at the local level.

Some councillors would spend at least 20 hours a week on local government business. Recently I had the good fortune to meet a councillor from a municipality in the north of the state. Although he had not served in local government before, he stood for election because he wanted to make a contribution to the new municipality. He was excited not only about the chance to deal with land-use issues, which affected his livelihood, but also about the tourism opportunities in the region, which had the potential to provide local jobs for local people.

He and his wife, who are dairy farmers, have two young children. He discovered that the level of

commitment his new role as councillor required was greater than he had anticipated. Councillors have to do an enormous amount of reading before each council meeting to make sure they are properly informed about the issues they have to deal with. Not only that, consulting and meeting with ratepayers and reporting back are also important aspects of properly undertaking the job as a representative of the ratepayers.

That young man has quickly discovered that the remuneration he receives does not meet the transport and incidental costs he is incurring and is not sufficient to employ a milker so he can leave the farm early to carry out his council responsibilities. He and his wife work extremely hard in running an enterprising milking business, but he is not in the financial situation to get somebody in to do the milking while he is away. It is almost certain that if the current remuneration levels remain — or, heaven forbid, if they are reduced — that young farmer will not stand for local government again.

I take this opportunity to clarify the ALP's view on suitable levels of remuneration for mayors and councillors. The issue has been the subject of enthusiastic debate within the party. I mentioned earlier that we had adopted the view that anybody who received a mayoral allowance and a councillor's allowance was double-dipping. In May this year the state conference of the Labor Party passed the following resolution:

Conference notes the lack of balanced allowances for mayors and councillors between Victorian municipalities. It further notes current Kennett government legislation which allows councillors to determine their own allowances, subject to legislated maximums, without regard to councillor/mayoral workload.

The Victorian branch of the ALP believes that municipal councillor and mayoral allowances should not be determined by the recipients of such allowances, but rather on the recommendation of an independent remuneration tribunal having regard to councillor and mayoral duties, workload and expenses incurred in the performance of their duties, specifically including the cost of child care.

The opposition is totally opposed to the Premier announcing what mayoral and councillor allowances will be. The opposition is totally opposed to the notion that the minister can determine that there will be categories of council and then allocate councils into those categories, thereby locking

mayors and councillors into particular allowances. In government the Labor Party would establish an independent remuneration tribunal so that there would be an open and absolutely transparent process. That would ensure there was no doubt about it.

Hon. N. B. Lucas — How much would you pay?

Hon. PAT POWER — We would charge an independent tribunal with that responsibility.

Honourable members interjecting.

Hon. PAT POWER — It would be an independent tribunal that would tell us.

Hon. R. M. Hallam — How much would you pay the independent tribunal?

Honourable members interjecting.

Hon. PAT POWER — It is nauseating when state parliamentarians quibble or raise pious views about how much remuneration people elected at the local government level should receive.

Honourable members interjecting.

Hon. PAT POWER — Every member of the Victorian Parliament enjoys a salary and allowances which are not subject to any assessment and which are directly and automatically tied to increments provided at the federal level. If Victorian parliamentarians start arguing about how much councillors, mayors or members of the remuneration tribunal should be paid, I suggest that they put up their hands and say that it is about time their allowances and salaries were determined not by some automatic and, in my view, unhealthy flow-on from the federal level but by allowing community representatives to assess how effective, efficient, committed and dedicated they are to the cause.

Hon. N. B. Lucas — You might not get anything!

Hon. PAT POWER — Mr Lucas should speak for himself. If he believes the performance of some MPs is so bad that we might not get anything, then let him do something about it.

I shall refer to the changes in the electoral structure. Clauses 4, 11 and 20 relate to those aspects of the legislation which allow the minister to tell any of the 78 municipalities that he believes their electoral structure is inappropriate, that it should change and

that he knows better than they do when it comes to their electoral structure. Clauses 4, 11 and 20 enable the minister to demand that in March next year the Geelong community will have an entirely different electoral structure, but not one that the broad Geelong community has said is needed or that the broad local government community has said is efficient. The structure will be one which this government, in its anti-local government and undemocratic style, believes will best serve its ends.

Hon. P. A. Katsambanis — So do some of the Geelong councillors.

Hon. PAT POWER — I agree with Mr Katsambanis. It is true that some of the Geelong councillors support this outcome. However, Mr Katsambanis knows that this structure, which is used by the City of Melbourne, has not been evaluated. There is no evidence that it has provided best governance in the City of Melbourne and that it will provide better governance in the City of Greater Geelong.

Hon. N. B. Lucas — That is your opinion: we disagree with it.

Hon. PAT POWER — I understand what Mr Lucas is saying. The difference between the government and the opposition is that the opposition is committed to the notion of democratic management of local government. Members of the opposition may not always agree with the outcomes — sometimes we may strongly disagree with the outcomes — but we do not share the views of Mr Lucas and his colleagues that the state government should impose upon local government an electoral structure that meets the political agenda of the state government rather than democracy. That is what is happening in the City of Greater Geelong, and it will happen in other municipalities where the government imposes this structure.

There has been no assessment or measurement of the structure operating in the City of Melbourne so it is impossible to say that it will provide better governance in the City of Greater Geelong, the City of Greater Bendigo, the City of Ballarat or the Shire of La Trobe. In fact, the government has made its decision about the City of Greater Geelong without consulting anybody involved in local government in that city. The mayor, the councillors, the ratepayers, the residents and those who work for the City of Greater Geelong found out about this attack on their municipality through the daily media.

Why would the local government structure in Geelong be considered undemocratic or anti-community? Each of four ward councillors in the City of Greater Geelong would have constituent populations ranging from 25 000 to 30 000. However, five whole-of-district councillors would need to convince a total of between 100 000 and 120 000 people to vote for them. Not so much honourable members in this chamber but each member in the other place would know how difficult it is to campaign, and especially to fund campaigns, with a constituency of 25 000 to 30 000. That proposal, as proposed in the bill, is undemocratic.

It will not be possible for a City of Greater Geelong citizen to stand as an election candidate in a ward or particularly for the entire municipality unless he or she has significant resources — and not just financial resources — to campaign in an election that, given the government's views, may well be, or probably would be, conducted by postal vote. What capacity will an ordinary citizen have to decide whether he or she can stand as a candidate with the accompanying necessary funding requirements?

The bill is designed to take the 'local' out of local government and to take the community spirit and players out of local government. I remind honourable members that when elections were to be held in Geelong after council amalgamations, the Premier spoke long and often about how Geelong would be the new face of local government, the first cab off the rank, the place where people would come out of the business community and where a new council would operate as a board of directors. However, Geelong ratepayers and residents said, 'That is not the model of local government we want. We want community people to stand as candidates, and we will vote for them'. The Premier had egg on his face.

History tells us that the City of Greater Geelong has been controlled by a group of councillors who were elected on a community ticket, not on a business ticket. The business people did not appear out of the woodwork and the community did not vote for business people. Ratepayers and residents voted for community people who declared their commitment to community issues by being publicly part of a community alliance ticket. The government's response is to destroy the electoral structure that made that result possible and to impose upon the Greater Geelong City Council an electoral structure that will make that same result again if not impossible, then extremely difficult.

The *Geelong Advertiser* reported that the proposed changes to be imposed in Geelong are fundamentally exactly those recommended by the Geelong Business Leadership Team; they were not recommended by disaffected ratepayers or by councillors who felt the current structure was unworkable. The changes were recommended by the people who the Premier said he wanted to see sitting around the council table, running the municipality as they run their businesses — that is, with a board of directors-style management.

Let us not be in any doubt. The Premier stipulated the kind of local government he wanted in Geelong, but he did not get it. The Premier is intent on punishing the community and imposing an electoral structure that will ensure business leaders are eligible to be candidates, that they can campaign and be assured of winning. The Premier intends to impose on the City of Greater Geelong an electoral structure that will mean community candidates will essentially be ineligible to stand or to campaign; community candidates will not be elected. Not only is the Kennett government imposing a new structure but the detail of the structure will be imposed by the government. The new structure will not be decided by the Electoral Commissioner or by an independent tribunal but by the minister who will determine where the lines are drawn for the four wards. He will ensure there is absolutely no process, no community involvement, and no discussion or negotiations about what will happen in the City of Greater Geelong.

Earlier I said this action is consistent with the way in which the Kennett government has treated local government since May 1993. If the Premier can take the 'local' out of local government or if he can kill off the notion of community involvement in local government, he will never let the opportunity pass.

It is clear to me and to a number of people across the local government sector that the Kennett government intends to have an electoral structure in Melbourne, Geelong, Bendigo, Ballarat and possibly the Latrobe Valley designed to guarantee that the 'local' and the community notion is knocked out of local government.

What will happen to the other municipalities; what will their electoral structures be? People whose judgment I respect, and whose networking I acknowledge is rather good, are deeply concerned that the long-term intention of the government is to have no other democratically elected councils. Therefore — and this will be interesting in the

context of the forthcoming Mitcham by-election — I believe the Kennett government is committed to implementing local government structures in Geelong, Bendigo, Ballarat and possibly the Latrobe Valley that will be considered to be undemocratic and anti-local in nature. The other municipalities will have administrators. I warn the Victorian community that this is what we continue to face under Kennett government rule.

Recently, a Melbourne City councillor resigned as a consequence of a determination made by the council in relation to Swanston Street. The resignation exposed the poor judgment shown by the Kennett government when it drew up the legislation on the electoral structure for the City of Melbourne. As a consequence of the resignation of Cr David Bardas it will be necessary for the municipality to conduct a by-election because there is no other way that the vacancy — which will be for only one year — can be filled, even by a count back. Even if that contingency were available, I would not support the vacancy being filled by a count back. The electoral structure of the City of Melbourne is about to be imposed on the City of Greater Geelong.

The opposition was extremely disappointed by the lack of response to the advice it gave the government when debating the legislation dealing with the Melbourne City Council about building in provisions to cover such a contingency. I argue that it will cost ratepayers as much as \$500 000 for the by-election to fill the short-term vacancy, and that does not take into account the cost to those who present themselves as candidates. Because the government did not include a provision to deal with such a contingency, it is now requiring the ratepayers of the City of Melbourne to fork out as much as \$500 000 for a by-election. The legislation should not proceed until a provision is inserted to address a similar occurrence in the City of Greater Geelong after March 1998.

Another provision that causes concern to the opposition and local government is clause 3, which amends the description of the coastal boundary of a municipal district from the high watermark to the low watermark. As a consequence of the government's attack on local government, one of the things local government is least able to do is take on additional responsibility because it does not have the necessary resources, funds or staff. I was advised that moving the boundary from the high watermark to the low watermark was something that the municipalities with coastal boundaries had sought. It may be possible for the minister to clarify this in

his response because I have not been able to find one coastal municipality or association of councils with coastal boundaries which has requested or wants this provision. In fact, one municipality faces enormous problems with the enforcement of local laws and state legislation.

The provision covers responsibility for jet skis, boating craft and the illegal collection of shellfish. What will be the situation in relation to the maintenance of sea walls, piers and other structures, beach nourishment, beach cleaning, public liability and the management and control of and expertise in regard to marine areas? I am extremely concerned about the government's unilateral decision to demand that local government take on additional responsibility at a time when its staffing has been decimated, its resources have been attacked and its revenue capacity has been severely nobbled.

It does not matter whether the municipalities with coastal boundaries are in the west or the east of the state or around Port Phillip Bay, the consequence of additional responsibilities with the change of boundaries will be significant. There are significant tidal movements in the coastal area administered by the Mornington Peninsula Shire Council and it will have a significant additional responsibility as a consequence of the change of boundary to the low watermark.

Hon. R. M. Hallam — Are you suggesting that the municipality does not want responsibility for the area between the low water and high watermarks?

Hon. PAT POWER — I ask that the minister advise the house which municipalities with coastal boundaries have requested that their boundaries be moved from the high watermark to the low watermark. I invite the minister to put evidence before the house that any municipality has made this request and is happy with the responsibilities that will flow from the legislation.

At the briefing provided by departmental officers I was advised that no additional funding would be available. Despite the significant additional responsibilities, the reduction in staff, resources and revenue capacity, the government is saying to every Victorian municipality with a coastal boundary, 'You are going to do more; you are going to do it because we can't be bothered; you have to do it because we want to make your job as a municipality more difficult'. I have made it plain that I have been unable to find any municipality —

Hon. R. M. Hallam — But you cited Frankston.

Hon. PAT POWER — I did not cite Frankston.

Hon. R. M. Hallam — Yes, you did. If we look at the record, I think we will find you did.

Hon. PAT POWER — I referred to the Mornington Peninsula.

Hon. D. A. Nardella — That is true.

Hon. PAT POWER — Given that they will have additional responsibility without increased funding or resources I am unable to find any municipality that went to the government and said, 'We want this'. If the minister can put before the house the municipalities that requested that outcome, I welcome it. If he can name the municipalities that, despite having no additional resources and revenue, are happy with that outcome, he should do so.

The opposition and the local government community are also concerned about performance indicators and statements. Some time ago the government made a great song and dance about the fact that it had lifted rate capping. The proof of the pudding is that it has not done so. If a municipality can demonstrate that it behaves and manages itself consistent with the political goals of the government, it will have its request for removal of rate capping considered. The government has made it clear that if a municipality commits itself to programs and policy directions of which the government does not approve it need not bother applying for the removal of rate capping.

Rate capping has not been removed. The government has been forced to acknowledge, especially in its own territories, that rate capping and CCT have been the two biggest problems faced by local government. But for the municipalities that want to put 'local' and 'community' back into local government, rate capping has not been removed.

I refer particularly to the key performance indicators because they are the criteria that the government will use to impose its thought police on municipalities and determine whether consideration ought to be given to lifting rate capping. The Department of Infrastructure has been working on the preparation of key performance indicators for implementation right across Victorian municipalities in Victoria. The department proposes that the three key performance indicators ought to cover financial performance, community satisfaction and

operational efficiency. I share the opposition's concern that this initiative will result in councils with low rates and zero debt scoring as high performing municipalities regardless of their programs of capital works or their commitment to community needs. It should be clear to honourable members that a municipality in a growth area will need to have higher-than-average borrowings to fund the community facilities and infrastructure needed to meet that growth. One cannot argue that that is not financially responsible, as future rate revenue from housing and business growth can be factored in to meet that debt. An inner urban community may well need a higher-than-average rate revenue to fund special needs in its area, which is likely to be an acceptable approach.

To ascertain community satisfaction I understand the Department of Infrastructure's survey will include a question that assesses the community's perception of the effectiveness of its council; it will measure community perception of a council's performance by the cleanliness of streets, rivers and beaches, garbage collection, maintenance of local streets and gutters, availability of recycling, local parks maintenance, and health services for the elderly. Ratepayers will be asked, 'How easy is it to do business with your council?'. And there will be a question about the council's leadership.

I argue that this is a simplistic, if not pathetic, survey method. It cannot and will not meet the local and differing needs that exist in councils, sometimes abutting, across the state. The service delivery areas that have been identified are pathetically inaccurate; they seek to define local government's role as being committed to roads, rates and rubbish. In other words, the Department of Infrastructure is designing a key performance indicator that will reward municipalities that have a narrow vision about local government — roads, rates and rubbish — and provide hurdles for the municipalities that have a vision about the contribution local government ought to make to the growth and sustainability of their communities. To have any validity such a survey would need to have up to 40 000 respondents and be conducted right across the state and at the one time. This is a large and expensive program — and who would pay for it?

Consistent with this government's attitude, I have not the slightest doubt that, despite this survey being there and despite its being ammunition the government will use, Victorian households will be asked to pay for it through their rates. A sample of that size will still mean many larger municipalities

cannot identify variations in satisfaction in the different geographic locations inside the municipality or across demographic groups. A statewide survey will not provide a municipality with the information it needs to improve overall knowledge of its community and its needs. The proposal is simplistic, inadequate, logistically extremely difficult and inflexible. Everyone in this chamber would acknowledge that communities across the state have very different expectations of their municipalities based on local needs and local experience.

If a council is to achieve a high performance score on these key performance indicators, and therefore have the possibility of providing rate relief, it will have to focus on low rates, low debt and high satisfaction for an extremely limited range of services such as garbage, recycling, park maintenance, street cleaning and so on. If the Department of Infrastructure and the government are successful in persisting with this model local councils will be focused away from their role of meeting community needs and forced back into the roads, rates and rubbish of the 1950s, the 1960s and the 1970s. The key performance indicators are the antithesis of performance. They will ensure that municipalities have a profound incentive to operate as a mirror image of the state government.

Clause 19 amends the provisions of the act concerning the periodic review of the electoral representation in each council that is divided into wards. Where a council decides not to alter the ward boundaries it must provide reasons for its decision to the minister and provide any information the minister requests. I said earlier in relation to allowances for mayors and councillors that ALP policy provides for the establishment of an independent remuneration tribunal that is charged with making those decisions because it is not healthy or appropriate for the people who stand to be beneficiaries to assess what their remuneration ought to be. It is also not good governance to have decisions about redistributions being initiated or substantiated by those who might stand to benefit from them.

Both the federal and state structures have automatic triggers set to a particular level of tolerance. The trigger activates an independent tribunal that makes decisions about whether there is to be a redistribution and, if so, what the redistribution ought to look like. I argue strongly that in local government we should not have a situation where the minister is able to call in a municipality; instead

there ought to be an automatic process so that when the tolerance level for a ward is reached a tribunal independent of the council and independent of the government takes over and manages the process of redistribution through to the end.

Clause 8 seeks to insert section 21A, which provides for the dates by which the Electoral Commissioner must supply to the chief executive officer, and the chief executive officer must prepare, a voters' list in respect of council elections and polls of voters. As I understood it, given that we now have trienniums at the end of which the whole of the council is up for election, it is not necessary to prepare a voters' role at any time other than in the lead-up to the triennium. I have some concerns about that. I do not see why voters' rolls ought not to be prepared annually.

In the City of Melbourne there is soon to be a by-election caused by a resignation. I imagine that across 76 municipalities, where democracy prevails, from time to time there will be instances where vacancies will arise. I have no difficulty with the principle that the end of the triennium ought to be the main priority for voters' rolls, but I think there ought to be some work each year that at least maintains a voters' roll in some form.

Clause 5 relates in part to section 11, which is to be amended to provide that the first two named non-resident owners or occupiers will automatically be entitled to be enrolled on the voters' roll. The opposition has no difficulty with that. The clause also amends section 13, which relates to corporations, and provides that a corporation may be represented by one person but that person may vote only once in respect of that ward. Proposed section 13A relates to the City of Melbourne.

Clause 6 provides that where two or more owners or occupiers of any rateable land are eligible to be enrolled on the voters' roll the chief executive officer must enrol without application the two whose names appear first on the rate records in the order in which they appear in those records. The opposition welcomes that decision.

Clause 12 relates to the conduct of polls. This matter is of concern to the opposition. The clause amends the Local Government Act by providing that a poll of voters may be conducted by postal voting only. I acknowledge that that parallels the conduct of elections for councillors. Honourable members will know that at present local council elections can be conducted by attendance voting and postal voting.

When the house debated the previous amending legislation we opposed any notion that ratepayers and residents not have the choice of attendance voting and that elections for councillors should be conducted only by postal voting — —

Hon. R. M. Hallam — No, 'by only', not 'only by'.

Hon. PAT POWER — Sorry, by only postal voting. We make the same point now. The opposition does not believe it is appropriate — Mr Nardella knows how stressful it was for the Melton community — for a poll to be conducted only by postal voting.

Hon. R. M. Hallam — By only postal voting. I still think you have to — —

Honourable members interjecting.

Hon. R. M. Hallam — There is a fundamental difference here.

Hon. PAT POWER — I mean what you are saying.

Hon. R. M. Hallam — It is a very important distinction. You cannot do it 'only by', but you can agree to do it 'by only'.

Hon. PAT POWER — By only postal voting, yes. Clause 15 refers to financial and compulsory competitive tendering statements. It provides that a council must approve in principle its financial statements prior to submitting them to its auditor or the minister and that it must authorise two councillors to certify the final statements once any changes to them have been made. A separate clause, clause 18, deals with compulsory competitive tendering.

I agree with the intention of clause 15. Currently, it is possible for a municipality, through its chief executive officer, to submit or conclude the preparation of a financial statement without the elected council having responsibility for or feeling it has ownership of the statement. It is appropriate that the council accepts its responsibility by determining that two of its number will be required to sign off a financial statement.

I make some passing comments about financial matters. The opposition shares the local government sector's concern about the difficulties municipalities face in the financial climate the state government has created. As an example I cite a circular sent to all

ratepayers and residents in the South Gippsland Shire Council under the signature of the shire president. The circular says in part:

When this council was elected we quickly agreed that our prime objective was to regain at least the service levels provided by the old shires as soon as possible.

An objective assessment of service levels across the organisation shows that the areas which have suffered major reductions are road construction and maintenance, parks and gardens and community support grants ... council has found it necessary to increase rates by 3 per cent to fund the local government unfunded superannuation liability ... while the council is opposed to this burden being placed on local government, we have no option but to pay the amount and to raise the funds from our ratepayers.

Our view is that this is a financial liability that was created as a direct result of the government's local government restructuring program and that the state government should therefore contribute ... the government has restricted the council's ability to raise rates to an amount equivalent to CPI less 1 per cent.

It is important that the community understands the difficulties municipalities are having with that aspect of financial reporting. It is one thing to require them to financially report, it is another to understand the circumstances they are in. A resident of the East Gippsland shire wrote to me, saying in part:

We as a community strongly resent the ... 3 per cent increase to pay for government created black holes —

his words. He continues:

... since we were given no choice ... not even ... a democratic say in the decisions which caused the problems ... we should not be expected to foot the bill for their mistakes ... most of our ratepayers are angry. I for one cannot afford this and indeed don't have it, or the outrageous interest rate charged for the part payment option —

which he quoted as being 9.6 per cent. The writer further says that:

... the Premier of Victoria has caused this problem and we feel that it is his responsibility to address it ... people ... are getting physically sick due to worry over how they are to pay these monies.

I also refer to the August 1997 report of the Local Authorities Superannuation Board, which says in part:

At all times during the restructuring of local government in recent years, the board has acted in line with its statutory obligations on the payment of retrenchment benefits and all other matters.

At all time, the board has kept the government, its constituent bodies and its members fully informed on trends in the fund, including unfunded liabilities.

Notwithstanding the government's particular view on the unfunded liability and who ought to pay it, there is a broad view in the community that an alternative process should have been available. I will repeat that section of the report of the Local Authorities Superannuation Board, one member of which is a government representative:

At all time, the board has kept the government ... fully informed on trends in the fund, including unfunded liabilities.

It is important to understand the financial reporting obligations the government has imposed on municipalities — and I refer, for example, to the Morrongton Peninsula Shire Council. On Monday, 8 September, from 5.30 p.m. and 6.30 p.m., a civic reception, described as a ministerial visit, was held in the municipal offices reception room in the Dromana electorate. The ministers for health and aged care, police and emergency services and corrections, housing and Aboriginal affairs, and the Treasurer, who is also the Minister for Multimedia, were present.

Hon. W. A. N. Hartigan — A galaxy of stars!

Hon. PAT POWER — Yes, and the honourable member for Dromana, but he would certainly not fall into that category.

With regard to financial reporting it is my understanding that the Morrongton Peninsula Shire Council required a significant commitment of resources, starting at 9.00 a.m. when one officer was to ensure that 15 VIP parking spaces were reserved in the car park, and at 4.30 p.m. another officer was to take up his position as a parking attendant. The mayor, the councillors and the chief executive officer were to assemble in the lounge at 4.45 p.m. At 4.55 p.m. the mayor and the CEO were to assemble in the reception room to meet ministers, ministerial

aides and accompanying state government officers — and so it went on.

Hon. W. A. N. Hartigan — What about the band?

Hon. PAT POWER — I was not there so I do not know whether there was a band.

Hon. R. H. Bowden — What is the point? We would be pleased to have them there.

Hon. PAT POWER — The point is that we are debating legislation that requires financial reporting to be made to the government in a particular way, requiring all municipalities with coastal boundaries, one of which is the Mornington Peninsula, without additional funding and resources to take on the considerable responsibility that flows from the municipal boundary moving from the high watermark to the low watermark, and Mr Bowden knows that in Western Port it can be a long way. What I want to know is: will the costs that the ratepayers and residents of the Mornington Peninsula Shire Council incurred as a consequence of this civic reception be fully declared? Was it funded by the state government in its attempt to make the honourable member for Dromana look good? Or is this another example of the Kennett government transferring more responsibility to local government?

Hon. R. M. Hallam — That is bringing the standard down.

Hon. PAT POWER — No, it is not. What we are talking about is the Kennett government using the Mornington Peninsula Shire Council to fund a political visit by its ministers in support of one of its local members.

The Municipal Association of Victoria said it has significant concerns about the Local Government (Miscellaneous Amendment) Bill. In its letter of 16 October to me the MAV said, in part:

The availability of these new provisions as an option is welcomed but the foreshadowed imposition on the Greater Geelong City Council is seen as undemocratic and therefore inappropriate. Councils would welcome the opportunity to have the flexibility to make submissions relating to such options if considered relevant to their respective municipal districts, but generally resent the potential for alternative structures to be imposed on any council without the full and detailed consultation which might be expected for a 'partner' in government.

A secondary concern ... relates to the expansion of compulsory voting to all enrolled voters ... it will be appreciated that the municipal district of Greater Geelong City Council includes many properties where the holiday homes of absentee owners are located and there seems to be little logic in rendering voting mandatory for them.

The next major issue about which councils have complained is clause 14 as it proposes to affect mayoral and councillor allowances. The maximum \$100 000 mayoral allowance has existed since 10 April 1990. With respect, that figure allows each council to fix an allowance commensurate with the council's expectation of its mayor ...

The \$18 000 (Melbourne) and \$12 000 (other councils) maxima for councillors' allowances were seen as a realistic recognition of the changed circumstances flowing from larger, more populous and more demanding municipal districts ... the MAV will be ... making a submission to the local government panel.

The amending legislation is undemocratic and anti-community and seeks to take the 'local' out of local government. It was introduced in the other place in a typically high-handed fashion. The City of Greater Geelong was completely unaware of the electoral structure the state government intended to impose on it. If it is to apply in Bendigo, Ballarat and the Latrobe Valley, those municipalities and communities will be ambushed by the government, too.

The reasoned amendment is appropriate. It would ensure that the rights of ratepayers and residents are protected, that democracy, transparency and accountability are guaranteed and that there is direct consultation with all municipalities whenever changes are to be made to boundaries, electoral structures, entitlements to enrol, the conduct of polls, and mayoral and councillor allowances. The opposition strongly opposes the bill and supports the reasoned amendment.

Hon. N. B. LUCAS (Eumemmerring) — I am pleased to support the bill and speak against the reasoned amendment moved by Mr Power. For the past two and a quarter hours I have listened to a depressing diatribe. As usual, Mr Power was negative: he knocked everything and said very little that was positive. A lesser man than I would feel depressed after listening to what he had to say.

I still talk with people across the local government spectrum, and they all say Mr Power's credibility is

diminishing. That is a shame. The opposition should not knock things all the time. The views of the opposition spokesman for local government are reported at page 18 of the August edition of the *Australian Municipal Journal*. I have circled a few of the words Mr Power used. They include 'unfairly', 'struggle', 'harassment', 'alarming', 'bullying', 'benign', 'bulldozing', 'trapped', 'appalling' and 'selfish'. His use of those extravagant words is disgraceful.

Hon. Pat Power — They are all pretty strong in Mitcham!

Hon. N. B. LUCAS — The government is not interested in negative diatribe; it is interested in constructive criticism, encouragement and productive debate. The negativity of the opposition spokesman for local government is appalling. Mr Power should look at the good things that are occurring in local government across the state, where communities are working with councillors and council staff for the betterment of their local areas. As you move around, you see good things happening — but I do not hear Mr Power talk about them. All I hear from Mr Power are negative comments, which is unfortunate. Since 1994, local government reforms have produced —

Hon. Pat Power — 1993.

Hon. N. B. LUCAS — You may say 1993 if you like, but they affected me the most in 1994. The reforms have produced substantial improvements for both residents and businesses. From Mildura to Melton great savings have been achieved, including lower costs and the more efficient delivery of services. That well-known socialist, Mike Hill, commented at a forum I was at in February that the reforms had produced lots of benefits for local government. I agree with him on that point, and I am pleased to be able to put that on the record.

Mr Power referred to a range of issues, but in the short time I have available I can hope to respond to only a few of them. The first is mayoral and councillor allowances. The current situation is out of hand. When a mayor is paid an allowance of \$80 000, drives around in a council-funded car, which costs the ratepayers around \$15 000, and has a mobile phone, a fax and a laptop computer — all of the trappings that go with being the mayor — he or she ends up with a package of more than \$100 000.

Hon. Pat Power — Disgraceful, worse than a backbencher!

Hon. N. B. LUCAS — A package of that amount is justified only by a full-time position. Recently, I heard about one mayor who, although he had not been invited, turned up at a small function, ate most of the sandwiches, did not contribute anything, and then left. Is that what mayors do because they do not have anything else to do? They receive \$100 000 packages, drive around in mayoral limousines, waltz in to functions, eat the sandwiches and do not contribute anything. Mayors should be doing things that are worth while!

Mr Power said the mayoral role was more demanding — and incredibly, he spelt out the ALP's real policy on the matter. He referred to the disparity between the salaries and packages of mayors and chief executives. Is Mr Power suggesting that a mayor and a chief executive should be on the same salary packages so they are both basically full time? I do not believe that mayors need to be full time. It is illogical for a mayor to be waltzing into the office every day with nothing to do. He or she would just get in the chief executive's hair and stop him or her from getting on with the job.

I refer to the report on the inquiry into Darebin City Council. It is interesting that on page 114, David Elsum, the person appointed to examine those sorts of things, says:

It is reasonable to question whether all those attendances assisted the City of Darebin, its residents or ratepayers.

He is referring to the mayor.

Could it be that those attendances were more to feed the self-importance of the mayor? Many of the functions were not held anywhere near Darebin; indeed some were in the Philippines.

They were paid for by the residents of Darebin. In the next paragraph he says, referring to councillors:

The hours worked are more a choice of councillors than the requirement of the job. I suggest that the time spent on council matters could be reduced if councillors encouraged management and staff to perform much of this work. Time spent at the town hall would be reduced if councillors disciplined themselves regarding the matters they consider.

Mayors and councillors occupy municipal buildings all day, every day, in an attempt to justify their full-time salaries. However, when Mr Hartigan was a part-time councillor he did not earn anything by

way of allowances. Why over the years have we moved from that situation to one in which Mr Power can theoretically justify having full-time councillors and mayors? Say each of the 78 councils had 10 councillors — although that may be a bit high. Nearly \$40 million would be added onto the local government bill if every councillor were paid \$50 000. That is what it would cost to have those people working full time. It is a nonsense.

For instance, a mayor with whom I worked at Berwick — I will not identify him because I would not want to embarrass him — used to drive off in the council-funded mayoral car, ring up 3AW on the council-funded mobile phone and wait for the talkback to begin. They used to have him telephone Joan Kirner, the then Premier, and say, 'Hello, Joan, this is John from Dandenong'. He used to tell Joan what a great job she was doing, but he did that at the expense of the ratepayers. The council telephone bills became extraordinarily high.

Honourable members interjecting.

Hon. N. B. LUCAS — In his contribution Mr Power referred to Melton and Darebin councils. I was interested to hear the opposition complaining about what Mr Power described as disgraceful. In that context, I refer to the *Sydney Morning Herald* of 13 November. An article refers to the socialist government minister in the New South Wales government, Mr Page, as having sacked the Maitland council. Mr Page is reported to have said:

... the report —

yes, they too had a report, just as we had one on Darebin —

showed it could no longer do its job. An administrator would be appointed ... I have no confidence the councillors will be able to resolve their differences.

That sort of thing is also happening in Western Australia where a council has been given the sack.

Honourable members interjecting.

Hon. N. B. LUCAS — Yes, it happened in Darebin. It should happen if a council cannot get on and do the job properly. The government has a responsibility on behalf of the community to see justice is done with community funds.

The review of allowances is timely and justified. I am sure the former local government chief executive

and commissioner, now executive in the Office of Local Government, Vern Robson, will do a good job in preparing a report for the consideration of the minister.

This bill breaks the nexus between the City of Melbourne and other councils in allowances paid to a mayor and councillors. It is inappropriate that \$100 000, deemed to be appropriate as an allowance for the mayor of Melbourne, should also be paid to mayors of other Victorian councils. It was my impression that Mr Power believes the work of council mayors across the state, regardless of the size of the councils, justifies similar allowances being paid to all mayors or councillors. I disagree with him. Mayoral and councillor allowances should be graded in some way. The work of a mayor or councillor in a metropolitan council is different from that required in a rural district. I have no difficulty in prescribing a differential amount being paid to mayors and councillors across the state, having regard to the size of municipalities.

Clause 3 refers to municipal boundaries, to high and low watermarks.

Hon. T. C. Theophanous interjected.

Hon. N. B. LUCAS — A shire dog inspector may be walking along the beach —

Hon. T. C. Theophanous interjected.

The DEPUTY PRESIDENT — Order!

Mr Theophanous knows better than to interject out of his place, particularly with Hansard having some difficulty because of constant interjections and noise in trying to record the debate. I ask honourable members to keep the tone of interjections down so Hansard and others can adequately hear the contribution of Mr Lucas.

Hon. N. B. LUCAS — He is trying to put me off! I refer to the high and low watermarks provision in clause 3. As it now stands, if an enforcement officer is on a beach and notices somebody doing what he or she should not be doing, the onus of responsibility for action or the enforcement of the law depends on the location of the high and low watermarks on the beach, and the consequent municipal responsibilities. I support the correction of that anomaly. Mr Power suggested the government has an ulterior motive. That is not on. Clearly, the legislation requires amendment.

The opposition agrees with the first two aspects of clause 5 dealing with enrolment provisions — that is, at present two additional owners or occupiers of a property cannot be included on the municipal rolls. Certainly the new provisions are a fairer and happier solution particularly for female residents or owners of property who historically have appeared in the records as the second-named owners. I strongly support that provision. Proposed new section 15, to be substituted by clause 6, has been included so that those owners and occupiers will be automatically included on the rolls.

The bill provides that before financial statements, competitive statements and performance statements are finalised and sent to the minister, they must be signed off by a mayor or councillors. That is a good move because a council will be required to place its formal imprimatur on those documents. Therefore, a council will have to consider whether it is satisfied with the statements; it must take more of an interest in and know exactly what the statements contain, given that the signatures of two authorised councillors must be affixed to the statements before they are sent to the minister.

Mr Power also mentioned internal boundaries. Clause 19 provides that every six years a council must undertake a review of its municipal boundaries to ascertain their adequacy for ward representation. The definition of 'adequacy' revolves around compliance with the average number of persons to be enrolled per ward. It seems logical and fair that councils conduct such reviews. The situation is rapidly changing in the cities of Casey, Wyndham and Hume.

Hon. T. C. Theophanous — What about Monash?

Hon. N. B. LUCAS — Actually, the City of Monash is decreasing in size. It is important that councils on the fringe of Melbourne's metropolis, where significant population changes are occurring, conduct those reviews. I recall having done that a number of years ago; we worked out an average figure for the Berwick region, which can be difficult to do in a municipality where the population base is rapidly changing. We tried to predict growth and reach a middle point in the required span of six years. My former colleague in Berwick, Jeff Marjoram, spent some time trying to work out a solution. It is not easy. However, the bill contains a formula that provides for a council to examine that aspect.

Also, a council which decides not to implement a fairer system must explain its reasons. There is nothing wrong with a council explaining itself. In those circumstances it will be required to report to the minister and say whether it has changed or not changed; if the latter case applies, it must give reasons for its decision. Then the community will be fully aware of the council's reasons. The minister has the power to seek nominations and he has the right to consider the situations.

The bill also allows the minister to change the electoral arrangements for a council under proposed new section 220Q(na). He will be able to reconstitute a council so that it consists of councillors who represent individual wards as well as councillors elected to represent the municipality.

The minister has made public announcements about his intention to make such changes in the City of Greater Geelong and has also asked provincial cities to consider the possibility of such changes. I was asked by the City of Knox whether this measure would apply to it. I responded that I understood the minister has made no suggestion whatsoever in any place that this provision would apply to any other councils, so there is no suggestion that the City of Knox will be affected by the amendment.

Clause 16 deals with back rating. Section 174 of the act allows a council to require the owner of a property to pay back rates for five years if the property moves from being non-rateable to being rateable. For instance, if a church owned land that it sold, the church could be asked for five years back rates on the land. I am aware that some councils did not wish to obtain the five years in back rates while others put out their hands for the back rates. The situation has been dealt with inconsistently. The bill now puts the issue beyond doubt and back rating will not occur when section 174 disappears.

Business plans and performance targets were also dealt with by Mr Power. It seems strange that Mr Power should speak against councils setting down their mid to long-term corporate plans and make negative remarks about business plans setting out what a council intends to do during the following 12 months. It is also strange that he should be concerned about councils setting performance targets.

During my time in local government I was proud to have a business plan showing what we planned to achieve during the following 12 months, and I was happy to be judged on whether those things were

achieved. A report on performance statements will be submitted to the minister for his information within three months of the end of the financial year. I cannot see why the opposition has a problem with that.

Mr Power referred to the Shire of Melton, and there were interjections from Mr Nardella. I recently visited Melton Shire Council to find out what is going on out there with the commissioners, Alistair Fraser, John Hyett and Brian Morison, and the chief executive, Adrian Pennell. In response to Mr Power and Mr Nardella — from whom I assume we will hear more later — I point out that the Melton Shire Council commissioners are doing an excellent job. They were reappointed in 1997 after a poll of the residents and ratepayers, who said they thought the commissioners were doing a great job. They have been involved in a number of key issues such as the creation of jobs, the provision of services and the establishment of an industrial suburb. They have achieved a rate reduction of around 20 per cent over three years. They can rightly claim they have attracted 1200 jobs to their shire during the past 18 months as a result of their actively marketing their region across Australia and in Asia.

An article on page 3 of the *Melton Express* of 25 June, under the headline 'Rates will fall again', states:

Melton council will spend \$38.5 million and again keep rates down this coming financial year.

The council has budgeted for a rate decrease of 3 per cent for 1997–98.

Yet a week later Mr Don Nardella — I do not know whether it is the same Don Nardella we know and love in here — wrote to the local newspaper saying:

The long-suffering Melton ratepayers are again being hit by the actions of the Kennett-appointed commissioners by raising our rates ...

Mr Nardella was wrong again, and he does not represent the area. It is fantastic that the rates in Melton have been reduced under the commissioners by 20 per cent. I visited MHG Plastics Industries — —

Hon. M. M. Gould interjected.

Hon. N. B. LUCAS — It is interesting that in three months the only mention in the local newspapers of Miss Gould was in one article, and do you know what she was trying to do? She was bagging the new

plastics firm which has been established in Melton and is creating 220 jobs over three years. Her colleague, Mr Eren, did not appear once. I believe he represents the area too. David Cunningham, the honourable member for Melton in another place, is a nice bloke. The only thing about him that was said in the newspaper was that he was going to retire.

Melton is kicking a whole lot of goals and it ought to be congratulated. Queensland Insurance Corporation is to undertake a \$20 million development of the Melton regional shopping centre to provide up to 40 new shops. The development has the potential to create up to 1000 jobs. Three key investment projects for the Toolern Employment Node will involve the investment of \$140 million over five years with the creation of more than 800 jobs.

In the more leafy aspects of Melton, the environmental enhancement program is an excellent scheme through which owners of rural properties have the opportunity to obtain rate rebates each year by filling out forms on which they indicate the work they will do on their properties to eradicate such things as serrated tussock, Paterson's curse or artichoke thistles as well as to control rabbits and deal with soil erosion. The program was introduced by the commissioners, and they should again be congratulated. The work is checked by the council and the owners then obtain rebates on their rates. I believe 78 per cent of vacant land, involving 1090 landowners, has been dealt with under this project, which is a fantastic result. Only 23 of those 1090 landowners failed to meet their obligations and, therefore, did not achieve their rating rebate. The people involved in the environmental enhancement program — in particular the lady in charge, Jacki McLeod — should be congratulated because the Shire of Melton is setting an example to local government about what can be done in some of the fringe metropolitan areas that have problems with weeds and rabbits.

Agribusiness is another initiative of the Melton commissioners. Following a study in agribusiness it was suggested that fresh fruit, vegetables and cut flowers could be produced in the hope that such produce could be exported to South-East Asia — and I hope the program gets off the ground.

Earlier I mentioned the Toolern Vale industrial area, which involves a huge area of land. I inspected the site with the commissioners. The area in question provides countless opportunities for the people of

Melton by creating jobs and other employment opportunities.

Hon. D. A. Nardella — They have created jobs for themselves; nobody else!

Hon. N. B. LUCAS — The commissioners of Melton have probably been doing what the local members have failed to do: identifying the issues that need to be addressed in Melton and attempting to do something about them. Sadly, the previous government did little to help the people of Melton. However, the current government is coming to grips with its problems and trying to do something worthwhile. It is a disgrace to local council members that the Labor government continued to go negative by its non-appearance.

Hon. M. M. Gould interjected.

Hon. N. B. LUCAS — No appearance, Your Worship! I would be happy to hand over the Melton Shire Council corporate plan for 1997–2000 to any opposition member who wishes to look at it.

The annual report presents a lot of interesting information; I am sure Miss Gould would benefit from reading it. The report refers to the achievement of the CCT tender requirement and talks about rate reductions, which is an exciting result for Melton. The opposition tries to talk down the role of commissioners in Melton, particularly through Mr Nardella —

Hon. D. A. Nardella — Because they are a pack of grubs.

Hon. N. B. LUCAS — It is good to report that local government in Melton is alive and well. The commissioners should be congratulated for the work they are undertaking.

Mr Power referred to the concept of a remuneration tribunal for the establishment of mayoral and council allowances. He also suggested a similar body for the establishment of ward boundaries, which is an ongoing socialist concept — you build up the public service; you build up the cost to the community; and you have the bureaucrats pulling strings in town. That is not what this government is about. It is about reducing the cost to the community and getting local government involved in what it has to do. The bill provides for local government to review its boundaries and get on with the job. As I understand it, in the future it will allow councils to

set within certain limits the allowances that will be paid to councillors and to mayors.

I am pleased to support the bill. It provides a few rips and tucks to all the local government legislation that has come before the house over the past few years. I strongly disagree with the reasoned amendment moved by Mr Power. I commend the bill to the house.

Hon. W. A. N. HARTIGAN (Geelong) — I am pleased to support the bill and oppose the reasoned amendment. I shall first deal with the reasoned amendment moved by Mr Power. The fact of the matter is that the state has the constitutional responsibility for local government. I repeat: it not only has the authority, it has the responsibility. A vast majority of people expect the state to act to ensure that local government is operating effectively and responsibly. There is no question that had the government not moved as it did in its first period in office to change the structure of local government Victorians would not have the result that has now been achieved, a result not much different from the general thrust of the former Labor government. It involves a reduction in the number of councils and the broadening of council boundaries to provide a more efficient economic base for operations and a more regionalised administrative setting to ensure that local government roles are considered on a larger scale.

It is no secret that the Labor Party's view of local government was characterised from Gough Whitlam's day by the belief that it should be separated from the state government and that it should become a creature of the federal government. It was not a question of change in the democratic structure; it was a question of power.

When I was in local government I recall Gough Whitlam making no bones about what he wanted to achieve: he wanted to fund local government directly; he wanted to separate it from the state government; he wanted to have local government duplicate many of the functions that state governments carried out. There was no doubt that while he had a view about to whom local government reported, in his mind — whichever government it was, federal or state — it would be firmly under the thumb of that government. Gough Whitlam was not looking at the sort of nonsense Mr Power spoke about. Indeed, in this case the state has a responsibility to respond to the ratepayers, taxpayers and voters about their concerns when its legislation affects local government; they look to the

government. Any member of Parliament in this house who has not been approached by citizens in his electorate about local government issues —

Hon. T. C. Theophanous — They wouldn't be able to find you.

Hon. W. A. N. HARTIGAN — Don't you worry about that, Mr Theophanous, not only are the lights on but I am home, which is more than can be said about your representative down there. Where is he? Where does he live?

Hon. T. C. Theophanous — Who are you talking about?

Hon. W. A. N. HARTIGAN — I am talking about the member for Geelong North — if he lives there! There is no evidence of it. Dead in the water!

Hon. T. C. Theophanous — Unlike you, he lives in Geelong.

Hon. W. A. N. HARTIGAN — He is just dead in the water.

Hon. T. C. Theophanous — You are just rorting the system.

Hon. W. A. N. HARTIGAN — The only person who has rorted the system is the Labor Party; your side rorted it by billions. Captains of the universe! Nobody else has approached your efforts. During some of the period from 1974 to 1980 that I was a councillor I had the misfortune of working with a Labor government in Canberra — one of the worst governments that this country has ever seen; a government that put this country in the state it is in now.

Hon. M. M. Gould — You keep coming back with the same speech.

Hon. W. A. N. HARTIGAN — I am glad you are listening! When I was a member of local government the Whitlam Labor government was determined to take over the local government *de facto* or *de jure*; it clearly was set to separate the state governments from that authority. The fact of the matter is that somebody has to have authority for local government. The states have that constitutional authority and we exercise it. Nobody disputes the fact that in exercising the authority of reform of local government by reducing the number of local government units from more than 200 to 78 this government has achieved an objective that has not

been achieved by any government since the turn of the century.

Hon. T. C. Theophanous — Yes, because you blocked it.

Hon. W. A. N. HARTIGAN — That may well be so. Had I been in this house on the conservative side at the time the Labor Party was in power I would have blocked everything! Have a look at what Labor did. I would not have trusted the Labor government with 1 cent of the peoples' money. Look at what happened in the few days when we were not in control of the upper house. It was a disaster.

Hon. D. A. Nardella — What happened?

Hon. W. A. N. HARTIGAN — Did you not introduce new legislation?

Hon. D. A. Nardella — We did. We brought in Workcare. You brought back Workcover six times.

Hon. W. A. N. HARTIGAN — Mr Nardella is boasting about the Workcare legislation his government introduced. If the opposition wants to talk about that as a symbol of its administration, it is welcome to do so. It was an unmitigated disaster. I notice Mr Theophanous is sitting there with his mouth shut.

Hon. D. A. Nardella interjected.

Hon. W. A. N. HARTIGAN — It was a great pity that we did not have a majority at that time. My services in local government occurred before the dark days of Labor. I was a councillor in a very large municipality. The councillors were unpaid and the mayor received an allowance which was expended almost entirely on identified mayoral functions. There was no question that the council acted with authority.

Hon. T. C. Theophanous — Which council?

Hon. W. A. N. HARTIGAN — It doesn't matter.

Hon. T. C. Theophanous — We want to know whether you are telling the truth.

Hon. W. A. N. HARTIGAN — I don't care what you want to know; I am not interested in your views. You can just sit there. I make the point that it was not long ago that service on large and small councils was provided as a community service; no money was provided for expenses and the mayoral

allowance was totally expended on mayoral functions.

Hon. T. C. Theophanous — You are so ashamed that you won't say where it was.

Hon. W. A. N. HARTIGAN — You can work it out. When the Labor Party had responsibility for local government it burdened local government with an enormous range of responsibilities. It did nothing to reform local government; it did nothing to improve the economic and administrative efficiency of local government. When the coalition came into government it recognised the need to reform local government. Every area of government had to play its part in the process of getting local government to operate more efficiently in a more competitive market. That result has been achieved and the administration of local government has become more efficient.

The state government, whether it be the coalition or the Labor Party, cannot avoid the responsibility of ensuring proper administration of local government. It is therefore quite natural for the government to move the legislation before us today. It is realistic to view the reasoned amendment as a load of garbage which was not seriously intended. It bears no relationship to the situation in which local government must operate.

Hon. Pat Power — We will find that out in Mitcham.

Hon. W. A. N. HARTIGAN — You may find out a lot of things in Mitcham, but none of them will be right. The mayoral and councillor allowances are being reviewed. I do not know where that matter will end up and I do not really mind too much.

Hon. D. A. Nardella — I think you are really running your dog in Mitcham in competition with Jeff's.

Hon. W. A. N. HARTIGAN — I might give you a run there.

Hon. D. A. Nardella — Come to Melbourne North.

Hon. W. A. N. HARTIGAN — I might take your challenge up. Are you popular up there?

Hon. D. A. Nardella — I am happy to have the competition.

Hon. W. A. N. HARTIGAN — What about preselection? Do you think I could go through preselection up there?

Hon. D. A. Nardella — You could try.

Hon. W. A. N. HARTIGAN — Do you have preselection?

Hon. D. A. Nardella — Absolutely.

Hon. W. A. N. HARTIGAN — Really!

Hon. D. A. Nardella — I had preselection last time.

Hon. W. A. N. HARTIGAN — How much opposition did you have?

Hon. D. A. Nardella — I had a few.

Hon. W. A. N. HARTIGAN — Go on! You mean it was not fixed up front? The honourable member fixes the local council. He fixes the branches, too.

The legislation will be amended to protect the nexus between the City of Melbourne and other councils. It is also being amended to ensure that the mayor cannot accept a mayoral allowance as well as a councillor's allowance. I understand there is general agreement on that.

Hon. T. C. Theophanous interjected.

Hon. W. A. N. HARTIGAN — I do not know where Mr Theophanous is at. The lights are on but he doesn't seem to be at home. The electoral provisions are being changed appropriately so that the first two ratepayers or occupiers named on official documents are given the right to vote. There was a gender bias there and I am glad to see that it has been removed. The legislation permits postal voting in local government polls, and that makes the system more flexible.

Section 220 of the act requires councils to review their internal boundaries at least every six years. The review is determined on the number of voters represented by each councillor as against the number of voters in the whole municipality. However, councils are required to apply to the minister to alter boundaries. There is no requirement for the council to give information supporting the change. I believe that is a reasonable amendment.

The legislation also enables the minister to set internal boundaries for each municipality. Councillors will be elected in individual wards, at large or both. I am pleased to see that happening. The first decision made by the minister in that regard under this legislation will deal with the City of Greater Geelong where an election is due next March. The decision is to have four ward councillors and five councillors at large. That proposition has been well received locally; the *Geelong Advertiser* has published several favourable editorials. Most of the councillors to whom I have spoken believe this is a forward and progressive move. Frankly, I cannot recollect anybody objecting to it. It gives the City of Geelong an opportunity to focus on looking at the city as a whole. That is absolutely necessary if we are to ensure that there is consistent and even development.

Hon. D. A. Nardella — Which citizens do you talk to — your local branch?

Hon. W. A. N. HARTIGAN — I speak to a wide variety of people. If Mr Nardella were to become a regular reader of the *Geelong Advertiser*, he would know that that newspaper has produced a large number of responses to this legislation. I assure honourable members that, unlike the missing member for Geelong North, I am in Geelong on a continuous basis and I am involved in all aspects of society. I am prepared to advise the good citizens of Geelong of my views, political or otherwise.

Hon. I. J. Cover — And he does.

Hon. W. A. N. HARTIGAN — And I do. An order will be made to introduce the system for the Greater Geelong elections in March 1998. There will be five councillors at large and four ward councillors, which will work very well. Notwithstanding your concern, Mr Power, the changes to the coastal boundaries have also been well received in Geelong.

Hon. Pat Power — Not true.

Hon. W. A. N. HARTIGAN — I am sorry, but this may be a moment of truth for you. All the people I speak to, including councillors and those who live around the bay, are delighted at the clarification and at the opportunity to do what they want to. It is not a problem: they recognise it is a practical decision.

Hon. D. A. Nardella — Does the mayor agree with you?

Hon. W. A. N. HARTIGAN — I do not worry too much about anything the mayor agrees with. He agrees to different things at different times: it depends a bit on when you talk to him.

Hon. D. A. Nardella interjected.

Hon. W. A. N. HARTIGAN — You may have talked to him at a different time from when I talked to him.

Hon. D. A. Nardella interjected.

Hon. W. A. N. HARTIGAN — I talk to Gerry Smith continuously.

Hon. D. A. Nardella — On this matter?

Hon. W. A. N. HARTIGAN — On this and every other matter. Do not think for 1 minute that I would send him to wherever it is they send them because of his unfortunate political convictions.

Hon. P. A. Katsambanis — Coventry.

Hon. W. A. N. HARTIGAN — Coventry? I would have thought it was Liverpool! Gerry and I have known each other for a considerable while and we get on well.

The other amendments are machinery changes. At the request of the Auditor-General councillors will appropriately be asked to sign their audited financial statements and compulsory competitive tendering and performance statements. I do not think that will create any problem. Having councillors sign those documents is appropriate because it will show they have perused the documents and understand and accept the material contained in them.

Clause 16, which will repeal section 174, concerns the recovery of back rates. The clause, which also says that back rates cannot be inequitably charged, is fair and reasonable. It will remove the existing provision that enables a council to recover up to five years of back rates and charges upon land that was previously non-rateable becoming rateable. Perhaps as we go down that road we will start to deal with the broad reform of taxation in some of those areas.

The bill is reasonably simple, and the objectives that motivate it can be clearly understood. It is consistent with the actions the government has taken since it was elected in 1992 to advance the cause of local government and the people local government serves.

Every clause in the bill will achieve that objective, and I commend it to the house.

Hon. R. H. BOWDEN (South Eastern) — I support the Local Government (Miscellaneous Amendment) Bill. I believe the changes in the bill are extremely important. They continue the positive thrust that is bringing the local government industry into the modern age. When the government took office in October 1992 many changes were needed, and one of the Kennett government's important early measures was to ensure those changes were made. If we look back we can see how the accountability, efficiency and credibility of local government have been significantly enhanced.

Opposition members have derided the changes on many occasions. However, they do not give the Victorian community any credit when they criticise the necessary changes we have made with great flare and great care. Accountability has been significantly improved by the improved budgeting process, the review process and the need for forward business plans. The necessary fiscal control and financial management mechanisms that have been brought into play are valuable and will enhance the credibility of this important sector of our economy.

Some concern has been expressed about the measures in the bill relating to mayoral allowances, the electoral structure, postal voting and so forth, and I will speak to those concerns in a moment. Clause 14 deals with mayoral and councillor allowances. It will no longer be permissible for a mayor to receive both a mayoral allowance and a councillor's allowance.

A number of communities have expressed disquiet about the way in which the payment of allowances has been handled. The bill will tighten up those practices by providing for more supervision of and transparency in the payment of mayoral and councillor allowances. For instance, with the exception of the Melbourne City Council, a minimum of \$5000 and a maximum of \$12 000 is paid to each councillor as a councillor's allowance, and the mayoral allowance can be set as high as \$100 000. Each council can set its allowances within that range, but the bill will amend sections 74 and 74A of the principal act to give councils greater flexibility.

Another excellent feature of the bill is that it will break the nexus between the Melbourne City Council and the other councils. The bill enables different levels of allowances to be set for different

categories of councils. But as I said, a mayor cannot receive both a councillor's allowance and a mayoral allowance. The bill also contains specific notations about the timing of payments to mayors and councillors. That is an excellent feature because it will enable orderly and proper payments over time.

The minister has announced the appointment of Mr Vern Robson to head an independent panel that will conduct a review of allowances and other matters, the details of which are outlined in the second-reading speech. The panel, which will consider levels of payment through 1998, is due to present its report by the end of November this year.

Clause 5, which relates to electoral provisions, is also important. Currently, only the first-named ratepayers or occupiers have the right to vote. Under the bill the first two named non-resident owners or occupiers will be able to vote, and other owners or occupiers will be able to apply to be put on the roll. That is an extension of democracy. South Eastern Province contains a greater part of the Mornington Peninsula and Phillip Island. My constituents need and will appreciate the enhanced ability to vote on council matters. I congratulate the minister on clause 5, which provides for the reform measures I have just described.

Clause 12 says that a poll of voters may be carried out by postal voting alone. That is a good move because it will cut expenditure and save voters a trip to the polling booth. It is more appropriate to our modern community and will enhance the process of polling.

Changes to the internal boundaries of councils have enormous significance to the planning process and the availability of individual planning decisions. Section 220 of the principal act requires that councils review their internal boundaries at least once every six years.

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

Hon. R. H. BOWDEN — During the suspension of the sitting it occurred to me that the local government reforms the Kennett government has made since 1992 have enhanced the accountability and increased the efficiency of the sector, which is an important part of our economy. Despite that, the opposition has trouble with giving the government credit for those reforms.

Clause 5 relates to electoral provisions. In South Eastern Province many houses are owned by

non-resident owners and occupiers. Another excellent feature of the bill is that it enables the first two named non-resident owners or occupiers to vote in local government elections. That is certainly relevant to my constituents.

As I said before the suspension of the sitting, section 220 requires councils to review their internal boundaries at least every six years to ensure the ward sizes are fair and equitable. There are seven councils in the South Eastern Province, and I shall watch with interest to see that that occurs. The mandatory time frame for the examination of boundaries should be of great comfort to residents and ratepayers. Following a review, a council will now be required to tell the minister in writing why boundary changes are not being made.

The minister will be able to make an order setting the number of wards and the number of councillors to be elected, and that can be discussed by the council and a minister. The minister has the ability at any time to ensure that the boundaries are fair and equitable to ratepayers.

Clause 3 is also important. For coastal municipalities the municipal boundary will be the low-watermark rather than the high-watermark. There are significant tidal changes of more than 2 metres in Western Port, which is in my province. The change will have a significant effect on the municipal boundaries, but the bill clarifies the legal responsibilities of the councils involved.

Clause 15 refers to financial prudence and the government's requirement for audited financial statements. It stresses the importance of councils being mindful of the need to provide financial, performance and CCT statements to the minister. I commend the minister on clause 16, which provides that a council will not be allowed to claim five years rates retrospectively if a property that is owned by a genuine charitable organisation is sold.

The government has accepted the challenge of reforming the local government industry. The bill is a further example of the responsible, careful and professional way in which ministers and the government have approached the task. The local government industry deserves the attention the government has given it because of its sheer size and the financial and employment responsibilities involved. The reforms are necessary. The minister deserves to be congratulated on introducing the bill, which I support.

Hon. T. E. EREN (Doutta Galla) — The ALP supports certain areas of the Local Government (Miscellaneous Amendment) Bill, as Mr Power said, but it is really yet another slap in the face for democracy and yet another unwanted and unneeded interference with local government in this state.

The first area that concerns me is the removal of the ability of a council to set its own pay levels for mayors and councillors. This is hypocrisy of the worst kind. Until recently most Victorians suffered under the bad administration of commissioners who were imposed on innocent ratepayers. Those commissioners were not responsible to the people. They wasted money and resources but were not accountable. To make matters worse, with the full blessing and encouragement of the government, they were highly paid. There was no thought at all of the strain those exorbitant wages put on the resources of local councils.

In total contrast, mayors and councillors are elected by residents and are totally responsible to them. In the name of public responsibility and accountability, salary caps have been imposed on them by the government. Almost none have voted themselves the highest level available under the current rules. They have based their salaries on what would be reasonable to cover their expenses and not on greed. In almost every council across Victoria there has finally been a return to democratically elected mayors and councillors. Whether there are 6, 9, 10 or 12 councillors, the total wages bill for the entire council, including the mayor's allowance, is almost always considerably less than the wages bill for the three commissioners previously imposed on the ratepayers.

The government now proposes to restrict the freedom of choice and responsible accountability even further by setting up different categories of councils and different wage limits for each of those categories. That proposal is ridiculous. Even if you accept the line that employers should not set their own wages, no matter how tight the restrictions or how rigid the guidelines, this is not the right answer. The ALP believes the allowances of elected mayors and councillors should not be determined by the recipients of such allowances but should be based on the recommendations of an independent remuneration tribunal, having regard to council and mayoral duties, workload and expenses incurred in the performance of duties, including especially the cost of child care. The independent tribunal should be able to make the decision exclusively and without

interference. Any other method simply continues the intimidation of local government that has been obvious since this government was elected.

My next concern is for the further erosion of democracy as it relates to electoral boundaries. This is the change that says the democratic vote of local residents is okay, so long as they elect the candidates this government wants elected. If the voters do not do that, and some free-thinking local with genuine community links and concerns, someone who happens to care greatly for the overall good of his or her local community, is elected by mistake and against the government's wishes, that is okay, the government will just change the boundaries to get its mates up. Or it will change the number of councillors, maybe break up a ward structure or change the way councillors represent a single area or the whole council, or use any combination of those methods.

The government sets no limits on what it can do to manipulate the outcome of an election. It also appears to set no limits on what it can do to punish residents who have the audacity and the clarity of thought to vote against the strangulation of democracy this government is so keen to impose. The bill will give the minister of the day the power to change the electoral boundaries of councils, the number of councillors or the areas they represent. Anyone who doubts that should check with the residents of the City of Greater Geelong to find out how their democratic expressions have been rewarded. We have seen in Geelong advance warnings of what the government is really trying to achieve. It is an early warning showing how this legislation can be misused. Other councils should take heed of what is happening in Geelong. It could happen to them next.

If residents and ratepayers dare to elect unacceptable councillors — and by that I mean councillors who do not fully support the government's actions or agenda — this legislation will be used to move the goal posts after the game has started. It will change boundaries, limit the money available to the council to perform its duties and change voting systems. It will keep doing that until the residents finally get it right and elect someone who will toe the government line, no matter what is best for the area the councillors are supposed to represent. There is no protection for a municipality unfortunate enough to elect a councillor who is concerned about the rights and welfare of the residents and ratepayers.

Finally, the bill proposes to widen the use of postal ballots for the democratic election of councillors. That system was used in several council elections in March this year and was an absolute disgrace. Any extension will mean more chaos surrounding local government elections. The number of people from non-English-speaking backgrounds who will be disadvantaged by postal voting is impossible to estimate. Voting through the mail is not a proper substitute given all the information that is available to a voter when voting at a ballot box. At a time when governments should be doing all they can to increase voters' understanding of the system and make voting easier, this is going the wrong way and making things harder.

For those reasons I oppose the bill and support the reasoned amendment.

Hon. P. A. KATSAMBANIS (Monash) — I speak in favour of the Local Government (Miscellaneous Amendment) Bill and it almost goes without saying that I speak against the reasoned amendment. I do not profess to have the wealth of experience in local government of some of my colleagues who have spoken before me and who will speak after me. Mr Lucas certainly has a wealth of experience in employment in the local government area, and Mr Hartigan and many other colleagues have significant experience as elected councillors and mayors of municipalities.

Before I was elected to this place I did not have a lot of experience of local government other than paying my rates each year. After almost 20 months in this place I have found that the number of local government concerns from constituents that come into my electorate office override every other issue. They are not concerned with major policy issues but with the day-to-day issues of local government. They may be planning concerns, parking concerns or any of the myriad of other concerns people have with local government.

I have to agree with the point Mr Hartigan made about the fact that Victorians believe their government, in fact any state government, not only has constitutional authority over local government but moreover has a responsibility to ensure that local government acts within the bounds of its authority and to represent the people of its local community. As a state government the coalition not only has the authority to act, it also has the responsibility to act to ensure that local government is accountable. My constituents have made it clear to me that in many instances they are unhappy with

the way local government acts and that they believe it is the province of their elected representatives in the state government to work to redress any deficiencies they discover in local government authorities.

Hon. D. A. Nardella interjected.

Hon. P. A. KATSAMBANIS — Mr Nardella may want to put his own people there; perhaps that is why he makes a noise about Melton. The residents have made sure he does not have the opportunity to put his people into Melton.

The bill builds on the reforms that the government commenced to implement in 1993 — reforms that the Labor government once tried when in government but did not have the ability to carry through.

Hon. D. A. Nardella — You blocked it.

Hon. P. A. KATSAMBANIS — The bill builds on four or five years of effective reform which has already delivered significant rate decreases for Victorians. Constituents in Monash Province say the rebates, reflected in a 20 per cent decrease across Melbourne in the past four years as a result of Kennett government reforms, have been welcome. The rate decreases in the City of Stonnington, in my province, have been more than 30 per cent; residents are grateful to the former and the present local government ministers for the government's reforms which have led to such significant rate decreases.

This minor bill builds on the reforms already introduced by the government and ensures that local government will continue to act responsibly and in a cost-effective manner for the benefit of local government ratepayers and residents.

I turn to some of the issues addressed by the bill. I refer to allowances paid to mayors and councillors of local government municipalities. Clause 14 proposes significant changes; it removes the linkage of allowances paid to mayors in municipalities other than the City of Melbourne. That is fair. The City of Melbourne is an exception because it is the capital city, the jewel in the crown of Victoria. The mayor of the City of Melbourne has responsibilities that far outweigh the responsibilities of mayors in other municipalities.

As Mr Hartigan said, for many years mayors and councillors considered their positions to carry with them a civic duty and responsibility. When elected,

mayors were not automatically entitled to salaries. People considered it an honour and duty to contribute to their municipalities, and did so out of the goodness of their hearts. I would be the last person to suggest we should make people suffer financially because they want to exercise their civic duty or that mayors and councillors should suffer bankruptcy because of their civic duty and their exercising of the authority given to them by their municipal residents.

But it is also unfair or unreasonable for ratepayers to pay their mayors and councillors to occupy full-time positions. In his contribution Mr Lucas said full-time mayors sometimes do nothing other than hinder the good operation and government of a municipality; they have been known to delay municipal staff from proceeding with their day-to-day duties. In some of the municipalities that fall within my electorate I have observed councillors elected to the position of mayor; some have exercised their duties in full-time and part-time capacities. All have been paid significant amounts to exercise those roles.

Hon. D. A. Nardella — Are you saying they don't earn it?

Hon. P. A. KATSAMBANIS — In many cases they have bought themselves new mayoral robes. My office has received a number of complaints about mayors in my electorate buying themselves new mayoral robes. I consider that to be extravagant.

Clause 14 allows me to highlight the absolute hypocrisy of the opposition. In one breath the opposition talks about the government somehow or other reducing the independence of local government and its ability to make decisions; in the next breath Mr Power says he does not believe mayors and councillors should set their own remuneration levels. He says that responsibility should be taken from them.

In one breath he says mayors and councillors have had their allowances removed or reduced; in the next breath he says the Labor Party would establish some sort of tribunal to rule on remunerations — in effect, removing the independence of mayors and councillors.

That example highlights the Labor Party's hypocrisy here and in the electorate — the sort of hypocrisy that condemns the Labor Party to the opposition benches. Its proposals would lead only to a reduction in local government independence. I agree with the contention of the Premier and others, that

in many cases mayors and councillors are more than adequately remunerated. Mayors and councillors should be compensated for their legitimate expenses. Mayors should receive payments to highlight the fact that their duties and responsibilities are over and above those of councillors, but Victorians do not want full-time mayors or councillors. They do not want mayors on \$87 000, as in the City of Stonnington, or \$67 000 in the municipality of Port Phillip, or \$65 000 in the City of Glen Eira.

We also do not want the double dipping that I am glad Mr Power referred to. He recognised that the mayor of the City of Port Phillip double dips in that he receives the councillor and mayoral allowances. Clause 14 removes the liberty to double-dip and provides a framework where the government can establish realistic maximum remunerations to reflect the opinions of Victorians, that their councillors should be remunerated for the expenses they fairly incur in undertaking their duties and the fact that they have significant duties to perform; but also that Victorians do not expect their mayors to be full-time. I totally support clause 14.

Clause 5 extends the right to vote of either absentee ratepayers who do not live in the electorate or people who are residents of the electorate but are non-citizens. It extends to two people, rather than one — and in particular, absentee landlords — the right to vote. That provision corrects a perceived gender bias that has unfortunately arisen as an accident of history. It will empower women who are joint owners of property and who unfortunately have been accidentally listed by those filling out contracts of sale or transfers of land many years ago as the second-named owners of properties, rather than as the first-named owners, to have equal voices with male owners in the wards where they own property. I fully support clause 5.

Clause 3 moves coastal boundaries from the high watermark to the low watermark. Mr Power made a strong point about what he believed would be a significant cost to municipalities. I suggest this clause gives municipalities the power to properly manage their coastal areas in an integrated fashion rather than in an arbitrary way using the high watermark as the cut-off point.

The coast is a valuable asset. It is a valuable asset to the City of Port Phillip in my electorate, as it is right throughout the bayside area and the ocean coastal regions of Victoria. This provision will ensure that one authority has control of coastal boundaries to

the low watermark. Mr Lucas highlighted the fact that this change will ensure that when people are illegally walking their dogs without leads between the high and low watermarks the council can enforce its powers and will also be able to obtain significant revenue from any offender who breaches the local by-laws.

Mr Power focused on the Shire of Mornington Peninsula. It would be interesting to know whether Mr Power contacted the shire to find out whether it supported the move of the coastal boundary from the high watermark to the low watermark. I understand the shire would not want any additional net cost imposed on it but is happy to have the boundary moved to ensure proper management and control over the coastal area. The Shire of Mornington Peninsula relies heavily on its coast, bay and beaches for revenue as well as for tourism and employment opportunities. I invite Mr Power to contact the shire.

Hon. D. A. Nardella — Did you speak with the shire?

Hon. P. A. KATSAMBANIS — I speak to the City of Port Phillip regularly. Mr Nardella will find that the City of Port Phillip welcomes any extension of its boundaries in any direction whether it is on the coast or into the shires of Stonnington, Glen Eira or Bayside. The municipality is happy to move its boundary even further out to take over the government of Victoria, or of Australia! There is no doubt that the City of Port Phillip would welcome the extension of its boundaries in any direction into any level of government.

Clause 10 provides for a corporation such as the City of Melbourne to issue an infringement notice if a constituent does not exercise his or her right to vote. I draw to the attention of the house the fact that there is a ballot for the constitutional convention, which is a voluntary ballot. A number of people have told me they welcome the fact that for the first time they have been given the opportunity of exercising their right to vote. Some people have said they will exercise the right to vote and a number of others have said they welcome the opportunity to participate but in this particular case for varying reasons they will not do so. That is a wonderful extension of the democratic process.

The bill provides that the council must obtain the signature of two councillors on financial statements regarding compulsory competitive tendering and performance statements. That is also a welcome

inclusion. Councils now have to approve those statements in principle and also have to obtain the signatures of two councillors. Mr Hartigan suggested this change has been made on the recommendation of the Auditor-General. It makes councils responsible for the information they put into the public arena in the same way that boards of directors are responsible for financial statements put out in the names of their companies. It gives certainty to the ratepayers and residents of each municipality that their councillors are exercising their minds on important issues to do with financial matters and performance management as well as letting contracts under the CCT process. I welcome these amendments in clauses 15, 18 and 22. They will ensure transparency and accountability in local government for ratepayers and residents.

The bill reinforces the changes in local government that the coalition government has introduced over the past five years. It assures the people of Victoria that when local government exceeds its responsibility or is not acting in the best interests of its constituents the government will be vigilant and will ensure the interests of residents and ratepayers are protected, unlike the opposition, which has what it claims is a reasoned amendment but for which I can see no reason. Mr Power said the opposition supports a number of the provisions of the bill, which Mr Eren also referred to in his contribution. However, although the opposition supports those provisions it has moved a reasoned amendment. Instead of amending the clauses it does not like — that would require it to do some homework and have some form of real policy; it would require the opposition to think about the issue — all it has done is to move a reasoned amendment seeking to throw out the entire bill, which I believe is an abuse of the processes of this house. It wants to throw out the baby with the bathwater.

If the opposition supports significant portions of the bill, why did it come up with this sort of nonsense and seek to throw out the whole bill. It could have moved amendments to clauses and we could have had a proper debate. As usual the opposition is abusing the processes of the house. It has used delaying and masking tactics to hide the fact that it has no policy, not only on local government but on every single area of government administration in this state. It says it would do things differently, but it is highly unlikely that it will ever do things differently because it is unlikely to return to government in my lifetime.

Hon. C. A. Furletti — I wish you longevity!

Hon. P. A. KATSAMBANIS — Thank you, Mr Furletti. I urge the house to reject the opposition's reasoned amendment and support the bill in its entirety.

Hon. M. M. GOULD (Doutta Galla) — I shall speak briefly in opposing the bill and supporting the reasoned amendment. I raise two issues. The first concerns two of the three municipalities in my electorate, Melton and Brimbank. I take up some of the issues Mr Lucas raised about Melton and its commissioners. In their time the commissioners of Melton have done nothing to assist ratepayers; they have entered into agreements with companies and have not advised the Melton community about those arrangements. The community is concerned about the rates deals the commissioners have done with the plastics company and whether the community will benefit from them. Wonderful press releases announce that 250 jobs will be created at the plastics company in Melton. To date we are lucky to have 20 jobs there. This initiative is yet to be of any benefit to the people of Melton. They say that if jobs are to be created, fine and good; but the commissioners of Melton have refused to meet with the community or answer letters about the issues I have raised concerning the details of the rates arrangement for the plastics company site. The community is entitled to know what arrangements have been entered into, but to date the commissioners have refused to let the people of Melton know —

Hon. M. A. Birrell — Does Mr Cunningham share your views?

Hon. M. M. GOULD — Mr Cunningham shares my views about the commissioners on this issue.

Hon. M. A. Birrell — On this issue?

Hon. M. M. GOULD — On this issue in relation to the plastics company, yes. As I said, the community of Melton would welcome the creation of 250 new jobs, but to date nothing has happened. The residents of Melton are entitled to know what deals have been made by the commissioners with the plastics company.

Another area of concern for the Melton community is the ability of the commissioners to manage the books. According to a recent review into reserves of the Shire of Melton there has been a dramatic drop. Again, community residents have raised their concerns with commissioners and have sought an explanation about what has happened to the funds. Meetings of commissioners are closed. I doubt

whether the commissioners of Melton have done a good job.

The residents of Melton have had some of the lowest water charges in the metropolitan area. For 20 years they have been paying off their own infrastructure and water reserves. Under the water reserve infrastructure devised by the previous council, by 2002 Melton would have been debt free. But do the commissioners assist the residents of Melton when Western Water takes over and starts charging them exorbitant water rates? No. The commissioners have not once raised the matter with Western Water. I have had numerous letters from school councils concerned about the global budget; it does not even cover the massive jump in water rates as a result of Western Water coming in. The commissioners have been asked again by the concerned citizens of Melton to raise this matter with Western Water, and to date they have refused to do so. That is just another example of how well the commissioners of Melton are looking after their residents. They are not doing that; they are not interested in their concerns. I hope in the not-too-distant future we can return democracy and truly elected councillors to the Shire of Melton.

The high number of people from non-English-speaking backgrounds in the City of Brimbank is important to me as well as to the councillors. In Brimbank communities stem from many countries. Based on the 1996 Australian Bureau of Statistics census the people of Brimbank speak a diversity of languages at home. They include Maltese, Vietnamese, Italian, Greek, Macedonian, Croatian, Filipino, Turkish, Cantonese, Spanish, Polish, Arabic, Serbian, German, Chinese — including a variety of different dialects — Portuguese, Hungarian, Mandarin, Russian, Dutch, Malaysian and Indonesian. And more than 7000 residents do not fall within those categories. If many of these residents were involved in a postal ballot on the carriage of this legislation they would have great difficulty understanding it. That list is not extensive; it is purely a list of primary languages spoken at home. Approximately 96 other languages are spoken in Brimbank. However, I have listed the bulk of languages other than English spoken at home. Unless information is translated into those 20-odd languages many residents of Brimbank will be disadvantaged at elections.

I am also concerned about the ability of election candidates to appropriately campaign and seek support through votes because it will be difficult to have translated into large multilingual documents

for the benefit of residents. That is not to say it does not happen; but if all those languages are not catered for it makes it much more difficult to run the ballot and for people to comprehend it. In some cases we are talking about 10, 7 or 5.5 per cent of the population of Brimbank who speak those languages being isolated at home.

It is amazing that if a council does not want to change its boundaries it simply writes to the minister or his adviser. Under existing legislation residents cannot seek to change their boundaries unless they write to and gain the permission of the commissioners. The boundaries were developed by the commissioners in consultation with the community and in line with the act. The minister has acknowledged that the commissioners have stuffed it up and it is all going to be changed.

Mr Power has put the opposition's view on allowances for mayors and councillors. The opposition seeks the establishment of an independent remuneration tribunal to set such allowances. The mayor of Brimbank, Mr Lombardi, has provided details of his itinerary. He visits community groups and is a member of subcommittees. He and the other councillors go through a lot of documentation prior to each council meeting. The mayor is absolutely committed to the city. Little funding is available to the council to enable it to support sporting groups, community groups or local issue groups. The mayor and the councillors should be entitled to appropriate remuneration in view of the work they perform on behalf of the community. They are collecting nothing more than their entitlements under the act. No mayor in Victoria is receiving more than his entitlement. The rates were set by this government.

Local government gives women a great opportunity to participate in the community. They have to go through the political process of being duly elected for their ward areas. There are two women on Brimbank council, and they have worked well for the community. The two ladies are at opposite ends of the age spectrum. Brooke is in her early 20s. I will not mention the other councillor's name — she may get upset. The two female councillors have performed outstandingly and have received a lot of support for some of the issues they have raised.

Mr Katsambanis, an elected member of this Parliament, suggested councillors get in the way of chief executive officers. That was an outrageous comment. It is like saying that the secretary of a department cannot stand the minister because the

minister tells him what to do, so the secretary says, 'I don't like that, so we will get rid of the minister'. Mr Katsambanis says, 'I don't like councillors. They get in the way when CEOs are making decisions'. He said councillors make it difficult for CEOs to do their jobs.

As I said at the outset, I will not speak for too long. I simply wanted to raise the problems of two municipalities in my electorate where there are major concerns, including concern about a lack of democracy in the municipality of Melton. Non-English-speaking people in the municipality feel they have been disenfranchised by the introduction of postal votes. After hearing from residents the commissioners ruled out postal voting in Brimbank and went down the track of presentation voting. I urge all honourable members to reject the bill and support the reasoned amendment.

Hon. I. J. COVER (Geelong) — It gives me great pleasure to support the Local Government (Miscellaneous Amendment) Bill and at the same time indicate my opposition to the reasoned amendment. We have heard comprehensive — there can be nothing more comprehensive than speaking for more than 2 hours on one bill — and wide-ranging contributions. I do not intend to go over many of the provisions of the bill. I also do not intend to speak for nearly as long as Mr Power.

I shall speak briefly on that part of the bill that relates to the review of internal boundaries, which is relevant to the forthcoming election in the City of Greater Geelong. I could also talk about mayoral allowances and councillor allowances, which have been touched on by more than one speaker. It is worth noting that the City of Greater Geelong is the most populous municipality in the state. The mayor of the city claims he is the lowest paid mayor in Victoria. It seems to me that in that matter the City of Greater Geelong is showing some leadership to other municipalities.

On the question of the review of internal boundaries, Greater Geelong was the first municipality to undergo transformation through amalgamation and it was the first municipality to go back to an elected council. The Greater Geelong council is made up of 12 members. Under the proposals embodied in the bill we will have nine councillors — four ward councillors and five elected at large. The system of mixing ward councillors with councillors elected at large has worked well in the City of Melbourne. I am

confident, as are many people throughout the Geelong region, that it will also work in Geelong.

Interestingly, the structure has been discussed by the council itself on more than one occasion. Cr Keith Broadbent is the deputy mayor, although the council does not use the title 'deputy mayor' any more, referring to the person standing in for the mayor as the acting mayor. Anyway, a lot of time was spent defining that role after the last election. Suffice it to say that Cr Broadbent made the suggestion about reducing the number of councillors and restructuring the entire council set-up; and recently he was reported as saying he had no problem with the reduced number of councillors.

In an article in the *Geelong Advertiser* of 19 September Cr Broadbent is reported as saying:

In ... 1995, I suggested that council review the election process including the number of councillors, the ward structure and the election process.

This did not occur. Therefore I have no problem with the reduced number of councillors.

Given that I have some extracts from the *Geelong Advertiser*, I will proceed to enlighten members by quoting the views of other councillors.

Hon. D. A. Nardella interjected.

Hon. I. J. COVER — Also in the *Geelong Advertiser* of 19 September Cr Dorothy McWhinney, who represents the Beangala ward, is reported as saying:

I have no problem with the state government's decision.

Cr Michael Crutchfield said:

I have sympathy with the government's intent to improve the quality of leadership in Geelong.

He sounds as though he is endorsing it.
Cr Anthony Aitken said:

A positive outcome of this decision is that Geelong now has an opportunity to make its council a success with a ward-based system which now reflects the council's role as a regional government of the people.

Cr Kevin Edwards is reported as saying:

I will not be opposing the change ... Councillor Ian Stacey, a long-time servant of the people of Geelong as a councillor — —

Hon. D. A. Nardella — He is reading a newspaper — —

Hon. I. J. COVER — He said:

... I don't mind the challenge. I accept new challenges.

Mr Nardella, I am trying to ignore your interjections, but you frequently quote from newspaper sources, so I thought it might be something you might — —

Honourable members interjecting.

Hon. I. J. COVER — During question time we frequently hear questions framed using articles in the *Age* and the *Herald Sun*, so I thought quoting from newspapers would be something you would understand. As I said in my maiden speech, the *Geelong Advertiser* is a broadsheet, and I know how much you enjoy the broadsheet in Melbourne! Cr Adrienne Edgar is reported as saying:

I have been an advocate for a City of Greater Geelong ward restructure so I am excited and positive about the change.

There is a need for a rejuvenation of local government in Geelong and a change to the present 12-ward situation.

Cr Dennis Blake said:

I welcome the change.

In fact I would like to see the ward system scrapped altogether because the councillors elected should be able to represent the entire Geelong population.

Cr Blake was getting to the nub of the matter. Finally, Cr Ian Howard is reported as saying:

I don't have a problem with the changes — we live in a democratic society — and this is democracy.

On more than one occasion this afternoon I have heard opposition members say that some of the changes are leading to the breakdown of democracy as we know it. However, there was an elected councillor saying, 'We live in a democratic society — and this is democracy'.

Hon. M. A. Birrell interjected.

Hon. I. J. COVER — Thank you, Mr Birrell. It is more than a selection: I have named almost the entire council as supporters of the changes.

Earlier this year we heard about some of the problems that were besetting the Greater Geelong City Council. Honourable members on both sides of the house will be aware of some of those matters, but I prefer to take a positive view and not dwell on the past. I will just say that whatever the make-up of the council, the most important issue is that the City of Greater Geelong goes forward in a united manner. It is also important that the people elected to sit around the council table look beyond the council chamber and see the bigger picture: that Geelong needs a regional focus and needs to be developed as a vibrant regional centre.

The success of the tariff campaign for the automotive and textile, clothing and footwear industries showed the people of Geelong what could be achieved when a regional approach was embraced. That followed on from the leadership provided by the state government, through the Premier and the Minister for Industry, Science and Technology, who led the charge.

The regional approach theme was picked up and seemed to turn Geelong people's attention to the need for regional focus. That came about as a result of those campaigns, which was a good thing, given some of the problems that had arisen immediately before the bigger regional issues surfaced.

In conclusion, I again refer to the *Geelong Advertiser*. The editorial of the same day, 19 September, comprehensively covered the changes to local government, particularly as they affected Geelong. The need for current councillors and the councillors elected next year to take a regional approach and to see the bigger picture is articulated in the editorial, which is headed 'Council rebirth':

Our first elected City of Greater Geelong Council was born with great expectations in 1995. It was hailed as a pacesetter for local government change throughout Victoria. In many ways, however, it failed to live up to those expectations and has fallen victim to its failures.

We now have the opportunity to reclaim our destiny and elect a council with a vision for Geelong. A council ready to go out and fight to realise its vision in planning, economic development and lifestyle decisions.

With those remarks, particularly as they relate to the review of internal boundaries that directly affects the City of Greater Geelong, I have pleasure in supporting the bill and opposing the reasoned amendment.

Hon. B. T. PULLEN (Melbourne) — I oppose the bill and support the reasoned amendment, and I will carefully explain my reasons for doing so. To those honourable members who have some interest in and support for local government, the remarks made in this house by the Honourable Alan Hunt, a former minister —

Hon. M. A. Birrell — A statesman.

Hon. B. T. PULLEN — In this case I believe he was, because he had some understanding of the importance of local government. He regarded local government as one of the three tiers of government. He even departed from the idea that they were in some sort of hierarchical order, always emphasising the importance of local government to the democratic processes of the state and federal governments.

It is important that local councils are involved in and given the chance to react to any legislation on local government because it affects the way they operate. On many occasions members of the Liberal Party, including the Honourable Alan Hunt, have argued that significant local government bills should be allowed to lie over to allow the local government process, including cyclical meetings and consultation, to run its proper course.

Honourable members on both sides of the house who have experience in local government would agree with the principle of the state government's responsibility in nurturing the democratic processes of local government. Under the Kennett government there has been a progressive reduction in the time allowed and the benefit given to local government to react to legislation that affects it. This measure could not be characterised as a major bill on local government but it is significant. It is clear there has not been a process of genuine consultation with local government on the amendments in the bill.

Mr Power's reasoned amendment is reasonable, not necessarily as a final judgment on the merits of the provisions in the bill but as a process that would give local government the ownership of some of those changes and allow it to be treated as an equal and elected part of the democratic system. I do not object to the endeavours of reforming local

government, but the best reforms would involve local government in that process. In a sense we have achieved two important legs of change. Firstly, I do not oppose the structural changes because they have been of benefit to local government. Secondly, the changes have brought about a number of financial improvements, including economies of scale and the capacity for effective local government administration in the future.

The legislation that has already been passed requires local government to be forward looking. I support that concept. However, there is something missing — and no local government minister has addressed it appropriately. After considering the structural changes and the role and finances of local government, it is clear local government can do things much better at the local level than can state or national governments. In that sense I suggest the base that has been built by the structural changes could be a launching pad for exciting and worthwhile things occurring at local government and regional levels. Yet, we see a confused attitude to local government by the Kennett government.

Having undertaken a number of admirable changes, the other view of local government would give it a place in the sun, so to speak, as a genuine part of democracy. Many government changes reduce the power of elected councillors, forcing them to become part of a corporate Victoria linked closely to the centralised operation of the state. Their freedom and ability to do things for their constituents are being increasingly limited by the Kennett government.

The house has previously debated the issue of councillors and chief executive officers. The analogy made earlier in the debate was correct. In the Westminster system and executive government the buck stops with the ministers, not with the permanent heads. It is wrong to elevate the secretaries or permanent heads to positions where they can make decisions on matters for which the minister should be accountable and have control, especially if the secretary of a department, for example, were to report back directly to the Premier or some other centralised area. The minister's role would be diminished.

The Kennett government has created ambiguity about the relationships of chief executive officers as the servants of councils. Councillors must stand the test of being elected to their positions on the good things they have done or the mistakes they have made. Yet, the government is trying to tie that back through a process of separate accountability and

diminish the role of local government. That is obvious by the language used in the bill.

Recently I criticised the Minister for Finance for using the word 'marketplace' rather than 'community'. That is the type of language the Kennett government uses all the time. On the one hand there is the dichotomy of democratic rights; on the other hand there is the business model. The Kennett government would rather talk about customers and consumers than citizens and residents; it prefers the term 'marketplace' to the term 'community'. The government believes a board of directors model for local government is better than a genuinely elected group of people who are collectively accountable to the community.

If the government wanted to use that analogy, why persist with having elected ministers? Why not go to the model where there are appointed ministers, as is the case in the United States of America? If the government is consistent it should be criticising democracy wholeheartedly. That model gives some sense to the changes the government is continually pressing on local government.

Other Liberal and National party members have a genuine understanding of local government. They talk about the good things their municipalities do and the need for local government to deliver appropriate services to the community. Many people understand and have a less cynical approach to local councillors than to state and federal politicians because those councillors give up a lot of their time. Councillors are not well rewarded for the hours they put in. As a former councillor I averaged 18 hours a week on council business. Councillors did not receive remuneration for telephone calls. I think I received less than \$100 a year in expenses for about 18 hours a week. But many people put in that time because they wanted to serve the community.

Hon. C. A. Furletti — You didn't do it to get paid!

Hon. B. T. PULLEN — That is right. Those who stood for local government did it because they wanted to become involved. Continually in this house I hear more cynicism about local government because it is inconsistent with the demand and control model the Premier would like to have.

For example, in today's *Age* there is a letter by Fr Martin Hislop from Sebastopol, who objects to being called a customer on an aircraft. He says:

The desire to define nearly all relationships, be they in the workplace, the classroom or the wider community, in terms of consumerism and the corporate model is all too evident. A tender advertisement (the *Age*, 15/11) from the Department of Human Services called for expressions of interest for the Measurement of Consumer and Carer Satisfaction with Public Mental Health Services. Consumer of Public Mental Health?

He concludes:

I take strong exception to all levels of government treating me as a customer. I am first and foremost a citizen.

As a citizen, my relationship with the state, at whatever level of government, is much more than a mere mercantile association that arises from being a customer.

Ideally, the Kennett government would like everybody to fit into the mould of being a customer.

The Minister for Finance would like everybody tested in the marketplace. He nods his head in agreement — at least he is consistent. Not all government members agree with it, and not all of them understand how much it is affecting people's quality of life and how narrow a view of life it takes. We see that clearly in the way the government disdains local government. It is so different from the bipartisan position that obtained in the time of the Honourable Alan Hunt and others like him, who understood the role local councils could play and the respect that should be shown to local government as an institution. They understood that legislation such as this should be dealt with in a way that enables local government to own part of it and be seen to be agreeing with the changes. That does not happen any more.

The bill stems from the Kennett government's enormous desire for control. That leads to an enormous fear of participation and consultation — much less dissent, because all bullies fear any kind of dissent. That fear runs through the government, evidence of which can be seen even in the bill. The tragedy is that many important things could be handled by local government but are not.

A lot of planning ideas have started in the local government sector because local people understand best how their neighbourhoods work. Melbourne is one of the best-preserved — in fact, the best — Victorian cities in the world. There are more buildings in Melbourne that show the quality of

Victorian architecture than there are in any other city in the world.

The original prohibition on the demolition and bulldozing of buildings because they were old, of poor or inadequate fabric, and did not earn as much money as three-storey or five-storey apartments began at the local government level. If local residents had not taken a stand, which led to Melburnians developing an understanding of their heritage, the city would have been rolled over. That has happened in Ottawa and parts of Ontario, where areas of similar value to Melbourne's have been totally massacred.

We now take for granted the environmental importance of controlling the volume of traffic allowed through residential streets because of the fumes, the damage and the accidents cars cause and the problems they create for children travelling to school. That has become the norm, but once it was not. Fitzroy and other inner city municipalities were the first to start putting in roundabouts and getting engineers to consider traffic management. They saw the need for a sense of balance and for turning streets into local neighbourhoods rather than rat runs.

The changes came not from the state government or from boards of directors on high but from local government. The changes were discussed at local meetings — those messy, democratic, collective meetings the Minister for Finance does not like. The people who attended those meetings argued back and forth. They asked engineers for advice and reports and had meetings with the former Country Roads Board to see what could be done.

Initially, the reaction from the civil engineering fraternity was that the changes would slow traffic down. I am a civil engineer, so I know that methods to slow down and alter traffic were not taught in any civil engineering course. I was taught to get traffic from A to B as quickly as possible on the smoothest surfaces with the right camber so water could run off into drains. During my course, nobody said, 'Consider how that affects local streets or neighbourhoods', but those things are now part of civil engineering. I hope engineers are a bit more environmentally sensitive than I was when I graduated! As I said, those changes started at the local government level, not at the state government level. The bill is cutting off the potential of local government and is instead trying to make it an appendage of the state government. That is a tragedy.

I turn to housing. The Melbourne City Council has put forward an affordable housing policy in conjunction with the churches and other interested people. They are not saying no to developers; in many ways they support the desire of the Minister for Planning and Local Government to introduce high-density residential living. However, they are saying it has to be done in a way that provides homes for a range of people at different income levels. They are not blinkered. They see the economic advantages in having a vital city with high-density apartments in the right places. But they are taking initiatives that have not been taken by the ministry of planning or the government as a whole to get some equity into housing.

I turn to the social issues. Who is providing the impetus to follow up the results of the report of the Premier's Drug Advisory Council, known as the Penington report? It is being provided by local communities. In my province community organisations such as local community health centres and the Good Shepherd foundation, together with local residents, the police and local councils, are offering services to people who are afflicted with drug problems. The cities of Moreland and Yarra are trying to address the serious drug problems they face. That is where most of the action is. In many cases unless you get local government involved not much happens.

Local government has been progressively removed from any involvement in transport. In many European cities local councils are the driving forces of innovative changes. A few years ago I went to Freiburg in Germany, the centre of local environmental initiatives. I met the mayor and the deputy mayor, who has a portfolio focusing on environment. The city also has a finance mayor, so a triumvirate portfolio system runs in conjunction with the council body.

The city of Freiburg is not enormous. It is smaller than Geelong, although it is more compact. I was surprised to find that the local council runs the buses and the trams, in addition to the road networks and bicycle paths. It also accesses the railways. The railway services in the region are franchised through an agreement with the state government, so that the council pays so much a year for its citizens to use the railways in the area.

The council can therefore develop the local fare structure and the charges are designed not only to recoup expenses over the year but also to meet the council's transport strategy objectives. The fares

encourage children to use public transport to travel to and from school and various other places. Its strategy is to match the trains with the trams and buses, so there is a common ticketing arrangement. Even though the state owns the rolling stock and the tracks, there is enough initiative and understanding of what local government can do to enable the franchise agreement to work. The city also runs a large environmental program that is supported by business.

All those things can be done if a state government wants to work in partnership with local government; but a state government that ignores local government and thinks it can legislate whenever it wants to because it has the numbers seriously diminishes local government, and Australia and Victoria are the poorer for it.

Another area of concern — the change is more insidious, so I will take a moment to try to explain it — is the important role local government plays in providing information. The local town hall is the place where a lot of people naturally go for information. At the moment libraries have that role as well — they are one-stop shops for information.

Town halls are repositories of a lot of wisdom and knowledge of local areas, as can often be seen in rural areas. Over many years enormous amounts of technical and social information are collected and that information is stored in the institutions in the areas in which repositories reside. Local government has played that role and is the place to visit if you want to know something about an area.

Compulsory competitive tendering is an insidious process in the way it affects the collection of information and breaks up that process. A council or a private organisation will tender and win a contract in a different region, perhaps for parks and gardens or libraries, and the next year that may change or, perhaps to be more accurate, the contract will run out after five years and then could change.

If that information is not to disappear someone has to have the responsibility of keeping it in a fashion that can be used by others. Often it is not in the public domain because it is declared to be commercially confidential and is kept close to the chest for the next time that authority, body or private sector organisation wants to tender. Although I do not think that was an intended effect of the process, CCT withdraws information from an accessible location in the public domain.

That effect of CCT will be extremely costly because information is one of the most expensive things to get when it is needed. We are building in enormous overheads for the future under the guise of being more competitive, because many people will be running around doing again jobs that were done by other people some years before. As people study the effects of CCT the verdict on financial changes will be bad. Far from it being a panacea to get more efficiency in local government it could well turn out to be a very expensive system.

I will draw a long bow about the way the health system works. In Australia we have an ordered and fairly centralised health system by comparison with the system in the United States of America. Through its more ad hoc, competitive and disjointed private sector system the USA has a poorer health system than Australia, and it requires a larger proportion of its gross national product to maintain it than is the case in Australia.

Hon. D. A. Nardella — It is 8 per cent, I think.

Hon. B. T. PULLEN — It is about 12 per cent in the USA and about 8 per cent in Australia. Australia has a better system. It has been thought through and is not a market-based, ad hoc system. Through its ideological commitment to some areas the Kennett government has gone far past the obvious and natural benefits of having some competition. I accept that competition often forces people not to be lazy and to attempt to do more for a given amount of resources. But when that is writ large and a government tries to create a whole system based on the ideology of competition — when it tries to put it into every function, social service or local government activity — it creates a system with the potential to be more inefficient.

I turn to some of the concerns about the legislation. It has not been discussed with but can have an important effect on local government. I will deal with three points. First I turn to the setting of remuneration for councillors and mayors. At the moment remuneration ranges from \$5000 to \$12 000 for councillors and up to \$100 000 for mayors. The government is approaching the problem in a demeaning way — to have councils bid down, to somehow characterise its elected people as different from state or federal elected representatives. There would be total confusion if each year we had to debate what salaries should be set for members of Parliament and ministers. It would be quite an impoverished debate.

The allowances should either be set in a way that is seen to be reasonable in that it is connected to some benchmark that is indexed and the argument is focused on what proportion of the benchmark should be used, or alternatively, if you want more flexibility, you establish a detailed, separate judicial body or tribunal at arm's length that independently determines what the remuneration should be. That is how to ensure the remuneration of mayors or councillors is not extravagant, instead of playing political football with the issue. It is easy to get a reaction from constituents if you complain about an elected local councillor or mayor receiving too much.

The answer is to take the issue of allowances from the political arena and subject it to independent determination—not to berate councillors or mayors but to make judgments about whether the remuneration should be a proportion of a backbencher's salary or of a known and determined official salary, and to leave it at that. That would take the heat from the issue. Obviously there would be an initial debate around the proportion, but after that the matter would not cause debate or provide people with an opportunity to criticise mayors and local government personnel at the beginning of every year or three years when the remuneration must be set.

However, that is not the response of the government. Through the comments of the Premier the government has already prejudged the results of the established inquiry in the context that local government is not considered to be much of a partner. Lip-service is given to local government. Many National and Liberal party members understand that, but local government does not get much of a look in when it comes to collective action.

My second point concerns the review of internal boundaries and changes to the structure. Under the bill they have to be submitted to the minister rather than to an independent body. That inserts a political element into a redistribution process that should be based fairly on a demographic formula that makes sense in terms of population changes. We already have a process for state and federal boundaries under which redistributions are determined not by the government but by commissioners and based on criteria concerning how much variation there ought to be in electorates for votes to be approximately equal and for the process to continue in a proper and orderly fashion.

We would surely not countenance that process being put in the hands of a minister of state, with all the

abuse that would be possible through gerrymandering, altering or the seeking of political advantage. We are also wise enough not to put individuals in that position because even if a minister were absolutely honest and were to do his or her best job there would always be a doubt that perhaps there was a hidden agenda that people could not see. We have sensibly moved that determination from the political arena to a commission. Why does this government not accord the same sorts of rights to local government? If there are going to be boundary changes, why do they have to be submitted to the minister? The government is tightening the noose around local government a bit more so that no principle can be expressed to defend the borders of local government against the whim of a particular minister.

Turning to the proposal for councillors at large and councillors representing wards is based on the model of the Melbourne City Council where there are four ward councillors and five councillors at large. In his second-reading speech the minister said this model worked for Melbourne, but I do not know on what basis he said that. I have talked to some Melbourne city councillors about this and they say the jury is still out. They do not say that it is necessarily bad for Melbourne, but they say there are some problems. One of the problems is that the workload differs enormously between a ward councillor and a councillor at large. If a councillor at large is approached by a constituent with a problem concerning a lane or a street that councillor often directs the constituent to the ward councillor. As a result the ward councillor cops all the direct constituency work!

We know this is the bread and butter of constituency work. It is where much of the important political work is done. I do not in any way demean the work done by members in their electorate offices because it is extremely important to the people to be able to deal directly with the member in order to get a result or even to put across a point of view. It is something they value. If that process is broken down and given to somebody else it will degrade the democratic process. Obviously that sort of work does not enlarge one's reputation to the same extent as serving on important committees, making announcements or being a councillor at large. It is to the advantage of the City of Melbourne to have some members who have the time to think, concentrate on particular issues and follow them through. However, they are meant to be on an equal level, not to have one councillor playing a superior

or level 1 role and the other councillor playing a lesser or level 2 role. A tension exists.

The councillors I have spoken to have said that a proper review of the pluses and minuses is needed before this model moves beyond the City of Melbourne. Also the City of Melbourne is complex and relatively small. There are about 120 000 people in the City of Greater Geelong. How will a councillor at large be able to communicate with 120 000 voters? A mail-out would be rather expensive. Just because something is worth looking at does not mean it can be translated into another area. Yet this is being projected as a model that could be used all over Victoria.

The last point I wish to make concerns the question of removing the ability of councils to get five years of back rates when a property moves from being non-rateable to being rateable. It may seem a small matter but it concerns a number of councils because of the difficult financial circumstances they face, which mean they cannot do all they wish to do. The estimates I have suggest that between \$50 000 and \$200 000 could be paid to councils. I know of a few properties that have been sold off by charitable bodies at considerable profits, and the question that could be asked is: why shouldn't councils get the benefit of the back rates when properties become commercial? An adequate explanation of why this penalty is being inflicted on councils has not been given, nor have I seen any estimates of what the impact would be, apart from suggestions made by a few CEOs or others I have attempted to contact. I admit that between \$50 000 and \$200 000 is a fairly wide range.

I have been advised that the figure is likely to be much higher in inner city areas because of the type and value of the properties involved. It is an important issue for local government. There has been no dialogue or serious attempt to work through the matter with local government, but at the end of the day local government might say that it is costing it quite a bit but it can see logic in it and maybe it is best to accept the change because it is reasonable. That has not occurred, and it is far from the spirit of the relationship with local government that obtained when I first entered Parliament. I heard views embraced by the Honourable Alan Hunt and others. I was in accord with those views and I felt that at least in respect of the value to local government that was something we could talk about in a bipartisan way.

This is narrow-minded ideology that is based on the idea of a corporate Victoria, a state run by boards of directors as though it were a company and modelled on the idea that it is a marketplace and all the people in Victoria are customers. That is a pervasive change that is undermining the standing of local government as a third tier of democratic government in this country.

Debate adjourned on motion of Hon. E. J. POWELL (North Eastern).

Debate adjourned until later this day.

BUSINESS OF THE HOUSE

Sessional orders

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

That so much of the sessional orders be suspended as would prevent new business being taken after 10.00 p.m. during the sitting of the Council this day.

Motion agreed to.

LOCAL GOVERNMENT (MISCELLANEOUS AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Hon. R. M. HALLAM (Minister for Finance).

Hon. E. J. POWELL (North Eastern) — I support the Local Government (Miscellaneous Amendment) Bill and oppose the reasoned amendment. It is great to see that a restructured local government is alive, well and generating great debate in this place.

Mr Pullen spoke about customers who want to be called citizens. I agree that a number of people prefer to be called citizens, but most of the people in my community see themselves very much as customers of the council services. They are not generally opposed to being called customers of local government. Local government today is much more customer focused than it was in the past. People see themselves as being customers because they buy services from councils.

I shall raise a number of issues that are particularly relevant to rural councils. Clause 6 substitutes a new section 15 that provides that where there are more than two owners or occupiers of any rateable land

who are eligible to be enrolled on the voters' roll the chief executive officer must enrol the first two names on the rate records in the order in which they appear in those records. I am pleased to note the present provision has been changed because it has been a disadvantage to women who, when a property is jointly owned and the woman's name is second, have been excluded from the voters' roll simply because their names were second on the list. I am pleased that this discrimination has been removed.

Clause 12 amends the Local Government Act to provide that a poll of voters may be conducted by postal vote only rather than by attendance voting, as is the present requirement for the election of councillors. The amendment has a number of benefits. In a rural council that covers a large area there may be a number of housebound people who want to make their views known. Previously they have not been able to do so. It is important that those people be able to make their views known.

It will also be of great benefit to my multicultural community because many of the residents who do not speak the English language well will be able to obtain the support of other members of their families to translate what is written on the piece of paper. Postal voting will allow those people to make their views known.

In our house during the last council election my two sons took great delight in examining the 29 councillors and looking at their histories. They spent about 2 hours going through the list and looking at their backgrounds and relevance to local government history. Postal voting gives people the opportunity of reading information that is sent and making an informed vote.

Clause 14 amends the mayoral and councillor allowances. This provision has caused the most debate. The minister has appointed Mr Vern Robson to conduct a review into councillor and mayoral allowances and to report back to the minister. The high esteem in which Mr Robson is held by the opposition and the government has been referred to a number of times. I also acknowledge his expertise and his commitment to local government.

Mr Baxter and I represent nine councils in north-eastern Victoria. We have had ongoing discussions with those councils over many issues since the restructure. We generally visit their offices and meet with a group of them so we hear what they are saying and are genuinely interested in the discussions. Discussions have included the

councillor and mayoral allowances. A number of our councils have put fairly substantial submissions to the panel. When looking at mayoral and council allowances a number of issues are relevant. What will the formula be for setting the allowances? Will it take into account the city and rural differences, the size of electorates and the rate base? What does the community expect of its councillors and its mayor? Will the jobs be full time or part time?

The current mayor of the City of Greater Shepparton is retired but he works very hard full time for the council. The councillors prepare performance criteria for the position of mayor. I refer the house to the performance criteria for the mayor of the City of Greater Shepparton for 1997-98. This is the first time performance criteria have been set down for a mayor in Victoria and the document may well be a pilot for other mayors. It states:

The following criteria — which will be reviewed at least six monthly — are the performance criteria for the purpose of the mayor's review and must be assessed and evaluated by the whole council when measuring and reporting on the mayor's performance.

In 1997-98 the performance of the mayor will be measured, in part, against his progress towards or achievements in the following:

achievement of the objectives of the council's corporate plan and ongoing monitoring and review;

the degree to which the council achieves its financial targets;

the degree to which the council has achieved a smooth and satisfactory transition from commissioners to councillors —

this is vital because we are undergoing a transitional period at the moment. We are moving from commissioners to councillors and the community expects a level of support and the same sort of information and involvement they have had with full-time commissioners —

improvement in communication with all media on behalf of the council and improved council relationships with local and other media;

an enhanced media profile for the council;

the degree to which the mayor has represented the council with other levels of government —

as you can see, there is that ongoing commitment to other levels of government —

the relationships established with local and other members of Parliament;

the degree to which the mayor has achieved and maintained harmony within the council —

and a number of other councils in metropolitan areas would do well to have mayors with that degree of commitment to achieving harmony in their councils —

the effectiveness of the chairmanship of the council and the efficiency of council meetings and decision-making procedures;

the nature and amount of training undertaken by the mayor and other councillors;

the effectiveness of relationships between the mayor and councillors and the CEO and directors and manager — civic support;

such other objectives and criteria as may be established and agreed, from time to time, between the mayor and the council.

As you can see, they are fairly comprehensive performance criteria. They will be reviewed every six months.

The opposition supports the amendment that prevents double dipping so that a mayor cannot receive the councillor's allowance as well as the mayoral allowance. I totally agree with that provision. There is no need for double dipping in this new council.

I turn to the issue of full-time mayors. As a shire president I had a full-time job and was able to commit myself to the level of skills, expertise and civic duty expected of me by my community, so I do not necessarily see the job of a mayor as a full-time one. During the transition stage there should be some relief. We need to be careful not to discourage well-meaning professional people from standing for election as councillors or mayors by making the job full time.

Clause 16 repeals section 174 of the act, which allows councils to recover up to five years of back rates and charges on land that was previously not rateable. I support that amendment. I had some experience in the Shire of Campaspe when I was a commissioner

there. A non-profit organisation wanted to sell a house it no longer had use for. The person who wanted to buy the house refused to pay the back rates and the church involved did not have the money to pay them. The council was prepared to waive the rates but they would still be ongoing. This amendment will allow non-profit organisations to divest themselves of such liabilities without being disadvantaged.

Clause 18 will make councillors more accountable to their communities by the signing of all important documents. I agree with the provision that two councillors must approve the final competitive tendering statement. Clause 22 provides that a council must approve in principle its performance statement prior to submitting it to an auditor or the minister and that two councillors have to certify the document. The provision makes the councillors accountable to their community and they have to report to the council if they get it wrong. They have to take some measure of responsibility themselves and must sign such documents.

Clause 20 provides for the minister to reconstitute a council so it consists of both councillors elected for wards and councillors elected for the whole of the municipal district. That reconstitution worked well in the City of Melbourne and could be beneficial to country councils, which cover much larger areas and therefore can be more difficult to represent. As a councillor I learnt the value of being parochial. When budget time came you looked after your own ward and tried to get your bucket of money from your council. It did not matter whether anyone from another ward was more deserving, your job was to represent your ward. As a commissioner I learnt the value of representing my council as a whole. I totally agree with the whole-of-council approach.

Mr Power raised the issue of rate capping, which is an issue in which I have had some interest. I lobbied strongly on behalf of my council, as did my colleagues, for a review of the rate capping and then asked for it to be lifted. Rural areas have different infrastructure needs and much larger areas with smaller rate bases. In some of the metropolitan areas the infrastructure was being maintained whereas in some of the large growth areas new infrastructure has been introduced all the time. The Premier visited rural Victoria and was lobbied strongly by the municipalities. He listened to the people and announced the lifting of the rate cap, which was fantastic for country Victoria in particular.

The amendments in the bill are designed to strengthen local government, not weaken it. Therefore, I commend the bill to the house.

Hon. T. C. THEOPHANOUS (Jika Jika) — I support the reasoned amendment to the Local Government (Miscellaneous Amendment) Bill moved by my colleague Mr Power. I will not make a lengthy contribution, but I wish to make some points about democracy, particularly as it affects — —

Hon. Louise Asher — I want to know whether you support Pat Power in his preselection.

Hon. T. C. THEOPHANOUS — I don't know about you. You don't get much support from Mr Birrell. I want to make a point about democracy, particularly as it affects the City of Darebin. We have an unfortunate situation where one of the biggest of the new cities created by the restructure, the City of Darebin, currently does not have an elected council. The elected council was removed by the present government following an inquiry by Mr David Elsum at the request of the minister. In April 1997 David Elsum handed down his finding in a report which he took about four months to write and which cost the Darebin taxpayers about \$100 000. It probably cost the Office of Local Government considerably more than that.

The report was a disgraceful piece of writing, completely lacking in any intellectual rigour, based mainly on hearsay and designed to do a political hatchet job on an all-Labor council. Anyone who read the Elsum report would recognise that the description I have just given is accurate. The report spends about 10 pages talking about the factional break-up of the council as if it were some sort of crime to be a member of a political party or to be a member of a faction of a political party. I invite honourable members to look at what Elsum has to say. He specifies what he believes about politics in local government. He says that politics should stay out of local government.

Hon. R. M. Hallam — How long do you want to spend on this? Do you want me to take a point of order?

Hon. T. C. THEOPHANOUS — The reasoned amendment moved by my colleague is about democracy in local government. The Darebin council is a part of local government, even though the government put in an administrator. Democracy in local government is critical to the reasoned

amendment. I am happy for the minister to take a point of order whenever he wishes.

At page 49 of his report Mr Elsum states:

As can be seen by this report, I believe that politics, including factional groupings of the Australian Labor Party, are influencing governance at Darebin council.

So what! Politics is influencing local councils! Is that a crime in this country? Is it a crime in Kennett's Victoria? Is that what this report is suggesting? It is the biggest load of nonsense I have ever read.

What really annoyed me is that the author, David Elsum, did not bother to contact many of the people he decided he would write about in his report. During the whole time he conducted the inquiry — four months — he never once bothered to write to me. He never once bothered to ring my office. He never once bothered to ask whether I had any views on the governance of the Darebin area. But he did bother to write a disgraceful report that has absolutely nothing to do with governance in the city but everything to do with doing a hatchet job on an all-Labor council.

That was the standard set by this report. I will demonstrate the sort of individual we are talking about. This is the same David Elsum who, while he was working for a government department, sent a memo to everyone in the department saying that he wanted to be addressed as Dr David Elsum on the basis that he had received some sort of PhD from an American university. That is the bloke who wrote this report. That shows the credibility of the man. When a number of people decided to do a bit of investigating to find out whether this so-called Dr David Elsum had in fact received such a degree, it turned out that the university to which he referred did not exist. Within a couple of weeks he issued another memo saying that he now wanted to be referred to as Mr Elsum. That is the character the government got to write this disgraceful report about Darebin. He spends almost half of the report criticising people on the basis of factions in the Labor Party. I invite honourable members to look at the deceptive way in which the report is written.

At page 19 Mr Elsum presents statistics on the Darebin council. He states that the council had a surplus of \$9.62 million in 1996-97, its projected capital works expenditure was \$27 million and it had no debts. At page 65 of the same report he presents a table which he says shows the city will have shortfalls of \$5.5 million, \$5.7 million and

\$6.4 million over the subsequent three years. It turns out that those projections were based on a meeting the CEO had with the council at which the CEO said, 'Look, if we don't take any action in relation to the budget these are the sorts of projections we can expect'. What happened was that a whole range of actions were taken and the projected deficit was nothing like \$5.5 million; it was in fact \$1 million.

What does Mr Elsum do? He presents a disgraceful account, attempting to say that the council had not performed, when in fact on any criterion the council had performed well.

The report formed the basis for the removal of democracy in Darebin. The worst part of the report was not the deception or the political hatchet job or the carryings on about factions in the Labor Party or the failure to contact local members or talk to local people — all of which was bad enough. The worst part was the condescending way the individual spoke about the mayor. I consider the language he used bordered on the racist.

He spoke about the remuneration people received and said that in his view it depended on the occupant and the position. Somebody should explain to Mr Elsum that the remuneration someone in an elected position receives does not depend on the occupant; rather, it depends on the occupant having been elected. Otherwise the members of this place would be paid at different rates depending on their experience rather than on their having been elected.

His saying that what is paid depends on the person and not on the elected position was of itself totally wrong, but then he went on and had a shot at the person — not the position, the person. He said:

Until 1993 Cr Nazih El Asmar worked with the tramways as a conductor, driver, inspector and project officer.

I do not know what relevance that has, but that is what he said. He went on to say:

His most recent full-time employment was as electorate officer in the office of the Hon. Theo Theophanous, MLC. I suggest his remuneration would have been modest. Cr Nazih El Asmar presented to me as a pleasant, forthright man. However, I can think of no legitimate basis which would lead me to expect that he should suddenly receive a total package exceeding \$100 000.

What a cheek! What a condescending fool to suggest that a person should not get a certain level of remuneration because he happened to have been a tram conductor or to have had a background that involved those occupations. I took great exception to that form of language being used — —

Hon. Pat Power — Ben Chifley was a train driver.

Hon. T. C. THEOPHANOUS — As Mr Power says, Ben Chifley was a train driver. We do not say that honourable members who come into this house were previously employed as police officers or in some other occupations in which they did not earn the amount — —

Hon. Pat Power — Or mountain cattlemen.

Hon. T. C. THEOPHANOUS — Or mountain cattlemen. I do not know what mountain cattlemen earn.

An Honourable Member — Not much.

Hon. T. C. THEOPHANOUS — But I do not particularly care. The point is that when you come into this place you are treated as an equal because you are elected to the position. It is precisely the same situation with an elected mayor.

This report is absolute rubbish. It is an attack not only on an individual but also on a community. I know something about the individual concerned, and I know you, Mr Acting President, have also met him. You and virtually everyone who has met him, both in his own community and in other communities, hold him in high regard. One of the most difficult things I have ever had to do in my political life was, after the news came down and the mayor was told — —

Hon. Louise Asher interjected.

Hon. T. C. THEOPHANOUS — No, that was not as difficult as this, for your information. If you want to be a smart Alec, just continue doing whatever you are doing. You have become the grinning idiot of the government benches.

Remember, this was the first mayor in Victoria of Lebanese background. It was a big thing in the Lebanese community. Weeks before the decision came down and he was removed from office, the Lebanese community — not one section of it, but the entire Lebanese community — had already organised for a ceremony to be held at the Catholic

Maronite Church to celebrate the first Lebanese-born mayor the community had produced.

That means something to people like me, because we know what that kind of thing means for our communities. I can remember when the first person of Greek background came into Parliament. I am sure other honourable members who are close to their communities also know what it means to them. The Lebanese community decided that, notwithstanding the fact that the mayor had been removed from office, they would still proceed with the ceremony.

I went to that ceremony and had to get up to speak. People were in tears. They asked, 'What has our community done to deserve this?' and 'Why is this happening to our community?'. You could see it in their eyes when they looked at you. These people believed they were coming to a place where democracy actually meant something. This was the sort of thing that might have happened back where they came from, but it did not happen in Australia. They believed Australia was the place where you got a fair go.

I had to give a speech to try to tell those people why it was that this had occurred. It is all very well for people in here to make smart-alecky comments, carry on and have a shot at me — I don't mind that; I don't have any problem with that — but they did not have to go there and try to explain to a whole community why it had occurred.

An Honourable Member — Did you tell them what happened?

Hon. T. C. THEOPHANOUS — I certainly did tell them what happened. I told them about the disgraceful performance of this government and of Dr David Elsum, or whatever he calls himself. The report is a disgrace. Any objective person reading it would have to say that it is one of the most unbelievable reports you could imagine, because it has absolutely no objectivity and is not based on what is fundamental to natural justice — talking to the people involved, asking local members what they think. None of those things.

In a genuine attempt to make a contrast, I point out that one thing I can say is that whatever my differences might be with the administrator who has been put in to the Darebin council, Don Gillies, at least he has had the decency to ring me up and ask for meetings — anywhere, any time — and has been prepared to come to my office and spend several

hours talking to me about the city, its requirements, what is needed and how the city can get back into some sort of democratic shape. At least Don Gillies had the decency to do that. I have differences with him over changes he has made to the citizenship ceremonies he conducts. I believe a member of Parliament who attends a citizenship ceremony should have the right to speak at that ceremony.

Hon. Louise Asher — You tell that to the mayor of the City of Port Phillip.

Hon. T. C. THEOPHANOUS — I am happy to put it on the record irrespective of what city we are talking about. Don Gillies has decided he will allow only one member to speak at the ceremonies. I have discussed the matter with him. I believe he should extend it to at least one state member and one federal member, recognising those two tiers of government, and when a government member and an opposition member are present both should be allowed to speak. At least Don Gillies appears to be reasonable and has been prepared to talk with me. I contrast that behaviour to the behaviour of Mr Elsum, who did not bother to do any of those things but simply based his report on hearsay and spend most of it discussing factions of the ALP.

It is important that the state government should play a role in setting parameters and the overall framework for local government, but at the end of the day if democracy means anything it is about responsibility. If councils make mistakes they have to bear the consequences at the ballot box in the same way we do. Of course there are certain parameters outside which one cannot go and there are times when action is required, but the power to take action should be used judiciously and only when there is a genuine desire to get the council to function properly as opposed to wanting to make a political point about some mayor or councillor or a council dominated by particular parties, even the conservative parties. Anybody can play those political games. The fact is that there is no local government area where mistakes are not made; none is run perfectly. Some are run better than others, but in the end it is up to the electors to make the decisions.

I do not agree with Mr Hartigan that state governments should ride roughshod over local government. That is inappropriate, and it is not the way we should hand over responsibility.

Hon. R. M. Hallam — I don't think that is what he said. He talked about responsibility for the operation of local government.

Hon. T. C. THEOPHANOUS — He talked about the state government having the authority and the responsibility to become involved in the affairs of local government. If local democracy is to mean anything, that power, which nobody denies the state government has under the constitution, should not be used except in the most extreme circumstances.

Notwithstanding whatever ability one might attribute to Mr Gillies, the fact is that Darebin had an elected multicultural council that was representative of the multicultural mix in the area. A number of councillors of Lebanese, Greek and other backgrounds represented the mix in the electorate. What we now have is one individual who cannot possibly provide, irrespective of his intentions, representative local government in that way. I do not believe the governance is any better, if what one means by that is that the city is being run more efficiently or effectively than it was when the councillors were in office. The vast majority of the decisions made by Mr Gillies are the same as the decisions that would have been made by the councillors. The differences turn out to be at the margin of representing the diversity and the mix of the electorate.

I wish to conclude on a more positive note. I am prepared to work with the administrator in Darebin to bring representation and democracy back to that area. I do so in good faith and in the hope that some of the assurances given by the minister will be kept, that the council will not be split up and that democracy will return to Darebin.

I am prepared — I have already passed this on to Mr Gillies — to work with Mr Gillies and with the government to ensure that Darebin remains a local government unit and is governed well and in a democratic way. I hope that suggestion is taken up by the government and by Mr Gillies. He is in a pivotal position and can make certain recommendations that would be of assistance in these matters. He is taking on board some of the suggestions that have been made to him, and I hope we see a return to democracy in Darebin as soon as possible. I also hope we see the same attempts and efforts to return democracy to the Melton region.

Notwithstanding the comments made by Mr Lucas about the Melton council, there is no substitute for democracy. There is no reason for not having elected

councils in Melton, Darebin or anywhere else in Victoria. That should be seen as a temporary thing; it should certainly not be extended any further.

Mr Lucas was keen to talk about Melton, but he was not so keen to talk about Casey, which is in his own province and which has largely been formed from the old city of Berwick, where he was chief executive officer. He would not want to talk about Casey because there are not too many people down there who think much of him or what he did when he was CEO. It is no surprise that Mr Lucas was happy to talk about Melton instead, which is on the other side of the city and nowhere near his own province. The people of Casey do not think too much of him.

Hon. Louise Asher — They voted for him.

Hon. T. C. THEOPHANOUS — They do not think too much of him at the council; just ask a few of them. I conclude by reiterating my support for the amendment moved by my colleague Mr Power.

Hon. D. A. NARDELLA (Melbourne North) — I support the reasoned amendment moved by my colleague Mr Power. This is the sort of bill that the government uses to beat local government and the good people who work in it around the head. It has done that a number of times during its period in office — and it continues to do so. It is wrong of government members to espouse the virtues of an anti-democratic system that is imposed from above without any consultation with and the involvement of local communities. Parliament should be about upholding the democratic principles and traditions that many Australian men and women went overseas to fight for on our behalf.

Honourable members interjecting.

Hon. D. A. NARDELLA — The government is overturning the democratic traditions in local government for no other reason than that it suits its political purposes and its bankrupt principles. The bill has nothing to do with good governance or with the wishes of local communities. If government members went out and talked to local councils they would get a different impression.

Tonight we were faced with the embarrassment of Mr Cover, who represents Geelong Province, not being able to make his own speech. He did not talk to his local councillors before the changes were made and the bill was introduced — or even afterwards — so he had to make a speech using the *Geelong Advertiser*. If the *Geelong Advertiser* closed

tomorrow the honourable member for Geelong would not be able to make a speech. He does not understand his local councillors because he does not talk to them.

We saw Mr Katsambanis, who represents Monash Province, face the same appalling situation. He spoke about Mornington and Frankston, but when he was asked whether he had talked to his own councillors in the City of Port Phillip about the changes, there was silence. It was clear that he had not talked to his own councillors about the effect the boundary change from the high-watermark to the low-watermark would have on the council.

All opposition members have good working relationships with their local councils and councillors. We may not agree with them politically — I certainly do not agree politically with a number of councillors from the City of Hume — but we are still able to talk to them about the issues that affect their communities. I can certainly talk to councillors in the City of Hume about a bill that affects their role. Those government members who have spoken on the bill do not care about talking to their local councils.

The changes in the bill will have an immense effect on the City of Greater Geelong. Those changes, which have been imposed without consultation, mirror the changes that have been made in the City of Melbourne. The Geelong community has not asked for them. I am sure local businesses have not asked for the changes, because they have been busy fighting the stupid recommendations of the Industry Commission.

The bill is all about the Kennett government getting back at the ratepayers and residents of the City of Greater Geelong because they had the audacity to elect the first ALP mayor of that city. It is about payback time, about stacking the deck to try to guarantee that conservative Liberals are elected to that council. It is not about good governance because the people of Geelong and the surrounding regions are served by good and committed councillors and professional council officers — and that is the difference. The Geelong people support their local council. They do not need their electoral system skewed to favour the conservatives, which the bill will do.

The local council has been responsive to the local community. It has been out there fighting against the Howard government on the textile, clothing and footwear industry tariffs. It has led the charge on the

automotive industry tariffs. It has worked with the federal Labor opposition and the Victorian coalition government on both those issues. Since its election the Greater Geelong City Council has helped give the community of Geelong and the surrounding regions a proud record of achievement. Despite that, this spiteful, petty government is changing the electoral boundaries of the city.

The residents of Geelong do not agree because the system has served the Geelong community and its regions extremely well. To reinforce that fact, one has only to talk to councillors about how they carry out their responsibilities. The bill will have councillors elected by 120 000 people. The electors of each councillor will not number 15 000 or 20 000, which is a manageable number for part-time politicians.

What effect does the house think that will have? Powerful people will stand for election, which is what the government wants; also, the political parties will have to organise themselves into supporting their candidates. To deal with a constituency of 120 000 will politicise to a larger degree the involvement of party machines. An ordinary person, perhaps somebody who wants to serve the local community, will find it impossible to letterbox or write to 120 000 people in the City of Greater Geelong, which stretches from almost Queenscliff, through Geelong and to its outlying regions. We are not talking about a compact situation like that in the City of Melbourne but about Geelong, which has 120 000 people living across a large region.

The effect of the bill will be the opposite to what the government wants. The people of Geelong will not be fooled; they are not fools. They may not have been consulted, because the government treats them with contempt, but in the final result they will elect the best candidates to represent them as councillors. The people of Geelong have demonstrated that in the past, after the government allowed an election to replace its nominated representatives. They emphasised with their votes that they needed people with leadership, foresight and the ability to take the city into the 21st century. They got that with Gerry Smith, a good ALP man, but, more importantly, a good leader for the people of Geelong and its regions. He has been there when the Geelong community has needed him most; he has been there to carry his council along with him when the community needed that council to work harmoniously.

However, the government repays that loyalty by trying to change the structure of the council. It wants to impose its own bankrupt people on the good community of Geelong. That is why the bill must be opposed. It is important that the record shows this is not a good bill for the Geelong community.

Earlier the house had the ludicrous situation of Mr Lucas supporting the situation in Darebin. The reasoned amendment is concerned with the consultation of local communities and ensuring democratic institutions are established in the local government arena. That is the focus of the opposition. Yet, the author of the Darebin report put together a bankrupt document that is an insult to the good people of Darebin who forked out \$600 a day for that charlatan. One has only to read the report to see how bankrupt it is.

I turn to several parts of the report. On page 29 the esteemed Mr David Elsum —

Hon. T. C. Theophanous — Dr Elsum.

Hon. D. A. NARDELLA — Yes, Dr Death! He goes on at length about hearsay. I refer to the report entitled *Darebin City Council Commission of Inquiry*. On page 29 David Elsum states:

During February the mayor made a second visit to the Philippines 'to discuss business cooperation with Darebin'. This fuelled rumour; I was told that the mayor is to receive a substantial fee for arranging for a Melbourne company to construct budget prefabricated houses for export to the Philippines. He was paid \$600 a day for having listened to rumours! I refer to his understated hearsay contained on page 32:

I was given a sinister interpretation of the letter writing. It was suggested to me that there was to be an orchestrated campaign to deluge the CEO with detailed management problems. At a later date some of these details would be listed as a means of criticism and a reason to replace the CEO. On balance I find this assertion was credible but not proved.

Further unsubstantiated hearsay! He does not even quote his source for that statement. In the third paragraph on page 34 he states:

No item is illegal.

Yet, we have the recommendations from the report.

On page 59 personal but unsubstantiated views were put to the good people of Darebin about their council. Dr Elsum states:

When a mayor is appointed it would make a substantial contribution to municipal governance if the appointment depended on leadership skills and not political deal making or taking the position in turns.

There are skills in leading a community; they may not necessarily be the skills that you, I or other honourable members may have, but they are skills that are developed and which, as a team, you use to support each other and ensure the people in that team operate to their maximum levels.

But the report says that in the short time the mayor was appointed, his team skills were irrelevant and that he did not have the leadership skills. The report says the mayor's appointment resulted from political deals.

There is political deal making in every council. Within this Parliament there is political deal making. There has been, there is and there will continue to be. That is the role of political institutions. Unfortunately, Mr Elsum did not understand the political process. On page 61 there is some unsubstantiated hearsay. For \$600 a day this bloke wrote:

I was told that these unequal amounts for quarterly payments applied because the mayor was obliged to give the first \$5000 of the mayoral allowance to a political party and that consideration had been taken into account by the council. I was not able to confirm this assertion which is hearsay. If it is correct, and a widespread practice, it is a most unfortunate inclusion of party politics and funding into local government. Such practices should be discouraged.

He does not give a source. He does not know whether it occurs. He cannot substantiate what he put in the report. This is a bloke who stole \$600 from the Darebin community every day he worked on the report. On page 63 he states:

The remuneration currently paid to the mayor of Darebin clearly breaches this sentiment.

Here is a bloke who told the government that based on sentiment it had to remove the council.

Hon. C. A. Furletti interjected.

Hon. D. A. NARDELLA — I am responding to the issues raised by Mr Lucas in his address on the bill and on the reasoned amendment. It goes to the heart of democracy in local government and why local communities should be consulted on major changes that affect them. The report is part of the process, and it shows that the government does not believe in democracy. The report is inconsistent in some major matters. Some statistics appear at page 19.

Hon. N. B. Lucas — On a point of order, Mr Acting President, Mr Nardella is continuing to refer to the sacking of the Darebin council, which has nothing to do with the bill. I believe he has the wrong speech. Tomorrow the opposition will be arguing about democracy. Tonight we are dealing with a local government bill and the only reference I made to the Darebin report concerned the work of the mayor and the councillors at Darebin. Now Mr Nardella is using poetic licence and moving into a debate on the sacking of the Darebin council, which has nothing to do with the bill. I ask you to draw his attention to the fact that he is not talking about the bill before the house but about the sacking of the Darebin council.

The ACTING PRESIDENT (Hon. Bill Forwood) — Order! On the point of order, the debate on the bill is wide ranging and debate on the reasoned amendment is also wide ranging. A number of councils were mentioned during the debate. There is no point of order, but I am sure Mr Nardella is close to discussing the bill.

Hon. D. A. NARDELLA — I shall make a couple of final points regarding the report. On page 19 there is a table for 1996-97 showing that recurrent revenue less recurrent expenditure for Darebin council revealed a surplus of \$9.62 million and that debt at 30 June 1996 was nil. On page 65 the report states:

As reported under the later heading 'Financial situation of city' under term of reference no. 5 Darebin faces a shortfall of income compared to expenditure in excess of \$5 million in each of the next two years. The redundancies aimed at reducing this shortfall.

How can this bloke who was paid \$600 a day say in the table on page 19 that there is a surplus of \$9.62 million but on page 65 say the council was going to have a deficit of \$5 million in each of the next two years? This report is not worth the paper it is written on. It is bizarre; adverse comments like that appear throughout the report. The absurdity of

the report is demonstrated by the comment in the last paragraph on page 65, which states:

Adverse comment about the remuneration was volunteered to me by a man in working clothes in the council car park. In the short conversation before I abruptly terminated the approach I detected an attitude of despairing resignation.

That is the basis on which a number of recommendations were made. The first recommendation was not taken up by the government. It was to install a conciliator or mediator, which the council would have accepted but this government, because of its anti-democratic focus, went for the second option, which was to sack the council.

I made these comments in response to Mr Lucas, who raised the issues in his address to the house. Mr Lucas is an apologist for the Melton commissioners. That local government body is anti-democratic because the local community's right to determine its own future is ignored. The commissioners are so above themselves that they do not invite local members to functions in the municipality. They are arrogant. They hide the figures on what they are doing with ratepayers' money. They do not provide leadership. They are good at opening various things but they are not good at communicating or leading the community into the next century. They have a number of pet projects, to which Miss Gould referred in her address. It is extremely difficult to find out what the community's situation is. Instead of having a debate on what is necessary for the Melton community, the commissioners look after themselves and do nothing for the Melton community.

Hon. N. B. Lucas — It is insulting.

Hon. D. A. NARDELLA — It is insulting, Mr Lucas; it is insulting to members of the Melton community that they still have to feed, clothe and pay the expenses of those three highly paid commissioners.

The bill proposes further changes to local government that were not asked for or needed. The amendments are about further state government control and influence over local government councillors and those institutions. Democracy at the local government level has to be about local communities making their own decisions, not having a big sword hanging over them and Big Brother getting rid of them if they do not like what

LOCAL GOVERNMENT (MISCELLANEOUS AMENDMENT) BILL

Tuesday, 18 November 1997

COUNCIL

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they are doing — which is how the Kennett government treats local government. Democracy is not about how you treat responsible, accountable city or shire councils that take a leadership position, such as the City of Greater Geelong. Until such time as local government is consulted the opposition supports the reasoned amendment and opposes the bill.

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

Ayes, 31

Asher, Ms	Hallam, Mr
Ashman, Mr	Hartigan, Mr
Atkinson, Mr (<i>Teller</i>)	Katsambanis, Mr
Baxter, Mr	Knowles, Mr
Best, Mr	Lucas, Mr
Birrell, Mr	Luckins, Mrs
Bishop, Mr	Powell, Mrs (<i>Teller</i>)
Bowden, Mr	Ross, Dr
Brideson, Mr	Smith, Mr
Cover, Mr	Smith, Ms
Craige, Mr	Stoney, Mr
Davis, Mr P. R.	Strong, Mr
de Fegely, Mr	Varty, Mrs
Forwood, Mr	Wells, Dr
Furletti, Mr	Wilding, Mrs
Hall, Mr	

Noes, 8

Eren, Mr (<i>Teller</i>)	Power, Mr
Gould, Miss	Pullen, Mr (<i>Teller</i>)
Hogg, Mrs	Theophanous, Mr
Nardella, Mr	Walpole, Mr

Pairs

Boardman, Mr	McLean, Mrs
Davis, Mr D. McL.	Nguyen, Mr

Amendment negatived.

The PRESIDENT — Order! In the Legislative Assembly the view was taken that the bill is required to be passed by an absolute majority. I advise the house that it is not a section 85 provision dealing with the jurisdiction of the Supreme Court but an amendment to section 18 of the act.

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clauses 1 and 2 agreed to.

Clause 3

Hon. R. M. HALLAM (Minister for Finance) — In his contribution to the second-reading debate Mr Power raised the issue of the shift in the boundary of a municipality to take into account the actual boundary that relates to the seafront and suggested that he could find nobody who supported what the government is doing. This issue has been around for some time. I can report to the committee that two councils in particular sought a shift in boundaries some time ago. I am advised that the Colac-Otway Shire Council, by letter of 14 May 1996, requested a boundary change, as did the Surf Coast Shire at about the same time.

Both councils were moved to seek that amendment to enforce various acts and regulations relating to litter and to dog and animal control generally on their beaches. They made the point that the majority of infringements occurred between the high and low watermarks. It is true that the amendment effected by the bill was not actually tested by those councils, but let me give the house some of the background against which the amendment was framed.

There was some confusion about how the change might be most effective. One of the councils asked for a shift to 200 metres below the low watermark as the boundary of its municipal district. It did not ask for the boundary to be 200 metres to seaward of the low watermark; it asked for it to be 200 metres below the low watermark. It was also suggested that the boundary should be 200 metres to seaward of the high watermark. It was on the latter basis that the Minister for Planning and Local Government sought the support of the Municipal Association of Victoria. The alternative was that the boundary become a line drawn 200 metres to the seaward side of the high watermark.

One of the complications that arose in the discussions that followed was similar to the point raised by Mr Power. The complications concerned the issues of asset management and capital funding for marine structures, sea walls, boat moorings, ports, jetties and so on. There was also the issue of the emergency management of oil spills and erosion problems. That complication came about simply because there was nothing to indicate where the line fell. It may well have fallen at some point out to sea.

In the midst of that debate it was proposed that the boundary should be shifted from the high watermark to the low watermark. That is the genesis of the amendment that has been brought to the Parliament. It was not a matter of trying to sneak up on councils; it was responding to a particular problem, although it was not responding in exactly the way the original request had been articulated. Mr Power asked if anybody supported this proposal.

Hon. Pat Power — I never made that point.

Hon. R. M. HALLAM — Okay. I can tell the house that the Bass Coast Shire Council wrote to the Director of the Office of Local Government saying that it supported the proposal in principle. The Colac-Otway Shire sought a change in the boundary, but in that case it was to be 200 metres seaward of the low watermark. The Corangamite Shire Council said it was appropriate for the council boundary to extend past the high watermark. The City of Greater Geelong advised that it supported the proposal. The Shire of Glenelg confirmed that it had been negotiating for a shift in the existing boundary for some time. The municipal association itself was involved in the process of having the proposal canvassed among the councils that were directly involved. I can report that the City of Port Phillip was among those who at that stage said that they had no objection. Again I acknowledge that the proposal being canvassed at that time was different from the one that is in the bill.

I make this point: it was as a result of that negotiation process that the compromise that appears in the bill was adopted. It provides a good outcome for all the reasons that were discussed in that process and considered during the debate. It is a simple matter of practicalities. A council wants to retain control over an important asset — namely, its beach — and wants to have at least some control over the activities on that beach. Because there was a lack of clarity about where the responsibility started and finished, the government determined that the way to resolve the issue was to determine that the boundary should be established — and clearly established — and in this case it has been established at the low watermark. That is different from the proposition as it was originally understood but it is a good compromise and an excellent outcome.

Hon. PAT POWER (Jika Jika) — I thank the minister for his comments in explanation. They clarify the situation, in that the amendment contained in clause 3 was not sought by any municipality and has not been supported by any

municipality. I ask the minister if he is able to advise the house what arrangements the government has in mind in relation to local government now undertaking the considerable additional responsibilities it will have as a consequence of clause 3, especially in the context of the significant reduction in staff, the significant reduction in resources and the significant limitation on revenue? What proposals does the government have to support coastal municipalities and allow them to undertake the additional responsibilities?

Hon. R. M. HALLAM (Minister for Finance) — I am happy to respond, but I would put it in the opposite context. I simply repeat the point that the current definition of the coastal boundaries of municipalities refers to the high-watermark on the sea coast. Because that is difficult to identify councils have found it difficult to deal with various nuisances on their beaches such as dogs and litter, particularly over summer, when the issue of jurisdiction has been the underlying question.

The government has changed the boundaries because of the general concern of councils about the lack of jurisdictional clarity. My reaction to what Mr Power has put to me is that we are responding to the concerns expressed by councils and allowing them to take on the responsibilities they sought. On that basis the outcome is good for local government.

Hon. PAT POWER (Jika Jika) — Again I invite the minister to respond to the concern I have raised. We have already established that the technical intent of clause 3 is not something any municipality has requested or supports. I again ask the minister what advice he can give the house on the arrangements the government has made to ensure that the coastal councils can properly and satisfactorily meet those significant, additional responsibilities.

Hon. R. M. HALLAM (Minister for Finance) — I know it is late, and I do not want to lose my patience, but the honourable member is being cute in referring to the change as an arrangement that has been foisted on councils.

Hon. Pat Power — It has been.

Hon. R. M. HALLAM — I make the point again: although he might be technically correct in saying that the precise — —

Hon. Pat Power — Not 'might be'; he either is or he is not.

Hon. R. M. HALLAM — All right, he is technically correct.

Hon. Pat Power — Thank you very much.

Hon. R. M. HALLAM — Although Mr Power might be technically correct in saying that the precise nature of the amendment was not tested with the councils —

Hon. Pat Power — It has been foisted on them.

Hon. R. M. HALLAM — No, it has not been foisted on them. It is a direct response to their concerns about their lack of authority and the question mark over the jurisdictional boundaries.

Hon. Pat Power — It is a direct imposition as a consequence of their raising the problem.

Hon. R. M. HALLAM — In that case, you can have it that way.

Clause agreed to; clauses 4 to 7 agreed to.

Clause 8

Hon. PAT POWER (Jika Jika) — Concern has been expressed by people across local government about the preparation of the voters roll. It is understood and accepted that all councils will now be spilt at the end of the triennium. Therefore, there needs to be an emphasis on ensuring that voters lists are prepared and available at that time. I also ask the minister whether the government has given consideration to the rolls being maintained and updated during other periods so that they can be made available within a short time in the event of vacancies unexpectedly needing to be filled.

Hon. R. M. HALLAM (Minister for Finance) — The honourable member canvassed the issue during the second-reading debate. I respond by saying that because local government has now shifted to having triennial elections the date for the preparation of the rolls need only be specified in the election year. I would have thought local councils would be relieved to have that recognised in the law of the land.

The preparation of the rolls is a continuing responsibility. Those who have been involved in local government know that it is false economy to leave it until the death knock. I would expect that all well-conducted councils would continue the preparation of their own rolls as part of their normal

duties. As to specifying the date by which the rolls must be completed, it is now clearly likely to be only in each third year. The law of the land has been changed to reflect that, and I think it is a practical outcome.

Clause agreed to; clauses 9 to 11 agreed to.

Clause 12

Hon. PAT POWER (Jika Jika) — I seek a comment from the minister on clause 12, which amends the act to provide that a poll of voters may be conducted by postal voting only, rather than by attendance voting. I acknowledge that that parallels the conduct of polls to elect councillors, but I ask the minister to give the house an assurance that conducting polls by postal voting only rather than by attendance voting will not in any way affect the compulsory obligation on those on the voters roll to vote.

Hon. R. M. HALLAM (Minister for Finance) — I am advised that earlier amendments to the Local Government Act and the Local Government Regulations provided that council elections could be conducted by means of postal voting — as the honourable member has acknowledged. Since the introduction of those amendments voting by postal vote alone in council elections has proved to be successful, and against that background a number of councils have requested the change, including the Whitehorse City Council. It has therefore been decided to extend the arrangement to polls of voters so that they may also be conducted by postal voting only.

In response I say that we must be very careful about the way the words follow. We are not actually saying that the only way you can conduct a poll is by postal voting, but that the election of a council can be conducted solely on a postal vote basis. That gives councils an additional alternative, but it does not change the responsibilities in any other context at all.

Hon. PAT POWER (Jika Jika) — I thank the minister for his clarification. I again ask him to advise which people are eligible to make the decision about whether a poll is or is not conducted by postal voting only?

Hon. R. M. HALLAM (Minister for Finance) — It is the council itself.

Hon. PAT POWER (Jika Jika) — The minister's answer indicates that the councillors representing ratepayers and residents would make that decision. Can he give an assurance that the Minister for Planning and Local Government does not have any capacity to require of the councillors that the poll be conducted by postal voting only?

Hon. R. M. HALLAM (Minister for Finance) — I am advised that the decision is that of the council itself and not that of the minister.

Clause agreed to; clause 13 agreed to.

Clause 14

Hon. PAT POWER (Jika Jika) — There is significant concern across local government about one provision of the clause. Proposed section 74(4B) states:

An Order in Council may specify that different amounts and limits are to apply in respect of specified categories of councils.

Again we have a situation where legislation has been introduced without consultation with the community. What criteria might be used to establish specified categories of councils and what criteria might be used to establish different amounts and limits for allowances?

Hon. R. M. HALLAM (Minister for Finance) — I cannot give Mr Power the information he is seeking because they are the issues to be determined by the inquiry. This legislation is simply providing the wherewithal for that inquiry to be undertaken. I heard Mr Power make some less than flattering comments about the way that inquiry is to be conducted, but this is a good illustration of the fact that the government has done nothing more than simply provide the background against which the inquiry can be conducted and, in particular, has left it to the person conducting the inquiry to determine and select the criteria himself based upon categories of councils.

Hon. PAT POWER (Jika Jika) — With respect, I do not believe that is a completely accurate description of what has occurred. There is no doubt that the legislation creates a circumstance under which a review can be conducted. The minister well knows that his Premier has already made public statements about what the different amounts and limits for allowances should be. I again ask what advice Vern Robson has been given about the

criteria that should be applied for investigating specified categories of councils and different amounts and limits for allowances.

Hon. R. M. HALLAM (Minister for Finance) — The officer conducting the review has been offered no advice on that issue.

Hon. PAT POWER (Jika Jika) — I suggest it is not completely accurate for the house to be told that the officer conducting the review has not been given advice. I repeat that the Premier has made known what he believes the different amounts and limits for allowances should be.

Clause agreed to; clauses 15 to 18 agreed to.

Clause 19

Hon. PAT POWER (Jika Jika) — Will the minister comment about a better model by which redistributions within municipalities might occur? Has the government given any consideration to whether redistributions within municipalities would be better conducted if they were managed in a way that is consistent with state and federal redistributions?

Hon. R. M. HALLAM (Minister for Finance) — In my time as Minister for Local Government there was some interest in a change to the way the periodic review of electoral representation took place. One of the things I remember well was advice from a number of quarters that we should leave the issue entirely up to the council.

The rules of the game as they now stand are that there is a trigger mechanism. That is already in the legislation, and it depends on the variation between the number of voters on the roll for the various ridings within the municipality. That is the basis upon which a change must be considered. The clause introduces a new requirement that where a council decides not to alter the ward boundaries — that is a decision it might take — it must provide to the minister reasons for its decision and any other information the minister requests about that decision.

By way of background I comment on why councils are being asked to provide reasons for a decision not to alter a ward boundary. The mechanism for altering internal boundaries is by order in council and is pursuant to section 220Q on the recommendation of the minister. The minister could recommend that an alteration be made even if the

council had a different view. That is not a new position, it has been around for a long time, but to assist the minister in any consideration it will be clearly of help for him or her to have information obtained by the council during the review process — for example, public submissions made in accordance with section 223.

Although there may be a lot of interest in some particular municipalities in a different mechanism for internal subdivisions, the government resolved that it has a tried and true system that has been around for many years and is being used less and less, in part because there are now more unsubdivided councils that have met this issue of internal subdivision in the most fundamental way. It may be a debate for another place. Mr Power and I could have an interesting discussion about the merits of having no internal subdivisions and whether that might be the most novel way to approach this issue.

I am a fierce supporter of municipalities being totally unsubdivided in that it brings a corporate view to the council table as opposed to the prospect of parochialism, which has led to criticism of local government in the past. The government has not considered an alternative mechanism for addressing internal subdivisions where the trigger mechanism is met.

Clause agreed to.

Clause 20

Hon. PAT POWER (Jika Jika) — Clause 20 has caused the most anxiety across local government and among people concerned about the electoral structure of local government. Clause 20 allows the Minister for Planning and Local Government to impose this structure not just on the City of Greater Geelong, which was a stated intention in the second-reading speech, but also on any of the other 75 municipalities. I ask the Minister for Finance if he can advise of any independent assessment that has been conducted on whether this structure of councillor representation has been seen as providing outstanding governance in the City of Melbourne.

Hon. R. M. HALLAM (Minister for Finance) — We could also be cute in respect of this clause. I refer to the research undertaken a few years ago on which the structure of the City of Melbourne was based. As the minister involved at the time, I can inform the committee that a great deal of work went into how we might get the optimal structure for

representation across the City of Melbourne, particularly given that its external boundaries were to be changed as well. We can have a debate about whether that has been a success or not, and I presume the honourable member — —

Hon. Pat Power — We can agree that no research has been done.

Hon. R. M. HALLAM — We can agree that there is a range of views, both in the opposition and in the government. As it happens, my view of what has taken place in the City of Melbourne is that it has been an extraordinary and unqualified success, but I know that is not a view shared by every commentator.

I make this point: the mix of having councillors selected from particular wards and others being elected at large is a good model. It is not a bad compromise. My personal preference is that we should have no wards at all, but I am persuaded that in the City of Melbourne, where the diversity of interests might be much more profound than in other municipalities, the mixture was a pretty good formula. I think it has worked extremely well.

I was not directly involved in the discussions that took place prior to it being decided that the structure would be applied to the City of Greater Geelong, but I can reinforce that that model is available and nothing more — just available — for other municipalities across the state. On the basis that it provides an additional model and an additional opportunity for other councils to take up, it must be seen as strengthening local government rather than the reverse.

Hon. PAT POWER (Jika Jika) — I accept the minister's explanation that since this structure has existed in the City of Melbourne there has been no government or independent research.

Hon. R. M. Hallam — That is not what I said.

Hon. M. A. Birrell — Who cares? Not me. I am bored to tears by this. Get on with it!

Hon. PAT POWER — It may well be so, Mr Chairman.

Hon. M. A. Birrell — I want to get it on the record. I am bored to tears. You are boring everyone to tears. You have made your point, move on.

Hon. PAT POWER — If I have the attention of the Leader of the Government, I point out that it is not my intention to stop. It may well be that the interjection of the Leader of the Government — that is, that the government does not care — is in fact the real explanation.

Hon. M. A. Birrell — Well, I do not, and it is on the record.

Hon. PAT POWER — The claim I am making is that since the new electoral structure has been applied in the City of Melbourne there has been no independent evaluation of whether it delivers better governance than any other electoral structure. I accept the minister's interjection that he did not in fact say that, so I ask again if he can report on any independent evaluation of the electoral structure in the City of Melbourne since councillors have been elected under that regime.

The CHAIRMAN — Order! The question is that clause 20 be agreed to.

Hon. PAT POWER (Jika Jika) — Mr Chairman, I take the minister's disinclination to respond as confirmation that my assertion is correct.

Hon. K. M. Smith — He gave the answer earlier, and you know it.

Hon. PAT POWER — Clause 20 is important and the sensitivity of government members indicates that they understand that too. I ask the minister whether he can advise of any independent assessment that indicates that better governance will be delivered in the City of Greater Geelong as a consequence of this electoral structure being imposed upon it.

The CHAIRMAN — Order! The question is that clause 20 be agreed to.

Hon. PAT POWER (Jika Jika) — I again accept that the minister's disinclination to respond is an indication that no independent research has been done. I ask the minister if he is able to advise of any Victorian municipality or any kind of Victorian municipality that would not have this electoral structure imposed upon it.

Hon. R. M. HALLAM (Minister for Finance) — The honourable member is being extremely provocative. I will be careful given the lateness of the hour. I make this point again, Mr Power: this is not to be imposed on any municipality. It is simply

to provide an option, an additional structure municipalities might like to consider. Having spent some years as the minister directly responsible I can tell Mr Power that there is enormous interest across the entirety of local government to at least consider alternative forms of structure and, in particular, the mix that was applied to the City of Melbourne. Hardly a day went by without at least one councillor or one council inviting me to open the door to that option being made available to other municipalities, and that is all this does — it simply makes it available to other municipalities.

Hon. PAT POWER (Jika Jika) — For the sake of the accuracy of the public record, I point out that the minister asserted that the electoral structure referred to in clause 20 will not be imposed upon any body. That in fact is not correct. It is to be imposed on the City of Greater Geelong at its next election. I ask the minister if he can advise of the kinds of municipalities that will either have this electoral structure imposed upon them in the future or will be invited to consider this electoral structure.

The CHAIRMAN — Order! The question is that clause 20 be agreed to.

Hon. PAT POWER (Jika Jika) — Mr Chairman, I take it from the minister's disinclination to respond that it is the intention of the government that the only municipalities in Victoria that will have this electoral structure imposed upon them will be the City of Melbourne and the City of Greater Geelong. Will the minister confirm that observation?

Clause agreed to; clauses 21 to 24 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That this bill be now read a third time.

In so doing I thank honourable members who have contributed to the debate on this important issue.

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

ST ANDREW'S FOUNDATION BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. LOUISE ASHER
(Minister for Small Business).

GAS SAFETY BILL

Introduction and first reading

Received from Assembly.

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

RESIDENTIAL TENANCIES BILL

Introduction and first reading

Received from Assembly.

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

GAS INDUSTRY (FURTHER AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

HEALTH SERVICES (ST ANDREW'S HOSPITAL) BILL

Introduction and first reading

Received from Assembly.

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

ADJOURNMENT

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

That the house do now adjourn.

Costerfield: contaminated land

Hon. C. J. HOGG (Melbourne North) — I raise for the attention of the Minister for Health the predicament of Mr David McLennan, the owner-occupier of a property on Nagambie Road, Costerfield. His property is located about 100 metres from the sand dump of a mine known as Australian Gold Development.

For some time Mr McLennan has been concerned about sand from the sand dump blowing over his property. After taking a sample of the sand from the dump to an analytical laboratory he learnt from the analysis that the sand contained 800 parts per million of arsenic whereas the Environment Protection Authority limit is 30 parts per million — in other words, 26 times the EPA limit.

Mr McLennan is concerned about the dust blowing onto his property, particularly as his household uses rainwater. As this matter is obviously a significant health concern for Mr McLennan, will the minister investigate the matter urgently to see what measures can be taken to ensure the situation is ameliorated and the risk eliminated?

Summer in the High Country campaign

Hon. E. G. STONEY (Central Highlands) — I raise a matter for the attention of the Minister for Tourism. For some years the government has funded a campaign called Summer in the High Country. That important campaign has helped operators in that area through the peaks and troughs throughout the year and has maintained permanent employment for people during summer.

I know many operators in my electorate are interested to know what government funding is planned for this year. I ask the minister about the likelihood of that funding.

Roads: motorcycle safety

Hon. PAT POWER (Jika Jika) — I seek the assistance of the Minister for Roads and Ports on a roads issue — namely, road maintenance practices and motorcycle safety. At the outset the minister is to be commended for a letter he wrote to a member of the Motorcycle Touring Club of Victoria about a concern that had been expressed by a club member about the way in which, after periodic roadworks, surface material can remain, which means the

surface is unsafe for particularly inexperienced and unaware motorcyclists.

The minister will be aware that in the letter he indicated it was apparent that some improvement to current practices should be investigated to ensure roadwork sites are left in a safe condition for motorcyclists. I have requested Vicroads to pursue the interrelationship between spray seal operations and motorcycle safety to achieve improved practices both to minimise risks to motorcyclists and to warn them in advance of spraying operations.

The motorcycle touring club certainly appreciated the minister's sympathetic and quick response. However, its members have indicated that there are new and continuing problems in relation to the issues that they have raised both with the general manager of Vicroads road system management and with the minister. I ask the minister to renew his commitment to this issue and to do his utmost to ensure that Vicroads responds to the sentiments he expressed in his letter so that motorcyclists can travel on minor and local country roads in a manner that does not endanger their safety.

Dandenong Ranges: fire prevention

Hon. W. I. SMITH (Silvan) — I direct a matter to the attention of the Minister for Industry, Science and Technology representing the Minister for Conservation and Land Management. Recently there has been considerable media discussion about fire disasters next summer in the Dandenong Ranges, which has been listed as one of the first and probably most vulnerable areas. I ask whether there is a plan to address the major problem of informing the community of things that should be done to ensure that fires are kept away from houses — simple things such as taking leaves out of gutters and cutting back trees. What assistance and strategies is the state government providing to ensure that communities are prepared for the fire season?

Collingwood neighbourhood house

Hon. B. T. PULLEN (Melbourne) — I raise with the Minister for Health, representing the Minister for Youth and Community Services in another place a matter relating to the Collingwood neighbourhood house, which has been operating for eight or nine years from the Dight Street Community Centre in Harmsworth Street, Collingwood and has shared its accommodation with the Dight Abbotsford

Collingwood Clifton Hill Tenants Association, which has been in existence for even longer.

As the minister will be aware, that is one of the 10 organisations which have been funded which I referred to in a similar case. The work has been contracted out to the regional service providers — in this case, Bedford Street Outreach Services. The effect has been to leave the neighbourhood house in a difficult position because, under the regional contract, the facilities were provided free because there was a joint and cooperative relationship between the previous tenants association and the neighbourhood house. Proposals are now emerging to charge for the rooms at something like \$80 per week per room. There is no provision in the funding of the neighbourhood house to meet the proposed rent charges. I understand the neighbourhood house has not been able to provide an assurance that it will continue on the same terms as previously. It may not be able to provide the services to people in surrounding areas and on the estate.

I ask the minister to ask the Minister for Youth and Community Services whether funding will now be made available from his portfolio resources to meet any new rentals levied by the Bedford Street Outreach Services under the arrangements being put into place by the Minister for Housing so that the neighbourhood house will be able to continue.

TAFE: campus closures

Hon. N. B. LUCAS (Eumemmerring) — I address a matter to the minister representing the Minister for Tertiary Education and Training in another place. Would the minister be willing to make a further public announcement that there will be no closures of TAFE campuses as a result of the review of the metropolitan TAFE institutes that is currently being undertaken by the Rambler committee? I refer to a *Herald Sun* article of Friday, 14 November, headed 'Six TAFEs face the axe', which states that six of Melbourne's biggest TAFE colleges may disappear. That, to me, is a most inappropriate headline. The acting director of Casey TAFE college, Alan Witham, phoned me to point out the potential effects of such poor reporting. The education reporter of the *Herald Sun* even used the wrong terminology by referring to Phil Honeywood as the minister for higher education, which of course is wrong. The review that is now being undertaken is about achieving efficiencies. It will not recommend the closure of campuses in its report to the minister next month. When amalgamations occur life will go on and the campuses will still provide services to the

community, perhaps under a new name. I hope the minister can clear up this misinformation in the *Herald Sun* and assure the community of the continuance of TAFE services.

Responses

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — Ms Smith raised a matter with me in my capacity as the minister representing the Minister for Conservation and Land Management in another place in relation to fire management in the Dandenong Ranges in the coming summer season. I will be pleased to pass that matter on to the minister for her response.

Hon. R. I. KNOWLES (Minister for Health) — Mrs Hogg asked me what assistance my department might be able to provide to Mr David McLennan of Nagambie Road, Costerfield regarding what he perceives as being a significant health issue of arsenic dusting across his property. I will certainly ask the department to look at the issue and offer my response to it.

Mr Pullen asked me to refer to the Minister for Youth and Community Services a matter of what assistance the minister might provide to the Collingwood neighbourhood house, which is now looking at the prospect of paying increased rent for premises it has used for the last eight years. I will refer the matter to the Minister for Youth and Community Services and ask him to respond in due course.

Mr Lucas raised a matter for the Minister for Tertiary Education and Training with regard to recent speculation that a number of TAFE college campuses might close. I will refer that matter to the minister and ask him to address the issue.

Hon. G. R. CRAIGE (Minister for Roads and Ports) — Mr Power raised an issue concerning motorbike safety. If I heard him correctly he made a statement concerning risks on minor country roads. I absolutely deny that motorcyclists are placed at risk on Victoria's minor country roads if they abide by the rules and regulations governing them. However, I thought the issue he raised was that raised in a letter from the Motorcycle Touring Club concerning safety at particular sites that are under repair, especially where Vicroads is carrying out maintenance on spray seal operations.

The thing that has concerned me for some time is that the sites on which Vicroads operates can quite often be dangerous to motorcyclists when bits of equipment are left lying around and there is not adequate signage warning motorcyclists of the work that is being carried out. I will look at any new issues and will pursue with great energy the commitments I have given previously. I assure all within the motorcycle fraternity that I place their safety at the highest level.

Hon. LOUISE ASHER (Minister for Small Business) — Mr Stoney raised an important issue about getting some seasonal egalitarianism into tourism for the high country and for beach areas as well. Mr Stoney specifically referred to a Summer in the High Country campaign, which has been running for some years. It is entirely compatible with the regional tourism campaign with which Mr Stoney is familiar.

The summer season challenge is to have ski destinations considered as an alternative to seaside holidays. The aim is to have those areas booked throughout the whole year. It is particularly important to target not only Victorians but also people from interstate.

I am delighted that Mr Stoney has been a strong exponent of the Summer in the High Country campaign, particularly given his background prior to entering Parliament and his interest in and role as chairman of my tourism committee. I am therefore particularly delighted to inform Mr Stoney that, as it is after midnight, the Summer in the High Country campaign will commence today and that \$100 000 has been allocated for 1997–98, with \$50 000 coming from Tourism Victoria and \$50 000 coming from the Alpine Resorts Commission under a cooperative marketing deal. It is an important campaign to get the numbers into the high country in summer. I thank Mr Stoney for his strong support of the campaign.

Motion agreed to.

House adjourned 12.12 a.m. (Wednesday).

Wednesday, 19 November 1997

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.03 a.m. and read the prayer.

SUICIDE PREVENTION

Hon. R. I. KNOWLES (Minister for Health) presented report of Victorian Suicide Prevention Task Force, together with government response thereto.

Laid on table.

Ordered to be considered next day on motion of Hon. M. M. GOULD (Doutta Galla).

ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN

Hon. R. I. KNOWLES (Minister for Health) presented government response to report of national inquiry into separation of Aboriginal and Torres Strait Islander children from their families.

Laid on table.

Ordered to be considered next day on motion of Hon. M. M. GOULD (Doutta Galla).

PAPERS

Laid on table by Clerk:

Advanced Dental Technicians Qualifications Board — Minister for Health's report of receipt of the 1996-97 Report.

Bairnsdale Regional Health Service — Report, 1996-97.

Central Wellington Health Service — Report, 1996-97.

Corangamite Regional Hospital Services — Report, 1996-97.

Dental Technicians Licensing Committee — Minister for Health's report of receipt of the 1996-97 Report.

Far East Gippsland Health and Support Service — Minister for Health's report of receipt of the 1996-97 Report.

Gippsland Southern Health Service — Report, 1996-97.

Health Services Act 1988 — Report of Community Visitors, 1996-97.

Latrobe Regional Hospital — Report, 1996-97 (two papers).

Maffra District Hospital — Minister for Health's report of receipt of the 1996-97 Report.

Omeo District Hospital — Minister for Health's report of receipt of the 1996-97 Report.

Radiation Advisory Committee — Report, year ended 30 September 1997.

South Gippsland Hospital — Minister for Health's report of receipt of the 1996-97 Report.

West Gippsland Healthcare Group — Report, 1996-97.

Wonthaggi and District Hospital — Report, 1996-97.

Yarram and District Health Service — Minister for Health's report of receipt of the 1996-97 Report.

GOVERNMENT POLICIES

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

That this house:

- (a) notes that recent surveys of voter intention in Victoria and in Mitcham indicate that Victorians consider the Kennett government governs in an arrogant and uncaring manner; and
- (b) condemns the government for contemptuously pushing ahead with changes to the Auditor-General's Office and to Workcover rather than addressing the legitimate concerns of a majority of Victorians about declining standards and services in health and education, the explosion in gambling, the erosion of local democracy and Victoria's high unemployment rate.

Hon. Bill Forwood — Which would have to be the worst motion ever moved in this place!

Hon. T. C. THEOPHANOUS — We expect grinning idiots to not be interested in debating the motion. If there are two words that describe this government and this Premier better than any others, they are 'arrogant' and 'uncaring'. The government is arrogant in its pursuit of the Auditor-General and uncaring in its treatment of injured workers. Both those actions involve fundamental shifts in how we run our society and care for our injured and our sick;

they go to the heart of what human rights and community rights mean in our society.

In Premier Kennett's Victoria there is no accountability and no constraint on the exercise of power; quite simply, Victoria is at the mercy of one arrogant man and his government. Premier Kennett's arrogance is built on the kind of spite where you never admit you may be wrong, where you belittle all legitimate criticism and where you build around you a group of yes men and yes women who constantly stroke your ego and tell you what a wonderful leader you are.

The government is a classic example of a dictatorship — and dictator Kennett has been given too much power. The Premier has literally gone too far; he is taking this state into areas of uncharted waters where no-one feels comfortable about being able to voice a legitimate criticism. The Premier stifles criticism by members of this house and by members of his party. One major issue concerns the Auditor-General. Community groups, church groups, professional organisations, Australian Auditors-General, the major accounting bodies and public accounts committees right around Australia have pleaded with the government to desist from this action against the Auditor-General. In today's *Australian Financial Review* — I am glad to see that you, Mr President, read that important newspaper — we see a plea from the Australian Society of Practising Accountants.

Hon. R. M. Hallam interjected.

Hon. T. C. THEOPHANOUS — Mr Hallam may not think too much of that body, but it has called on the Victorian government to refrain from introducing legislation that will change the role of the Auditor-General. Key professional bodies are adding their voices to those of virtually every community group in this state. Everyone concerned with democracy and accountability has voiced concern about this measure.

But that is not enough to move this Premier. It is not enough to move this government. It is not enough to move Mr Hallam. The arrogance of the Premier is unbelievable. Everyone knows there is considerable opposition to these proposals within Liberal Party ranks. Privately, Liberal Party members have talked to us and told us of their concerns.

Hon. C. A. Furletti interjected.

Hon. T. C. THEOPHANOUS — Unlike Mr Furletti, I do not betray confidences, but I am happy to talk to him privately and tell him of the concerns voiced by some people on his side of the political fence. Believe me, there are quite a few. Why don't they voice these concerns publicly? Because they are afraid. They have been threatened. They have been told their political future depends on silence and they are not to criticise the government.

Despite these concerns the Premier continues arrogantly to pursue these changes. Why are they necessary? Why is it the top priority of this government to nobble the Auditor-General? What is the community benefit? Is there a crisis in auditing in this state? Have we found corruption in the Auditor-General's Office? Is he not doing his job properly? What is the problem the government is trying to address?

The real problem is dividing the state and the community. Everyone recognises that the Auditor-General is doing a good job. Time and again members opposite rise in this chamber and acknowledge that the Auditor-General has performed his duties in a thoroughly professional manner. The Auditor-General has increased his level of effectiveness and efficiency.

The problem consists solely of the arrogance of one man. He has made a decision and he is not backing down under any circumstances. He will take this decision through to the end, irrespective of what the community thinks. There is no community need for this action against the Auditor-General. The only crisis in Victoria is in the head of the Premier and the heads of some of the yes-men and yes-women who follow him. The Premier has managed to crush any opposition within his own party. He has instilled a culture of fear and vilification in anyone who tries to stand up to him.

Although members of the Liberal Party might be afraid of the Premier, the people of Victoria are not afraid to stand up to him. The people have delivered a message to the Premier. I shall refer to some recent polls. A poll conducted by the *Age* on 15 November asked:

How strongly do you approve or disapprove of Mr Kennett's decision to change the conditions under which the Auditor-General operates?

The poll showed 60 per cent of Victorians disapproving and 18 per cent approving of the

changes being introduced by the government. The next question was:

How strongly do you approve or disapprove of the proposed changes to the Workcover system?

The poll showed that 73 per cent disapproved. Did that stop the Premier? Did that stop Mr Hallam? No way! The hallmark of this government is arrogance and an uncaring attitude. Another question asked in the poll was:

How strongly do you approve or disapprove of the extent to which gambling has been encouraged in Victoria?

The response to the poll was a disapproval rate of 72 per cent. The Minister for Gaming told us what a wonderful thing gaming is for this state. What a disgrace!

There are problems in this state. Recently the Minister for Health tabled a report dealing with youth suicide. The culture developed by this government is part of the cause of the rise in youth suicides. What is that culture? It is a culture where people do not receive proper education or health services. In Victoria we have a culture of gaming where people are sent off to start gambling at the earliest possible age they can get into the casino. No wonder people are losing hope. That culture is symptomatic of the way the government treats people.

A poll was also conducted by the *Sun Herald* on 15 November. One of the questions asked in that poll was:

How do you feel about the proposal to cut the powers of the Auditor-General?

The response from Victorians was an approval rating of 11 per cent and a disapproval rating of 76 per cent. The article reports that when asked how they felt about the proposed changes to Workcover, 20 per cent of Victorians approved but 70 per cent disapproved because they care about injured workers. The article also reports that 74 per cent of Victorians care about having an independent Auditor-General, which is why they do not approve of the changes proposed by the government.

Whichever way you look at it, the government has lost the confidence of Victorians because of its arrogance and its lack of care — and no wonder, given the contempt with which the Premier treats

the electorate. When asked who the Liberal Party candidate will be for the Mitcham by-election, what was his answer?

Hon. D. A. Nardella — Fido, wasn't it?

Hon. T. C. THEOPHANOUS — I think it was Elle — his dog. He said that he had asked Elle to be the candidate but that she had said she was too busy and did not want to take it on.

Hon. D. A. Nardella — Do they have to get another dog to do it?

Hon. T. C. THEOPHANOUS — We have been told he is after a dog catcher's licence because he is out there looking for a dog to run for the Liberal Party in the Mitcham by-election. Such is the contempt in which this man holds the people of that electorate and other Victorians.

On the question of leadership, I refer to a Quadrant Poll in the *Herald Sun* of 17 November, which reports that when people were asked to describe Jeff Kennett's leadership style, 42 per cent said he was dictatorial and 64 per cent said he was arrogant. I prefer to put my faith in the attitudes of Victorians than in those of weak-kneed government members who have neither the strength of character nor the guts to stand up to the petty dictator and tell him that what he is doing is wrong and that he should not be doing it.

Whether you look at the Victoria-wide polls or the Mitcham polls, you will see they make the same point. An Age poll on voting intentions of Mitcham electors in the Age of 17 November reveals that when asked how strongly they approved or disapproved of Mr Kennett's decision to change the conditions under which the Auditor-General operated, 67 per cent of Mitcham electors said they disapproved and 13 per cent said they approved. When asked how strongly they approved or disapproved of the proposed changes to Workcover, 75 per cent said they disapproved and 13 per cent said they approved — again, a thumbs down from Victorians to the changes proposed by the government.

A lot can be said about the Auditor-General and about Workcover. I do not intend to go into those issues in depth because they will be extensively debated by other members over the coming weeks. However, I will make a couple of points about each.

The letter the Auditor-General sent to members on the proposed changes to his office says it all. If the Auditor-General, himself, believes that his independence will be compromised by the proposals and that they will prevent him from doing his job independently, people have to start asking questions, including the simple question, 'Have I got it wrong?'.

Those words are not in the vocabulary of Minister Hallam. He would never admit to having done anything wrong — and that is part of the problem. Now he is singing a different tune from the one he sang when he was in opposition: day after day he sang the praises of the Auditor-General, telling us how important it was to have an independent Auditor-General who was capable of conducting performance audits — and on and on he went. Suddenly, he has changed his tune. That is yet another example of his and his government's hypocrisy in matters concerning the Auditor-General.

The Workcover advertisements that have appeared in the newspapers are an absolute disgrace because there is no legitimate basis for their being placed there. For a so-called independent statutory authority like the Victorian Workcover Authority to become involved in a political debate goes against all the rules of the Westminster system and is inappropriate.

Rather than sending out Eileen McMahon to debate the Workcover changes on his behalf, the minister should get out there and debate them. Eileen McMahon's job is not to defend the government; her job is to work on behalf of the Victorian Workcover Authority. But she might as well work for the government, because every time she opens her mouth she makes a political statement about how great the government's running of Workcover is and why it should be defended.

Time and again we have given the minister information about the stuff-ups Eileen McMahon has made — including a Workcover Authority advertisement that was published with the minister's signature on it even though he had not even looked to see what it said. He had to write to me saying, 'We got it wrong, but it was only a small error. I did not really mean to say what I said, but it was not properly proofread'.

Why does the minister not insist on Eileen McMahon doing her job properly instead of sending

her out to defend the proposed changes, when that is supposed to be his job?

Hon. D. A. Nardella — He sends Eileen around because he cannot defend them himself.

Hon. T. C. THEOPHANOUS — That may well be the case. I will give one example. The first round of advertisements that were headed 'Workcover, the facts' sought to present the facts about the Workcover changes.

Hon. D. A. Nardella — But were they?

Hon. T. C. THEOPHANOUS — Clearly not, because the Workcover Authority more recently published another advertisement containing the amazing statement 'Anything you have heard until now is just speculation'.

Hon. D. A. Nardella — So the previous advertisement was speculation?

Hon. T. C. THEOPHANOUS — The previous advertisement could not possibly have been about the facts. It must have been part of the speculation, because back then the authority presumably did not know any more than anyone else about the changes. That did not stop it advertising under a heading containing the words 'the facts'. It also did not stop the authority from putting out misleading and untrue information — and it continues to do so.

Hon. K. M. Smith interjected.

Hon. T. C. THEOPHANOUS — The Victorian Workcover Authority and the Kennett government are lying, Mr Smith — and they continue to lie. The minister in a recent *Herald Sun* article made statements that he knows are designed to deceive. He said there is no punishment for employers and no common-law disincentive law for employees because common-law payments are paid by the Victorian Workcover Authority. He forgot to add that although they may be paid by the authority, the result will be higher employer premiums. It is a clear case of the government attempting to deceive the people of Victoria.

Hon. D. A. Nardella — By how much?

Hon. T. C. THEOPHANOUS — In many cases employer premiums can increase by up to 90 per cent of the cost of common-law claims because of the current experience rating system. It is deceptive to say to a newspaper that there is no disincentive for

employees or no punishment of employers under the present system with regard to common law.

The recent advertisement also states:

Workers no longer have to sue to get compensation for a permanent impairment.

The government forgets to add that they do not have to sue now to receive compensation for permanent impairment. Most of the payments are made under the table of maims for pain and suffering, and they constitute a lump sum. People do not sue to receive those lump sums. Why not tell the truth; why say something that is a blatant lie? No matter where one looks on this document, one discovers that it is a clear attempt to deceive those Workcover testaments. It further states:

Workcover will get even tougher on employers breaching safety laws.

Fines are up by 500 per cent to \$250 000.

They are already \$250 000 for second offences, but does anybody know of any employer who has ever been fined \$250 000 for a first or second offence? I do not know of any. The average fine is 20 per cent of the maximum fine that could be given. The advertisement also states:

Anyone with an 80 per cent or more impairment will get the full \$300 000.

It does not explain what 80 per cent impairment means. For the benefit of some members who are not familiar with the table of maims, the American Medical Association's table of maims shows that if one loses a leg that constitutes 40 per cent, therefore one would not receive the maximum \$300 000. One might think that if one loses both legs it would mean one would get the full amount. For some strange reason, which escapes me, under the American Medical Association's table of maims, the second leg is worth less than the first leg. In effect, when one loses the second leg one does not receive 80 per cent but only 65 per cent.

Hon. T. E. Eren — And the minister asks, 'What does it mean?'

Hon. T. C. THEOPHANOUS — I think he knows what it means. If one loses both legs one still cannot receive full payment under Workcover. It is absurd because anyone who is in that position would have suffered incredibly; then he or she would be told

that the injuries are not sufficient to receive the payment. It is disgusting and an abrogation of responsibilities. It is the ultimate example of an uncaring government. That is what this government is all about — it is uncaring and arrogant.

The government is not interested in debating these issues. One has only to look across at the government benches to see there is no-one there. Government members do not want to hear about Workcover or anything else. They are not prepared to stand up to the Premier on Workcover, the Auditor-General or any of the major issues that are confronting Victorians today.

The government is about deception, putting out misinformation and abusing all of the processes of government. It does not care whether it uses Victorian Workcover Authority funds to pay for advertisements that are untrue and a pack of lies. The government is prepared to use its power to crush all opposition, as evidenced by the sacking of accident compensation judges, the nobbling of the Director of Public Prosecutions and the equal opportunity commissioner, and a whole host of attacks on important checks and balances in our community. All of those safeguards are being eroded by the government.

The people of Victoria are saying that they have had a gutful of the Premier and of the government. They are sick and tired of being talked down to and told what is good for them when everybody knows that these changes are not good for Victoria. Victorians have been told by the Premier that the government knows best. Fortunately, they are beginning to say, 'We don't believe you'.

The polls are showing that two fundamental characteristics of the government are affecting our community in a serious way. The first is the uncaring arrogance in refusing to listen to argument; and the second is the way the government treats people in hospitals, children in schools, injured workers and virtually anybody who happens to be down on his or her luck in this state. This is Kennett's new Victoria, a Victoria that we reject. I urge all members to vote for the opposition motion.

Hon. N. B. LUCAS (Eumemmerring) — One can describe the opposition's motion as a scatter-gun or by-election motion. The manner in which Mr Theophanous has used his words is disgraceful; they are not appropriate. I was waiting to hear what he would say the opposition would do when in government, but he said nothing about what an ALP

socialist government would do. For the whole time I have been a member of the house — about 18 months — I have heard only two policy statements. The first was Labor's industry policy: Mr Theophanous enunciated that policy by saying that the policy is to have a plan. We have had no information on what is in the plan. All we know is that the policy is to have a plan!

Yesterday, Mr Power made a second policy statement to the effect that the opposition wanted a tribunal established to set out mayoral allowances — I assume for its mates in the Labor councils. Victorians want to hear what the ALP is offering. They are sick and tired of the carping and negativity they hear from opposition members. That is all they hear: they hear nothing that is positive.

Victorians hear nothing from the ALP about policies and about what it would do if it had the chance to govern — although I hope it does not get that chance for a long time because we still remember what it is capable of. The people of Victoria are well aware of what happened during the 1980s when the previous Labor government bankrupted the state and ran up debts of over \$30 billion. They are also well aware of the poor situation the coalition government faced when it was elected in 1992. A Labor government would leave this government's programs in disarray.

When Mr Theophanous put his head on the pillow last night and started thinking about what he would be talking about today, he probably imagined there would be a full press gallery and a full house listening to him and that what he said would be in all tomorrow's newspapers. I have news for Mr Theophanous: there are no members of the press here, and there is nobody in the public gallery. Nobody has taken any notice of what he has said. I point out to the opposition that it is misguided and has it all wrong. To go on the way it does is inappropriate. Members of the community are not interested in hearing what it has to say.

Mr Theophanous referred to opinion polls. I mention two aspects of polls: one can frame the questions to get the answers one wants; and polls go up and down like the ebb and the flow of the tide. The poll in the *Australian* on 13 October gave us one set of figures, and Mr Theophanous talked about another. I am sure other sets of figures will be published in the future.

Mr Theophanous referred to what in his view is a crisis. If Mr Theophanous is so keen on getting Victoria in order, why has he sought preselection for

the federal seats of Batman and Maribyrnong — unsuccessfully? I hope he seeks preselection for a third time and is successful — third time lucky — and moves on somewhere else.

Hon. M. T. Luckins interjected.

Hon. N. B. LUCAS — As Mrs Luckins said, it would be great to see him go. The word 'democracy' is used in the opposition's motion. How does the ALP describe democracy? One description of democracy at work in an ALP organisation is contained in the report on the inquiry into the Darebin City Council. In 1996 the mayoral ball at Darebin was funded totally by the ratepayers. Is that democracy? Is that how the ALP runs things, ripping off ratepayers to run a mayoral ball — or to send people overseas? The mayor of Darebin went overseas at his own expense, but at page 29 of the Darebin inquiry report Mr Elsum says:

I was told that the mayor is to receive a substantial fee for arranging for a Melbourne company to construct budget prefabricated houses for export to the Philippines.

The ALP uses democracy to achieve financial gain — as in the case of the mayor of Darebin.

Mr Theophanous referred to declining health standards. That is a nonsense. Page 13 of the 1996–97 annual report of the Department of Human Services contains a list of the number of elective surgery admissions to hospitals for each quarter. In 1991 30 000-odd patients were looked after in our hospitals, and that number has now risen to around 40 000. That is a huge increase in admissions of people who need elective surgery.

Page 15 of the report points out that capital funding is enabling the Dandenong, Western and Peninsula hospitals to provide new angiography suites. Would an uncaring government provide funds to help people in those areas? One of my constituents, Mr Fred Ciantar of Emerald, suggested that an angiography suite be set up at the Dandenong hospital. I took that matter up with the minister: it was investigated, and I am pleased to say the suite is going ahead. Would an uncaring government take steps to reduce the number of patients who have to wait longer than 30 days for treatment? The figures on page 16 of the Department of Human Services report show the differences over the years and how the government has achieved better services for people in need.

There are many examples which refute the claims made by Mr Theophanous and which show that health services have been improved and enhanced since the government took office. The latest plans to redevelop the Austin and Repatriation Medical Centre and build new hospitals at Berwick and Knox are indications that this is not an uncaring government but a government that provides for its community.

Mr Theophanous also referred to Workcover. In 1992 the former Labor government left the newly elected coalition government with a Workcare scheme that had unfunded liabilities of approximately \$4 billion and average premiums amounting to 3 per cent of payrolls. The government should be congratulated on addressing the situation and turning it around. It has succeeded in reducing premiums; and the latest round of amendments, following a review of the system, are aimed at ensuring the long-term viability of the scheme — and there is nothing wrong with that. A Labor government would have kept on paying and building up the unfunded liabilities. You just cannot do things like that. To achieve sensible outputs you must be able to balance your books.

The changes to the Audit Act were briefly referred to. The changes are a result of the government's applying the national competition policy to the Audit Act. Where did the policy come from in the first place? The former Labor Prime Minister, Mr Keating, got the premiers together in Canberra to talk about the need to introduce competition into government. The policy has been applied across Australia to a greater or lesser extent, and I agree with it. We will have the opportunity to debate the application of competition policy to the Audit Act in the next week or two.

Education is also mentioned in the motion. I draw the attention of honourable members to the Schools of the Future program, the Keys to Life program, the LAP testing program, the introduction of computers into schools and the recent announcement by the minister on providing more funds for school maintenance. That is a raft of good news about education facilities, services and programs for young Victorians. It is an insult — although it is not surprising — for the opposition to suggest that education standards are declining. It is not the case. This is a scatter-gun motion. We listened to Mr Theophanous's usual diatribe, but the press were not here to listen to him — nor are they here to listen to me. How far are we getting with all of this? The motion moved by the opposition is nonsense and a waste of time.

Why is the house debating this motion? Because the opposition has nothing positive to put or policies to enunciate. It has no idea what it would do if in government; all it wants to do is criticise and be negative. I support the government's position and strongly oppose the motion.

Hon. D. A. NARDELLA (Melbourne North) — This important motion demonstrates how the government has lost touch. It is clear from his contribution that Mr Lucas has never been in touch, particularly when you take into account his comment about a socialist Labor government. When you listen to the community but then disregard what you hear, you are going bad, Mr Lucas! You should know that when you do not listen to your own party — to the socialists in your own party in the Main Ridge-Red Hill branch, those who are campaigning on behalf of the Auditor-General, those in the Liberal Party who have principles and guts, those who actually believe in liberalism and in an ideal that every government member has never had — that is when your party and the community turns against you, because you have become arrogant, uncaring and worse than any Labor government had ever become.

Honourable members interjecting.

Hon. D. A. NARDELLA — That is within your own party, not mine! You would expect criticism from within the ranks of the Labor Party. You, Mr Lucas, have forgotten about your own people. Had you been in Shepparton and heard the speeches — and I would not have expected Mrs Powell to have heard them because the National Party does not care — or had you read the speeches as reported in the newspapers, you would understand that you and other government members have lost your way.

Government members do not understand even the basic tenet of democracy within their own party, let alone democracy in Victoria. That is where the government falls down — government members are spineless. When it comes to decisions by the Premier — the person who runs the state and his backbench — only one government member has had any skerrick of principle and found the only way he could take on the Premier was to resign. He has done the honourable and principled thing.

Hon. B. C. Boardman — That is your philosophy — to walk away.

Hon. D. A. NARDELLA — It puts this government on notice, Mr Boardman, with the forthcoming Mitcham by-election. Mr Lucas was right — and I do not often agree with him — when he said this motion is about the Mitcham by-election. Everything the opposition does in the next few weeks will revolve around the Mitcham by-election. The strong Labor Party campaign in Mitcham will be aimed to have the Victorian community send government members a message — that is, 'What you are doing is wrong'. Your party is saying you are doing the wrong things for the Victorian community.

When government members do not listen to their own party, which is even now organising a special state Liberal Party council — —

Honourable members interjecting.

Hon. D. A. NARDELLA — I hear Mr Cover say, 'Ooh' because he does not care. He joined the party only to get preselection. He is on easy street; he has never had to listen to or care about his party. But other members of your party, like those within my party, are committed to their principles, to their cause and to the community, Mr Cover.

When you do not listen to your own Liberal Party members, when the special state Liberal Party council meeting is constituted and again passes a motion in support of the Auditor-General, which you again will disregard because government members are spineless — and I am not talking about National Party members who have absolutely no concern about the Auditor-General — you are going down the slippery slope. Your party members reflect two important aspects of the community. They reflect what the community is saying but, more importantly, what your party, your support base, is saying. If you disregard them, you do it at your peril.

The opportunity for the community to have its say over these and other issues will be available on 13 December. Everybody is awaiting that date because it means the community will have an opportunity to voice its concerns.

Hon. N. B. Lucas — On a point of order, Mr President, Mr Nardella is continually pointing at members and addressing his remarks to the gallery. My understanding of the standing orders is that he should address his remarks through the Chair. If he is to point at anybody, it should be at you, Mr President.

The PRESIDENT — Order! Mr Nardella has not pointed at me! Mr Lucas is correct in saying that all remarks should be addressed through the Chair. Mr Nardella is aware of that rule and, no doubt, will act accordingly.

Hon. D. A. NARDELLA — On 13 December the community will have an opportunity to send a message to the Kennett government. That opportunity will ensure the government, regardless of whether it hears the voices of its own party, hears what the community says about the government's arrogance and uncaring position on major issues.

If I were in the government's position I would certainly not welcome the Mitcham by-election because it places the government on the back foot. Mr Theophanous has outlined to the house the recent public opinion poll results. I remember coming into this house only four weeks ago — —

Hon. R. I. Knowles interjected.

Hon. D. A. NARDELLA — That's right. Only four weeks ago the Minister for Health was cheerful and was having a go at the opposition. Now, he is not so cheerful — —

Hon. R. I. Knowles — I'm always cheerful.

Hon. D. A. NARDELLA — No, you're not; you are not always cheerful. During the campaigns over the Auditor-General and the Workcover changes we have had a turnaround in the opinion polls. It is important that the community recognises that, because people are fed up with being disgracefully treated like mushrooms by the government.

One of the major areas where the government is letting down the Victorian community is in education. Over the past five years the government has fundamentally altered the education system. Once Victoria had a free state-funded education system of the highest calibre. In the future we will also say that once this state had a state-funded Auditor-General of the highest calibre!

Clearly, members of the government will not support the motion, but they should acknowledge their support for the Auditor-General and the fundamental importance of a state-based education system. The matter of the Auditor-General goes beyond political partisanship. It goes to the heart of the notion of the Westminster system of responsible government. In nations across the Western world that have inherited this form of government the

concept of an independent auditor who is responsible to Parliament and not to the executive has underpinned and fostered parliamentary democracy.

We live in an age when the divine rule of kings is an outdated and obsolete philosophy of governance, but unfortunately that is not the case in Victoria. We still have the philosophy of the rule of kings, we have it through the Premier. The disquiet this causes the community is there for all to see.

We are considering getting rid of the independence of our Auditor-General. Although the government prides itself on its economic achievements, it cannot pride itself on its performance in education. Since 1992 the Kennett government has closed more than 350 schools, and 150 of them were in the country. The short-sighted nature of these changes will be felt for many years to come. Many of the schools were in areas where there are ageing populations, but what will happen when those areas are redeveloped and young families move in? Where will the children go to school in the new age? The changes reflect the government's morbid fascination with figures and statistics, but the government fails to appreciate concerns that go beyond numbers.

Where do we want the 21st century to take us? Sadly, if the past five years are any indication, in the new century Australia will not be a land of knowledge and skills. That is reflected in the loss of 9000 teachers in Victoria. Changes are justified on the grounds of short-term economic gains, but the result is predictable. Average class sizes have increased by more than 10 per cent and there are now five times as many primary classes with more than 30 students as there were five years ago. This is a Liberal disease. It is a congenital structural weakness that will be passed down to future Victorians, who will recognise that it is all of the Kennett government's making. History will judge harshly all members of the Kennett government.

On the cusp of the new century, the cusp of a new age and a new millennium, the need for an emphasis on education has never been greater. In this new age education will be a commodity that can and should be harnessed for the development of all. Australia is a large country populated by few people. If there is an emphasis on education we will be able to stand tall with the world leaders of the new era that is dawning. We cannot afford the luxury of denying people the right to a quality, affordable education simply because of the circumstances of their birth. The cost to the role Victoria can play in the new

Federation in the new millennium is too great. Government members may pour scorn on our contributions.

The PRESIDENT — Order! Is that the end of Mr Nardella's quote? Are these his views?

Hon. D. A. NARDELLA — These are my words, Mr President. Government members laud what they describe as the government's achievements in this important field, but the reality is that no matter how it tries to proclaim its so-called achievements it will fail, if for no other reason than the simple measurement of the student retention rate in our schools.

The 1990s idea of knowledge capital in Australia was conceived and realised in the great education programs embarked upon by governments throughout Australia. The emphasis and leadership of state and federal governments in those years ensured that a high percentage of school students completed their secondary school studies and that many embarked on tertiary and vocational training. Never in the history of this country have we seen such a highly educated, flexible and progressive work force, a distinct and positive asset that will enable Australia and Victoria to weather the storm of economic change and uncertainty. Regrettably, those great advances have been under sustained attack in this state. During the past five years the retention rate has decreased from 78 per cent in 1992 to 69 per cent. When you compare those figures with completion rates in Singapore you find that its completion rate at the tertiary level is similar to Victoria's secondary-school completion rate. We must aim for that sort of tertiary rate.

Unfortunately, in my electorate the retention rate is not even close to 69 per cent, which is the state average. Students must be encouraged to stay at school for as long as possible, but that is not the aim of the government. When I talk to parents they express their concerns about this situation. I am concerned about the future of my grandchildren. They go to Melton South Primary School, which is a terrific school. They have committed teachers, a committed principal and committed parents who assist the school. That is the sort of partnership that has to be created across Victoria, but there is one thing missing from the partnership — the commitment of the state government. Its policies show it is not committed to having the best education system in Australia.

I will give an example of what happened earlier this year. A portable classroom at the school was taken away without consultation or discussion with the school. The classroom had been used for music lessons, but the school has lost that facility. However, when you cross the West Gate Bridge you see a paddock on the left-hand side, just next to the Shell petrol station, in which there are so many portable classrooms that it would take half a day to count them! The government does not care about those portable classrooms being wasted, and it does not care about education, because it ripped out the portable classroom at the Melton South Primary School. That is how cruel and heartless government members are; that is how cruel and heartless the Kennett government is. They do not care about making sure that primary students get a full and rounded education. Despite having excess stock and portables too numerous to count lying around, the Kennett government does the easy thing — it takes a portable from Melton South Primary School.

Bulla Primary School in my electorate was a great school with a terrific school community; it had committed parents and teachers and a very committed principal. Kids used to come from all over the district to go to Bulla Primary School because it had one of the best education systems in Victoria. After surviving the first round of cuts and after the local Liberal member promised to fight until his last blood to keep the school open, late last year the government closed it down. To add insult to injury the school reopened earlier this year — not with 42, 60 or 100 kids, but 21! The school had been flogged off; it was given away for a song to the private sector. What a disgrace. The Bulla Primary School community will not forget.

In 1993 this more-than-heartless government closed down the Ardoch-Windsor Secondary College, an alternative school for the young disadvantaged. In the main the students at Ardoch were homeless and had personal and family problems; they went to Ardoch-Windsor as a last resort. In 1993, in its economic rationalist way, the Kennett government closed down the Ardoch-Windsor alternative school. How heartless! I still cannot understand how government members could have sat — and did sit back in 1993 — and watched that school close. The most telling thing about the closure of Ardoch-Windsor is of the 100 students who were successfully completing their studies, 80 were lost forever. They did not go into any other school; and they did not go into employment. Those students became lost in the system; they lost the opportunity

to escape from their malaise and their personal problems.

Hon. W. I. Smith — How do you know if they were lost if you don't know whether they went into employment?

Hon. D. A. NARDELLA — A number of articles were written about the closure of the Ardoch-Windsor Secondary College by many of the social workers in the area at the time. A survey demonstrated that 80 of the 100 kids were lost. Those kids did not go back into the education system because for them the education system was not working — that is why they went to Ardoch-Windsor.

This cruel and heartless government attempted to do the same thing to the Northland Secondary College. The government that honourable members on the other side of the house are an integral part of —

Hon. R. M. Hallam — And proud to be so.

Hon. D. A. NARDELLA — And proud to be so because you are so spineless. These people were shown to have discriminated against those students through an independent tribunal. What did government members do? They came back into this house and passed legislation to cover themselves; if they were ever to discriminate against a group of students again it would be legal. That is how this government works: it discriminates, gets caught out once and passes legislation to make the illegal actions legal. That is a disgrace, but under this government it occurs time and again.

Last week an independent tribunal again found that the government had discriminated against young disabled people. The government never learns from its mistakes; it does not listen to the community or to the people it is supposed to represent. The government is proud about being spineless before the Premier. Last week it demonstrated that it continued to discriminate against the people who can least afford to fight. This government's Futures for Young Adults scheme was a direct discrimination against young disabled people. The government will appeal that decision. The parents, who are the people most concerned, will again fight for the rights of their children. Parents are the ones at the front line; they are the ones who feel the most discrimination against their disabled children; they are the ones with the backbone to fight the injustices that the Kennett government continues to foist upon the young. And it will not stop there!

The Kennett government is discriminatory; it looks for victims and further victimises them. It is one of the most heartless governments we have ever had in this state or country. The Kennett government has no understanding of what it means to be a caring government comprised of people who listen not only to their community but also to their party, and that is a real shame.

Within the Westminster system the Auditor-General plays an important role for Parliament — and, more importantly, for this Parliament. He or she has the responsibility to report on the actions of the executive. The changes proposed by the government — and supported by honourable members on the other side of the house with pride, as they keep reminding me — are untenable.

Auditors-General from the other states, the commonwealth Auditor-General, the New Zealand Auditor-General and former members of Parliament such as Graeme Weideman and James Guest have supported the Auditor-General. Mr Forwood also supported the Auditor-General until he was told by the Premier to desist. Officers of the Parliament have made representations calling for maintaining the independence of the Auditor-General.

The Auditor-General has been supported by the Council for Civil Liberties, an important group in our society that looks after the rights and responsibilities of citizens. The Victorian Bar Council and accounting associations and firms have supported the Auditor-General. The results of surveys show that more than 70 per cent of people believe the Auditor-General must be protected and must be independent and accountable to the Parliament.

This government does not listen. Do government members come into this chamber and make a case for retaining the independence of the Auditor-General? Of course not. The government wants to nobble the Auditor-General. The government wants to ensure that reports exposing corruption and behind-the-scenes dealings are never revealed.

I invite honourable members to look at the Intergraph ambulance contract, which was exposed by the Auditor-General. In that instance \$30 million went down the drain. The opposition was given no information on the matter. The Auditor-General exposed the dealings of the previous minister and the government in that affair.

What does the government want? It wants to make sure there are no further reports into Intergraph, no further reports into rorts in the system and no further reports about the government's mismanagement. That is a disgrace.

What else did the Auditor-General disclose? He disclosed that \$170 million was given to the mates, Uncle Ron and Uncle Lloyd, by this government.

Hon. B. C. Boardman — How?

Hon. D. A. NARDELLA — Obviously you have not read the Auditor-General's report. The licence fees for Crown Casino and the extra poker machines were undervalued to the tune of \$170 million. That money could have gone to schools, the hospital system, the public transport system or the ambulance service; but no, it went to Crown Casino. The government does not want to be exposed for the mismanagement and corruption within its ranks. It is incumbent upon the opposition to ensure that the Auditor-General is protected and remains independent and accountable to this Parliament.

The Premier has a vested interest in keeping his government in power. The Auditor-General is not accountable to the executive or to a minister, but to Parliament. The government continues to enter into inappropriate undertakings. It is mismanaging the state and mismanaging its responsibilities to the Victorian people. As a result of these changes the Auditor-General will become the Auditor-Contractor. He will not retain the power to conduct his own audits. Audit Victoria will be sold off in two years time. The Auditor-General's independent function, which is so critical to our democracy, will be removed.

I quote a former honourable member who was well respected by both sides of the house. Mr James Guest is a man of principle, a man of high morals and a man who understands the difference between right and wrong. Mr Guest made a submission to the Audit Act review panel, one of whom was the managing director of Crown Casino. The government is blatant in its choice of members of review panels. At page 2 of his submission to the Audit Act review panel Mr Guest said:

The central agencies and any other government body can and should commission whatever performance audits or reviews they wish and disclose them as they wish or are required by law. They must not be allowed to contaminate the work of the Auditor-General for whom there is no substitute if Parliament and public

are to know that there is some real chance of government agencies' incompetence and wrongdoing being disclosed.

Those are words from one of the government's own people. They are the words of someone who is held in high regard by the community. That is another reason why honourable members should support the motion before the house.

Hon. J. W. G. ROSS (Higinbotham) — I wish to speak against the motion. In doing so I must say that I am astonished that the unexpected resignation of a former colleague in a fit of pique should have motivated Mr Theophanous to expose the Labor Party to a further reiteration of its past incompetences and continuing subservience to unions and Labor lawyers. Surveys published in the *Age* and the *Herald Sun* have obviously badly deluded members opposite. The fact is that the sampling was so biased by the events of the past week that the surveys have no long-term meaning whatsoever. Take the *Herald Sun* poll published on 15 November. The first question was:

How do you feel about the proposed changes to Workcover?

That question seems neutral enough, but this issue has been so misrepresented by unions and lawyers over recent months that it is absolutely impossible to get an informed response. The truth of the matter is that the government is clearly focused on the needs of injured workers. The public has been systematically misled by a carefully orchestrated program of misinformation peddled by a well-organised, well-resourced, cohesive and intelligent legal profession — and a less intelligent Trades Hall Council. However, as Abraham Lincoln said more than 100 years ago, 'You may fool all the people some of the time, you can even fool some of the people all the time, but you cannot fool all the people all the time'. The government's focus on the needs of injured workers and a simple no-fault system of compensation will provide its own explanation in due course.

Mr Nardella waxed lyrical on issues of history. We are fortunate that we have a cataloguer of history in the form of a previous Labor Premier, John Cain, who in his book *John Cain's Years* addresses the same issues in talking about Workcare. This is what he has to say at page 277:

The Workcare issue was dogged by a very strong union line, on the legislation itself —

and, wait for it —

on the elimination of most common-law claims, and on each occasion we tried to effect changes to address anomalies. I remember Rob Jolly's fury at the way ministers were heavied by various people. He was angry at the way the cabinet discussion was dominated by issues raised with individual ministers and by a stream of phone calls and 'backdoorings'.

That was the environment in which Labor attempted to address workers compensation issues.

I refer to the second question asked in the Quadrant poll:

How do you feel about the proposal to cut the powers of the Auditor-General?

What sort of loaded question is that? I will not anticipate the debate still to come, but I repudiate the wording of the question absolutely. The government has never proposed to cut the powers of the Auditor-General.

Mr Theophanous referred to today's *Australian Financial Review*, but he did not refer to an article in the same newspaper yesterday by Mark Skulley under the heading, 'Independence is the issue'. Mr Skulley says the Auditor-General will be:

... an officer of the Parliament, which will also take over budgetary responsibility for the office.

Both changes are welcome, if overdue.

He went on to say:

The Auditor-General will oversee and report on these public sector audits — which will be put out to tender — and will have sole responsibility for the selection of auditors.

Mr Theophanous also mentioned some professional accounting associations. Again I read from the article:

The Australian Society of Certified Practising Accountants' spokesman, Mr Neil Walker, said that meeting seven out of eight requests had removed 'major impediments' to the Auditor-General's independence.

He went on to say:

'We believe there are sufficient safeguards to ensure the continued independence of the Auditor-General'.

Mr Skulley went on to say:

The Institute of Chartered Accountants in Australia's spokesman, Mr Roger Evans, said the institute 'basically supported' the changes ...

Later, Mr Evans is reported as saying:

'His independence has been enhanced because he now becomes an officer of the Parliament and his budget comes from Parliament and no longer from the Department of Premier and Cabinet'.

And on it goes. I move on to the almost inexhaustible list of Mr Theophanous's delusions about most other government responsibilities. Time does not permit me to deal with the full range of his fantasies, but I will select a couple of the more bizarre — firstly, unemployment. According to figures published by the Australian Bureau of Statistics, in seasonally adjusted terms unemployment in Victoria has fallen from 11.3 per cent in September 1992, when Labor was in office, to 9 per cent last September. In other words, nearly 170 000 jobs have been created in Victoria over the period Mr Theophanous is complaining about.

My colleague Mr Lucas has so comprehensively examined the gains in health that I hardly need mention them again. Yesterday I read with great interest that after a survey of 12 000 individuals *Choice Magazine*, the magazine of the Australian Consumers Association — hardly a right-wing think-tank — concluded that the so-called health crisis in Australia is a myth and that spending on health is average by world standards.

After listening to Mr Theophanous rant and rave over the past 18 months, one could be forgiven for thinking that the Kennett government had thrust Victoria to the forefront of moral decay with its policies on gambling. Nothing could be further from the truth. In fact, if anything resembled the twin cities of Sodom and Gomorrah it was Victoria during the decline and fall of the Cain and Kirner governments. Again, the truth is revealed by John Cain at page 275 of his book:

... the factions progressively undermined the authority of the government. The 1985 cabinet elections undermined unity; the 1985, 1988 and 1991 endorsements simply set out to satisfy the demands of

the factional heavies. In addition, the behaviour of the factions progressively led to the rise of what became known as the 'Ambition Faction', those with more ambition than ability. In the latter part of the decade, factional politics intruded more and more into cabinet and caucus processes and decisions.

These are just some of the factors that by early 1991 had cumulatively led us to be pursuing short-term perceived populist issues like poker machines, casinos and Sunday trading.

In those heady days in April 1992 Minister Roper introduced electronic gaming machines into Victoria and then went on to approve the introduction of 20 000 machines over the following six months. I remind the house that the coalition has added only 7500 community-based machines to the cap over the subsequent five years.

I am not so uncharitable as to suggest that Labor had a choice in the matter. The truth is that governments all around the world are increasingly turning to gambling as a revenue source. I do not believe Victoria could ever have sat in splendid isolation from every other jurisdiction in the commonwealth. The truth is that every state and territory now has electronic gaming machines and the real question is where Victoria sits in comparison.

Far and away the most prolific jurisdiction is New South Wales. All I have heard of the policies of the Labor government in that state is that it is adjusting the tax environment to attract international high-rollers from Victoria. New South Wales has nearly 85 000 electronic gaming machines. If that is expressed in a machine-to-population ratio for comparative purposes, it shows that New South Wales is the top of the pops, with one machine for every 72 people. Next is the ACT, with one machine for every 74 people. Then South Australia, with one machine for every 133 people, and Queensland, with one machine for every 134 people. Victoria is running neck and neck with the Northern Territory towards the bottom of the list. They have one machine for every 158 and 160 people respectively. The only state with a lower machine-to-population ratio is Western Australia, which has one machine for every 1550 people — and that is because electronic gaming machines are permitted only in casinos.

Victoria is one of the most restricted jurisdictions for electronic gaming machines, and it is by far the most responsible when it comes to funding programs for the relatively small number of problem gamblers.

Estimates vary, but generally between 1 per cent and 3 per cent of gamblers may develop problems. In response to that, since 1993 Victoria has committed more than \$35 million to its problem gambling services strategy.

I was involved in establishing the G-line 24-hour counselling and referral service before any government funding was available. Certainly none came from Labor. Later, as a member of the Problem Gambling Reference Group, I advised the coalition government on the development of 18 regionally based problem gambling counselling services, the appointment of 10 community education and liaison officers, a statewide community education and media campaign promoting gambling counselling services, and a problem gambling research program.

Prior to entering Parliament I had extensive professional contact with key people, such as Professor Mark Dickerson, the executive officer of the Australian Institute for Gambling that is based in New South Wales, and equivalent people in other states and overseas. There is no doubt in my mind that Victoria is at the cutting edge of responses to the social impact of gambling and that it is the envy of every other jurisdiction given the resources that have been made available by the Kennett government. I put on the record the vast strides that have been taken on all those issues, all of which show the incompetence of Labor. I oppose the motion.

Hon. M. M. GOULD (Doutta Galla) — I support the motion moved by Mr Theophanous, the first part of which refers to the Premier and his arrogance. In today's newspaper the Premier is reported as criticising the Governor-General for saying that the churches should speak on behalf of disadvantaged people. The Premier said it would not be long before people began responding in kind. What did he mean by that? Was he threatening the Governor-General, who, as I said, believes it is appropriate for church people to speak on behalf of disadvantaged people and who acknowledges that the churches play a major role in the community.

I turn to the state of the Victorian hospital system.

Hon. R. I. Knowles — *Choice* magazine says it is terrific.

Hon. M. M. GOULD — I also refer to the state of Victoria's ambulance service, which is of concern to the people of Mitcham. Victorians have been literally dying for ambulances. There have been massive cuts

to the ambulance service, and as a result there are fewer ambulances on the road. The Auditor-General has said that millions of dollars have been wasted on contractual arrangements involving the Intergraph system. That money could have been better spent on hospitals, nurses and hospital staff and on putting more ambulances on the road.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! There are too many interjections across the chamber and it is extremely hard to hear Miss Gould. I ask honourable members on both sides of the house to allow the honourable member to proceed.

Hon. M. M. GOULD — The government has cut more than \$300 million from the health budget each year it has been in office. The overall health of the community has been improving, which the government has used to argue that it can cut health funding. That argument cannot be sustained. Over the past five years hospitals have been forced to cut important services such as cleaning. More than 1400 beds have been closed, more than 10 000 hospital staff have been sacked and more than 3000 nurses have been taken out of the system — and the waiting list has increased by 20 per cent. On those figures alone the government is guilty. Today more than 40 000 Victorians are waiting for surgery.

When he was in opposition, what did the Leader of the Government have to say about the 21 000 who were then on the waiting list:

It is a tragedy that in a modern society such as ours, which is well resourced and relatively wealthy in comparison with many other societies, there are so many people who cannot obtain basic health care, albeit under a government that promised the moon and the stars ... to have more than 21 000 waiting for important surgery in Victoria is a disgrace.

Today around 40 000 people are on the waiting list, a 20 per cent increase since the coalition has been in government. The Leader of the Government went on to say:

A Liberal government was never in this type of situation.

I have news for him: this government is now in that situation. He continued:

It never had 26 500 people on waiting lists. It never had a third of the intensive care sections of the hospitals shut down. That is a peculiarly Labor disease.

It is a Liberal disease, because in 1997 there are 40 000 people on the waiting list. The government has closed hospital beds and hospitals and reduced the number of ambulances on the road. It has a history of closing country hospitals or restructuring them in such a way that they are as good as closed. Seven metropolitan hospitals have been closed or are in the process of being closed. In 1985, again when he was in opposition, the Leader of the Government is reported as saying:

The opposition believes that ... money, even in times of tight monetary restraints by any government, must be found for such an important area of human service.

What is the government doing? It is closing hospitals, closing beds and sacking nurses and staff.

He also said:

The opposition view is that a sweeping attack on country hospitals is unacceptable and that there should be no closures unless they are done with full and genuine public consultation beforehand and unless there is a consensus arising out of that consultation about replacement facilities.

What did the government do with the Dunolly hospital? It wanted to close it down but instead took the advice of the Leader of the Government and consulted with the community. As a result, the Dunolly hospital survived.

Over the past five years there has been a decline in the public hospital system.

Hon. T. C. Theophanous — What about Mitcham?

Hon. M. M. GOULD — I will get to Mitcham. I am referring to the state in general. As a result of the cuts in the health system, people are having to wait on hospital trolleys for 48 hours just to get a bed. In Kennett's Victoria people are dying while waiting for ambulances to arrive. A classic case concerns the poor people of Mitcham. In the first six months of this year there have been 22 instances in the Mitcham electorate when an ambulance has failed to meet the benchmark for a code 1 or code 2 emergency. What is more disturbing is that of those 22 instances, 17 have been code 1 emergencies. For

the information of honourable members, a code 1 emergency is a life-threatening situation.

Hon. T. C. Theophanous — How many were there?

Hon. M. M. GOULD — In the first six months of this year there have been 17 instances of ambulance response times not meeting the code 1 benchmark just in Mitcham.

Hon. Pat Power — Just in one electorate?

Hon. M. M. GOULD — Just in one electorate — and as I said, a code 1 is a life-threatening situation.

Hon. Pat Power — Do you have the statistics for Flowerdale?

Hon. M. M. GOULD — Not at the moment but I would be happy to pass them on to you at a later time. The benchmark response time for code 1 emergencies is 16 minutes.

Hon. T. C. Theophanous — Sixteen minutes is a bit high, isn't it?

Hon. M. M. GOULD — That is the benchmark.

Hon. T. C. Theophanous — How does that compare with the world standard?

Hon. M. M. GOULD — Code 2 cases are not life threatening, but in responding to them ambulances are required to use lights and sirens. From the general public's point of view, an ambulance with its siren on and its lights flashing could be responding to a code 1, which is a life-threatening situation, or a code 2, which is not a life-threatening situation.

At 12.45 p.m. on 1 January this year the ambulance response time for a code 1 to Blackburn was 17 minutes, which did not meet the standard. The reason given was a display delay — in other words, the computer system was not working so the ambulance was not able to get there. At 9.48 a.m. on 8 January this year a code 1 call to Nunawading took 17 minutes, which did not meet the benchmark, even though it was a life-threatening situation. Just before 20 past 6 on the evening of 11 January a code 1 call was made from Vermont. The ambulance response time was 18 minutes, which did not meet the benchmark, even though the situation was life threatening.

Honourable members interjecting.

Hon. M. M. GOULD — These figures are just for Mitcham. At 2.40 a.m. on 17 January, the response to a code 2, which, as I said, is not a life-threatening situation, did not meet the benchmark. People spent 36 minutes waiting for the ambulance to arrive.

Hon. T. C. Theophanous — Thirty-six minutes!

Hon. M. M. GOULD — In the electorate of Mitcham it took 36 minutes for an ambulance to respond to a code 2 emergency.

The DEPUTY PRESIDENT — Order! I am sure Miss Gould does not need constant reminders from her colleagues. I understand that the level of interjection from the other side of the house may make it difficult, so if honourable members cooperate and make fewer interjections, and if there are fewer repetitious comments from the honourable member's colleagues, we will have a better debate.

Hon. M. M. GOULD — At 4.27 on the morning of 19 January, when one would assume there would not be a huge amount of traffic, the response time for a life-threatening code 1 emergency was 25 minutes.

Hon. T. C. Theophanous — Twenty-five minutes! How long does it take to get a cab out there? A cab would not have taken 25 minutes.

Hon. M. M. GOULD — On 22 January at 11.42 a.m. a code 1 was recorded, and the ambulance response time was 20 minutes.

Hon. K. M. Smith — On a point of order, Mr Deputy President, Miss Gould has not said where she has obtained the information from. She is boring, she is repetitious, she is an ambulance chaser, she is a ghoul — not a Gould but a ghoul!

Hon. Pat Power — That is unparliamentary.

Hon. M. M. GOULD — I ask him to withdraw.

The DEPUTY PRESIDENT — Order! Every honourable member knows that that is not a point of order. It is a frivolous point to raise. The debate has been broad and members have ranged widely across a number of issues. There is no point of order.

Hon. M. M. GOULD — It is not repetitive. I am citing individual cases; I have not repeated any of them. On 19 January it took 25 minutes for an ambulance to respond to a code 1.

Hon. Pat Power — How long?

Hon. M. M. GOULD — It took 25 minutes to respond to a life-threatening situation. At 11.42 on the morning of 22 January, three days later, the ambulance response time for a code 1 life-threatening situation was 20 minutes. On the same day, at 4.10 in the afternoon, it took an ambulance 17 minutes to respond to a code 1 emergency. The reason given was it had been downgraded because the system had failed — in other words, it failed the people of Mitcham.

At 12 minutes past 6 on the evening of 26 January an ambulance took 18 minutes to respond to a code 2 emergency. It was not a life-threatening situation, but the ambulance had to use its lights and sirens. The benchmark for that is the same as it is for a code 1 emergency. At 27 minutes past 6 on the evening of 29 January the ambulance response time for a code 1 was 17 minutes. Those figures are just for the month of January.

In February there were four cases. At 8.42 on the evening of 5 February, the response time for a code 1 to Blackburn North was 17 minutes. At 7.04 in the morning of 18 February the response time for a code 1 was 17 minutes. The lights and sirens failed to help the ambulance meet the benchmark. At 6.29 on the evening of 25 February the response time for a code 1 in the Vermont-Mitcham area was 24 minutes. Those incidents all occurred in the electorate of Mitcham. On 28 February, at 10.15 p.m., it took 25 minutes for an ambulance to respond to a code 1. These figures are for only the first six months!

Hon. K. M. Smith interjected.

Hon. M. M. GOULD — It may be boring for Mr Smith, but it is a big issue for the people of Mitcham who are concerned that the ambulance system is failing them. On 12 March, at 5.38 a.m., an ambulance took 28 minutes to arrive in Nunawading in response to a code 2. On 8 April, at 6.00 p.m., in response to a code 1, it took 18 minutes for an ambulance to arrive in Mitcham. On 6 May the call came in at 8.22 p.m.; 19 minutes later an ambulance arrived in response to a code 1 — again failing to meet the benchmark. On 19 May, at 4.38 p.m., the delay in response to a code 2 — not a life-threatening situation but with ambulance bells and lights activated — was 32 minutes.

Hon. W. R. Baxter — Get on and give us something of substance.

Hon. M. M. GOULD — Nothing of substance, Mr Baxter! The people of Mitcham cannot get an ambulance within the established response guidelines.

Hon. B. C. Boardman — On a point of order, Mr Deputy President, the Deputy Leader of the Opposition is quoting from a particularly detailed document. Without questioning the validity of the information, has the Deputy Leader of the Opposition sourced the document? I would be interested to know where the document came from.

The DEPUTY PRESIDENT — Order! There is no absolute requirement for members to identify the source of information gathered during a debate. It is up to members to make the information available if they so choose. The house judges the veracity of arguments on the sourcing of such documents presented. It is up to the house and future contributors to the debate to comment on the strength of submissions. There is no point of order.

Honourable members interjecting.

Hon. M. M. GOULD — The information comes through freedom of information access, from the department. On 25 May, at 5.38 p.m., the ambulance response time to Mitcham for a code 1 was 17 minutes. On 26 May, at 9.16 a.m., the response time to Blackburn was 18 minutes. On 5 June, at 1.02 p.m., it took 21 minutes to respond to a code 1. The delay on 14 June, at 6.31 a.m., was 18 minutes.

Hon. W. A. N. Hartigan interjected.

The DEPUTY PRESIDENT — Order! Mr Hartigan walked into the chamber in only the past few minutes, yet I have been on my feet several times to ask him to desist from interjecting. I will not relent from that action and I ask all honourable members, including Mr Hartigan, to allow Miss Gould to make her contribution without persistent interjections.

Hon. M. M. GOULD — As I listed them, there have been 22 instances in Mitcham when ambulances failed to meet the benchmarks set for codes 1 and 2 emergencies.

Hon. B. C. Boardman — Between what months?

Hon. M. M. GOULD — Between 1 January and 30 June 1997.

Hon. W. A. N. Hartigan — What are the performance standards?

Hon. Pat Power — We have been through that, Bill.

Hon. M. M. GOULD — In the first half of this year, once every two weeks the government failed the people of Mitcham through delays in the response times of ambulances.

Hon. T. C. Theophanous — Every two weeks?

Hon. M. M. GOULD — Yes, on average. Ambulances failed to arrive within the response benchmark of 16 minutes for codes 1 and 2. The Kennett government has reduced the number of ambulances available for emergencies at peak times from 84 to 56, which is highlighted by the response times I have detailed for the Mitcham area.

Hon. Pat Power — That will frighten people, if released publicly. It is worrying.

Hon. R. I. Knowles — We did release it.

Hon. T. C. Theophanous — Under FOI!

Hon. R. I. Knowles — Every three months.

Hon. M. M. GOULD — Yes, but it will be different when we release the information for specific areas. In Victoria, \$300 million has been removed from the health system and 10 000 jobs have been lost in the cleaning service and allied areas in our hospitals; 1400 beds have been closed and ambulances have been removed from emergency peak areas.

I have listed 22 incidents in the first six months of this year — and only for Mitcham — when ambulances did not respond within the required times. Those facts demonstrate the attitude of the government to not only the people of Mitcham but to all Victorians. Victorians are suffering.

Members of the community and a number of community organisations are concerned about the number of gaming machines now flourishing in certain areas of Victoria. The Kennett government has actively promoted and supported the growth of the gambling industry. The government take from gambling taxes has skyrocketed to 40 per cent of total revenue. A recent Victorian Casino and Gaming Authority report found that savings in Victoria for the period 1990 to 1996 had fallen from

10.5 per cent to 3.5 per cent, and household expenditure on gambling has increased dramatically.

The Kennett government has failed to properly regulate the explosion in the number of gaming machines throughout the state. The number of machines has increased from 10 000 to more than 25 000. In the past year, the number of problem gamblers assessed by Break-Even programs has exploded by 45 per cent. The research indicates that of those assessed, 37 per cent were on social security benefits, 80 per cent reported that poker machines were the cause of their gambling problems, and 30 per cent admitted they had committed crimes to feed their gambling habits. A special coroner's report has found that in Victoria the number of suicides related to problem gambling had increased since the Kennett government came to power.

Unfortunately, there is still no adequate industry code of conduct for gambling venue operators. They are still not required to put clocks on the walls or to refuse to allow known problem gamblers to gamble. I do not have a problem with the casino; I have been there twice. However, you cannot find a clock on any wall.

Gambling venues do not refuse entry to people who have a problem with gambling. There is no proper or enforceable code of conduct for the industry. In today's newspaper there is an article that says that Channel 9 — its owner has a vested interest in the casino — is not allowing an anti-gambling advertisement on its channel. It has refused to screen a Christian Television Association advertisement that acknowledges that if you go to a gambling venue you can lose money — you can walk out with less than you walked in with. For many years the CTA was at the leading edge of raising community awareness about this issue, but now Channel 9 is barring its advertisement because it goes against the ethos it believes in and what is happening in this state — that is, that gambling is good fun, that it gives you a happy time, that everyone is a winner and that you come away with a fistful of dollars. Channel 9 has been pressured and has refused to air the advertisement, which will be launched today on Channel 7 and Channel 10.

It depicts young people enjoying themselves on a night out. It shows a group attending a gaming venue where one member of the group begins to lose money, and it shows the adverse effects that has on that person's state of mind. The advertisement truly depicts what happens in a gambling venue and the reality of what is happening in Victoria — you

can walk into a gambling venue and you can actually walk out with less money than you walked in with. That happens more often than the reverse. Anyone who says otherwise is fooling himself or herself. Gambling is about the proprietor retaining more than it gives out.

The Kennett government has attempted to silence any criticism of the industry and to conceal the harmful effects of gambling. Channel 9 has had screws put on over the CTA advertisement. In the past churches have appealed for moderation and proper regulation of the industry. The Premier has attacked judges for criticising the misleading advertisements on television.

The Community Support Fund was originally established to fund problem gambling programs and research. It has been grossly underspent and the money has been diverted to other uses. Some has ended up at the bottom of the ocean. That money has not shown a return to the people of Victoria. The fund has also been used to provide low-interest loans to the government's mates, one was a loan of approximately \$80 million for major capital works. Of the amount available for 1997-98, not a single dollar has been spent on problem gambling, advertising about problem gambling or counselling.

Hon. Pat Power — Does that mean that not one dollar has been spent on problem gambling in the electorate of Mitcham?

Hon. M. M. GOULD — Correct! The Council for Problem Gambling, which conducted the only community education campaign on problem gambling, was defunded after the successful television campaign advertising G-Line. It was doing good things by keeping problem gamblers out of the gambling venues so it had to be removed because revenue was decreasing for the Lloyd Williamses and Ron Walkers of this world.

Now no community program is being run or developed for problem gambling. Despite the growth of the Community Support Fund by about \$1 million a week not one dollar is going to help problem gamblers.

There are five venues around the borders of the Mitcham electorate that have a total of 384 gambling machines — 1 for every 82 Mitcham voters. The concentration is one of the highest in Victoria. Those machines pour \$2.1 million into the Premier's Community Support Fund. Do you know how much

the people of Mitcham have got out of the Community Support Fund?

Hon. Pat Power — Lots of money!

Hon. M. M. GOULD — They got a lousy \$6000 for cricket nets, which was conditional upon the club matching that contribution. In the heart of the Forest Hill Shopping Centre, which is on the border of the electorate, there is a massive gaming venue called Vegas at the Chase. The Minister for Planning and Local Government is worried that it is not a good thing because of the turn of events in Mitcham, and he is addressing that issue.

The motion addresses the attitude of the Premier and the problem of gambling in Victoria, particularly in the electorate of Mitcham. I urge all honourable members to support the motion.

Hon. W. I. SMITH (Silvan) — I totally reject the motion. I totally reject the notion that the Kennett government governs in an uncaring manner. I totally reject the implication that the majority of Victorians are suffering a decline in the standard of health and education services, and I totally reject the view that Victoria has a high unemployment rate in comparison with Labor years. I also totally reject the inference that Labor governed the state better than the Kennett government. That is what the opposition is implying in its motion.

What the Labor Party has missed in this debate and what it has failed to recognise is that if a government cannot manage the finances of a state — that is, if it is bankrupt — it cannot fund community services because it cannot afford them. The Kennett government recognises that good financial management means the state can afford community services and that providing a sound financial environment that enables business to grow means that employment will grow. One of the most important services the government can provide is to create a financially secure economy.

I shall examine the years of Labor government under Cain and Kirner and the great service they provided to the state. The legacy of the 1980s under a Labor government saw Victoria's credit rating with Moody's Investors Service downgraded from four notches from AAA to A1 between 1990 and 1992.

Public sector net debt reached more than 30 per cent of gross state product. Economic output declined more than 5 per cent between 1990 and 1992. Unemployment was higher than 12 per cent during

1992. New South Wales overtook Victoria in private sector expenditure on research and development.

Public sector net debt had grown from \$11.3 billion in 1982 to \$30.6 billion in 1992 — 10 years later — and Victoria's liabilities for superannuation and workers compensation had ballooned from \$4.5 billion to more than \$23 billion. The Kennett government inherited a financial disaster. The Cain-Kirner governments borrowed money just to pay interest and other day-to-day operating costs. Labor did not pay off debt — it just incurred it. We all know of the serious financial mismanagement that led to the collapse of the State Bank, the Pyramid scandal, the VEDC scandal and many more. Labor made promises it could never deliver. Unemployment was high. Job security was nonexistent. The unions had taken over education, transport and hospitals.

The Kennett team came into government with a commitment to manage and govern responsibly for all Victorians and with strong leadership, a vision and well-defined and analysed policies, particularly in regard to the economic management of the state. This and the ability to make and take the tough decisions has turned the state around. By turning the economy around the Kennett government has been able to offer the community the services it needs. What do most individuals and families in the community want? Every Victorian has a right to good education, good health and employment.

Since the Kennett government has been in office it has committed \$1000 million to the building and redevelopment of schools, and it continues to reduce the huge school maintenance backlog resulting from the neglect of the 1980s. A further \$100 million is being spent to build and refurbish TAFE facilities. This very substantial commitment will dramatically improve the fabric of Victoria's education. It provides the community foundation for quality education which will equip the new generations of young Victorians for the challenges of the modern workplace and society. It will reinforce the enterprise, skills and values they require to seize the opportunities and achieve fulfilment in the 21st century.

At the same time, Victorian education today places emphasis on the fundamental skills of reading, writing and mathematics, and the ability to use communications and information technology. It provides for improved individual attention for students, flexibility and autonomy for schools, closer involvement for parents, and a closer relationship

between education and the workplace. It thereby strengthens all the successful elements of good school communities.

The next step for education, which is already under way, is to provide schools with multimedia computers at a cost of \$20 million. As part of the state's massive education building program over the next four years, three more science and technology centres will be established, including one in regional Victoria. As I said, during this term in office the Kennett government will spend \$100 million refurbishing and building new TAFE facilities throughout the state. The main emphasis in TAFE will be to link training more closely with the VCE through an additional \$10 million funding for the successful dual recognition program, which enables students to complete, or partially complete, a TAFE award in conjunction with their VCE.

I turn to health. The Victorian government has moved to implement changes to ensure a health system which is high quality, accessible, efficient and readily available and which is capable of continuing to evolve to serve Victoria effectively into the future. In 1995 the Kennett government commissioned an independent board to examine Melbourne's hospital system. The Metropolitan Hospitals Planning Board report provided the framework for revitalising health care for the 21st century.

Health care networks have been created in metropolitan Melbourne and an unprecedented \$600 million will be spent in the next four years to take health care into the state's growth areas and update facilities throughout Victoria. An additional 155 000 patients a year are being treated in Victorian hospitals than in 1992, and there is substantially increased focus on the promotion of healthy lifestyles and the prevention of illness, particularly cancer and heart disease.

One of the most dramatic and significant changes involves the introduction of telemedicine, or on-line health services. Victoria is leading Australia into the era of telemedicine, which will bring fundamental change to the practice of health care into the 21st century. Telemedicine and telepsychiatry networks are being established across the state, and trials have been established through groups of metropolitan and country hospitals in the treatment of children's burns, neurosciences, radiology, cochlear implants, eye disease and injury, and pathology. The networks have the added advantage of being able to provide on-line education training

for health professionals. Delivering quality, modern health care to Victorians in their own neighbourhoods is the government's fundamental principle for health services. For the first time a comprehensive plan for people with mental illness has been developed. Crisis assessment and treatment teams and mobile support and treatment services have been expanded, and access to treatment has been improved significantly — factors recognised in the 1996 National Mental Health Report. The report found Victoria provides Australia's most coordinated mental health service and spends more than any other state on acute and community mental health.

1996–97 was also a year of significant achievement in service delivery. Public hospitals admitted around 890 000 patients and provided more than \$4.6 million in outpatient services. Waiting list targets for urgent and semi-urgent patients continued to be met. Emergency ambulances were dispatched on more than 300 000 occasions.

One of the most significant achievements of the Kennett government has been in community services funding. Over the past five years there has been a 30 per cent increase in funding for community services. The first of the three major initiatives in disability services introduced by the Kennett government was the State Plan for Intellectual Disability Services 1996–99. The department was funded to the tune of \$1 billion, to be devoted to intellectual disability services over the next three years. The second was that, for the first time, a government recognised carers through Victoria's carers initiatives. A range of initiatives was implemented with a focus on the development and expansion of programs for people with physical and psychiatric disabilities. The third was that the Futures for Young Adults scheme was launched in November 1996. The scheme is a joint Human Services and Education initiative. It provides each young person with a disability who is aged 18 years or over and is leaving school with access to his or her choice of an appropriate adult education, training, employment or day placement option — indeed, the actions of a caring government.

I turn to the new initiatives in family services. Family support and specialist children services were successfully developed and implemented, including: the enhancement of maternal and child-health services to support early identification and intervention for families with more complex needs; additional services to support the families of children aged 0–6 years with high medical needs

and/or dependence on biomedical technology to keep their children at home; enhanced provision of family support service in outer Melbourne growth corridors; and the development of existing networks of community-based support and crisis counselling services, particularly in relation to gambling.

As I said, for the first time ever carers have been recognised. Victoria's carers initiatives increased the number and flexibility of disability support options by providing additional funding for: the expansion of the in-home accommodation support program; the expansion of the innovative and highly successful Making a Difference program, which responds directly to families' identified needs and priorities through case management and brokerage assistance to include adults with a disability across all the department's regions; the expansion of case management for people with an intellectual disability through the department's client services teams at a cost of \$500 000; the expansion and improvement of flexible, timely respite for carers at a cost of \$2 million, of which \$250 000 a year is specially designated to support carers of people with moderate to severe acquired brain injury; the expansion of the Program of Aids for Disabled People (PADP), and the expansion of the linkages program to assist people with chronic illnesses, such as arthritis, cystic fibrosis, diabetes, epilepsy, and so on, who have complex care needs.

As part of the State Plan for Intellectual Disability Services, 200 people in the most urgent need across the state have been provided with community-based accommodation and support.

We are also providing the Continuity of Care Statewide Fund, managed through Abercare Family Services, which is providing flexible care packages to families of children with severe disabilities and very high support needs at a cost of \$335 000 per annum. Importantly, Futures for Young Adults, which was launched by the Minister for Community Services as a joint initiative between Human Services and Education in November 1996, provides a disabled young person aged 18 years or over with access to their choice of an appropriate adult education, training, employment or day placement option on leaving school. At 30 June some 1270 students had moved to an adult option of their choice, assisted through an individual transition planning process. Funding of \$14.22 million for recurrent expenditure and \$4.67 million for capital works was provided for this initiative in 1996-97.

I have outlined these services to show that by managing the budget a government can provide important services that are needed in the community. Not only is the government supplying needed services, it is restoring confidence in the state. To see that one has only to look at the unemployment figures. When the government came to office in 1992 unemployment was higher than 12 per cent; currently it is 8.4 per cent.

I want to speak briefly about what the state government has done to assist small business, because the latest Australian Bureau of Statistics figures show that 65 per cent of new jobs created in Australia have been created by small business. If we do not manage the budget and create the right environment we will not encourage small business and we will not encourage employment.

The government has tackled the hard problems: reducing the massive debt inherited from the previous administration; solving the chronic deficit problem; restoring credibility to the state's finances; reforming public sector administration; and instilling Victorians with greater confidence in the future. Victoria is increasingly recognised as the most attractive place in which to successfully operate a small business and to invest in that sector. The strategic focus has been on improving the business environment by removing impediments to and encouraging business growth and the development of market competitiveness and operational effectiveness. Between 1993 and 1994-95 the number of small businesses in Victoria increased by 14 700 with a corresponding increase in employment in the small business sector of 49 100.

I conclude by briefly running through a list of other achievements of the Kennett Government during the past five years:

- the restoration of confidence and pride in Victoria so that all Victorians are now able to look to a more certain, secure and prosperous future;

- the modernisation of Victoria's administration at State and local government levels, its services, infrastructure, major public institutions and community facilities;

- the broad reform of education through Schools of the Future to reinforce the essential role of schools in leadership and innovation and strengthen their association with their local communities, and the implementation of a second phase of education

development under the new Schools of the Third Millennium program;

the reform and redistribution of health care and the implementation of on-line telemedicine services to deliver health care to Victorians in their own neighbourhoods;

the growing involvement of the private sector in the provision of health care — for example, in the development of hospitals in the Latrobe Valley and at Mildura;

substantial growth in employment opportunity which has seen Victoria's work force reach a record 2 119 000 earlier this year;

economic growth running strongly ahead of the rest of Australia — an impressive 4.9 per cent in 1996-97 compared with 3.3 per cent for the rest of Australia;

elimination of the state deficit and enforcement of an ongoing policy to maintain the budget in surplus;

reduction in state debt from \$32 billion in 1992 to \$14.3 billion at the middle of this year;

preparation, through the inquiry by the Suicide Prevention Task Force, for the introduction of a strategy to reduce the rate of suicide, especially among young people;

a \$30 million program to support research and reduce the incidence of breast cancer among Victorian women;

a \$17 million funding boost to provide care and services for street kids;

the introduction of extensive youth employment and training programs, including the Victoria Youth Employment Initiative, a \$10 million scheme that enables students to combine TAFE and VCE courses; pre-apprenticeship training; and training for country students in multimedia; and

the establishment of the Premier's Youth Council to give young Victorians a direct say in youth issues and the planning of Victoria's future.

This government is a caring, visionary government. The government supports economic development and prosperity and community services. It

encourages employment, and it allows Victorians to have a future. I totally reject the motion before the house.

Hon. PAT POWER (Jika Jika) — I am delighted to make a contribution to the debate on the motion moved by Mr Theophanous. Paragraph (a) says that surveys of voters' intentions in Mitcham and across Victoria indicate that Victorians believe the Kennett government to be arrogant and uncaring. The statistical information on voter intentions provided by Mr Theophanous was a startling reminder of the difficulty with popularity that the Kennett government faces.

The Kennett government is not unpopular just in Mitcham, where a by-election has been made necessary because of the resignation of a long-serving member of Parliament to indicate his personal view of the arrogant and uncaring attitude of the Kennett government. Other members of the coalition share the views of the former honourable member for Mitcham.

I was worried to hear what Miss Gould said about ambulance, health and gaming issues, particularly as they affect the electorate of Mitcham. Mr Theophanous and I listened to her contribution to the debate with a great deal of concern. The Kennett government's performance has been unfortunate in Mitcham in relation to matters concerning ambulances and health care and the proliferation of gaming machines.

The management of local government in the City of Whitehorse is an indication of the government's unpopularity. Honourable members will be aware of two significant issues in relation to local government. The first is the demand by the state government that municipalities pay for the unfunded liability created by the implementation of state government policies.

The voters of Mitcham are concerned that their municipality, the City of Whitehorse, has had a \$12 million demand placed on it as a consequence of the Kennett government insisting that the unfunded superannuation liability that arose as a direct result of its policies has to be paid by ratepayers and residents. That demand has been placed on the ratepayers and residents of Whitehorse despite the fact that the government's Ferrier Hodgson report has not been publicly released. I have not the slightest doubt that Tony Robinson, the endorsed ALP candidate for Mitcham, completely

understands the effects that \$12 million demand will have on the local people.

The City of Whitehorse, which is now managed by democratically elected councillors, is concerned about the matter. It has sought legal advice on whether the state government's decision to force councils to pay its superannuation debt using the profits from the sale of their electricity utilities is appropriate. The Whitehorse City Council has done so because the minister has told the council that it must fund the superannuation shortfall in that way. The municipality strongly believes that several clauses in the electricity sale agreement prevent the state government from acting to disadvantage those municipalities who received electricity payouts.

The same situation exists in the municipality of Darebin, which is in the province Mr Theophanous and I represent. It is outrageous, not only because the ratepayers of Whitehorse — and the voters of Mitcham — will be forced to pay \$12 million to fund a state government oversight but also because the Kennett government has said that it must be funded by profits from the sale of electricity utilities.

The situation gets much worse. The democratically elected council of Whitehorse supported its community by opposing a proposal for a massive Shell convenience centre development at the busy Whitehorse–Middleborough Road intersection. Those of us who believe local government has a role to play in local issues and that elected councillors have a responsibility to respond to the cares and concerns of their ratepayers and residents applauded the council's decision.

So that members understand how appalling the proposal is, I point out that the controversial development has sparked enormous local opposition. The council received 1000 objections as well as 237 written submissions. The proposal includes a convenience centre, an automated banking facility, cafes, a Hungry Jacks restaurant and an additional restaurant that is likely to be run by Kentucky Fried Chicken. The centre will have drive-through facilities and will trade 24 hours a day, seven days a week — in a residential area. There is no question that the convenience centre will be visually intrusive, detract from the local amenity, aggravate traffic problems and represent an overdevelopment of the site.

I repeat that members on this side of the chamber endorse the decision of the Whitehorse council to support its ratepayers — not like the Kennett

government and not like the Minister for Planning and Local Government — —

Hon. T. C. Theophanous — He has not overridden them, has he?

Hon. PAT POWER — He has not so much overridden them as hopped on his white charger and galloped right over the top of them!

Hon. M. A. Birrell — That's the type of guy he is!

Hon. PAT POWER — That is the type of government they are: they gallop over the top of people. The minister decided to allow the controversial Shell development in Blackburn to go ahead, without a permit.

Hon. T. C. Theophanous — After 1000 objections?

Hon. PAT POWER — After 1000 objections, 237 written submissions and the decision of a democratically elected council. The minister granted an amendment to the Whitehorse planning scheme allowing the Shell development to proceed in a residential zone without a council planning permit.

Of course Shell, that wonderful corporate citizen, did the corporate thing: it bypassed the Administrative Appeals Tribunal process, which ordinary citizens are committed to, and went straight to the Minister for Planning and Local Government. I do not know what happened at the meeting, but the minister responded in the way the Leader of the Government said he did — he galloped over the rights of the electors of Mitcham.

It is the view of the opposition, the electors of Mitcham and Whitehorse councillors that Shell's actions have not been those of a good corporate citizen. People in the Mitcham electorate are asking why the state government is ignoring planning controls. They are saying the minister is taking it on himself to ignore the needs of local people by putting his interests and those of big business first.

I enthusiastically support the motion moved by Mr Theophanous. I am certain that the local government issues I have referred to are prominent right across Victoria, particularly in the electorate of Mitcham. I have not the slightest doubt that on 13 December the voters in Mitcham will express a view consistent with the motion.

Hon. B. C. BOARDMAN (Chelsea) — It is amazing how some people change their stories so

quickly. Today the opposition has moved a motion that encourages the house to note the recent surveys of voter intentions in Victoria. However, for the past five years it has not been remotely interested in voter surveys or polls. For the past five years opposition members have remained surprisingly silent. However, when they see a glimmer of light at the end of the tunnel they decide to get vocal and hyped up — although that will soon dissipate.

When the approval rating of the Opposition Leader, Mr Brumby, was under 30 per cent, did the Victorian ALP, which was also languishing at 35 per cent of the two-party preferred vote, say anything about voter opinions? No, it did not. The government did not say anything about them either. Why would it want to confirm the obvious? Why would it want to tell the Victorian electorate that the no-hopers in the ALP did not offer them any solutions? Victorians have known that for the past five years.

From October 1992 to March 1996 the Labor Party was pushing the same barrow on health and education and criticising government protocol, probity, security and any other financial matter, but at the state election the government was returned with an increased majority. In recent times the opposition has been silent, but lately over two issues it has not been silent and has misled the public. It is amazing that this has come to light. The opposition quoted from an *Age* poll of 15 November where various questions were asked. Earlier in the debate Dr Ross referred to the misleading nature of the arguments and the way the newspapers had structured and loaded the questions to suit its editorial content. However, members of the opposition did not refer to the most important question in the poll: how strongly do you approve or disapprove of the Kennett government's handling of the economy? Surprisingly, the ALP did not want to know about that. Total approval was 56 per cent compared with total disapproval of 36 per cent. The core requirement of sovereign Parliaments is to handle the financial matters of the state in the best interests of the community. This government has done that.

Miss Gould criticised the government by saying that over the past five years \$300 million has been cut from the health system. That is wrong. It has been documented that there has been an overall increase of 25 per cent in health funding over the past five years. The opposition selectively popularised tragic instances and the Victorian community is a wake-up to that. More amazing is that during the lead-up to the Mitcham by-election Miss Gould

referred to ambulance case loads and delays. She gave a detailed description of 22 instances in the six months from January to June this year where the response times did not meet objectives. She said she obtained the information through freedom of information. I am surprised that she had to obtain that information from FOI because we all know that the information is publicly available and is made public every three months. What she failed to mention was that the total number of calls in the Mitcham area averaged 500 a month and as such the total workload for 1996–97 for the City of Whitehorse, which encompasses the Mitcham electorate, was 6200 emergency cases. In the six months that Miss Gould is alluding to there were more than 3000 ambulance calls and she mentioned only 22 cases where the ambulance service did not meet the objectives. What an amazing comparison! Overall 1.2 per cent of the workload did not meet the MAS objectives. The government is trying to achieve a 95 per cent rate. Miss Gould should go to Mitcham and tell the voters about those 22 cases and the government will say thank you for making that information public. The government will tell the constituents of Mitcham that it has exceeded its aim by delivering a service that has met 98.8 per cent of its objectives. The opposition is politicising tragedy and the voters will tell the opposition what they think about it.

Miss Gould mentioned gambling and the industry code of conduct. In November last year the Minister for Gaming released the industry code of conduct which listed all the major stakeholders. It was widely accepted and praised. The gambling industry has put the code into practice and all other aspects of the industry will improve because of that. Miss Gould criticised Community Support Fund funding for gambling support services. However, she did not talk about the \$2.9 million allocated over three years to increase the number of financial counselling services across the state, nor did she mention the \$2.07 million allocated to assist people from non-English-speaking backgrounds. The honourable member simply spoke about the money not being made available without looking at the facts.

The opposition accused the government of being arrogant. I point out that the definition of 'arrogant' in the third edition of the *Macquarie Dictionary* states 'making unwarrantable claims or pretensions to superior importance or rights' and 'overbearingly assuming'. We know of only one person who meets that definition, don't we, Mr Theophanous.

House divided on motion:

Ayes, 9

Eren, Mr	Power, Mr (Teller)
Gould, Miss	Pullen, Mr
Hogg, Mrs	Theophanous, Mr
McLean, Mrs	Walpole, Mr
Nardella, Mr (Teller)	

Noes, 31

Asher, Ms	Hall, Mr
Ashman, Mr	Hallam, Mr
Atkinson, Mr	Hartigan, Mr
Baxter, Mr	Katsambanis, Mr (Teller)
Best, Mr	Knowles, Mr
Birrell, Mr	Luckins, Mr
Bishop, Mr	Powell, Mrs
Boardman, Mr	Ross, Dr
Bowden, Mr	Smith, Mr
Brideson, Mr	Smith, Ms (Teller)
Cover, Mr	Stoney, Mr
Craige, Mr	Strong, Mr
Davis, Mr D. McL.	Varty, Mrs
Davis, Mr P. R.	Wells, Dr
Forwood, Mr	Wilding, Mrs
Furletti, Mr	

Pair

Nguyen, Mr	de Fegely, Mr
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Motion negatived.

Sitting suspended 1.04 p.m. until 2.07 p.m.

EDUCATION (PRESCHOOLS) BILL

Second reading

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

That this bill be now read a second time.

The purpose of the bill is to authorise councils of state schools that provide primary education to also provide preschool programs to children who are at least three years of age by 30 April in any year. Under the bill, it will be optional for school councils to provide those programs.

Preschool programs aim to further a child's social, emotional, physical and intellectual development in the year before starting primary school. In Victoria, preschool programs have been offered at 1576 locations this year, an increase of more than 20 per cent in three years, and almost 92 per cent of

Victorian four-year-olds have enrolled at preschools this year.

Preschool programs presently need to be registered under and comply with part XIA of the Health Act 1958. From 1998, the Children's Services Act 1996 will govern those programs. Under the bill, school councils will need to comply with the same regulatory requirements as other providers, particularly in relation to facilities and qualified staff. The Department of Human Services will continue to be the department responsible for licensing and regulating preschool programs.

Over the past 12 months, the departments of Human Services and Education have examined the issue of greater Department of Education involvement in preschool programs, due to the fact that councils of primary schools are well placed to use their established administrative and management structures to support or directly provide preschool programs. Also, a number of early childhood experts suggest that there may be a link between participation in preschool programs and student achievement in general education, particularly in relation to literacy, and that children may benefit from a preschool curriculum that is more directly linked to the early years of schooling curriculum. The greater involvement of the Department of Education will also reflect the practices in other states where early childhood education is largely the responsibility of the Department of Education.

The main features of the bill are as follows:

1. Only schools that provide primary education will be authorised to offer preschool programs.
2. The preschool programs may be conducted on and off the school site.
3. In respect of programs off the school site, only the minister will be able to acquire premises for that purpose, but school councils may apply to the minister to obtain the relevant premises on their behalf.
4. It will be optional for school councils to provide preschool programs, and school councils that wish to provide the programs will have three options under the bill, and can choose the option that best suits their local needs. The options are:
 - (i) First, it may conduct the program itself and employ the relevant staff.

(ii) Secondly, it may licence the premises to a private provider to conduct the program.

(iii) Thirdly, it may enter into a joint arrangement with another school council or a private provider, to conduct the preschool programs.

5. Any alterations to premises under the control of the Minister for Education, or any leases or licences to private providers, will require the approval of the minister.

I now turn to the particular provisions of the bill. Clause 3 inserts a definition of preschool program. For the purposes of the bill, the preschool programs will be limited to children who are at least three years of age by 30 April in any year. Children under that age will not be enrolled in the program.

Clause 4 amends section 8 of the Education Act 1958 to enable the Minister for Education to delegate to school councils his powers under the act relating to the provision of preschool programs. Those powers include the power to construct or alter buildings, and to enter into or grant licences or leases.

Clause 5 enables the Minister for Education to give directions or issue guidelines to a school council with respect to the provision of a preschool program. School councils must comply with any directions or guidelines.

Clause 6 amends section 15B of the Education Act to enable school councils to employ persons for the preschool program, and clause 7 amends section 15C of the Education Act to enable school councils, with the approval of the Minister for Education, to construct or carry out building works to provide preschool programs.

Clause 9 amends section 15G of the Education Act to enable the Minister for Education to act in the place of a school council for any preschool program conducted by that council, in the event the school council is dissolved or otherwise ceases to exist.

Clause 10 amends section 34A of the Education Act. That section and division 6 of part 2 of the Education Act states that compensation is payable under the Accident Compensation Act 1985 to volunteer 'school' workers for injuries incurred in assisting in school work. It also provides for compensation in the event they damage their property when assisting in school work. Volunteer school workers are persons who, without remuneration or reward, assist in the work of the school, and the most common examples are school council members and

parents who assist in weekend working bees.

Clause 10 amends the section to provide the same protection to volunteer workers who assist in the work of a preschool program provided by a council of a state school. The amendment will ensure that parents and others who freely give of their time to assist in the work of the preschool will be compensated if they are injured or suffer damage to their property.

Clause 11 inserts a new part 5A in the Education Act 1958. This part inserts a number of new sections relating to the provision of preschool programs by school councils. I will now deal with each of these new sections.

The new section 67 will authorise councils of state schools offering primary education to provide preschool programs by one of the three options already mentioned, namely:

- (i) the council providing the program on school premises or on other premises under the control of the Minister for Education, or
- (ii) the council authorising a licensee or lessee to use part of the school premises or other premises under the control of the minister, or
- (iii) the council entering into a joint arrangement with other school councils, or private providers.

The intention of the government is that any programs must be conducted on a full cost recovery basis, and be cost neutral to the Department of Education. In short, apart from the present funding provided by the Department of Human Services for four-year-olds attending preschools, school councils will have to bear the full costs of any programs without financial assistance from the Department of Education. The term 'full costs' covers any building works, land purchases or leases, equipment and employment costs, or any other costs associated with providing the programs.

A new section 68 will authorise the Minister for Education to acquire by agreement any estate or interest in land for preschool programs. School councils do not have this power, but will be able to apply to the minister to acquire any interest in lands. The minister will be able to grant leases, licences or otherwise dispose of any land acquired for the purposes of a preschool program. Crown land reserved for education purposes may not be sold or disposed of in fee simple, but may be leased or licensed. School councils, if authorised by the minister, will be able to grant leases or licences over land to be used for preschool programs.

A new section 69 will authorise school councils to enter contracts for goods and services to provide preschool programs. A new section 70 will authorise school councils to charge fees for preschool programs and other related services. A new section 71 will require school councils to ensure that any fees or money received for preschool programs is applied for the preschool programs unless the minister otherwise directs. School councils must also ensure that separate accounts and financial records are maintained in relation to the preschool programs.

Clause 12 is designed to ensure that until the Children's Services Act 1996 comes into operation, school councils that wish to provide preschool programs must comply with the relevant provisions of the Health Act 1958.

By authorising councils of state schools to provide preschool programs, the bill will increase the range of preschool options available to parents, and offer increased convenience to those parents who currently juggle young children between school and preschool locations. The guidelines and directions to be issued to school councils will ensure that the preschool programs are provided in fair and open competition and at fees that reflect competitive market rates.

The Victorian Primary Principals Association, the Association of School Councils in Victoria and the Kindergarten Parents Association of Victoria have been consulted. All have welcomed the decision to allow councils of state schools that offer primary education to run preschool programs.

I commend the bill to the house.

Debate adjourned for Hon. M. M. GOULD (Doutta Galla) on motion of Hon. D. A. Nardella.

Debate adjourned until next day.

ALPINE RESORTS (MANAGEMENT) BILL

Second reading

For **Hon. M. A. BIRRELL** (Minister for Industry, Science and Technology), **Hon. R. I. Knowles** (Minister for Health) — I move:

That this bill be now read a second time.

During the last sittings of the Parliament legislation was introduced by the minister in another place to

reform the management of Victoria's alpine resorts. The minister referred in her speech at that time to the management history which had shaped the development of the resorts, through the differing philosophies of the former SECV, Lands Department and Forests Commission. From 1961 there were attempts through an interdepartmental committee to coordinate resorts development and in 1983 all the resorts which had grown up under the management of the various agencies were brought together under the management of the Alpine Resorts Commission.

The assumption of the 1983 legislation was that sound development of the resorts required a single management focus. The government considers that the time for a single management structure has passed and the larger resorts are now in a position to be managed as separate entities within the general framework of legislation which recognises the unique qualities of the resorts within the Crown estate.

Extensive consultation had taken place over the future of the resorts prior to the introduction of that bill, both through the independent panel inquiry into future uses of Mount Stirling and the work of the review teams which reported to the minister on the resorts in general. A substantial consensus had been achieved on the future directions of the resorts, but, in light of the intense interest in their future, the government decided that the bill should lie over to allow stakeholders to study the management structure set out in the bill.

During the parliamentary recess a substantial number of submissions were received from a range of stakeholders and all the issues raised were carefully considered. The submissions have confirmed the widespread general support for the proposed reforms to which reference was made in introducing the bill. A number of the matters raised related more to clarification of the structure than to concerns with the proposal, or made suggestions about future management actions.

The bill before the house is substantially similar to its predecessor, although it incorporates a small number of changes resulting from consideration during the winter recess.

In introducing the previous bill, the minister stressed the government's commitment to retaining the alpine resorts within the Crown estate because of the sensitivity of the alpine environment. The previous bill provided for the land within the resorts to be temporarily reserved for the purpose of alpine

resorts. On further consideration, it has been decided to preserve the existing permanent reservation of the resorts as a further guarantee of the government's intentions. The bill therefore preserves the existing declaration of the resorts under the 1983 legislation and provides for their management in the new legislation.

No decision has yet been taken on the future management arrangements for the smaller resorts of Lake Mountain, Mount Stirling and Mount Baw Baw. It was proposed in the initial legislation that the Alpine Resorts Coordinating Council become the management body for these three resorts pending that decision. It is now proposed that a separate management body be provided for each of these resorts, similar to that established for the larger resorts. A number of individuals and organisations have indicated their interest in the future management of these areas and, although no decision has yet been taken, it is now considered more appropriate that separate management bodies be established.

During the consultation process a small boundary anomaly between Mount Stirling and Mount Buller was identified, which would impede the effective separation of their management. It is therefore proposed within the existing permanent reservation to make an adjustment to the boundary at the Delatite River. This is identified by plan lodged in the Central Plan Office and a copy is available for inspection in the parliamentary library.

Discussion has also taken place during the recess of the use of land bordering the Falls Creek resort and which was largely contained in the past within the Kiewa Crown grant held by the SECV. The existing resort, as honourable members may be aware, was itself formerly part of the Kiewa Crown grant. Portions of the land bordering the resort have been subject to disturbance as part of the ongoing works of the SECV and its successor body, Southern Hydro. It has been decided that the most appropriate use of the land is as alpine resort and the bill therefore provides for the addition of land identified by plan lodged in the Central Plan Office and available for inspection in the parliamentary library.

Management of the alpine environment will be in part through planning controls administered by the Minister for Planning and Local Government. It is also possible for the minister administering this act to give directions to resort management under this act about environmental issues in the resorts. In

order to reinforce this intention, a provision in the legislation confers an obligation on resort management to carry out any functions in an environmentally sound way. This will mean that environmental considerations will be taken into account in any management decision, in addition to any specific directions which may be given.

In reviewing the bill it was considered important that explicit provision be made for managing natural disasters which potentially could affect alpine resorts, as with any other area of the state. Fire risk is managed by agreement between the fire management branch of the Department of Natural Resources and Environment and the Country Fire Authority. In a wider sense, the Emergency Management Act uses municipal districts as the basic structure for the preparation of emergency planning and the bill therefore deems an alpine resort to be a municipal district for the purpose of preparing an emergency management plan. The opportunity was also taken to review other legislation to determine whether similar amendments were desirable. The bill provides for application within alpine resorts of the EPA's waste management planning and reduction program.

The bill clarifies provisions over the grant of licences in alpine resorts to ensure that they are consistent with provisions of the Land Act and further provides for transitional arrangements for staff of the Alpine Resorts Commission. It also gives a power for resort management to enter into agreements with neighbouring public land managers to provide for management of Nordic ski trails, which move across the boundaries of land tenures. This provision mirrors a provision in the 1983 legislation and ensures consistency of management of Nordic trails.

The level of support for the reforms proposed in this legislation has been very pleasing. The implementation of the reforms following the passage of primary legislation will be a major task for the new management bodies. Although the workload for the new management bodies during the transitional period will be substantial, their efforts will be strongly supported by stakeholders and the end result will be an enhancement of the tourism and environmental qualities of Victoria's alpine resorts.

I commend the bill to the house.

Debate adjourned for Hon. PAT POWER (Jika Jika) on motion of Hon. D. A. Nardella.

Debate adjourned until next day.

LEGAL PRACTICE (AMENDMENT) BILL*Second reading*

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

That this bill be now read a second time.

The Legal Practice Act 1996 has been in operation since 1 January 1997. The act introduced far-reaching reform of the structure and regulation of the legal profession, and this process of reform continues with the amendments contained in this bill.

Interstate lawyers

As of 1 January this year Victoria was the first state to introduce legislation to remove a major barrier to competition in the legal profession by making it easier for lawyers from other states to practice in Victoria, without first having to be admitted by the Supreme Court of Victoria or obtain a Victorian practising certificate. New South Wales and the Australian Capital Territory have since passed similar legislation.

Further amendments in this bill will now complete that process. This bill provides that lawyers who hold practising certificates or their equivalent from other states will be entitled to engage in legal practice in Victoria. These lawyers will be required to notify the Legal Practice Board within 28 days of commencing practice in Victoria and they will then be allocated to a recognised professional association (RPA) for regulation. Interstate lawyers will be generally subject to the same overall regulatory regime as Victorian practitioners regarding disputes, complaints, trust accounts, fidelity fund contributions and professional indemnity insurance.

In addition, the bill encourages cooperation between regulatory authorities in Victoria and other states. It allows these bodies to enter into agreements with each other, which will allow them to share responsibility for dealing with lawyers who practise in more than one state and to refer matters involving such lawyers from one state regulatory authority to another.

The bill adopts certain provisions regarding interstate lawyers which have been developed through the Standing Committee of Attorneys-General. Now that New South Wales and the ACT have introduced legislation based on those provisions it is expected that Victorian lawyers will

become eligible to practise in New South Wales and the ACT without having to be admitted or take out practising certificates there.

Foreign lawyers

With Victorian businesses and companies actively pursuing a greater role in the international arena of trade and commerce, the need for Victorian clients to have reliable access to legal services and advice relating to the law and legal systems of other countries has also grown. Yet there has been a noticeable lack of uniformity in the way the practice of foreign law by foreign lawyers has been permitted or regulated in the various Australian states and territories.

Commencing with the May 1988 report of the State and Commonwealth Working Group on the Globalisation of Legal Services, consideration of this issue has continued through the Standing Committee of Attorneys-General, resulting in the development of model provisions dealing with the practice of foreign law in Australia. Victoria is the first state to introduce legislation based on those model provisions. The bill will introduce a new part 2A into the act, which will allow foreign lawyers to register with the Legal Practice Board. While foreign lawyers will be prohibited from engaging in legal practice, and therefore cannot practise in matters governed by Australian law, they will be allowed to provide various equivalent services in matters which specifically relate to or are governed by the law of their countries. To ensure that the interests of the public are protected, foreign lawyers will be subject to similar requirements relating to the handling of disputes, complaints and trust accounts as those governing Victorian lawyers. They will also be required to make contributions to the fidelity fund and obtain professional indemnity insurance.

So long as they restrict themselves to the practice of foreign law, foreign lawyers will also be allowed to go into partnership with or employ or be employed by Victorian lawyers. For the first time a Victorian law firm will be able to provide all the local and foreign legal services required by a Victorian client who has, for instance, entered into a joint venture arrangement which is governed by the law of another country.

Other amendments

As part of the ongoing review of the operation of the act various miscellaneous amendments have been identified which are necessary to ensure its smooth

operation. The bill amends the provisions governing trust accounts to provide the Legal Practice Board with the discretion to exempt lawyers from the requirement to maintain a trust account in Victoria — for instance in circumstances where a properly regulated trust account is being maintained in another state by a lawyer practising in both states — and to provide that lawyers do not have to maintain trust accounts if the only trust money they ever receive is in the form of third-party cheques.

Other amendments include:

allowing lawyers to obtain a pro rata refund of their practising certificate fees if they surrender their practising certificates early;

allowing barrister's clerks to sign bills of costs;

allowing a lawyer whose practising certificate has been suspended on the ground that the lawyer has been bankrupted, wound up or otherwise been made insolvent to have the suspension lifted if the lawyer is successful in challenging and overturning the bankruptcy or other form of insolvency and there are no other grounds upon which the practising certificate should continue to be suspended;

providing that where a lawyer has had his or her practising certificate refused, suspended or cancelled, but has a right under the act to appeal against that decision, the lawyer may in certain circumstances be allowed to continue to practise under supervision until the appeal is decided;

providing the full tribunal of the Legal Profession Tribunal with a broader power to order a party to pay the other party's costs of and incidental to any hearing relating to disputes between lawyers and their clients;

specifying that in providing information under section 86 clients should be advised of the name of the legal practitioner who will primarily provide the legal (as against non-legal) services;

allowing a lawyer to settle a dispute with a client relating to legal services previously provided and obtain a release from the client as part of that settlement from any liability arising out of those legal services;

providing for the removal of specific funding caps relating to the Victorian Law Foundation, the Leo

Cussen Institute and the Law Reform and Research Account;

providing for greater flexibility in payment to various bodies from the Public Purpose Fund;

clarifying who may prosecute parties who breach the act; and

extending the period for transitional arrangements for professional indemnity insurance.

Limitation of jurisdiction of the Supreme Court

Clause 45 of the bill has been included to satisfy the requirements of section 85 of the Constitution Act 1975 in respect of changes to the jurisdiction of the Supreme Court effected by sections 209(6), 218 and 222(3) of the Legal Practice Act 1997 as amended by clauses 27(5) and 27(6)(b) of this bill.

Sections 209(6) and 222(3) currently protect the board from action by lawyers or approved clerks arising out of the publication by the board of a notice under section 209(1) calling for claims or a statement that a fidelity reinsurance contract does not apply to a particular practitioner or firm. As the bill provides that interstate lawyers and registered foreign lawyers are to become part of the fidelity fund scheme and will also, therefore, be the subject of claims against the fidelity fund, the application of the two sections is widened by the bill to also apply to action against the board by interstate lawyers and registered foreign lawyers. In each case allowing exposure of the board to liability for fulfilling its statutory duty or exercising a statutory discretion would severely compromise the achievement of the legislative purposes underlying those duties and discretions.

Section 218 currently provides protection to innocent principals in a legal practice where a defalcation occurs. As the bill now makes both interstate lawyers and registered foreign lawyers subject to provisions of the act relating to defalcations, it is important that the principals of a practice who are interstate lawyers or registered foreign lawyers and who are not responsible for the defalcation are provided with the same level of immunity against liability as Victorian lawyers currently receive. Section 218 is being amended accordingly.

I commend the bill to the house.

**Debate adjourned on motion of
Hon. D. A. NARDELLA (Melbourne North).**

Debate adjourned until next day.

QUESTIONS WITHOUT NOTICE

Industrial relations: safety net

Hon. T. C. THEOPHANOUS (Jika Jika) — Given that senior executive salaries in the Department of Premier and Cabinet have increased by a staggering 130 per cent over the past 12 months, I ask the Minister for Industry, Science and Technology why the government has launched yet another attack on the rights of Victorian workers by seeking to block the flow-on of a \$10-a-week pay rise to more than 400 000 low-paid Victorians who are currently receiving minimum wages while other Liberal state governments have already passed on this safety net increase?

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — I thank the member for his question which bears an uncanny resemblance to the press release issued by Leigh Hubbard yesterday.

Hon. T. C. Theophanous — We also agree on Workcover.

Hon. M. A. BIRRELL — If you want to put yourself in the same barrel as Leigh Hubbard, then good luck to you. One of the many strengths of the Kennett government is that you continue to associate yourself with the people who helped you lose government. The closer you are to the Trades Hall Council the better.

I will start with the preamble to the honourable member's question: I have no idea of the increases in senior executive salaries in the Department of Premier and Cabinet. I should have thought that does not even bear on the second part of the honourable member's question, which is about a normal process which is followed — that is, these matters will go before the Australian Industrial Relations Commission. The government believes that is the appropriate course.

It also believes it is appropriate in the context of the Victorian minimums that are set under both the old legislation and the current new state-federal legislation that whole-of-state increases in salaries

are not consistent with the idea of ensuring that workers in different businesses and enterprises —

Hon. T. C. Theophanous — You won't give them 10 bucks! How mean is that?

Hon. M. A. BIRRELL — In the end, Mr Theophanous, these matters are adjudicated by the Australian Industrial Relations Commission, which I believe enjoys your support. The government is happy to have the matter go before the commission. In fact, it is not appropriate only that it go before the commission but also that it be considered in the context of its impact on individual workplaces — which is the government's proposition before the commission. It is also appropriate that it be done in the context that the federal award position will not necessarily be rubber stamped into the Victorian minimums. That is axiomatic in the difference between the two systems. The government is happy to go before the commission; it believes it is appropriate. I look forward to the outcome of those deliberations.

Questions interrupted.

DISTINGUISHED VISITOR

The PRESIDENT — Order! I acknowledge the presence in the gallery of the Baroness Cumberledge, who is a member of the House of Lords and the former Undersecretary for Health in the previous Major government. She is visiting Australia as the leading guest speaker at the International Hospitals Federation congress being held in Melbourne. I welcome her to the Parliament of Victoria.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Retail tenancies: working party report

Hon. W. I. SMITH (Silvan) — In May this year the Minister for Small Business organised a small business summit and clearly identified a problem in the retail industry. Since then she has responded by setting up a small retail industries working party. I ask her to report to the house the government's response to the report of the retail tenancies working party.

Hon. LOUISE ASHER (Minister for Small Business) — I thank Ms Smith not only for her question but also for the excellent work that she has concluded as chairperson of the retail tenancies working party. It is true that in April this year I held a small business summit where a series of problems from small business owners who are tenants were identified. I subsequently appointed a working party chaired by Wendy Smith. The other members of that working party were Peter Ryan from the other place, Ron Thomlinson of the Retail Traders Association, Peter Clarke from the Property Council of Australia, and Daryl Beitzel, a small business person who subsequently joined the United Retailers Association.

That committee embarked on a process of extreme consultation, and I thank its members for their input into the working party report and for their 16 comprehensive recommendations. It gives me great pleasure to announce today that the government has accepted all 16 recommendations.

The government will introduce a new bill called the Retail Tenancies Reform Bill, which will represent the most significant small business tenancy reform in 10 years. The key features of the bill will be access to a tribunal system and adequate information being made available to both landlord and tenant before leases are signed. That will involve very detailed disclosure statements, and landlords will not be able to charge rent until the disclosure statements are lodged with the tenants. Furthermore, the reform package tightens the restrictions on outgoings. For example, all outgoing statements will be audited and changes must be justified. No longer will landlords be able to have the carriage of outgoings for vacant shops for expensive marketing campaigns or landlords' legal fees. This is an important step for the small business sector.

The third central feature of this excellent reform package for small business is expanded compensation provisions because relocation, disruption to trade and changes in tenancy mix adversely affect trade.

Hon. T. C. Theophanous — Yes, but how long will it take?

Hon. LOUISE ASHER — It gives me a great degree of amusement to hear Mr Theophanous ask me how long will it take. I am immediately forced into looking at the previous government's record — which was interesting. The first working party established under the previous Cain-Kirner

governments took five years to develop a bill — and Mr Theophanous is upset over a couple of months!

Hon. D. A. Nardella — You have had five years, so there you go!

Hon. LOUISE ASHER — I haven't been minister for five years. Mr Theophanous himself was Minister for Small Business; he received a report and he put it in his desk drawer! Then what did he do? He called for another report. Mr Theophanous had responsibility for the small business portfolio and did absolutely nothing. I am delighted to say I have acted very quickly on this report.

A range of policy perspectives are included in the report, such as urgent repairs and improvement to assignments. Most importantly, the reform package will address the fact that at the moment the relevant act does not allow for rents to decrease. It is most important that that provision is addressed, and as part of the reform process that will be addressed.

The commonwealth has issued eight benchmarks for the states to follow. I am delighted to advise the house that Victoria has now met or exceeded all eight benchmarks. I will be delighted to go to a meeting of state and commonwealth representatives on 5 December to report that — —

Hon. G. R. Craig — Where is it? Cairns!

Hon. LOUISE ASHER — In Melbourne. Victoria now has the most advanced retail tenancy policy position in the country. Victoria is well ahead of any other state in addressing the concerns of the small business sector. As I said, this is the most significant small business tenancy reform in 10 years.

Nursing homes: standards

Hon. M. M. GOULD (Doutta Galla) — I refer the Minister for Aged Care to the annual report of community visitors under the Health Services Act, which slams the standards of care to frail elderly residents and people with disabilities in many special residential services. I also refer to the fact that that is not due to the lack of regulations but to the lack of monitoring and funding by this government. Will the minister accept responsibility for the fact that under this government, as the report says, these Victorians do not get a fair go?

Hon. R. I. KNOWLES (Minister for Health) — I thank the honourable member for her question. It

allows me to again contrast this government's performance — —

Honourable members interjecting.

Hon. R. I. KNOWLES — I concede that the opposition introduced regulations. There was only one small problem: they were never required to be applied. The coalition government has required supported accommodation facilities to meet the regulations, and as a result it has decided not to duplicate the commonwealth government's role in monitoring nursing homes. We now have the capacity to ensure that supported residential services meet the minimum standards. These services are provided by the private sector and attract no commonwealth or state subsidy.

It is true that many of the residents of these services would be eligible for commonwealth funding subsidies if they were residing in nursing home or hostel facilities. We are again taking that matter up with the commonwealth government. We took it up with the previous federal Labor government but received no support. We are pointing out the inequity in the commonwealth's policy position, in that it provides substantial subsidies to residents of commonwealth-funded nursing homes or hostel facilities as opposed to similar people living in other residential services who are not eligible for the subsidy.

I previously advised the house that I have established a small group to look at how the range of other services, which are funded by the state, are operating and how we can ensure that those facilities remain eligible for federal subsidies. It is true that community facilities play an important role and that they have a secondary role of monitoring services. If Miss Gould would like to consult with them she will find that they will concede that their status has improved immeasurably under the current government compared with their status under her government, which had responsibility in this area for 10 years.

I am happy to see any fair comparison of the achievements of this government and those of its predecessor. We are providing an important service. There are some 8500 beds in Victoria under the supported residential services program. Without those services Victorians would have far fewer options. We are working in the field and trying to get the commonwealth government to recognise its responsibilities.

Hon. M. M. Gould — You are not enforcing it.

Hon. R. I. KNOWLES — We are enforcing it, as opposed to what you did. You did nothing. You had 40 of the worst facilities ever seen. I am happy to see any comparison of this government's record in this area compared with the record of absolute neglect of the previous government.

Teletrak: proposal

Hon. W. A. N. HARTIGAN (Geelong) — It has recently been alleged that the Victorian government's decision not to legislate to allow for proprietary horse racing in this state is in some way linked to this government's proposal to establish a national framework for interactive gaming. Will the Minister for Finance explain to the house whether that is so?

Hon. R. M. HALLAM (Minister for Finance) — I am happy to have the chance to explain it. Some misconceptions have been circulated, including the allegation that some sort of exclusive deal has been struck between the Victorian Casino and Gaming Authority and some members of the gaming industry with regard to interactive gaming licences.

Hon. T. C. Theophanous interjected.

Hon. R. M. HALLAM — Thank you, Mr Theophanous. I am pleased to have your support and your endorsement. It is a preposterous suggestion. Apart from anything else, it is illogical. I understand that it has been alleged by Teletrak that the government put every possible obstacle in the way of its application to establish proprietary racing in this state so that Crown Casino would have a clear run in establishing a virtual reality casino on the Internet. That is a monstrous allegation.

The *Maryborough Advertiser* was incorrectly informed that a senior staff member of the Victorian Casino and Gaming Authority, Mr Brian Farrell, the manager of Gambling Operations and Audit, while attending the World Gaming Congress and Expo in Las Vegas last month 'told the seminar exclusive licences will be granted to existing licensed operators Crown Casino, Tabcorp, Tattersalls and the VRC'. Brian Farrell represented me at both the International Association of Gaming Regulators conference in London and the World Gaming Congress and Expo in Las Vegas. I was not able to attend either of those venues because I had commitments in the house.

A quite indignant Mr Farrell assures me that at no time did he make any reference to the Victorian Racing Club or Crown Casino being granted any such licence. In fact the regulatory model for interactive gaming we have been discussing does not even cover wagering or bookmaking. Mr Farrell may have indicated that any exclusivity clause that apparently applies to the licences already in operation would be respected in any future negotiations. I hope that is understood by every member of this chamber. At no time did Mr Farrell indicate that those organisations would, as a matter of course, be granted an interactive gaming licence as claimed in the newspaper report.

I can say with absolute conviction that it is simply nonsensical to claim that the government's decision on proprietary racing in Victoria is somehow linked to a proposal to provide for interactive gaming licences to be granted by the Victorian Casino and Gaming Authority. On the contrary, the decision not to make the legislative changes that would accommodate the Teletrak proposal was made on the basis of Teletrak's inability to demonstrate that it could establish and sustain a viable market and, more importantly, that its proposal would not put at risk the established racing industry.

That decision did not fall directly within my ministerial portfolio. It is an issue that was considered in the first place by a cabinet colleague. However, I acknowledge that I have an interest in the outcome because it so happens that the established racing industry in this state produces a revenue stream of something like \$120 million a year to the Victorian government. I have a clear vested interest in protecting that revenue stream. In this government's determination to ensure the proper outcome for interactive gaming we are neither ignoring nor avoiding the challenges. The Victorian government has taken a leadership position in that context and we are leading the way in assessing the regulatory requirements needed to provide appropriate control and to protect the Victorian community. The allegation that that is somehow connected with our view on proprietary racing is nonsensical and mischievous, and I absolutely refute it.

Workcover: common-law access

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Finance to his confirmation yesterday that a worker who has suffered an injury at work and who is further injured by the negligence of a medical practitioner would not be able to sue for

malpractice whereas a person who is not injured at work but who is the victim of malpractice would be able to sue. How does the government justify a situation that will result in medical practitioners getting off scot-free in negligently treating injured workers?

Hon. R. M. HALLAM (Minister for Finance) — I thank the honourable member for his question, and I am pleased he has seriously considered the answer I gave him yesterday. The problem I have, though, is that he has construed it in a way that is illogical. He now implies that because a worker cannot take action against a medical practitioner under common law in those circumstances, the medical practitioner will get off scot-free — but he cannot draw that conclusion.

Let us look at the way the real world works. If an issue of medical negligence arises, the medical practitioner involved is answerable to a higher authority than a common-law action by someone who is disadvantaged by the particular action.

Honourable members interjecting.

Hon. R. M. HALLAM — Remember that the Victorian Workcover Authority has no such constraint on it in taking action against the doctor.

Hon. T. C. Theophanous — There would not have to be any payment for the malpractice! He cannot be sued.

Honourable members interjecting.

Hon. T. C. Theophanous — It is an outrage: he cannot be sued!

Hon. R. M. HALLAM — I am responding to your claim that a negligent medical practitioner will get off scot-free, and that is not true. That is what you said.

Hon. T. C. Theophanous — In terms of a claim against him, yes.

Honourable members interjecting.

Hon. R. M. HALLAM — Do you want to change your question? Would you like to rewrite your question?

Hon. Pat Power — You want to avoid the question.

Hon. R. M. HALLAM — I am answering the question.

Hon. T. C. Theophanous — They will get off scot-free; that is the answer!

Hon. R. M. HALLAM — The difference is that in the circumstances outlined in the legislation that will be debated by the house, the injured worker will not have to rely on an establishment of negligence to mount a claim for injuries suffered in the workplace — and that is an important principle. As to the subsequent claim against a negligent medical practitioner —

Hon. T. C. Theophanous — No financial claim is possible.

Hon. R. M. HALLAM — That is not true! I am not sure how many times you have to be told, Mr Theophanous, but although there may be no claim by the person directly involved, that does not absolve the medical practitioner. He or she will still be responsible to a medical board and to any action taken by the Victorian Workcover Authority.

Honourable members interjecting.

Hon. R. M. HALLAM — The best way around this would be for me to invite the honourable member outside so I can take him through it very, very slowly.

Road safety: pedestrians

Hon. B. C. BOARDMAN (Chelsea) — Will the Minister for Roads and Ports advise the house of the action being taken to reduce the number of pedestrian fatalities in Victoria?

Hon. G. R. CRAIGE (Minister for Roads and Ports) — Although we should be encouraged by the reduction in the road toll, particularly over recent years, including this year, we should not take the reduction for granted, and we should all continue to take a great deal of interest in the subject. Despite the reduction, it is clear that pedestrian fatalities have remained at the same significant level over that period.

Last year pedestrian fatalities accounted for 18 per cent of the total number of road fatalities. More alarming is the number of pedestrians who are killed in the metropolitan area. Two groups are particularly vulnerable: one comprises young children between the ages of 4 and 14; and the other

comprises people aged 60 years and over. A third group, which does not receive as much attention as it should, comprises people who are intoxicated.

In response, the government has allocated \$1.3 million towards a multi-action pedestrian program. The two-year program is aimed at reducing pedestrian fatalities and developing a model for use in areas where a high number of pedestrian fatalities occurs. The program, which combines education, engineering, enforcement and promotion aspects, will be coordinated by Vicroads in cooperation with the Traffic Accident Commission and Victoria Police.

The City of Stonnington — Mr Birrell knows where that is — has been selected as the first trial area. Some 10 target areas have been identified because they have a high incidence of pedestrian accidents. They especially include main shopping areas and entertainment precincts. The multi-action pedestrian program is intended to raise community awareness of pedestrian safety and to promote safe and responsible behaviour to reduce risks to pedestrians.

I have referred the issue to the parliamentary Road Safety Committee, which will focus on the safety of the young and the elderly and on the significant part alcohol plays in pedestrian fatalities. The government is committed to enhancing the safety of pedestrians on the state's streets and roads.

Workcover: injury categories

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Finance to his Workcover changes and ask whether it is a fact that a person who suffered a triple-level disc prolapse of the spine prior to the changes would have received \$17 000 for the impairment and approximately \$8000 for pain and suffering whereas in future a person with a similar injury will receive no lump sum payment because under the fourth edition of the medical guidelines his or her impairment will be considered to be only 8 per cent. If so, how does the minister justify his claim that workers will not be disadvantaged?

Hon. R. M. HALLAM (Minister for Finance) — The honourable member obviously has me at a disadvantage because he has the schedules in front of him and I do not. I make the comment again — I am relaxed about repeating what I have said a number of times in this chamber — that there is no guarantee that every worker will be better off under the new changes.

Hon. T. C. Theophanous — This one will be \$25 000 worse off!

Hon. R. M. HALLAM (Minister for Finance) — I will come to that; just bide your time. The claim I put on the record when the review was undertaken was that in aggregate terms there would be no reduction in the benefits going to injured workers. One of the things the honourable member has done is —

Honourable members interjecting.

Hon. R. M. HALLAM — One of the statements made in the preamble indicates exactly why the issue is so complex and subject to misinformation and a bit of mischief making. In the case he cited the honourable member says there would have been an \$8000 payment for pain and suffering. The

honourable member should establish the basis on which he makes that claim.

Hon. T. C. Theophanous — It would be \$17 000 for impairment and approximately \$8000 for pain and suffering.

Hon. R. M. HALLAM — Approximately? Where did you get the approximate \$8000 figure for pain and suffering?

Honourable members interjecting.

The PRESIDENT — Order! Question time is not meant to be a time for debate involving both sides of the house. I ask the minister to answer the question.

Hon. R. M. HALLAM — I accept that I am hopeless!

Hon. Pat Power — That will go down well: the minister responsible for Workcover and the Auditor-General admits he is hopeless.

Hon. R. M. HALLAM — Will Mr Theophanous identify where he got the \$8000 figure for pain and suffering.

Hon. T. C. Theophanous — It is a proportion of the \$50 000—odd that is allowable for pain and suffering.

Hon. R. M. HALLAM — The answer is that you do not know.

Honourable members interjecting.

The PRESIDENT — Order! I rule that the minister has answered the question.

Diabetes: government initiatives

Hon. K. M. SMITH (South Eastern) — The Minister for Health, who is also the Minister for Aged Care, will be aware that about 12 months ago I was diagnosed as a mature-age diabetic. Will the minister advise the house of any recent initiatives to improve the awareness and management of diabetes?

Hon. R. I. KNOWLES (Minister for Health) — I thank Mr Smith for his question, because diabetes is a serious issue. Mr Smith has identified himself as a diabetic, and about 800 000 other Australians have been diagnosed as diabetics. Of greater concern is the trend, which means that within 20 years 1.5 million Australians may be suffering from diabetes.

In many instances diabetes leads to early mortality. In other instances, it has a significant impact on morbidity. As a result of the growth of diabetes as a public health issue, all Australian health ministers have agreed to make it one of their national health priority targets. Governments at the federal and state level have committed themselves to generating strategies to enhance preventive strategies as well as developing more appropriate treatment and support regimes.

From a Victorian perspective, the government has established a task force that embraces all the key bodies in the field. The task force has just about completed a mapping program of the available services. The state is well blessed because it has the Diabetes Institute at Caulfield, which is under the leadership of Professor Paul Zimmet, who is doing a fantastic job.

Hon. M. A. Birrell — Who else is on the job?

Hon. R. I. KNOWLES — There are a number of distinguished people, including a former colleague, the Honourable Geoffrey Connard. The institute is developing a centre of excellence in Asia, which will work to our advantage. Although Australia faces a significant challenge, we must also realise that Victorians have the second-highest rate of diabetes in Australia. That is of particular concern to the indigenous population, as well to many non-English-speaking Victorians.

It is necessary to develop strategies to get information out to those communities and to examine some of the high-risk factors such as obesity and inactivity. The government is committed to developing better strategies to tackle a significant public health issue that has a profound impact on a number of Australians.

Metropolitan Ambulance Service: Auditor-General's report

Hon. M. M. GOULD (Doutta Galla) — I refer the Minister for Health to the Auditor-General's report on the ambulance service, which found that there are not enough call-takers and dispatchers at Intergraph and that ambulance responses in Blackburn, Nunawading and Mitcham have been delayed. Will the minister assure the house that he will take action to allow Intergraph to increase its dispatching capacity, or will the government allow Intergraph to continue to be in breach of its contract, as it has been continuously for the past two and a half years?

Hon. R. I. KNOWLES (Minister for Health) — At the time the Auditor-General's report was tabled I said that by and large the it recognised that Victoria, and Melbourne in particular, has a good ambulance service that is well run and, under the current management, has a clear vision for the future.

The latest figures from the Metropolitan Ambulance Service show that the service has achieved its best performance since monitoring began. In more than 97 per cent of cases the ambulance service has been within the stipulated time frame. That is the best result we have had since we started measuring dispatch times from the time of the telephone call to ambulances arriving at code 1 cases.

I contrast that with the ambulance service under our predecessors, who did not even measure its performance — and when the Labor government measured the performance of the service it kept changing the measurement times. Labor measured from when the telephone call was taken to when the ambulance was dispatched. Sometimes, it measured from when the wheels started turning to when the ambulance arrived. In fact, those times were measured manually, so there was no way of validating whether the service was performing well.

We now have the capacity to measure performance. Unlike its predecessor, the government publishes data on the performance of the service so that the community understands how well or otherwise the service is performing.

Hon. D. A. Nardella — It is not performing.

Hon. R. I. KNOWLES — It is performing, and that is established by the dispatch times and the arrivals on time in over 97 per cent of code 1 cases.

Honourable members interjecting.

Hon. R. I. KNOWLES — The Auditor-General acknowledged that the ambulance service is now working well. He identified some areas where additional improvement can be made — and that is always the case. The government and the MAS will continue to work together to ensure the system continues to improve. The overwhelming message is that the citizens of this state have every right to have confidence in the performance of the Metropolitan Ambulance Service.

Imports: replacement

Hon. ANDREW BRIDSON (Waverley) — Will the Minister for Industry, Science and Technology inform the house of recent steps taken by the government to encourage the replacement of imported goods with Victorian-sourced goods?

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — I thank the honourable member for his question. I am pleased to advise the house that last week I had the pleasure of launching Australia's largest Industrial Supplies Office import replacement exposition at Waverley Park, Mulgrave, which a number of honourable members were good enough to attend and support.

More than \$40 million worth of currently imported products were on display at the expo. The products were put up for companies in Victoria to examine with the aim of having those companies make the products so the need to import them will cease. Import replacement is a vital economic goal that is strongly supported by the Kennett government. The expo was an effective and practical way of strengthening local industry and creating local job opportunities by giving local companies the chance to bid for work that would otherwise go overseas.

The expo at Mulgrave built on the recent successful ISO major projects forum that was held about a month ago. At that forum I was able to discuss projects like City Link, Docklands and Federation Square, which represent a new golden age for construction and infrastructure development in Melbourne. In particular, they hold out

opportunities for local industry to supply the products that are needed for those projects.

We certainly hope those opportunities are available in large measure for Victorian small and medium-size businesses. We also hope that some of the products needed for large-scale projects will be provided locally rather than being imported, as they historically have been. ISO therefore has a key role to play in major projects in encouraging import replacement, just as it does in manufacturing.

Simply said, instead of importing products for these projects we would like to see local businesses supply them. I am advised that last year ISO achieved success in replacing \$100 million worth of imports with Victorian-made products. This is a laudable achievement for an organisation that enjoys the full support of the government.

Local companies are winning orders because they have been given the opportunity to show buyers that their products are not just world class but competitive with imports, giving those buyers good cause to change from an import stream to a local supply. In major projects, where we regard import replacement as important, and in the manufacturing industry, the products of which were on display at Mulgrave, we will keep pursuing that important objective.

GAMING ACTS (MISCELLANEOUS AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The bill makes a number of amendments to the Gaming Machine Control Act 1991 which will improve the efficiency and consistency of the regulation of the gaming industry without compromising the high standards of probity required of participants in that industry.

These amendments are:

imposition of a supervision charge on Tattersalls;

separation of the current venue operator's licence into two parts — licensing of individual venue operators and approval of premises as suitable for gaming;

removal of the requirement for the authority to investigate the financial soundness and stability of an applicant for a venue operator's licence;

clarification that the Director of Gaming and Betting can formally object to the authority in relation to the grant of a venue operator's licence at any time before the licence is granted;

abolition of the requirement that the authority approve the form of the contract between a gaming operator and a venue operator for the supply of gaming machines;

abolition of the requirement that an application for a special employee's licence must be accompanied by a certificate of suitability from the applicant's employer or prospective employer;

abolition of the requirement that employers notify the authority of the commencement and cessation of employment of every licensed employee;

the authority rather than the Director of Gaming and Betting is to determine applications to be listed on the roll of recognised manufacturers and suppliers under the Gaming Machine Control Act 1991;

clarification that the authority's approval of gaming equipment is limited to ensuring player return, game fairness and security but does not include electrical safety or reliability;

clarification that the authority can release lists of venue operators and persons or companies listed on the roll of recognised manufacturers and suppliers;

provision for the authority to authorise possession of gaming machines or restricted components solely for use outside Victoria, and for it or the Director of Gaming and Betting to authorise possession, for any purpose, of gaming machines which are not in working order;

amendment of the Gaming and Betting Act 1994 to enable the Treasurer to exempt from taxation specified amounts of the net investment in approved betting competitions at fixed odds conducted by the licensee or operator in Victoria;

amendment of the Gaming No. 2 Act and the Lotteries Gaming and Betting Act to abolish a never-used licence scheme under which a bank could conduct premium account lotteries.

I will now turn to a detailed explanation of each of the proposals in the bill. Firstly, the bill requires Tattersalls to pay a supervision charge to the government in respect of the operating costs of the Victorian Casino and Gaming Authority. The amount of the charge will be set by the Treasurer. A similar charge is already paid by the other gaming operator, Tabcorp. The amendment will put Tattersalls on a similar footing with Tabcorp. Separation of the licensing of venue operators and the approval of premises as suitable for gaming is another key amendment proposed in the bill.

Currently, under section 21 of the Gaming Machine Control Act, an applicant for a venue operator's licence must satisfy the Victorian Casino and Gaming Authority that he or she is a suitable person to be concerned in or associated with the management and operation of a gaming venue. In making this assessment the authority must consider the repute of the applicant and his or her associates having regard to character, honesty and integrity. Section 21 also requires the authority to assess the suitability of the applicant's premises for gaming.

The authority carries out detailed investigations to enable it to make these assessments, and the completion of those investigations can take some time. It is inappropriate for the authority to be subject to any pressure to foreshorten any investigation into matters affecting probity to meet a commercial deadline.

This nexus between an applicant for a venue operator's licence and a particular venue has created problems in the past where purchasers of venues already licensed for gaming may not have obtained probity clearance by the time settlement is due. As venue operator licences are not transferable, the venue cannot operate past the settlement date until the new operator obtains his or her venue operator's licence.

The proposals in the bill will overcome these problems by allowing a person to apply for a venue operator's licence before becoming involved with the operation of a venue or entering into a contract to buy a venue. The level of probity checking of applicants and their associates will remain unchanged.

The new process will be similar to obtaining a driving licence, albeit a licence requiring very high standards to be met. The venue operator's licence, like a driving licence, will attest to the suitability of the operator to own and run a venue, without

requiring the operator to actually be in possession or involved with a particular venue at the time the licence is granted.

The amendments will also allow the owner of premises or an authorised representative of the owner to apply to the authority to have those premises approved as suitable for gaming independently of any application for a venue operator's licence. In assessing the suitability of premises the authority will consider all those matters which it currently considers in assessing the suitability of premises to be licensed as a gaming venue.

When a licensed venue operator wishes to commence gaming operations at a particular approved venue he or she will apply to the authority to have the venue operator's licence amended to include the particular venue. If the authority is satisfied that the amendment of the licence will not conflict with a ministerial direction under section 12 of the Gaming Machine Control Act 1991 and will not result in the same operator controlling two venues within 100 metres of each other, the authority may approve the amendment. Upon approval of the amendment the operator will be able to conduct gaming at that venue.

This scheme recognises the reality and requirements of the maturing gaming industry without in any way diminishing the integrity and probity of that industry. It will enable prospective industry participants to obtain a licence before purchasing a venue. This will overcome the commercial pressure placed on applicants when buying operating venues.

Since the authority's investigations are conducted at a national and international level, this initiative will also enable prospective venue operators to take their licences interstate, and should assist in the development of mutually recognised licensing standards for gaming industry participants in all parts of Australia.

The current legislation requires the authority to investigate the financial soundness and stability of the applicant. The bill will remove that requirement. The authority considers the suitability or otherwise of the sources of an applicant's income as part of its probity assessment of that person, but will no longer be required to make a judgement on the sufficiency of the applicant's financial resources. Assessment of the financial position of a prospective venue operator requires subjective and financially specialised assessments which are more

appropriately left to banks and financiers. In addition, those requirements can discriminate against new businesses and clubs which cannot always fulfil the assessment criteria for financial stability which require a business or commercial history.

The Director of Gaming and Betting is a Governor in Council appointee whose functions include assisting the authority in the performance of its functions. He also oversees the day-to-day processing and assessment of licence applications to the authority. In the course of those duties he may form a view about the suitability of an applicant for a venue operator's licence.

To ensure that he can bring that view to the attention of the authority, the bill includes a proposal that the Director of Gaming and Betting be empowered to formally object to the authority in relation to the grant of a venue operator's licence at any time before the application is determined.

The act currently requires the authority to ensure that the contract between a venue operator and a gaming operator for the supply of gaming machines is in a form approved by the authority. The bill abolishes that requirement. It is considered to be unnecessary intervention in the commercial relationship between the gaming operator and the venue operator. In addition, there are other more appropriate remedies available to parties who believe the terms of a contract may be unfair or unjust — for example, through the courts or the Australian Competition and Consumer Commission.

Currently each application for a special employee's licence must be accompanied by a certificate of suitability from the applicant's employer or prospective employer. The bill abolishes that unnecessary requirement as it is of no value in minimising criminal exploitation and places job seekers in a catch-22 situation. They cannot apply for a special employee's licence unless they have a certificate of suitability from a venue operator who proposes to employ them, and yet many find it difficult to find someone to employ them in the gaming industry if they do not possess a licence. Removal of the requirement will overcome that situation without affecting the level of probity required of applicants for special employee's licences.

The act currently requires venue operators to notify the authority of the commencement and cessation of employment of every licensed employee at their

venue. This requirement places a significant burden of compliance on venue operators and provides the authority with little valuable information. Venue operators will still be required to keep records of employment for a variety of other purposes and should the authority wish to obtain information from a venue about which employees were working there on a particular date, it has the necessary powers under the Gaming Machine Control Act to access this information.

The Director of Gaming and Betting is currently responsible for the listing of manufacturers or suppliers of gaming machines on the Roll of Recognised Manufacturers and Suppliers of Gaming Machines and Restricted Components. Only manufacturers and suppliers listed on the roll can supply gaming machines to the gaming operators. The bill provides for the authority to take over that function.

Manufacturers and suppliers play a key role in the gaming industry and the amendment will provide that they are treated in the same way as prospective venue operators, whose suitability is also assessed and determined by the authority. This amendment also overcomes an anomaly in the current scheme where applicants to be listed on the roll require the approval of the director, whereas any new associates of the already listed manufacturer require the approval of the authority. Listed manufacturers will also be able to voluntarily remove themselves from the roll if they no longer wish to be listed.

The bill clarifies that the authority's approval of gaming equipment is limited to ensuring player return, game fairness and security but does not include electrical safety or reliability. It is not the role of the authority to attest to the electrical, radiation or general safety of gaming machines and gaming equipment.

The bill amends the secrecy provisions of the legislation to clarify that the authority can publish lists of licensed venue operators and of manufacturers and suppliers listed on the roll. Publication of this information has two benefits. It will confirm the integrity of the gaming industry by indicating publicly which companies and individuals are licensed or authorised to supply machines, and it will provide a useful source of information for other organisations in the industry.

The bill provides that the authority, rather than the Minister for Gaming, may authorise possession of gaming machines or restricted components which

are solely for use outside Victoria, and allows the Director of Gaming and Betting to authorise possession, for any purpose, of gaming machines which are not in working order.

The bill amends the Gaming and Betting Act 1994 to enable the Treasurer to exempt from taxation specified amounts of the net investment in approved betting competitions at fixed odds conducted by a licensee or operator in Victoria.

This power is to enable fixed odds sports bets from other state and territory TABs to be combined with Tabcorp betting without attracting further taxation in Victoria. Such exemption powers have been in place for many years to enable the pooling of totalisator investments between state TABs and it is appropriate to extend the power to allow the similar pooling in respect to fixed odds sports betting. Sports betting is becoming increasingly popular and it is timely for the development of a national combined TAB sports betting service. The bill also makes other minor amendments of a technical nature to the Gaming and Betting Act 1994.

The bill repeals part 6 of the Gaming No. 2 Act 1997. Part 6 contained a proposal to allow banks to apply for a licence to conduct premium account lotteries. The provision was originally inserted into the Lotteries Gaming and Betting Act 1966 by the previous government. It has never been used, and no bank has ever expressed more than passing interest in the scheme.

The proposals improve the operation of the current legislation. They will overcome inherent rigidities in the current system which have become manifest as the gaming industry has matured and will not compromise any of the probity standards required for entry into this industry.

They will also significantly improve the administration of the licensing and approval processes within the Victorian Casino and Gaming Authority and remove unnecessary regulatory burdens on job seekers and venue operators. The amendments will also make the operations of the authority more transparent providing greater assurance of the integrity of the industry.

The amendments will ensure Tattersalls is treated the same as Tabcorp in that they will now both be required to pay a supervision charge.

I commend the bill to the house.

Debate adjourned for Hon. PAT POWER (Jika Jika) on motion of Hon. D. A. Nardella.

Debate adjourned until next day.

FOOD (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

In April 1997 the government launched the Food Hygiene Strategy. The purpose of this strategy is to provide a comprehensive framework to ensure that all food grown, processed, manufactured, prepared and/or sold in Victoria is as safe as is possible. The strategy is designed to:

establish a single, integrated framework which involves all levels of government and which applies to all stages of the preparation and processing of food from the farm through to the consumer;

maximise the ability of all food providers, from growers to retailers, to provide safe, clean food and to identify and eliminate food hazards before they affect the consumer;

maximise consumer knowledge of safe food handling practices, particularly in relation to raw food;

ensure confidence in the Victorian food supply;

minimise contamination of food and cases of food-borne and water-borne disease; and

locate the source of any failures in the system as quickly as possible and minimise the numbers of people affected.

The principal legislation governing food preparation and sale in Victoria is the Food Act 1984. The act is administered by the Department of Human Services. The act prohibits the sale, preparation or packing of food that is adulterated or not fit for human consumption.

The surveillance and monitoring of food production processes under the act is the responsibility of local government. Councils have been given extensive legislative powers and responsibilities in regard to

the registration of food premises and the monitoring and controlling of hygiene and safety standards in their municipalities.

There are also several areas where specific legislation applies to the manufacture and sale of food. For instance, the Meat Industry Act 1993 establishes the Victorian Meat Authority, which operates a licensing and inspection system for meat production. Also, the Dairy Industry Act 1992 establishes the Victorian Dairy Industry Authority to ensure appropriate regulation of the dairy industry.

The food hygiene strategy contains a comprehensive range of measures to enhance food safety. This bill contains amendments to various acts to achieve the legislative change that is essential to implement the strategy.

1. Amendments to the Food Act 1984

The bill amends the act to provide for the following initiatives. First, it will require the proprietor of a food premises or food vehicle registered in Victoria to prepare and lodge a food safety program with its municipal council when it applies for the registration, or renewal of registration, of its premises. The council must be satisfied that the program systematically identifies each hazard in the business which could cause food poisoning. The program must indicate the steps that are to be put in place to avoid such hazards leading to the contamination of food which is handled or prepared on the premises. This includes identifying appropriate measures to ensure that ingredients which are received for use in the preparation or manufacture of food are not adulterated or unfit for human consumption. The program must also address the ability of staff to safely handle food, and to identify the training needs of those staff.

Municipal councils will be able to assist in this process — for example, through their new statutory role in approving the programs. It is expected that in practice model programs will be developed by various sectors of the food industry, to be used as appropriate by food businesses. The food safety programs are to be reviewed regularly, and audited by an independent approved auditor. Each business must also nominate an appropriate, competent person who is to be responsible for the training of staff at the business.

Such quality assurance processes are being implemented across Australia in various sectors. They are based upon an understanding of the

internationally recognised principles of HACCP (pronounced 'hassip'), or 'hazard analysis of critical control points'. These preventive measures provide a more effective method of ensuring that products, including food, are safe, than do measures that rely solely on end-product testing or on prescriptive legislation and government inspection.

The states, the commonwealth and the territories are working together to develop the introduction of food safety programs at the national level. The proposed food safety requirements contained in this bill are intended to reflect this approach.

Food safety programs and auditing will be introduced gradually over four years to give the food industry adequate time to comply with the new requirements. For this reason the provisions will apply only to food premises or food vehicles which form part of a declared class of premises or vehicles. It is likely that the first classes of businesses to be declared will be those that either produce food where there is a higher risk of contamination, because of the nature of that food or its manufacture (for example, very short shelf-life food) or businesses that provide food to a large number of consumers or to vulnerable groups of consumers (such as nursing homes). The bill also contains other amendments to the act to ensure that the public health is protected.

A Food Safety Council is to be established, to replace the existing Food Standards Committee, to advise the Minister for Health on food safety and food standards, the operation of the food safety legislation and any other public health matter with respect to food. This independent advisory body will consist of members with knowledge and ability in public health and food hygiene and nutrition and will include consumer and industry representatives. The chair of the council is to be Professor Mark Wahlquist, who is the Professor of Medicine at Monash University.

The government also intends to establish within the Department of Human Services a new agency to be known as Food Safety Victoria. This agency will play a central role in ensuring that there is a coordinated approach taken across the state to the regulation of the food industry under statute.

The ability to prevent food-borne illness and to respond rapidly and effectively to any outbreak of disease depends on an effective surveillance and monitoring system. When a possible outbreak is identified Food Safety Victoria must be able to seek the assistance of officers from the appropriate body

to assist in the investigation of the possible source of contamination, and where appropriate to facilitate discussions with any business which may be implicated.

The bill therefore contains amendments necessary to enable this part of the department to work with councils and public statutory bodies such as the Victorian Meat Authority and the Victorian Dairy Industry Authority. For instance, it clarifies that the transfer of appropriate information does not constitute a breach of any confidentiality requirements.

Finally, the bill introduces a power for the Secretary to the Department of Human Services to order a food business to recall unsafe food and to have a statutory basis for recommending that members of the public do not consume food that may be unsafe. This will enable the government to adequately respond to emergencies that may arise when it has received information about an outbreak of food-borne illness. It could apply where food prepared at particular premises is suspected to be contaminated with salmonella and the proprietor of that business is unwilling to voluntarily recall the food. It may also be necessary to use the power if a general recall is necessary because contaminated food has been widely distributed.

These powers are consistent with, and will supplement, other emergency powers that are currently provided under the act to respond to a risk to the public health, such as the power to close premises and to prohibit the sale of food.

2. Amendments to the Meat Industry Act

The Victorian Meat Authority, known as the VMA, administers a licensing system for meat processing premises and meat transport vehicles under the Meat Industry Act. In April the government indicated that it intended to propose the strengthening of the provisions in the act in relation to meat transport vehicles. As part of the process of further developing an integrated framework for food safety, the Food Safety Council will be asked to provide advice regarding the desirability of introducing on-the-spot fines for minor breaches of legislation regarding food, including in relation to meat transport vehicles.

In the meantime, to ensure that meat transport vehicles are dealt with in a manner that is consistent with the overall effect of the Food Act, the bill contains amendments to the Meat Industry Act

regarding the powers of the chief executive officer of the VMA in relation to meat transport vehicles which are required under the regulations to be licensed. It confers upon the chief executive officer the power to prohibit the use of such a vehicle for the transport of meat. An order may also be made prohibiting a person from using or permitting the use of a meat transport vehicle. This is additional to the current power to prohibit the use of a meat processing facility for a specified purpose.

The chief executive officer will also be able to apply to the Supreme Court to seek an order to compel compliance with such directions. In addition, the bill increases the maximum penalties that are to apply in relation to unlicensed meat transport vehicles and to breaches of licence conditions for such vehicles. These amendments will ensure that steps can be taken to effectively deal with the unlawful practices of some meat transport vehicle operators.

Amendments are also included to reform the scope of the licensing arrangements under the act. Responsibilities for the regulation of food safety matters in the meat industry is presently divided between this act and the Food Act. In order to eliminate the dual licensing of some premises, the bill reallocates responsibility for the registration or licensing of businesses that handle meat. Premises at which the sole or predominant activity is the manufacture of unmixed meat and/or meat products such as smallgoods and sausages will now be licensed and audited under the Meat Industry Act.

Similarly, retail butcher shops will be licensed under the Meat Industry Act rather than under the Food Act by local government. Supermarkets and delicatessens are to continue to be registered by councils under the Food Act, as they handle a range of products other than meat. Coolstores, previously licensed by both local government and/or the VMA, will now usually be registered under the Food Act. The only exception is to be where a coolstore is operated from premises where the predominant activity is the manufacturing of unmixed meat and/or meat products. In such a case it makes sense for the coolstore that is an adjunct to that activity to be licensed under the Meat Industry Act rather than under the Food Act.

This realignment of responsibilities will mean that almost all of the meat processing chain will come within the ambit of the Meat Industry Act, which is where the principal expertise in relation to meat safety lies. Where a business handles or processes significant quantities of raw meat but is to be

registered under the Food Act with local government rather than with the VMA, there will be close liaison between local government and the VMA to ensure appropriate practices in relation to food safety are followed. The converse will be true in relation to premises licensed under the Meat Industry Act that operate on a small scale any non-meat food activities. The intention is to implement a single audit system which satisfies all food safety requirements.

Provision is made in the bill for quality assurance programs, training requirements and audits under the Meat Industry Act to operate consistently with food safety program arrangements under the Food Act in relation to businesses whose licensing is being transferred to the Meat Industry Act. The overall effect of these changes is to create a single regulatory regime for the meat and non-meat sectors of the food industry.

In consultation with the meat industry, the structure and membership of the VMA will be reviewed over the next 18 months to ensure that all sectors of the meat industry have their interests adequately met given the new and broader responsibilities of the VMA.

In conclusion, the proposed amendments to both the Food Act and the Meat Industry Act will improve food laws so as to provide for industry and government to work together to maintain and improve food production in Victoria, and protect the health of consumers.

I commend the bill to the house.

Debate adjourned for Hon. M. M. GOULD (Doutta Galla) on motion of Hon. D. A. Nardella.

Debate adjourned until next day.

ST ANDREW'S FOUNDATION BILL

Second reading

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

That this bill be now read a second time.

This bill resolves a matter which has been outstanding since the closure of the St Andrew's Hospital in 1990. Since this time the hospital's board of management has continued to hold and administer an endowment fund comprising

charitable gifts and donations made to the former St Andrew's Hospital but has been unable to distribute these funds since the hospital's closure. The board of management has sought the government's assistance to transfer this endowment fund, along with any outstanding existing or future bequests or gifts made to the hospital, to a charitable fund which will use the donations for similar but broader purposes than the former St Andrew's Hospital. This bill achieves the wish of the hospital's board by transferring the endowment fund and future and existing bequests to the newly created charitable St Andrew's Foundation. This will prevent charitable donations being wasted on costly applications to the court to determine how the funds should be used since they are unable to be used for their intended purpose.

The St Andrew's Foundation is a charitable trust which has been established by representatives of the Presbyterian and Uniting churches. The foundation will provide grants and donations towards hospitals, aged care facilities and community service programs provided by the Presbyterian and Uniting churches and other public benevolent organisations or institutions in Australia having objects similar to those bodies or to the objects of the former St Andrew's Hospital.

In addition to administering the funds which are directed to the foundation by this legislation, it is anticipated that the foundation will undertake fundraising appeals. The trust deed makes it clear that the majority of trustees will be persons who, because of their position or activity in the community, can be expected to have a high degree of responsibility to the community. In addition to the trustees appointed by the Presbyterian and Uniting churches there will be an independent trustee appointed by the other trustees.

This foundation will keep alive the memory of the former St Andrew's Hospital, which has significance for the many Victorians who have some connection to the hospital, including those born there or who have had loved ones treated at the hospital.

I commend the bill to the house.

Debate adjourned on motion of Hon. D. A. NARDELLA (Melbourne North).

Debate adjourned until next day.

GAS SAFETY BILL

Second reading

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

That this bill be now read a second time.

The bill is an integral part of the government's gas industry reform program. That program has been carefully designed to deliver significant benefits to the state by creating a more competitive, open and responsive gas supply industry. The bill will ensure that safety standards are maintained after disaggregation of Gascor and the Gas Transmission Corporation (GTC).

Until recently the Gas and Fuel Corporation and its successors, Gascor and the Gas Transmission Corporation, regulated safety outcomes for the gas industry. With corporatisation and now disaggregation of Gascor and GTC it is desirable to introduce a rigorous yet efficient regulatory regime for gas safety. In part, this objective has been achieved through the Gas Industry (Amendment) Act 1997. That act established the Office of Gas Safety which assumed the safety regulatory functions previously performed by the Gas and Fuel Corporation. It gave the office responsibility and powers for administration of gas safety standards, oversight of the safety of the gas industry, public education with respect to gas safety issues, responsibility for the investigation of incidents with implications for gas safety and the protection of consumers through appropriate appliance approval processes.

The government considers it desirable to separate safety regulation from economic regulation. To that end, the safety-related provisions of the Gas Industry Act have been extracted from that act and are now consolidated in this bill. The bill provides for the continuation of the Office of Gas Safety as an independent statutory authority performing the safety functions vested in it by the bill.

The Gas Industry (Amendment) Act 1997 created general duties for Gascor and GTC in respect of gas safety. The bill imposes those safety duties on all persons involved in the management and operation of a gas transmission, distribution, or retail business. In order to ensure appropriate safety procedures are adopted, a person operating a transmission, distribution or retail business, or seeking to establish

such a business, must submit a safety case to the Office of Gas Safety.

A safety case is a document describing in detail the operating and management practices adopted by a business that seeks to minimise, to the extent practicable, the risks and hazards arising from its use of gas. It will focus on a range of issues, including staff training and supervision strategies and risk management techniques.

The safety case regime has been identified as the most appropriate regulatory framework for the supply sector of the Victorian gas industry. It represents a light-handed approach in that it avoids prescriptive regulation and therefore reduces compliance burdens for gas companies, but at the same time is able to minimise the risks associated with the conveyance and supply of gas.

The office will agree to the terms of the safety case with the operator and may reject a safety case if it does not meet prescribed criteria. In the case of existing gas operations, the office may then impose a safety case if the relevant business does not submit its own safety case in a form acceptable to the office. In the case of a new entrant to the industry, acceptance by the office of that company's safety case will be a precondition to their commencing operations. The safety case regime will ensure that only persons able to demonstrate that they can meet the general gas safety duties will be able to operate a gas transmission, distribution or retail business.

With respect to the use of gas, industrial companies with large gas-consuming equipment and comprehensive safety management systems will have the option of submitting a safety case for their operations as an alternative to complying with prescriptive regulations. The office will only approve such an action if safety levels at least the equal of those achieved under the regulations are achieved. This initiative will generate efficiency gains for such companies and continue to preserve acceptable safety standards.

The bill gives the office power to audit compliance with approved safety cases and provides the office with investigative and enforcement powers to investigate gas incidents and to monitor safety generally within the gas industry. The office has an additional power to give certain directions to industry participants.

In addition, the bill enhances the office's role in maintaining safety standards within the gas

industry by introducing more comprehensive provisions for the regulation of gas appliances and installations, and grants the office the power to apply a consistent regulatory framework across the entire range of gaseous fuels utilised in Victoria. The office is given power to recall unsafe appliances in the interests of consumer safety.

Part 1 of the bill provides for the commencement and describes the purpose of the bill. Part 2 constitutes the Office of Gas Safety and provides for its powers, functions, appointment of staff and, in keeping with government policy, provides that it must prepare an annual corporate plan to ensure that it remains accountable to the responsible minister. Part 3 establishes the new safety case regulatory regime for managing the safe transmission, distribution, supply and sale of gas. It also establishes the regime for approval and acceptance of gas installations and appliances. Part 4 establishes a Gas Appeals Board to hear appeals from certain decisions of the office. Parts 5, 6 and 7 respectively give the office its inspectorial powers and its powers of enforcement and give the Governor in Council the power to make regulations with respect to gas safety issues.

I commend the bill to the house.

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

Debate adjourned until next day.

GAS INDUSTRY (FURTHER AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The bill represents a significant step in the government's program for the reform of the Victorian gas industry and is an integral part of the government's energy sector reforms.

Victoria has shown strong national leadership in the area of energy sector reform, with almost all of the state's electricity assets having now been restructured and privatised. The success of the electricity privatisations, realising total proceeds which now exceed \$22 billion, gives a clear demonstration of the confidence which national and

international investors have in the long-term economic future of Victoria as well as in the commercial and regulatory structures which have been established through the energy sector reform process.

While the objective of reducing state debt has been important, the government's overall priority has been and continues to be to create new and dynamic markets that will secure low-cost energy for the state's energy consumers. As has been demonstrated in the electricity supply industry reforms, the government is committed to establishing competitive market and regulatory structures to ensure that all consumers of energy are well served, that competitive pressures in the market are maximised to ensure the lowest sustainable prices and that service standards continue to meet consumers' expectations.

Consistent with that objective, the bill addresses both the future market structure for the Victorian gas industry and the regulatory arrangements which will apply to it. In the next session, further legislation will provide for:

any necessary amendments to accommodate developments in national gas reform;

cross-ownership provisions; and

other provisions to facilitate privatisation of the gas industry.

In 1994 the former Gas and Fuel Corporation of Victoria was split into two new statutory corporations under the Gas Industry Act 1994. They were the Gas Transmission Corporation (GTC), which assumed responsibility for the ownership and operation of the state's high pressure transmission pipelines, and Gascor, which assumed responsibility for the low pressure gas distribution and gas retailing functions formerly carried on by the Gas and Fuel Corporation. The bill provides for the further disaggregation of GTC and Gascor in order to create a competitive and dynamic market structure for the state's gas industry.

The bill will allow Gascor to be formally disaggregated into three gas distribution businesses and three gas retailing businesses, each operating in separate defined geographical areas. The geographic territory of each business has been designed on a non-exclusive basis and deliberately calculated to promote gas on gas competition and competition between electricity and gas. A central services

company will also be established formally to provide such services as information technology and a customer call centre.

GTC will continue to own and maintain the high pressure pipeline business through a new corporate structure. Certain of its functions relating to the control of the gas transmission system will be transferred to an independent transmission system operator called Victorian Energy Networks Corporation or Vencorp. Vencorp is established as a statutory corporation under the bill and will have responsibility for administering a new gas spot market. The spot market is designed to facilitate more efficient balancing of gas flows in the transmission system and to provide greater price transparency. Vencorp's objectives in operating the market will be to establish a competitive, reliable and efficient market for gas in which market participants can choose with whom they trade, in which third parties are granted access to the gas transmission system on fair and reasonable terms, in which the trading of gas from different sources is not differentiated and in which prices are governed as far as practicable by commercial and market forces rather than by regulation.

The second significant feature of the bill is the new regulatory structure which it creates. In addition to authorising the establishment of rules for the operation of the gas market to be administered by Vencorp, the bill introduces a new regime for third-party access to natural gas distribution and transmission pipelines. The bill authorises the establishment of a Victorian Access Code which will specify detailed arrangements under which third parties may obtain access to services provided by the gas distribution and transmission systems on commercially negotiated terms or, where such terms are unable to be agreed, through binding arbitration. These arrangements will be administered and regulated by the Australian Competition and Consumer Commission (ACCC) with respect to the transmission system and by the Office of the Regulator-General in relation to the distribution system.

The regulatory arrangements for third-party access follow closely the arrangements which have been developed at a national level by the Gas Reform Task Force and its successor, the Gas Reform Implementation Group. The national scheme has been developed by all Australian jurisdictions and participating industry groups.

When the national scheme has been finalised and legislation enacted by the commonwealth and the other participating jurisdictions, which is expected to occur by the middle of 1998, the national law as enacted in Victoria will replace the third-party access provisions contained in this bill. The bill also establishes licensing arrangements for gas distribution and gas retailing similar to those which apply in the electricity industry. The licensing provisions will be administered by the Office of the Regulator-General and will ensure, among other things, the maintenance and ongoing monitoring of customer service standards.

Part 1 of the bill contains formal provisions stating its purpose and providing for its commencement. Part 2 contains extensive amendments to the Gas Industry Act 1994. Various new definitions are inserted in the act which, for the most part, recognise the creation of the new gas companies and insert terms used in the new regulatory provisions.

Part 2 also introduces the distinction between franchise and non-franchise customers and sets out the timetable over which all customers will eventually become non-franchise customers and, consequently, will have complete freedom to choose their gas supplier. From 1 September 1998 customers whose annual gas consumption exceeds 500 000 gigajoules will become contestable. The threshold will reduce to 100 000 gigajoules on 1 September 1999 and to 5000 gigajoules on 1 September 2000. All customers will be contestable on and after 1 September 2001.

Part 2 establishes Vencorp as a statutory corporation and sets out its powers and functions. The bill includes provision for a review of Vencorp's role as an independent transmission system operator in 2007.

As already noted, the new regulatory arrangements established in part 2 provide for certain regulatory functions and powers to be conferred on the ACCC, with respect to transmission pipelines in the state, and for the Office of the Regulator-General to regulate the distribution system. The principal regulatory instruments which are to be made and enforced under the provisions contained in the bill are licences for gas distribution and gas retailing, market and system operation rules which will govern the market for gas operated through the existing GTC transmission system, and a third-party access code providing for access to transmission and distribution pipelines. The bill includes detailed provisions for the enforcement of these regulatory

instruments and provides for administrative review of certain key regulatory decisions.

Consistently with the current national proposals, the access provisions are supplemented by a statutory prohibition on engaging in conduct for the purpose of hindering access to transmission or distribution pipelines. The regulatory arrangements also include provision for a tariff and charges order regulating the retail price of gas to gas consumers as well as charges for connection to and use of distribution and transmission pipelines.

Part 2 contains a number of further consequential amendments to the Gas Industry Act, principally to reflect the fact that the competitive gas companies will be carrying on the activities formerly carried on by GTC and Gascor. In addition, the Trade Practices Act authorisation contained in part 6B of the Gas Industry Act, which relates to the gas supply contract negotiated at the end of last year between Esso-BHP and Gascor, is extended to cover any subsales under that agreement by Gascor to the new businesses.

Part 2 also introduces amendments to the existing statutory allocation provisions in the act to facilitate the transfer of property, rights, liabilities and staff from GTC and Gascor to the new businesses. New allocation provisions are introduced to facilitate the statutory transfer of property, rights, liabilities and staff from those businesses to purchasers as part of the privatisation process. A new part 13B is introduced to authorise the Treasurer to be a party to any agreement relating to the privatisation of the new businesses and to ensure that the commercial confidentiality of details relating to bids received for the new businesses in the privatisation process are exempt from the Freedom of Information Act 1982.

Part 3 of the act contains various miscellaneous amendments to other Acts which, again, are principally for the purpose of recognising that the new businesses will be carrying out functions previously performed by GTC and Gascor. As I indicated at the outset, the bill represents a significant step by the government in the reform and revitalisation of the state's gas industry and provides the foundation for the government to deliver further substantial benefits to the state's energy consumers.

I commend the bill to the house.

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

Debate adjourned until next day.

HEALTH SERVICES (ST ANDREW'S HOSPITAL) BILL

Second reading

For **Hon. R. I. KNOWLES** (Minister of Health)
Hon. R. M. Hallam (Minister for Finance) — I move:

That this bill be now read a second time.

The purpose of this bill is to provide for the outstanding succession issues related to the closure of St Andrew's Hospital and in particular to provide for:

- (a) the repeal of the St Andrew's Hospital Act 1978 and the St Andrew's Hospital (Guarantee) Act 1978; and
- (b) the successor legal entity to the hospital.

St Andrew's Hospital encountered financial difficulties in 1985. In July 1985 a receiver and manager, Mr Christopher Thomas Daly, was appointed by then Treasurer under the mortgage debenture taken by the Treasurer to secure the state's obligation under the guarantee it had provided to secure the borrowings of the hospital.

The hospital ceased operating in 1990 and Mr Daly sold the hospital site to the Peter MacCallum Cancer Institute with the final payment in relation to the sale being made on 1 June 1993. Advances made to the hospital by the state totalling \$23 043 554.22 were irrecoverable and were written off in the 1992-93 financial year. Mr Daly has indicated that the termination of his appointment as receiver and manager can now occur provided arrangements are in place to enable former patients to bring potential legal actions for medical malpractice against the hospital. These arrangements also need to provide for the endowment fund currently held by the hospital's board and the ongoing storage of the hospital's records and patient medical records.

This bill makes the Secretary to the Department of Human Services, who is established as a body corporate under the Health Act 1958, the successor legal entity to the hospital. The secretary will become responsible for those functions currently performed by Mr Daly such as arranging for the premiums to be paid on the hospital's medical malpractice and public liability insurance policy and the storage of records. Once the secretary becomes the successor legal entity Mr Daly can be relieved of his duties as receiver and manager. I would like to take this opportunity to thank him on behalf of the

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state for performing those duties in an exemplary manner.

Honourable members will be aware that there is a separate bill before the house which provides for the endowment fund held by the hospital's board and for any future bequests left to St Andrew's Hospital to be directed to a charitable trust, to be known as the 'St Andrew's Foundation'. This bill together with the other bill will satisfactorily finalise all the loose ends left following the closure of St Andrew's.

I commend the bill to the house.

Debate adjourned for Hon. M. M. GOULD (Doutta Galla) on motion of Hon. D. A. Nardella.

Debate adjourned until next day.

UNCLAIMED MONEYS (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

This bill adds new provisions to the Unclaimed Moneys Act 1962 to provide the state with legislation that is compliant with national competition policy, complementary to that of the commonwealth and similar to that of other states for the administration of unclaimed retirement savings accounts moneys. These new administrative provisions will enable the Registrar of Unclaimed Moneys, with the approval of the Minister for Finance, to appoint external agents to administer designated functions of the act.

The retirement savings account provisions will enable institutions registered within Victoria to report and pay unclaimed moneys to the state rather than to the commonwealth Commissioner for Taxation. The clauses relating to retirement savings account unclaimed moneys provide for the reporting and payment to the state by those institutions of the moneys of a holder where they remain unclaimed as from 30 June 1998 and at subsequent six-month intervals. The institutions must report holder and account details to the state for the purposes of maintaining an unclaimed moneys register and for the payment of subsequent claims.

The six-monthly reporting timetable is to be standard for all institutions in the territories, the states and the commonwealth. These arrangements enable the industry to adopt a common procedure in its dealings with the various jurisdictions and thereby facilitate their compliance with the act.

The bill removes an anomaly in the application of part 4 of the act in relation to unclaimed superannuation benefits. Following agreement with the other states and the commonwealth, the jurisdiction test is now based on where a corporation has its registered office. This overcomes the anomaly in the event that a fund is incorporated in one jurisdiction and has its registered office in another jurisdiction. The bill also includes other amendments to the principal act to improve its administration and clarity.

I commend the bill to the house.

Debate adjourned for Hon. T. C. THEOPHANOUS (Jika Jika) on motion of Hon. D. A. Nardella.

Debate adjourned until next day.

HIRE-PURCHASE (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 29 October; motion of Hon. LOUISE ASHER (Minister for Small Business).

Hon. D. A. NARDELLA (Melbourne North) — The opposition strenuously opposes the bill because it will disadvantage farmers, who are the main users of hire purchase. In Victoria, 1300 farmers, or 3.6 per cent of the total, use hire purchase because they find it the best way to finance their purchases of ploughs and tractors and so on.

To illustrate the importance of farmers to Victoria, I point out that farming contributed approximately \$1.3 billion to the state domestic product in 1993–94. At that time some 87 000 people were employed in agricultural, forestry and fishing industries, and 37 000 establishments were classified as conducting agricultural activities.

Some 1300 farmers will be adversely affected by the bill. The government professes to represent the bush, but it is not doing its job. The changes will put extra pressure on our farmers, who are finding it hard to survive under what, in some areas, are severe

drought conditions. That is certainly true in East Gippsland. The Kennett government is taking away the legislative support in the Hire-Purchase Act that protects farmers who fall behind in their payments. Instead, it is creating a vacuum. Let me explain the protection that exists at the moment. Currently, farmers enjoy the protection of the full act — in other words, there are no sunset provisions. That gives farmers and other consumers who enter into hire purchase contracts the greatest protection.

There is no reason to get rid of the Hire-Purchase Act. The implementation of uniform legislation is still being discussed by state and federal ministers; and at our briefings, no-one could tell us when a national scheme would be put in place. What will happen if national legislation has not been enacted after the two years lapse and all the protection is gone? If that occurs, farmers will have no protection.

Hon. W. R. Baxter — How many farmers do you think use hire purchase?

Hon. D. A. NARDELLA — If you were here, Mr Baxter, you would have heard me say around 1300 farmers — 3.6 per cent of all farmers — use it.

Hon. W. R. Baxter — Whose figure is that?

Hon. D. A. NARDELLA — Thank you, Mr Baxter: the figure comes from the Victorian Farmers Federation.

Hon. W. R. Baxter — But it has current hire purchase agreements that are years old. I want to know how many users currently —

Hon. D. A. NARDELLA — They are the current figures, Mr Baxter. They are the farmers who have existing contracts.

Hon. W. R. Baxter — Farmers who have existing, old contracts, that's right.

Hon. D. A. NARDELLA — You can deduce from that that in future around 3.5 per cent of farmers will continue to have hire purchase contracts. That is the important aspect of this bill.

Hon. C. A. Furletti — On what basis?

Hon. D. A. NARDELLA — On the basis of what has gone on in the past.

Hon. C. A. Furletti — That is nonsense!

Hon. D. A. NARDELLA — It is not nonsense. If 3.6 per cent of farmers currently have hire purchase contracts, you can assume that 6, 12 or 24 months down the track 3.6 per cent of farmers will still have hire purchase contracts.

I will repeat what I said before, because honourable members tend to quickly forget! Farmers use hire purchase because they find it the best way to finance their equipment purchases. On that basis you can project the effects the legislative changes will have, because protection for farmers will go. The Hire-Purchase Act works well for people who enter into hire purchase contracts. The act fills a vacuum that would otherwise exist without it, and it serves the farming community —

Hon. G. R. Craige interjected.

Hon. D. A. NARDELLA — You are an absolute dill. You don't even care about farmers; that is how much of a dill you are. If you did, you would be in your place listening to my speech because you might learn something. But you don't care about farmers whatsoever.

Hon. G. R. Craige — It's not true!

Hon. D. A. NARDELLA — You will be judged on your lack of knowledge of this area!

Hon. G. R. Craige — I actually worked for the Victorian Farmers Federation, you —

Hon. D. A. NARDELLA — The act serves the farming community well, and the protection it affords is important to hirers. The bill will retain for a sunset period of two years the protection in sections 24 and 25 of the Hire Purchase Act that allow farmers to apply to a court for the return of their repossessed equipment if they can show they have a reasonable prospect of meeting repayments within the next 12 months.

Another protection that will be stripped away concerns the validation of warranties. Under the Hire Purchase Act statutory warranties are extended to include goods purchased through hire purchase. Under a hire purchase agreement, a finance company buys machinery from a dealer, who then hires the machinery to the hirer. Under the act the hirer has the right to force the finance company to honour the warranty. That is important, because it means the farmer deals with only one organisation, the finance company, and the finance company cannot hide behind the technical changes in

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Hon. C. A. Furletti — Absolute nonsense.

the owner of _____
hired by you under an agreement dated the _____ day
of _____ 19____ intends to re-take possession of the goods after
the expiration of _____ days from the service of this notice unless the arrears
of instalments which now amount to \$ _____ are paid to
_____ at _____
before _____ 19____ on or

Hon. D. A. NARDELLA — Mr Furletti can make his contribution later, but that is the case. It is similar to other circumstances where government members have said the opposition has misunderstood the legislation and is scaremongering. However, the opposition's view is correct. The government is again taking away the protection of various community groups. If the bill is passed farmers who have signed these contractual arrangements will be disadvantaged. One has only to examine the government's track record. Time and again the opposition has shown where the government has been wrong. Workcover is a good example. The opposition's motion earlier today demonstrated without doubt that Victorians will be further disadvantaged by the changes that have been introduced into the other place.

The bill will put farmers at a disadvantage, and the opposition opposes their being placed in that position. Finance companies could require the payment of the entire debt by placing the farmer under pressure in giving notice to repossess equipment.

Hon. Louise Asher interjected.

Hon. D. A. NARDELLA — The honourable member for Morwell in the other place has farmers in his electorate. Both Mrs Hogg and I have farmers in the province we represent. The minister does not care about the people represented by honourable members.

Another area of concern is the current provision of detailing the right to surplus funds arising from repossession and the sale of equipment.

Section 15 of the Hire-Purchase Act contains detailed provisions relating to hirers' rights. The fourth schedule of the act refers to advice to hirers. It protects a farmer's substantial equity in any machinery that is repossessed and sold. A farmer in that situation may have only one or two payments to go, so that protection is valuable.

The bill inserts provisions into the Goods Act that take account of hirers' rights. It is less precise than the Hire-Purchase Act and has not been amended over time to take account of the developments in hire purchase. The Goods Act also has a less precise definition of a hirer's equity. It means that lawyers acting on behalf of a finance company could legally take money from farmers by drafting one-sided contracts that circumvent the intent of the amendment to the Goods Act. That may further

unfairly penalise farmers who are already under financial strain.

The issues that have been raised today stem from the track records of finance companies in the 1940s and 1950s, when the original hire-purchase legislation was developed to deal with their unscrupulous activities. Even today there are a number of unscrupulous finance companies. For example, Avco has no conscience whatsoever and rips people off. That type of company already stretches the law by charging its customers 28 per cent interest. It will always find loopholes in legislation to push its products onto farmers. The changes will mean that farmers will not be protected against that.

Government members interjecting.

Hon. D. A. NARDELLA — A number of publications reveal how those companies work. One of the major publications on Avco is a July 1997 report by Legal Aid New South Wales and the Consumers Federation of Australia entitled *In Whose Interest? Avco Lending Practices Exposed*. It says that the company cannot be trusted, that it has repeatedly broken the law and got away with it, and that condoning its practices would be like putting Dracula in charge of the blood bank — and at particular risk would be the blood, sweat and tears of farmers and their families.

Honourable members interjecting.

Hon. D. A. NARDELLA — It is a public report that was released in July 1997. A number of people demonstrated against Avco at that time. I refer to one instance when a branch manager was confronted about his charging 28 per cent interest. He was proud that his company charged its customers 28 per cent, and he kept smiling away throughout the confrontation because finance company managers like him have no scruples. Finance companies such as Avco will be the same finance companies to which the legislation gives carte blanche to rip off farmers. However, I do not believe farmers are stupid. Unlike the National and Liberal parties, we do not hold that view of hard-working people.

Finance companies such as Avco prey on vulnerable people. Honourable members should understand that they will go out and tout for business in the farming community once hire purchase has been deregulated. They will be able to write new contracts and put farmers in difficult positions — without the

protection of the Hire-Purchase Act, which is the only protection farmers have at the moment.

The act provides a simple and cost-effective means by which farmers can protect themselves, their families and their machinery. When that protection is taken away by deregulation, their fears will understandably increase. As recently as 1994 the Victorian Credit Tribunal made decisions relating to the activities of finance companies, the details of which are contained in the report. Avco has disregarded those decisions. Its actions are not based on good policy or fairness and equity. It is an unconscionable company that sets out to rip people off. I am concerned that not only Avco but other charlatan finance companies will now set out to rip farmers off.

Page 28 of the report contains details of the objection by the Victorian Ministry of Consumer Affairs — the government's own ministry — to Avco's practices in 1994. The report reveals that \$8 million worth of credit charges were illegally taken by Avco in the first instance. At that stage the company did not notify the debtors affected by the breach who were entitled to relief. That is how unscrupulous the company is.

We can see how farmers could be treated by Avco once the bill is passed by referring to other case studies of people being harassed and harangued by Avco because they had fallen behind in their payments. They are the types of policies the Hire-Purchase Act is there to protect people from. At the moment hire-purchase companies cannot harass and harangue people who have hire-purchase contracts because there are legal mechanisms to protect them. When we look at Avco's track record we find that it consistently hassles those with whom it has entered into contracts. The details of the case study reported on at page 23 demonstrate that. We are concerned that other financial institutions will also use this poor legislation to hurt farmers.

The Hire-Purchase Act should remain in force until national replacement legislation is enacted; then this bill would not adversely affect Victorian farmers. Farmers are doing it hard in East Gippsland. The opposition is concerned about their welfare. It does not want farmers, now or in the future, to become second-class citizens because of this government's deregulation policies and madness in not looking after their interests, thereby allowing finance companies and banks to put them at further financial disadvantage.

As I said earlier, the opposition strenuously opposes the legislation. It does not provide enough protection for farmers. That defect has been brought to the attention of the government, but it will not delay the measure until the national legislation is enacted. The opposition will continue to oppose the bill.

Hon. W. R. BAXTER (North Eastern) — What a diatribe we have just heard from the would-be protector and saviour of farmers in Victoria! This afternoon Mr Nardella rode into the chamber on his white charger, opened his mouth and demonstrated immediately that, firstly, he did not understand farmers; secondly, that he does not know what is in the bill; and thirdly, that he cannot read statistics.

From my office I could hear on the intercom the commencement of his contribution to the debate. Mr Nardella said 3.6 per cent of farmers have hire-purchase contracts, which percentage would be ongoing for farmers. By interjection I challenged him and he reaffirmed that statement and said I did not know what I was talking about. He said we can expect that to continue into the future. Mr Nardella clearly does not understand statistics.

It is not 3.6 per cent of farmers; it so happens that in 1994–95, 3.6 per cent of farm debt was under hire-purchase contract. That is vastly different from Mr Nardella's allegation that 3.6 per cent of farmers were so affected. Also, that statistic is about three years out of date. It can be assumed that many of those contracts have expired, been paid out, lapsed, or whatever. If Mr Nardella understands farming and the types of finance available he will understand that hire-purchase is a relic of the 1950s; few farmers use hire-purchase. It would be reasonable to expect that the statistical 3.6 per cent of farm debt has declined and in the future will trail away to almost nothing.

It is irresponsible for Mr Nardella to advocate hire-purchase as a form of finance that farmers should use. Mr Nardella should be saying to farmers — not that they need to be told because they are smarter than him — that there is a variety of financial options for farmers to utilise; but farmers are already utilising those options in leasing arrangements, and the like.

I cannot for the life of me understand why any farmer would enter into a hire-purchase structured arrangement. I am aware of no farmer with a current hire-purchase contract and I do not know any farmer who is contemplating entering into a

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hire-purchase contract. If we took Mr Nardella at face value, we would think hire-purchase is the major avenue for farmers to get finance. That is a demonstration of his ignorance of anything beyond the tram tracks.

It ill behoves the Labor Party to engage in the sort of irresponsible scaremongering that the honourable member for Niddrie in the other place has done; he issued an outrageous press release after the bill was introduced. He alleged the government was throwing farmers out to loan sharks. Then on, I think, Wimmera radio he made the most outrageous allegations. He probably thought he was ingratiating himself with farmer listeners. Most, I suspect, would have laughed at him; at the time the radio program was broadcast many would have been sitting at their kitchen tables having their afternoon cups of tea. They would have said, 'Here is a bloke from the city who does not have any idea about the country. What is he thinking of?'. His attempt to get publicity for the Labor Party in country Victoria would have fallen flat; it would have been totally unproductive, as it should have been.

The bill provides for sections 24 and 25 — aspects about which Mr Nardella was concerned — to continue in force for another two years, in which time most hire-purchase contracts will elapse in any event; but the government can decide whether any legislation should be introduced in light of any national legislation enacted during that period. The bill allows for the Goods Act provisions to continue in force, thereby ensuring that any surplus funds from sales under hire-purchase contracts go to farmers.

I wonder why Mr Nardella did not refer to the fact that the parliamentary committee that recommended the proposed legislation was an all-party committee which submitted a unanimous report, as I understand it.

Hon. M. T. Luckins — He was on it.

Hon. W. R. Baxter — Thank you for your assistance, Mrs Luckins. I did not realise Mr Nardella was a member of the committee which delivered a unanimous report; yet, he has the gall to come into the chamber and suggest that somehow or other the government is taking the wrong action. Where was he during the committee's deliberations? Opposition to the bill by the Labor Party is nothing but a hollow sham. We must move on and ensure that farmers have access to the greatest variety of financial instruments in the best possible manner.

They should be given the best possible advice, and not be deliberately misled.

Hon. M. T. Luckins (Waverley) — I am pleased to speak in support of the Hire-Purchase (Further Amendment) Bill which acts on recommendations made by the parliamentary committee that I chair — that is, the subcommittee of the Scrutiny of Acts and Regulations Committee investigating redundant legislation.

I am disappointed the opposition has opposed the bill, particularly in view of the support it gave to the subcommittee's report and, further, at meetings of the full Scrutiny of Acts and Regulations Committee. Membership of that committee included the honourable members for Bendigo West, Coburg and Werribee in the other place — Bob Cameron, Carlo Carli and Mary Gillett, respectively — and Mr Nardella. The Labor members unanimously supported the adoption of the report.

In fact, the report in question states that the recommendations for the repeal of the Hire-Purchase Act are proof of the committee's ability to work in a bipartisan way. As Mr Baxter said, the report was adopted unanimously by the committee.

Indeed, I have the minutes of the meeting held on 22 November 1996 in which Mr Nardella moved for the report to be formally adopted by the full Scrutiny of Acts and Regulations Committee.

Hon. D. A. Nardella — That is not our position.

Hon. M. T. Luckins — I am surprised at the decision of the Labor Party to oppose the unanimous recommendations of that committee. We all agreed that the Hire-Purchase Act should be repealed. As a background to the bill, on 25 March 1995 the Redundant Legislation Subcommittee received correspondence from the Australian Finance Conference requesting that the committee examine the Hire-Purchase Act for possible repeal. The submission states:

With the imminent national implementation of the uniform Consumer Credit Code we believe that the Hire-Purchase Act is no longer relevant or appropriate for a deregulated finance industry and a regulatory environment which favours minimum intervention in the market. Indeed, its relevance has been severely diminished since the passage of the Credit Act 1984.

Subsequently the subcommittee advertised in the *Age* and the *Herald Sun* in August 1995 calling for expressions of interest in the examination of the act. We asked people to comment on the following issues: is there any reason why the Hire-Purchase Act 1959 should not be repealed? Are there certain protections under the Hire-Purchase Act 1959 which should be preserved and moved to another act? Are there certain protections available to specific groups of people or covering specific transactions which are not available under any other legislation and require statutory regulation? How could these protections and rights be best preserved?

In addition the subcommittee wrote to more than 70 stakeholders. It received a total of 38 submissions, including 13 from the finance sector and credit providers; 7 from the legal profession; 5 from major consumer finance consultants and counsellors; and 2 from the insurance industry. Submissions were also received from VECI, which represents small business, the VFF, representing the farming community, and the Equipment Lessors Association.

The subcommittee held a public meeting on 27 August 1996 at which a number of witnesses appeared before it, including the Victorian Farmers Federation, the Australian Finance Conference, RTV Consultancy, the Australian Bankers Association, Corrs Chambers Westgarth, Solicitors, the Faculty of Law, Monash University, Financial Services Consultancy Pty Ltd, the Consumer Credit Legal Service, the Consumer Law Centre, the Consumer and Financial Counselling Association, and the Banking Finance and Consumer Committee of the Law Council of Australia. A great diversity of views was put to the subcommittee at the public hearing.

The subcommittee found that hire-purchase was one of the three major forms of finance available. For the information of Mr Nardella, who did not seem to understand the finance industry at all, I will explain what the other two main forms of finance are. One is the chattel mortgage, which is a contract for the sale of goods between a dealer and a customer with finance provided under contract by a third-party credit provider. That form of finance does not incur stamp duty. The other main avenue for finance for farmers and small businesses is the leasing of goods, vehicles, plant and equipment, which is increasingly popular as lessees can take advantage of tax deductions when goods are used for earning taxable income.

Evidence presented to the subcommittee questioned the rationale of maintaining statutory regulations for

only one of the three main forms of finance available in the commercial world. Dick Viney of RTV Consultancy said at the public hearing that transaction costs are what drives consumers' choices between the three forms of commercial finance and helps them make a decision about which form of finance to use. They make a choice based on the market range and what is most advantageous to them.

Simon Begg from Corrs Chambers Westgarth, solicitors, submitted:

It is irrational to retain the Hire-Purchase Act to provide regulation where credit is required by commercial operators and farmers if, as will be the case, unregulated credit can be provided to commercial operators and farmers by changing the form of transaction to any loan on security, lease or credit sale under which title passes before delivery.

At the public hearing the VFF representative supplied figures showing that hire purchase debt accounted for approximately 3.6 per cent of farm debt. We had this discussion earlier, and I would like to clarify for Mr Nardella that it is farm debt and not the percentage of farmers in debt. I do not know what Mr Nardella was referring to because it did not make sense, but we are used to that with Mr Nardella's contributions.

Why regulate a credit instrument that represents only 3.6 per cent of farm debt while allowing 96.4 per cent of borrowing transactions to be unregulated? In the main the subcommittee's review identified that the act now applies almost solely to business transactions, not consumer transactions for the purchase of, for example, a refrigerator, which is what the act was originally intended for in 1959.

We found the act to be rigid, overprescriptive and inappropriate as a means of regulating business finance. We found the capping of interest rates at 8 per cent to be inconsistent with modern practice, not to mention unattractive to hire-purchase providers. Alarming, the subcommittee heard evidence that the rigidity of the act was resulting in a substantial loss of business for Victoria, because larger national companies were taking transactions interstate to avoid the Hire-Purchase Act provisions.

The subcommittee identified two areas where repeal of the Hire-Purchase Act would result in a loss of protection. Firstly, the right to reopen harsh or unconscionable contracts relating to business transactions would be lost, and, secondly, the

protection for farmers by way of a 12-month moratorium on the repossession of farming goods under hire-purchase agreements under sections 24 and 25 would be lost. The purpose of those sections was to enable farmers to retain possession of goods and allow them the opportunity to trade out of financial difficulties, which obviously they would not be able to do if a harvester or other equipment under hire-purchase arrangements was repossessed.

The subcommittee was concerned that retaining strict regulation over hire-purchase agreements, which is a diminishing area of finance, while allowing other financial transactions such as leases and chattel mortgages to remain unregulated was inconsistent.

After considering written submissions and oral evidence at length, the subcommittee, which I chaired, passed the following recommendations unanimously, voted for and supported by Mr Nardella. The recommendations included: that the Hire-Purchase Act be repealed, which the bill does; that the ministers for fair trading, agriculture, natural resources and small business, who are all responsible for different sections of the community which may be affected by the removal of these provisions, consider as a question of policy the development of new legislation to address the requirements of the rural sector in regard to commercial finance as part of a model for a national code relating to protections for the business/farming sector; and that the ministers consider referring these recommendations to the relevant ministerial council for the development of national uniform legislation.

The government recently tabled its response to the committee's report, which concentrated on the first recommendation to repeal the act and on recommendations 2 and 3, which were subject to further consultation between the government and non-government bodies.

The government accepted in principle the committee's recommendation to repeal the act because of its archaic nature and its lack of significance to the business sector. The response from the Minister for Fair Trading said that the proposed course of action to deal with the act will be of benefit to business and is designed so as not to adversely affect in any significant manner any segment of the Victorian business community, especially farmers.

The response also indicates that the government was still considering submissions by some representatives in the agricultural sector about protections for farmers if the act were repealed, but, as noted by previous speakers, we are actually retaining the sections relating to protections for farmers for at least two years.

I thank the other members of the subcommittee of the Scrutiny of Acts and Regulations Committee — Peter Katsambanis and the honourable members for Sandringham, Benambra and Gippsland South in another place, Murray Thompson, Tony Plowman and Peter Ryan respectively — for their contributions to the recommendations. Farmer representatives, the VFF and consumer groups have all welcomed the retention of provisions to protect farmers. The provisions will be sunsetted in two years, but they have been maintained despite the fact that the VFF and no-one else in the agriculture sector was able to provide the committee with any empirical evidence to show that they have been used in the past. The two-year sunset period will give the government time to consider farmers' needs.

In its deliberations the subcommittee examined the New South Wales Farm Debt Mediation Act 1994 and the Queensland Credit Rural Finance Act 1996, which provide protections to farmers in hardship. Neither act was considered appropriate for introduction in Victoria. The government response from the Attorney-General to the committee's recommendations concludes with a quote:

Discussions continue in relation to assessing whether there is a need for a new act in relation to rural finance and if such a need is established consideration will be given to referring this matter to the appropriate ministerial council for assessment of the need for national scheme legislation.

The government is saying that it will monitor the situation. It will consult closely with the agricultural sector and, if it can demonstrate a need for further protections to be retained in some other statutory form, that will occur.

I thank all members of the committee for their support of the recommendations, including Mr Nardella — although he has wimped it and spoken against the bill today. I also take the opportunity to thank the Australian finance conference for bringing the matter to the attention of the Redundant Legislation Subcommittee of the Scrutiny of Acts and Legislation Committee and the Minister for Fair Trading for acting so quickly on the

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committee's recommendations. I commend the bill to the house.

Hon. T. E. EREN (Doutta Galla) — I had hoped by now the unnecessary pain and suffering inflicted on country Victoria would have stopped. After the closure of 12 country hospitals and nearly 150 schools I had hoped that the government would be doing something to bring relief to our rural areas. Instead, the Hire-Purchase (Further Amendment) Bill puts the livelihood of Victoria's farmers at risk. What is worse, the government is in an indecent hurry to make farmers suffer. It is well-known that the federal legislation, which is to apply uniformly to all aspects of credit transactions including hire-purchase, is expected to be introduced fairly soon. It is also expected that the uniform federal legislation will be closely based on the New South Wales and Queensland models which are currently in place.

Those models do not leave the farmers in those states open to being preyed upon by dodgy finance companies as this bill does Victoria's farmers. These models do not get rid of the need for lenders to give seven days notice of repossession with the ability to make payments to avoid repossession. Unlike the total lack of protection that the bill gives our farmers, the New South Wales and Queensland models do not allow poor decisions or unfair conduct by finance companies to result in the loss of vital income that is essential for farmers to be able to make their living. Why doesn't the government wait for the federal uniform legislation to be introduced? While it is not perfect and is in need of moderation, the current system which operates in line with the Credit Act is much better than the proposals set out in this bill.

Frequent users of hire-purchase agreements — farmers, truck drivers and commercial vehicle operators — cannot lose their livelihoods or essential tools to continue working just because they are one or two payments behind. By removing that protection the bill creates a feeding frenzy for financial institutions and loan sharks. The national legislation is expected to include all the protection this bill is sadly missing. I repeat: why doesn't the government wait for the national legislation to be introduced?

Rural Victorians are already suffering enough by being abandoned by the National Party in its grab for a token share of power. National Party members meekly accept whatever they are told by members of the Liberal Party. They have given up on country

Victoria, but the Labor Party has not. It realises the vital role rural Victorians play in the development of the state and how much better off Victoria is when its rural sector is allowed to develop to its full potential. The Labor Party will fight to restore the livelihood of country Victorians that the government has been sucking out for too long. For the sake of rural Victoria, which has had to suffer under this government, I oppose the bill.

Hon. C. A. FURLETTI (Templestowe) — It is with great pleasure that I support the bill. I admit that when I discussed the bill in committee I thought it would not receive any opposition. However, ever keen to make mileage out of a situation, members of the opposition have seen fit to oppose what would in most instances be a fairly simple run through the Parliament. They want to take on the issue and protect the farmers. Well, they made a mistake — and I think Mr Nardella has gone off to lick his wounds.

Rather than seeking to minimise the protection of Victorians generally, let alone farmers, the bill implements to a very large extent — as has been so aptly and lucidly pointed out by Mrs Luckins — the recommendations of the Scrutiny of Acts and Regulations Committee. After consideration, the committee realised that Victorian farmers who work and live on the land need particular protection. My initial understanding of the bill was that it gave that protection.

I shall analyse what the bill does in the first instance, because that has not yet been done. I regret that Mr Nardella has seen fit to leave the house because I like to think that after listening to one of my contributions he leaves with something more than he started with. The bill retains the protection of the Hire-Purchase Act in respect of any current transactions. In other words, there is no change to the current situation. The bill also allows farmers to take advantage of the provisions of the Hire-Purchase Act, particularly section 24. That section is significant because at the moment it relates to any hire-purchase transaction that falls under the operation of the act. If there is unconscionable conduct or the contract is seen to be unconscionable or is otherwise such that a Court of Equity would give relief, the court could reopen the transaction and take an account between the parties. At the moment that provision applies to all hire-purchase contracts. The bill restricts it to farmers, so when the bill is passed farmers will have that protection. In addition, farmers will retain the protection of section 25, which allows them to make application to

a court to suspend payment under the agreement for 12 months. That appears to provide to the rural community of Victoria far greater protection than Mr Nardella suggested. As Mrs Luckins said, there are any number of ways to procure finance today. Things have changed a lot since 1959 when the Hire-Purchase Act was passed. That act is now almost 40 years old. Although Mr Nardella would like to keep things going forever, life changes.

The Hire-Purchase Act was passed to allow people to buy goods on terms or by means of a down payment and instalments with the option at the end of the contract of buying the goods outright. Since 1959 we have been able to lease goods. The leasing of chattels has taken over dramatically from hire purchase for the reasons already given. As Mrs Luckins pointed out, goods can also be bought and paid for by mortgaging them by chattel mortgage. If a corporation is involved there is provision to grant a debenture — a mortgage over the undertakings of the company. Most of the new ways of arranging finance are far better than the methods contemplated in 1959 and implemented in the provisions of the Hire-Purchase Act.

The bill repeals archaic and redundant legislation and does so recognising that the Hire-Purchase Act was among the first consumer protection legislation enacted. To suggest that the government does not treat the interests of consumers as being of paramount importance is another misconception on the part of the opposition. Since 1959 an enormous amount of consumer protection legislation has been introduced in this state. A considerable amount of federal legislation has also been enacted, including amendments to the Goods Act that set out in specific terms various express and implied conditions as to title and various other undertakings that must be given before there is a sale or lease of goods. A commonwealth and state consumer practice code is in place. The Victorian Fair Trading Act and the commonwealth Trade Practices Act also offer consumer protection. Many other Victorian acts have also been amended. All these measures have been designed to protect the interests of the consumer. The Scrutiny of Acts and Regulations Committee has recommended a little pruning, and that is what the government is doing by proposing this bill.

I am concerned that the opposition takes advantage of debate on a relatively simple bill to seek to gain political mileage. I do not think the opposition knew where rural Victoria was until February 1997 when a former member of the Labor Party won the

Legislative Assembly seat of Gippsland West in a by-election as an Independent. That was the trigger. The Leader of the Opposition toured country Victoria and saw grass for the first time.

It concerns me that so much of the time of Parliament should be used by the opposition to make political mileage. I do not believe this chamber should be used for that purpose but we have seen it used in that way twice today. I deplore that type of opposition tactic.

The Attorney-General has foreshadowed that after the two-year sunset period proposed in the bill the uniform national legislation should be in place to protect rural Victorians who need protection.

Having heard the contribution of Mr Baxter, one wonders whether that will be necessary. The only element Mr Nardella could point to as being detrimental to the interests of farmers is the two-year sunset clause. Mr Nardella asked, 'What will happen then?'. I should have thought any person holding a shadow portfolio would know the answer to that question. If the uniform national legislation is not ready to go, it may be appropriate to consider an extension of the sunset period.

The opposition is opposing the bill in an attempt to gain political mileage. It is good legislation, and I strongly commend it to the house.

Hon. P. A. KATSAMBANIS (Monash) — I wish to speak in favour of the Hire-Purchase (Further Amendment) Bill and condemn the opposition for its irrelevant and grossly political opposition to the proposed legislation. In 1997 the Hire-Purchase Act, which was introduced in 1959, is nothing but a quaint relic of the past. It will go into the category of the horse and cart, biplanes and wooden tennis racquets. They were good in their time, but they have little relevance in 1997.

Rather than coming here to bury the Hire-Purchase Act, we should praise it for what it was. In 1959 it was revolutionary. It was the first real consumer protection legislation in this state. Over the past 38 years it has well served its purpose of protecting consumers. As Mr Baxter pointed out, it was introduced in a different era — an era when the availability of finance was strictly controlled and the type of finance available to enable people to purchase goods was limited. Today we have a largely deregulated financial industry.

Paradoxically, the Hire-Purchase Act was introduced to protect consumers. The one thing it

does not now do is protect consumers. As Mr Furletti and Mrs Luckins pointed out, it has been overridden by the passage of time and by many other acts, primarily the consumer credit code, which was recently introduced into this Parliament. The code is uniform legislation that applies right across the nation. We also have the federal Trade Practices Act and the Victorian Fair Trading Act, which largely replicates the commonwealth legislation.

The consumer elements of the Hire-Purchase Act have completely disappeared. All it does today is protect certain commercial and farming transactions. The rationale for its existence disappeared a long time ago. For that reason it is logical that it be repealed. The government is preserving sections 24 and 25 in so far as they relate to farming machinery transactions. They have been preserved for a period of two years to ensure that members of the rural community — farmers in particular — are not disadvantaged by changes to the act.

As Mr Furletti pointed out, the act will continue to apply to current hire-purchase contracts that are regulated by the act until the contracts expire. Sections 24 and 25 will apply to the rural community for the next two years. In that time the government will consider whether the provisions of those two sections need to be extended. When I look at what those provisions do and how they apply, I find it difficult to understand how we can justifiably extend that protection to future purchases.

If members of the opposition were legitimately concerned about the interests of the rural community they would have argued for the extension of the protection they so treasure in the Hire-Purchase Act to cover the 96.4 per cent of farm debt that is not regulated by that act. As Mr Baxter pointed out, in Victoria only 3.6 per cent of farm debt is regulated under hire-purchase contracts. The other 96.4 per cent of rural finance encompasses commercial leases, chattel mortgages, debentures and even extensions to overdrafts — the sorts of flexible financial arrangements that have been introduced in the financial industry over the past decade or more.

When you examine the provisions more closely you find that section 24 provides the ability to reopen unconscionable contracts. Back in 1959 that was a radical proposition that the common law and the law of equity had not caught up with. But in an eloquent submission to the Redundant Legislation Subcommittee of the Scrutiny of Acts and

Regulations Committee, of which I am a member, Elizabeth Lanyon from Monash University said that sort of protection is almost irrelevant today because the law of equity has progressed far beyond the realms of the section.

It is arguable that the law of equity, the doctrine of unconscionability and the doctrine advanced in the High Court in the famous case of *Amadio* almost two decades ago give greater protection to consumers, business people and farmers than the rigid protection of section 24. It was wise and welcome in 1959, but it is rigid and archaic in 1997.

I turn to section 25. At the public hearing of the Redundant Legislation Subcommittee we discovered — despite a lot of prompting — that no-one from the consumer protection or finance industries could point to a situation in which section 25 had been invoked. Some people thought they remembered it being invoked some time in the 1960s, but no-one could come up with a concrete example of that section having been used in the past couple of decades.

Representatives from the finance industry, consumer credit advocates and financial counsellors submitted that the codes of practice that have been developed over the past decade give greater flexibility and ensure greater timeliness than section 25 in managing situations in which people have fallen behind in repaying their hire-purchase contracts. Repossession must take place before the section can be invoked. Nowadays, with the codes of practice that have been introduced, financiers avoid getting to the stage of repossessing goods, preferring instead to work with farmers to help them deal with their debt.

Sections 24 and 25 are archaic. In 1997 better protection is available in other pieces of legislation, at common law and through the industry codes of practice. The government has sunsetted the two sections for two years to address any concerns and to ensure that no farmer will be disadvantaged in the transition period — and I stress that no farmer will be disadvantaged at all. However, in two years time we will probably find that those sorts of provisions will be irrelevant.

If we find they need to be maintained, they will probably be extended across the whole spectrum of rural finance and not just limited to the 3.6 per cent of farm debt encompassed by hire-purchase contracts. If it is good enough to have that sort of protection for farmers who enter into hire-purchase

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contracts, it should be good enough to extend them right across the rural finance spectrum.

This small bill also preserves the effect of section 15 of the Hire-Purchase Act so that, following the sale of repossessed goods, any surplus that is left after the debt owing to the owner or financier of the goods has been repaid will be returned to the hirer of the goods and not kept by the financier. That provision will be preserved by proposed part V of the Goods Act, which is appropriate. Proposed part V will apply exclusively to all commercial hire-purchase contracts from here on in; any hire-purchase contracts in the realm of consumer credit will be governed by the consumer credit code.

This is a good bill. It repeals the Hire-Purchase Act, and rightly so. While praising what the act has achieved over the past 38 years, we recognise that it is largely irrelevant in a highly competitive and deregulated finance market. However, it is appropriate to preserve the effect of section 15 in the Goods Act and to retain sections 24 and 25 of the Hire-Purchase Act for two more years.

I condemn the opposition for its irrelevant and hypocritical approach. In particular, I condemn the approach taken by Mr Nardella who, although he moved for the adoption of the report of the Scrutiny of Acts and Regulations Committee that recommended the repeal of the act only a few short months ago, had the gall to argue against the bill today. On that note, I commend the bill to the house.

House divided on motion:

Ayes, 31

Asher, Ms	Hallam, Mr
Ashman, Mr	Hartigan, Mr
Atkinson, Mr (Teller)	Katsambanis, Mr
Baxter, Mr	Knowles, Mr
Best, Mr	Lucas, Mr
Bishop, Mr	Luckins, Mrs
Boardman, Mr	Powell, Mrs
Bowden, Mr	Ross, Dr
Brideson, Mr	Smith, Mr
Cover, Mr	Smith, Ms
Craige, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr
Davis, Mr P. R.	Varty, Mrs
de Fegely, Mr (Teller)	Wells, Dr
Forwood, Mr	Wilding, Mrs
Furletti, Mr	

Noes, 9

Eren, Mr (Teller)	Power, Mr
Gould, Miss	Pullen, Mr (Teller)
McLean, Mrs	Theophanous, Mr

Nardella, Mr
Nguyen, Mr

Walpole, Mr

Pair

Birrell, Mr

Hogg, Mrs

Motion agreed to.

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.

In so doing I thank those who contributed to the debate — Mr Nardella; Mr Eren; particularly Mr Baxter, who acquainted us with the facts in the rural areas; Mrs Luckins, who was chairperson of the Redundant Legislation Subcommittee of the Scrutiny of Acts and Regulations Committee; Mr Katsambanis, who is a member of that committee who gave us interesting facts about the processes of the bill; and Mr Furletti, who gave us a learned dissection on the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

WILDLIFE (AMENDMENT) BILL

Second reading

Debate resumed from 29 October; motion of Hon. M. A. BIRRELL (Minister for Industry, Science and Technology).

Hon. PAT POWER (Jika Jika) — The Wildlife (Amendment) Bill is a good bill, and the opposition does not oppose it. The bill makes amendments to the 1975 Wildlife Act and the 1987 Conservation, Forests and Lands Act. The amendments increase penalties to individuals who engage in serious wildlife offences and bolster the powers to investigate offences under the act. They also establish a permit system to regulate tourism relating to whales and dolphins. I am sure other honourable members wish to speak about whales and dolphins because they have become a prominent part of tourism attractions and tourist activities in Port Phillip Bay.

There is need for both national and international controls on crime involving wildlife. The value of the international market for wildlife that is illegally smuggled is huge. It is estimated to be worth billions of dollars annually and has been cited as a major cause of decline in the number of many species of animals and plants.

In 1975 the Convention for International Trade in Endangered Species of Wild Fauna and Flora came into force. Participating countries enforce that convention by banning commercial international trade in an agreed list of endangered species and by regulating and monitoring trade in others that might become endangered.

More than 130 nations, including Australia, are signatories to the convention. After having signed the convention in 1974, it was incumbent upon Australia to prepare its own list of endangered species. In categories ranging from 'endangered' to 'vulnerable' to 'presumed extinct' 1215 different species of invertebrates, fish, amphibians, reptiles, birds, mammals and plants are on that list.

The wildlife issue covers an enormous range of species. The commonwealth government is responsible for the enforcement provisions and each state and territory is required to enact legislation that licenses domestic activities involving wildlife and imposes penalties for carrying out activities without official authorisation.

In 1974 the then Minister for Conservation announced that his government was taking a totally new approach to the management and conservation of Victoria's wildlife. At that time the minister informed the house that some 19 species of native mammals had disappeared from the state and numerous species of birds, reptiles and amphibians were seriously depleted in numbers and distribution. From that work by the Honourable Bill Borthwick, the then Minister for Conservation, came the Wildlife Act of 1975. It provided for the protection, management and sustainable utilisation of wildlife in Victoria.

The international illegal trade of wildlife is estimated to be worth between \$6 billion and \$12 billion annually. It has been argued that the illegal trade in wildlife is second in value only to the illicit drug trade — but as honourable members will acknowledge, the penalties for the former offences are in no way comparable.

Because of its uniqueness, Australia is particularly at risk. As a consequence of their rarity, Australian flora and fauna are in great demand overseas. The laws of supply and demand mean that endangered species are especially sought-after because their rarity inflates their value. Endangered species are targeted by organised criminals and often traded to the brink of extinction. The strongest markets for illegal Australian wildlife are in the United States and Germany, and there is a growing market in Japan. There are smaller international markets for seashells, insects and plants. Birds and reptiles are extremely popular in the United States, reptiles are the most sought after species in Germany, and the growing market in Japan is for reptiles.

Honourable members may be aware that the illegal trade in wildlife occurs because of the high prices that can be fetched internationally. A mating pair of palm cockatoos can fetch \$100 000; a pair of Major Mitchell cockatoos can fetch \$40 000; an Australian python can fetch in excess of \$20 000; and the common southern ringtail gecko can fetch as much as \$900. There has also been an increase in the smuggling of birds' eggs. In a recent case the estimated value of the Australian native birds' eggs that were being smuggled out of the country was \$1.5 million.

The penalties provisions are important if the illegal trade is to be addressed satisfactorily. The bill substantially increases the fines and adds terms of imprisonment for individuals who are found guilty of serious wildlife offences. The opposition supports the increase in penalties because, as I said earlier, the illegal trade in wildlife is estimated to be worth between \$6 billion and \$12 billion annually and, some argue, is second in value only to the trade in illicit drugs.

It is important to understand that the penalties imposed on those who are convicted of trading in illicit drugs are far in excess of those imposed for trading in Australian wildlife. The opposition supports the government's move because it acknowledges that that major illicit activity has the potential to seriously endanger our flora and fauna.

I am sure Mr Boardman will want to refer to dolphins and whales when he addresses the bill.

Hon. R. I. Knowles — Now that you have mentioned it he will not have to speak except to say that he supports the bill!

Hon. PAT POWER — We will insist that the Government Whip ensures that Mr Boardman has an opportunity to speak on the bill.

Dolphins and whales — dolphins are the smallest members of the whale family — have become a tourism focus in Port Phillip Bay. Bottlenose dolphins are the most common type of dolphin found in the bay. The Dolphin Research Institute estimates that Port Phillip Bay has a permanent population of about 100 dolphins, although it is acknowledged that that number can fluctuate.

In 1989 tour operators acknowledged the economic potential of dolphin swim tours. As a consequence, each year the operators take about 9000 people out into Port Phillip Bay to swim with dolphins. The dolphins are mostly found along the coast from Portsea to Port Phillip Heads. That area has been identified as the main nursery area, especially during the summer.

The operators expected to be in the area during the 1997–98 summer season include five dolphin swim tour companies, one dolphin-sighting vessel, two passenger ferries that will operate to and from Sorrento at regular periods, and charter vessels running dolphin tours. As well, there will be the heavy traffic generated by speed boats, jet skis and other craft during January and on weekends during February right up to Easter, depending on the weather.

The Dolphin Research Institute published a briefing note in which it recommended the introduction of a licensing system as a matter of priority. It also recommended that the proposed sanctuary zone should become a no-go area for all commercial operations. The opposition strongly supports those parts of the bill that protect the whale and dolphin resource. We also welcome every window of opportunity available to tourism, and I have not the slightest doubt that the contribution to Victoria's economy from the boating visits made to the dolphin area in Port Phillip could be quantified.

Hon. B. C. Boardman — Does that exclude anything happening in Wilsons Promontory?

Hon. PAT POWER — Like any scarce agricultural or aquacultural resource, it needs to be managed in a way that ensures its sustainability. A number of incidents have been reported where both tour operators and private boaters have behaved inappropriately. The opposition supports the recommendation of the Dolphin Research Institute.

It acknowledges that the government's intentions in relation to dolphins and their management is sensible and progressive.

It is also important for the opposition to acknowledge that the Dolphin Research Institute, an accredited CSIRO research institute, has paid a compliment to the officers of the Department of Natural Resources and Environment who, in the opinion of the institute, are doing an excellent job in trying to come to grips with the complicated issues associated with looking after the Port Phillip Bay dolphins. In the view of that research institute, Victoria is leading Australia in its legislation which allows dolphins and spectators, if you like, to mix.

Honourable members know there has long been concern about the damage uncontrolled cats and dogs — and, in the worst situation, feral cats and dogs — can do to native wildlife. The further steps forward taken by the cat and dog provisions in the bill are supported. The opposition acknowledges that it is appropriate to authorise the capture and destruction of dogs or cats that are found at large or attacking wildlife in certain prescribed areas.

The duck season is sometimes a sensitive issue on which there are rather sharply divided opinions in the community. In 1993 the government introduced humane safety regulations which apply to the opening of the duck season. Conservationists who are concerned about duck shooting and those who believe duck shooting ought to be an acceptable sport acknowledge that the government acted responsibly in introducing those regulations. At the time the regulations prohibited anyone other than authorised staff, police or licensed game shooters from entering nominated duck-hunting wetlands and state game reserves from 5.00 p.m. Friday until 10.00 a.m. Saturday, and from 5.00 p.m. Saturday until 10.00 a.m. on the Sunday of the opening weekend of the duck-shooting season. The regulations also prohibited unlicensed and unauthorised persons from approaching within 5 metres of those who were duck hunting; in 1996 that distance was doubled to 10 metres.

As a consequence of action taken by people associated with the Coalition against Duck Shooting, in July 1997 the High Court upheld the validity of the government's regulations. Therefore, it is sensible for those provisions to be moved into the act, thereby enabling police and authorised officers to remove offenders from the wetlands. Such action, therefore, removes any potential for conflict between hunters and those who have an alternate view.

The opposition has no difficulty with that aspect of the bill, but I have a concern about its consequences. The Coalition against Duck Shooting, as well as having a concern about whether duck shooting should be allowed, has also played a role in rescuing the birds that have been shot, not killed and remained uncollected. The Coalition against Duck Shooting plays a role in not only helping injured and suffering birds but also in publicising, in its view, the cruelty that exists in the shooting of native birds. It is concerned that shifting those provisions into the act will mean that type of work may not be undertaken.

On behalf of the opposition and consistent with the quite reasonable concern that the Coalition against Duck Shooting has expressed, I ask the government whether it has any plans as a consequence of the passage of the bill to make appropriate arrangements with an organisation such as the Royal Society for the Prevention of Cruelty to Animals to play such a role for injured and suffering bird life.

Hon. M. A. Birrell — The department does it, anyway.

Hon. PAT POWER — The minister says the department has played that role. If the government is able to assure the community that that work essentially will be undertaken to a satisfactory level and that the involvement of the RSPCA or a similar organisation would not be necessary, I accept that in good faith and await the outcome with interest.

Hon. M. A. Birrell interjected.

Hon. PAT POWER — Yes. I acknowledge that the bill is a good and progressive piece of legislation. I simply express some concern about aspects relating to duck shooting. The intentions of the bill are good, and I hope sufficient resources and staff are available for the intentions behind the legislation to bear fruit.

Hon. B. C. BOARDMAN (Chelsea) — I welcome the opportunity to speak on this very important bill. I congratulate Mr Power on his contribution, and for the interest he and the opposition have shown through their obvious research in preparing for today's presentation. My contribution to the debate will concentrate primarily on the regulations surrounding dolphin and wildlife tourism activities as contained in the bill. Before doing so, I shall briefly comment on tourism in Victoria, especially ecotourism, which is probably Victoria's strongest achievement in the entire industry.

Currently the industry accounts for 7 per cent of gross state product and directly employs more than 160 000 people. It is vital that we do not underestimate the impact the ecotourism industry has on Victoria's economy.

Ecotourism is important to Victoria, because Victoria is not blessed with year-round sunshine and warm weather. It is, however, blessed with some wonderful natural attractions, one of which is on our own doorstep — Port Phillip Bay. It contributes more than \$7 billion per annum to the Victorian economy not only from tourism but also as a result of the many other activities that occur on the bay.

Tourism is fast becoming one of the growth industries for Port Phillip Bay. People are becoming more interested in and curious about wildlife in the bay, and particularly enjoy the opportunity to interact with the wildlife. Mr Power commented on the strong and healthy dolphin population that has encouraged people to visit and experience that interaction. At the moment a variety of tour operators offer sightseeing and swimming with the dolphins in Port Phillip Bay. Four tour operators are dedicated to offering tours where people can swim with the dolphins and three operators are dedicated to sightseeing tours. More are on the way. The two ferry services, acting in a de facto fashion, also offer the opportunity to see the dolphins.

Six boats make two 3½-hour journeys each day. That means 42 hours of commercial activity on the bay in one day during daylight hours with around 25 to 30 people in the bay swimming with pods of between 6 and 12 dolphins at one time, which means that between 12 000 and 15 000 people could swim with the dolphins in any given year. These figures show the large disparity between the number of people and the number of dolphins.

We know that dolphins are intelligent and territorial, but not a lot of other information is available about the effects of this type of tourist activity on dolphin populations, so it is paramount that we have regulations to ensure that operators are properly aware of their rights and responsibilities and, more importantly, are appropriately supervising the people who are experiencing this wonderful attraction.

An even greater problem is that, once the tour operators find a dolphin pod, other boats of spectators and even unscrupulous people who decide that jet skis would be a good craft on which to visit the pods surround the pod, even though they

are not part of an official tour. There is no doubt this causes the dolphins a great deal of disturbance and it may upset their ecosystem. It is fine to regulate approved tour operators, but there must be appropriate regulations to cover people who are not directly patronising official tour operators. A regulatory impact study that addresses this issue will be completed next year.

Mr Power has already praised the work of the Dolphin Research Institute, which I am proud to say is located in my electorate. It has applied for natural heritage funding to complete its research so that it can offer more expert opinion when the regulatory impact statement is completed.

Victoria leads the country on wildlife legislation. Information from South Australia has suggested that 50 per cent of all dolphin deaths are related to some sort of human intervention. That state has neither similar legislation nor an organisation similar to the Dolphin Research Institute acting in an advisory and educative role to ensure the community is aware of how to protect this resource.

The role of the institute is directly related to community awareness and promoting the value of interaction and the need to preserve the natural ecosystem so that future generations can also enjoy this activity. The Dolphin Research Institute has a strategy of involving the community. It has established the Adopt a Dolphin program, of which I am proud to say I am a member — in fact, I have adopted two dolphins. For \$40 a year a member of the public can adopt a dolphin. The program is promoted so that the community can be directly interested in the conservation of dolphins and their natural ecosystem.

It has been a successful fundraising activity. Sponsors include McDonalds in Frankston and 3MP. Perhaps one of the main sponsors of the institute is the Independent News group, which uses a dolphin as its symbol. It has taken a pro-active stance when it comes to dolphin education and research matters. It supports the institute with publicity. I commend the activities of the Independent News group.

The Dolphin Research Institute is looking for a new home. It has an application pending in relation to a foreshore development in Frankston, which will not only provide a wonderful facility that will enable members of the community to be involved in dolphin-related matters but will also be a great tourist attraction for the area and provide

considerable employment opportunities. I wish the institute the best with its application.

In conclusion, this bill is of considerable importance and is well justified. I wish it a speedy passage.

Hon. R. A. BEST (North Western) — It gives me great pleasure to support the bill, which addresses many major issues relating to the care and protection of wildlife in Victoria. The bill increases the penalties in a number of areas, particularly in relation to endangered species. However, there is one provision to which I shall refer specifically. Because we have a number of speakers on this side of the house I shall make my remarks brief.

Earlier this year I received a letter from Mr G. Martin of Dingwall, near Kerang. The letter raised a number of concerns but related primarily to the opening of the duck season and the presence of people in designated shooting areas at specific times. I raised the matter on the adjournment debate on 20 May. Mr Martin drew my attention to the deliberate flouting of the law by a group of conservationists led by Mr Laurie Levy of the Coalition against Duck Shooters.

Mr Martin said that group had deliberately broken the law, which restricts anybody without a valid game and shooters licence from being in designated areas on hunting days from 5.00 p.m. until 10.00 a.m. the next day. He also said that for about 3 hours they ignored regulations banning the rescuing of ducks after shooting began on the opening day of the season. Mr Martin said shooters are fed up with this behaviour and want stronger action to be taken against these people, who do not seem to mind paying the fines for breaking the new rules. He went on to seek my support as to whether I would ask the Minister for Conservation and Land Management to consider taking further action. I was delighted with the response from the minister, who said:

Enforcement of the regulations is the responsibility of authorised officers under the Wildlife Act 1975. Department of Natural Resources and Environment Officers and members of the Victoria Police were authorised officers for the recent duck-hunting season.

Enforcement of the regulations is the responsibility of 'authorised officers' under the Wildlife Act 1975. Department of Natural Resources and Environment officers and members of the Victoria Police were 'authorised officers' for the recent duck hunting season. The strategy employed by police in dealing with protest efforts is under the direction of a designated site

controller and the course of action taken may vary according to the circumstances at the time.

This year, the major focus of protesters was Lake Buloke and, to a lesser extent, the Kerang wetlands. Police and departmental officers counselled protesters prior to and during that opening weekend, instructing them to adhere to the regulations and that anyone breaching the regulations would be penalised. At Lake Buloke, protesters entered the water during the hours of darkness, making it impossible for officers to restrict the entry of protesters during prohibited hours.

Police and wildlife officers issued a number of infringement notices to unlicensed persons who had illegally entered the water during prohibited times. These people were requested to leave the wetlands and most complied. With respect to Mr Levy, he was not issued with an infringement notice for illegally entering the water but was warned that if he did not leave the water, he would be charged with 'breach of the peace'. Mr Levy complied with the request from police and exited the water until such time that he was legally permitted to enter.

The Wildlife (Game) (Human Safety) Regulations 1996 do not provide members of the Victoria Police or authorised officers with the power to remove unlicensed persons from specific wetlands during prohibited times. However, the Wildlife (Amendment) Bill, which is currently before the Parliament, will move the human safety provisions in these regulations into the Wildlife Act 1975. By placing these provisions in the act, authorised officers will have powers of arrest under section 458 of the Crimes Act 1958 and will therefore have the ability to remove offenders from specified wetlands.

I raise this issue because both of the major wetlands — Lake Buloke and Kerang — are in my electorate. Duck hunting has been a source of enormous confrontation and division between shooters and conservationists. It is important that these regulations become legislation. I have been particularly disappointed with the actions of Mr Levy because I believe he deliberately asks younger people to enter the water, which puts them at risk. Mr Levy flouts the law by asking young people to go beyond the call of duty in their pursuit of saving injured ducks, and he continues to be disobedient. Over a number of years he has enraged the shooting community. Shooters have been saddled with enormous restrictions; they have been asked to comply with many legal requirements to ensure that their sport operates with the appropriate safety measures.

It worries me that if these regulations were to continue and the authorised officers did not have the opportunity to take the appropriate action to remove these people from the waters, Mr Levy would not be happy until somebody was hurt. Then, of course, we would see a blaze of publicity and the shooters being blamed again for conduct that was endangering people's safety. The government wants to protect both parties: conservationists and shooters. The previous regulations that now become legislation are responsible, but it is now up to the authorised officers and the courts to ensure the appropriate enforcement is provided.

A number of important provisions in the bill protect wildlife in Victoria. It gives me great pleasure to support the bill, particularly as it addresses a concern that was raised by a constituent of mine at Kerang, a matter I addressed in the house in May this year. I wish the bill a speedy passage.

Hon. D. T. WALPOLE (Melbourne) — The Wildlife (Amendment) Bill is a bit like the curate's egg — good in parts. However, on balance it deserves support for the initiatives that will beef up protection for our wildlife. I refer specifically to the increased enforcement powers of authorised officers or wildlife officers and the increased penalties for offences relating to native wildlife.

The wildlife of Australia is very rare and, in many cases, unique as a result of our island continent's isolation from the rest of the world for many millennia. Because our wildlife is so colourful and, in many cases, unique, it is in great demand overseas. From the time of the white invasion of this country, Europeans and Americans in particular have been captivated and amazed by our fauna. When the first platypus was sent back to Britain — dead, of course — there was much debate about whether it was really a genuine creature or something cobbled up from the parts of other animals. This fascination has continued.

In particular demand overseas are our birds — especially parrots — and reptiles. These creatures can bring enormous amounts of money on the international wildlife market. The illegal international wildlife trade is estimated to be worth between \$6 billion and \$12 billion annually. This demand creates enormous opportunities for unscrupulous operators seeking to make a fast buck. The profits to be gained, if successful, are not far short of those made by drug dealers. These disgraceful crooks are prepared to operate in such a way as to seriously endanger the lives of the

unfortunate creatures they seek to transport in their illegal ventures.

From time to time we have all seen media pictures of some of the methods employed, such as drugging birds and stuffing them into tubes, often concealed in the bottoms of suitcases. Not only is that a breach of our wildlife laws, it is the most inhumane and cruel practice as, generally, the majority of the birds die. Of course, that is of little consequence to the unprincipled opportunists as the profits to be made are so great that despite such stock losses they can still generate massive profits.

Mr Power has already placed on the record the sorts of prices that can be gained overseas for our wonderful wildlife. The demand is also driven by the need for fresh bloodstock as the overseas gene pool dwindles. Even such relatively common species as budgerigars are in demand to increase the overseas gene pool.

I recall visiting a pet shop at Century City shopping centre in Los Angeles in 1995 and being amazed at the unbelievable prices being asked for relatively common Australian birds. It is that which drives the trade and causes smugglers to become increasingly sophisticated and organised. Any action that puts further pressure on these illegal smugglers is to be welcomed. To that end I support the imposition of increased penalties in the bill.

Clause 14, which will substitute new sections, refers to three categories of wildlife: endangered, notable and protected. The clause substantially increases penalties for hunting, taking or destroying endangered wildlife without authorisation, although under what circumstances such authorisation would be given beats me. The penalty for such crimes will increase from 100 to 240 penalty units plus 20 penalty units per head. That, I hope, will prove to be a deterrent but it will need to be monitored to assess its impact. Further changes will have to be made if the penalties prove not to be as successful as hoped, as may be the case, given the massive profits to be made, if smugglers successfully bypass the law.

Clause 16 further increases penalties for the unlawful importing and exporting of Victorian wildlife by similar amounts. It not only increases fines but in some cases offences will attract gaol sentences. It is to be hoped that such moves will, at the very least, cause a slowdown in illegal trade.

It is not good enough to simply clamp down on the illegal trade. We must also ensure that natural

habitat is protected to provide the circumstances for our wildlife to prosper. To fail to do so will further drive up the prices paid for wildlife as it becomes scarcer. More importantly, it will be a disaster of monumental proportions. Indeed, failure to protect habitat may well result in the total loss of some species. The extinction of any wildlife is an absolute tragedy.

The extinction of a species will stop smuggling, but it will be at an absolutely unacceptable cost. The government, when considering any usage of natural habitat, must always ensure that proper environment impact audits are carried out, no matter whether the land is to be used for logging, development or whatever. I believe protection of our fauna must always be the major priority.

It concerns me that some government members do not always see it this way. A case in point is that of the orange-bellied parrot. Last year when the government was considering moving the Cooee Island chemical storage facility to Point Lillias it was pointed out that the orange-bellied parrot inhabited that area and that it was a rare and endangered species. But what did our beloved Premier say? He said:

We are not going to allow a trumped-up corella to stand in the way of what is a very commonsense development.

That shows a great deal of ignorance. There are literally millions of corellas across the nation but only an estimated 150 to 200 orange-bellied parrots. That makes it extremely vulnerable and absolutely worthy of protection. It is that sort of behaviour that brings into question the government's commitment to conserving our native species. I hope that was only an isolated and off the top of the head comment. We will wait and see. The opposition supports the bill.

Hon. B. W. BISHOP (North Western) — My brief comments this evening will concentrate on the fact that I am a member of the government bill committee and I found it rather interesting to be involved in putting the Wildlife (Amendment) Bill together.

The bill increases quite substantially the penalties applying to the most serious wildlife offences. We should ensure that we record the depth of the worldwide trade in wildlife. The international illegal wildlife trade is a huge business. I was surprised to learn that it is bigger than the illicit drug trade,

estimated to be returning between \$6 billion and \$12 billion annually. When we discovered these facts during the committee process it stiffened our resolve to ensure that our wildlife — particularly the rare wildlife — was protected in Victoria.

Victoria has a strong domestic trade in wildlife involving hobbyists and commercial dealers. Almost 10 000 individuals in Victoria hold wildlife licences. There are approximately 9000 private and 600 commercial licences, the majority of which are for emu farms.

There is no doubt that it will be much easier to issue authorisations as a result of the bill. More than 1600 wildlife control authorisations were issued last year, most of which were for the control and destruction of kangaroos. Much of that control would have taken place in my electorate. A further 250 research permits and 190 wildlife shelter permits, including permits for an additional 100 foster-carers, were issued.

It has been estimated that domestic cats alone kill 25 million native animals in Victoria each year. Feral cats account for more than 100 million native animals. The cat is an important predator of our native wildlife.

I can remember being with the cabinet in Donald in the duck-shooting season some years ago. Victoria has more than 24 000 licensed duck hunters, the majority of whom are active only over the opening weekend of the duck season. Up to 300 protesters were present that season. They made out that they were going to rescue wounded wildlife.

The bill committee looked at a couple of matters in connection with those activities. The danger to all parties cannot be overlooked. The protesters were racing the duck hunters to game that had been legally shot. When a duck is wounded the hunter is legally required to dispatch the bird upon recovery. The protesters were deliberately bumping into the shooters. It became extremely dangerous. In one instance a protester grappled with a duck hunter over a bird and the protester allegedly reached over and discharged the hunter's shotgun.

The bill clears up a lot of the difficulties and I believe it will be to the benefit of all parties. It will reduce the dangerous activities that seem to have become even more prevalent over the past few seasons. I commend the bill to the house.

Hon. E. G. STONEY (Central Highlands) — I would like to make a few comments on the tourism opportunities presented by the Wildlife (Amendment) Bill. This legislation paves the way for Victoria to protect and utilise forever one of its strongest nature-based tourist attractions. Various speakers referred to the dolphin-watching tours on Port Phillip Bay. I have had the pleasure of being involved in those tours on two or three occasions.

The tour operators have developed their tours over a number of years and have taken advantage of the opportunities presented by the presence of the dolphins. However, there have been very few guidelines for the operators and the general public. The general public, as much as anyone, has inadvertently caused a great deal of distress to the dolphins, which has led to the need for this legislation.

In the past dolphin watching was not a sustainable activity. From a tourism perspective, unless the industry is sustainable it will fail. I have personally observed tour operators jostling for position so that their clients can see the pods. I have seen the riders of jet skis and other water craft zipping in and out of the pods and obviously distressing the dolphins. Those people were not using commonsense.

It was quite obvious that the long-term potential of this unique tourist attraction was threatened. This legislation will go quite some way towards solving that important issue. As Mr Boardman mentioned, the operators have been heavily involved in consultation with the government concerning this legislation. I understand they have also been involved in research. One of the most important things about this bill is that the tourism industry strongly supports it.

The industry knows that management and recognition of this nature-based tourism will approach a sustainable level and the legislation provides a good framework for cetacean watching. There is now certainty for this branch of the tourism industry, and the industry will be sustainable under the proposed guidelines. It is consistent with the bays and peninsulas tourism business plan and it will provide a high financial yield while protecting a valuable tourism asset. I commend the bill to the house.

Hon. T. E. EREN (Doutta Galla) — There are several aspects of the bill that I support and on which I congratulate the government. However,

there are many more aspects that are unsuitable and cancel any good effects.

Australia is home to magnificent wildlife. Many of its native species are found nowhere else in the world. It is vital that those species and their habitats be properly protected. As part of that, it is imperative that the growing international trade in smuggling our native wildlife be stopped. I am told that that illegal trade of wildlife has grown to such an alarming extent that it is second only to the trade in illegal drugs in size and value.

Real punishment, rather than a token slap on the wrist, is one way to protect our wildlife from that fate. The bill will substantially increase the penalties for offenders. I am pleased that both financial punishments and punishments by imprisonment will be increased. There will be substantial increases in fines and gaol sentences.

Our natural wildlife is valuable and brings high prices when sold overseas. The penalties for being caught need to be high enough to make the danger of being caught unattractive. High financial gains for little penalty if they are caught only encourage smugglers. The government has moved in the right direction by making potential smugglers have a second or third think about the risks involved and the cost to them if they are caught. The increase in the regulation and enforcement powers is also welcome.

My concerns with the bill are that there was a lack of proper consultation during its preparation, that not enough is being done to protect our wildlife, and that there is confusion about the extent to which the government is allowing the illegal trade to continue.

I will not add to the hysteria the government has created in homes throughout Victoria, including the fear that family pets will be destroyed just for being in national parks. Too much rubbish about that has already appeared in the media. I just point out that if proper thought had been given to the wording of the provisions and if there had been proper consultation with the key organisations responsible for wildlife protection and pet care, the government could have avoided a lot of the discomfort it has brought on itself.

The government also deserves to be condemned where it has not gone far enough. A perfect example of that is the treatment of dolphins in Port Phillip Bay. Dolphins are not native only to Australia, but they are wildlife in our territory. They also bring in

large amounts of tourist dollars for the state. They need and deserve our protection. Instead, they are increasingly becoming the victims of careless sightseers and thrill seekers. We hear reports from concerned environmental and animal welfare groups of people steering their speedboats right into the pods and of others riding their jet skis at speed towards the dolphins and then jumping off their machines to try to catch a ride. No wonder dolphin numbers are decreasing.

The government has contributed to that state of affairs because it has halved the number of department wildlife officers and restricted the working hours of the few who are left. Overtime is not available to them. Sufficient numbers of trained officers are needed to protect our wildlife and to police the rules that are in place. They need to be available when the wildlife is most vulnerable — at weekends and during holidays. The penalties and protective restrictions that are in place can do no good if trained officers are not available to implement and police them.

Perhaps this is outside the scope of this bill, but my experience as a member of the Environment and Natural Resources Committee, along with Mr Boardman, tells me that there are not enough resources out there to protect our wildlife. However, I support the bill.

Hon. PHILIP DAVIS (Gippsland) — I am delighted that the opposition supports this important bill, which affects an important aspect of this state's resource base — its wildlife. I will restrict my comments to the improved management of game hunting and to the regulation-making powers that address a sensitive issue on which the Australian Deer Association has been making representations for some time. In a letter to me dated 30 September the state president of the ADA, Mr John Morrissey, says in part:

The ADA was pleased to see the introduction of the Wildlife (Amendment) Bill ...

He went on to say:

For several years the association has sought the introduction of better measures to control the hunting of deer with scent-trailing hounds and to enforce the laws banning the use of spotlights in hunting. The association's good intent has always been thwarted by the absence of any 'head of power' in the Wildlife Act which will allow the introduction of enforceable regulations.

The association has been working very closely [with] the Department of Natural Resources and Environment to develop regulations that will permit the control of hunting to the point that unacceptable behaviour of a small minority can be eradicated as well as enforcing the ban on the use of spotlights. The Wildlife (Amendment) Bill will permit these regulations to be introduced and the ADA is delighted that this will now be possible.

I read that into the record because it is important to acknowledge that the ADA has been keen to stamp out inappropriate hound hunting and spotlight hunting of deer, particularly in the Central Highlands, where there have been some significant difficulties.

Often the community has a negative perception of people who enjoy hunting, whether it involves hunting deer or ducks or other game. It has been my experience that the organised hunting fraternity, including members of hunting organisations, observe ethical codes of behaviour and regularly drive game managers to better manage the resources for the long-term benefit of the environment, the community and the hunters.

The amendments are worthy of support because they will better regulate game hunting and remove the potential conflict between duck hunters and protesters. That is a significant issue given the potential conflict that exists between the 24 000 licensed duck hunters, most of whom participate in the opening of the duck season each year, and those well-motivated and well-meaning people who say they are against duck hunting. That inevitably creates tension and unnecessary risks for the parties involved.

In conclusion, I repeat that the bill, which deals with the illegal wildlife trade, dolphins and whales, uncontrolled dogs and cats and the management of game hunting, is an excellent piece of legislation, and I am pleased the house supports it.

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 comments, and I am delighted by the strong support for the bill from both sides of the house.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

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

TRANSPORT ACTS (AMENDMENT) BILL

Second reading

Debate resumed from 11 November; motion of Hon. G. R. CRAIGE (Minister for Roads and Ports).

Hon. PAT POWER (Jika Jika) — The opposition does not oppose the Transport Acts (Amendment) Bill. The minister's second-reading speech addresses matters relating to the tow-truck industry, public transport and the bus sector. The bill can be described as an omnibus bill in the sense that it gathers together a variety of transport issues that are and have been topical since the Kennett government came to power. We have a situation where the public transport automatic ticketing fiasco reigns supreme. The government is still confused about its detailed plans for privatising parts of the public transport system.

At a time when there should be debate about major transport issues, we are addressing what I believe can be described as an omnibus bill. While the government is committing large sums of money on its plans to extend Exhibition Street, it has a less than clear proposal on privatisation.

Like those on local government, education, health and community services, transport decisions are being driven by the Department of Treasury and Finance rather than being determined in the context of what is best for the transport system. The government should be providing transport infrastructure that suits the needs of Melburnians and Victorians who commute to their workplaces or travel for a range of reasons that have historically been demonstrated.

The Auditor-General claimed that the Public Transport Corporation has released the Onelink

consortium from all compensation claims relating to delays in the delivery of the automatic ticketing system under its service contract. This issue has caused concern not only to the Auditor-General but also to those who believe Victoria must have a viable transport system. Many people are anxious about the scrutiny and accountability of government investment, such as the ticketing fiasco under the Onelink consortia, especially when it is a privatised activity. Almost from the time it was entered into the \$370 million contract has been a fiasco.

There is no certainty about good governance or leadership on this matter. It is of concern that the government has encouraged the PTC to release Onelink from any compensation obligations it may have, and it is of particular concern when other major projects around the city are being managed in a similar way. One would hope, for example, that those charged with the responsibility of providing the transponder technology for the City Link project will not be released from their contractual obligations if we discover, as we have with the Onelink ticketing system, that there is an inability to deliver in accordance with the demands of the contracts.

If the government wants to go down the path of privatisation and of involving the private sector in the provision of public infrastructure, it must understand that a contract is a contract is a contract. If clauses in a contract require compensation for non-performance, the government must insist on the implementation of those clauses if they are triggered.

The bill also deals with the deregulation of the tow-truck industry, which I will comment on in detail later. Further, the extension of the bus accreditation system covers courtesy services, hire-and-drive services and non-route and private bus services.

The third aspect of the bill involves making small excisions of Crown land in central Melbourne to allow for the re-routing of the Wattle Park tramline. The fourth aspect concerns the repealing of three redundant acts — the South Australian and Victorian Border Railways Act, the King-street Bridge Act and the Railways (Standardisation Agreement) Act. As I said at the outset, although we do not oppose the bill we certainly want to comment on it.

My understanding is that more than 3000 courtesy buses will be covered by the bus accreditation

system. There has been a growth in courtesy bus services in recent years, and there is a need to ensure that the companies and individuals who provide those services are covered by minimum safety standards.

The changes will also affect buses that are available on a hire-and-drive basis as well as non-route and private services. It is important to comment on the availability of hire-and-drive buses. Many of us are aware of community groups that decide that the best way to commute to functions is to hire and drive small buses. Individuals are required to maintain their domestic vehicles and ensure they are safe and roadworthy. In the same way, it is reasonable for people to assume that the hire-and-drive buses they use are well maintained and roadworthy so that they can safely travel to and from their destinations. The buses in those three categories — hire and drive, non-route and private — will have to be maintained to the appropriate safety standards.

Hon. G. R. Craigie — That is a good idea.

Hon. PAT POWER — It is a good idea; and as I said, it is part of the reason why we are relaxed about the legislation. It is in the community's interest for hire-and-drive buses and non-route and private buses to be maintained to the safety standards the community reasonably expects.

The operators of those services will be required to maintain their vehicles to the same standards that currently apply to the operators of other bus services. Whether they drive or ride in school buses, route buses, tour buses, charter buses, buses owned by religious organisations, courtesy buses or hire-and-drive buses, it is important that members of the community feel confident that those buses meet certain road and vehicle safety standards.

However, the introduction of those necessary and sensible requirements will cause some problems for the community. We understand that a range of organisations may find it difficult to meet the financial obligations that will flow from the changes. I trust — I have no doubt — that the minister will take that into account.

In my electorate in the northern suburbs of Melbourne many communities from non-English-speaking backgrounds use those services. It will be necessary to ensure that they are told about the changes in their own languages. It should be acknowledged that the financial capacity of many of those organisations is minimal.

Therefore, as much lead time as possible should be provided to ensure they understand the new requirements and can undertake the required work to raise funds and overcome any unnecessary frustration and anxiety at their end. It is important that the minister understands the difficult financial situations many community organisations face.

I referred to the re-routing of the Wattle Park tramline. The tramline will leave its existing alignment and instead travel around the northern boundary of the National Tennis Centre and over the Jolimont railway yards via the new bridge that will be built as part of the Exhibition Street extension. The tramline will continue over the bridge and turn left into Flinders Street. That will advantage some people, but the opposition argues that there is reason for concern that instead of ending at St Kilda Road the tram will travel further along Flinders Street.

It is important to remember and understand that the present route has enabled a shuttle service to operate for major sporting events in that entertainment and sporting precinct, particularly for the National Tennis Centre. I am sure next January many honourable members will attend the Australian Tennis Open there.

The Wattle Park tram route between St Kilda Road and the tennis centre has historically provided good public transport access to the tennis centre; it moves thousands of people in and out of the area, particularly during the Australian Open. The Public Transport Corporation and its former bodies have always done an excellent job in transporting people to and from those major sporting and entertainment events by fixed rail.

I was interested to read the latest edition of *Taxi Talk*, the periodic journal of the Victorian Taxi Association. The minister and I receive copies of it.

Hon. G. R. Craige — Have you got an article in it?

Hon. PAT POWER — Of course not — at least, not in my name. I use a nom de plume!

The Victorian Taxi Association made the point that it considers itself to be part of Melbourne's transport infrastructure.

Hon. G. R. Craige — The government made that statement.

Hon. PAT POWER — The Victorian taxi industry regards itself as a vital player, along with our fixed rail and bus services. As the minister now flicks through the journal, no doubt he will arrive at a section where the association says it is impossible for the taxi industry alone to cope with passenger movements, especially around major sporting and entertainment events. Indeed, the association says that when the Bledisloe Cup is played in Melbourne, public transport should run until the early hours of the morning.

The association argues that point because it understands from a practical point of view that it is necessary to have complementary transport infrastructure. It is not possible for 100 000 people to stream out of the Melbourne Cricket Ground after a Bledisloe Cup match and be transported to either further entertainment or home simply by using the existing taxi fleet, even if the entire taxi fleet was dedicated to that task. The Taxi Association makes a sensible proposal that the government ought to accept that taxis, buses, trams and trains are part of a delicate and necessary modal mix and that that mix must be available if we are to provide patrons — often interstate or international visitors — with efficient transport after events such as the Australian Open, the Bledisloe Cup or whatever.

That is particularly important when we consider the re-routing of the Wattle Park tram which will remove that fixed rail commuting facility at the National Tennis Centre, the Glasshouse, Olympic Park and so on. I urge the minister to take that matter into account.

Earlier I said that provisions in the bill related to tow trucks.

Hon. G. R. Craige — This will be interesting if you adopt your own words.

Hon. PAT POWER — It will be interesting! The minister's predecessor introduced legislation which essentially deregulated the tow-truck industry. Honourable members will recall that at that time the opposition opposed the deregulation of the tow-truck industry. It argued that deregulation would not work and that the nature of the industry meant that regulation was required so the sector could be properly managed.

When I examine the aspects of the bill that relate to tow trucks, it is reasonable to argue that at last — and some people may say 'at long last' — the government is responding to our warning at the

time, acknowledging that regulation does have a role to play in the tow-truck sector and that, indeed, this bill as it relates to tow trucks is a re-regulating bill. That is why the opposition supports the bill.

Clause 6 changes the meaning of heavy vehicle towing to essentially allow a vehicle with a gross mass of 4 tonnes or more to be towed by heavy accident towing. The previous requirement was that a heavy accident tow truck could not undertake accident towing of a vehicle that had a gross mass of less than 4.5 tonnes. It is acknowledged that experience has found that provision to be less than perfect. The design and construction of more modern vehicles means we need to alter the provisions. The opposition supports that move.

Clause 9 corrects an oversight that had prohibited passengers being carried in vehicles that are being towed by accident or heavy accident tow trucks but not tow trucks that held a trade towing licence. That is a sensible correction and means that tow trucks fitting into different categories will now be required to operate under the same structures.

Clause 11 substitutes a new section that introduces more rigorous requirements for a repairer to possess a valid authority-to-tow form for any damaged vehicle being repaired. That will facilitate the detection of illegal accident tows. That provision is a move to re-regulation. No doubt it will tighten up the way in which some people in the tow-truck sector operate. As the government argues, that will enable those people who operate illegally — that is, outside the legislation and the regulations — to be detected and to be treated appropriately.

Clause 12 inserts a subsection that means a tow-truck driver who is lawfully at an accident scene may enter into an agreement with a person to store a vehicle at the authorised depot of the tow truck. We regard that re-regulation as sensible. It means that if a citizen is unfortunately in an accident that requires his or her vehicle to be towed away, at the accident scene he or she can enter into an appropriate agreement that enables him or her to clearly understand the vehicle is to be towed and that it will be stored, instead of the driver or the person responsible for the vehicle, who may be either injured or in a distressed state, being required to fill out more than one form for the vehicle to be towed and stored, or for there to be a doubt or a dispute at some later date.

Clause 14 inserts a new provision that requires the holder of a tow-truck licence to give notice of storage

charges to the owner of a vehicle that has been towed to the depot from an accident scene. This re-regulation makes a lot of sense. It means that a citizen with a vehicle in storage will receive a regular account of charges for the storage. As a result the industry will be tightened up. There will be little or no opportunity for dispute between a person storing a vehicle and the person having the vehicle stored. It is a sensible re-regulation.

Clause 16 provides that demerit points are also recorded against a person who is not an authority holder, and apply them if a person obtains an authority. This also is a sensible re-regulation. It means that a loophole will be closed to the colourful operators in the tow-truck industry, and a person who has demerit points registered against him or her will not be in a position to evade or avoid their application.

Clause 17 is a sensible addition to the legislation. I have not the slightest doubt that because of the minister's experience in country Victoria he has an understanding of the necessity for this provision. It inserts a provision that permits the driver or passenger of a damaged or disabled vehicle that is outside a controlled area to accompany the driver of the tow truck when travelling to the vehicle to be towed. If a vehicle breaks down in a country area it is the usual practice to get a ride into town with a helpful local driver.

Hon. G. R. Craige interjected.

Hon. PAT POWER — Absolutely; I have done it myself. Clause 17 means that once you have made arrangements with the appropriate tow-truck operator, it will be legal to travel back with the tow-truck driver to collect your vehicle.

Clause 19 is another sensible piece of re-regulation. It makes clear that a job number given by an accident allocation centre authorises the towing of only one damaged vehicle from an accident scene. This is the kind of re-regulation the opposition argued would be necessary when the former minister, Mr Baxter, deregulated the tow-truck industry. It puts beyond doubt that a tow-truck driver will have the authority to tow only one vehicle. It will not be possible for an unscrupulous operator to apply pressure to a distressed driver to allow that operator to tow more than one vehicle.

Clause 20 is important in non-metropolitan Victoria. The new regulation will enable the tow-truck sector to regulate in self-management areas. At the briefing

I was given — I thank the officers of the minister's department for their generous advice — it was explained clearly that self-management has been successful in country Victoria. Notwithstanding the opposition's strong view that regulation is necessary in the tow-truck sector, it is happy with the way self-management has operated in non-metropolitan Victoria. Operators in provincial and rural towns are to be commended for the sensible and responsible way they have gone about providing services.

The Transport Acts (Amendment) Bill is an omnibus bill that increases the number of categories of buses, provides for the rerouting of the Wattle Park tram and also provides for the tow-truck sector. It makes other minor amendments, but they are the three most important aspects of the bill.

The opposition has consulted widely in order to determine its response to the legislation. The RACV and the Transport Workers Union were two organisations that said they were happy with the bill, and they also share the opposition's view that it was inappropriate for the former Minister for Roads and Ports to deregulate the tow-truck sector, but the present minister has acknowledged that there is a better way to go and he has responded to the advice of the opposition and a growing number of opinions from the tow-truck sector.

The opposition believes without doubt that the amendments in the bill, especially those relating to the tow-truck sector, are good contributions to the legislative program.

Hon. B. W. BISHOP (North Western) — Even though the Transport Acts (Amendment) Bill is wide and goes into other areas of transport I will restrict my remarks to the tow-truck industry. I commend the opposition for its support of the practical amendments that will be put in place via the bill.

For a number of years I was a member of the bill committee that went through the changes to the tow-truck industry. The 1995 amendments were great. Those reforms set up an industry of which the community can be truly proud. The amendments in the bill should be seen as follow-up amendments that tidy up some of the outstanding issues.

The bill is a good indication of how the government is able to respond to the community and show leadership. The previous legislation also reflected that response. The bill will be remembered for the wide consultation with groups involved in the tow-truck industry that led to the amendments. The

discussion paper entitled *Issues for Discussion — Proposed Amendments to Tow-Truck Provisions of the Transport Act* was advertised widely and submissions were invited to be put before 4 August this year.

The discussion paper raised 17 issues for public comment, and those issues form a major part of the bill we are discussing. The groups that presented submissions included the Victoria Police, the Victorian Automobile Chamber of Commerce, the Victorian Accident Towing Association, the Insurance Council of Australia, the NRMA, AAMI and Ace Towing Service. I believe others also made submissions. Not all the issues in the paper were picked up, but that was all part of the government's consultative process with what is in some areas a relatively complex industry. The amendments that came out of that consultative process were practical.

Mr Power spoke of one that is particularly sensible. It deals with a breakdown or accident in the country — something may happen to a person's car or the vehicle may hit a kangaroo. Although the person would generally be able to get into town to sort out the details, the bill makes provision for that person to get a lift back in the tow truck to pick up the damaged vehicle. That is an excellent result for country Victoria. As I said, the amendments are a practical and commonsense approach to what can sometimes be a complex industry.

The bill introduces some flexibility into the system, particularly with heavy vehicles. It also reduces the minimum mass of heavy vehicles that can be towed away from an accident scene from 4.5 tonnes to 4 tonnes. The amendment picks up the technology that abounds in the truck industry. Today lighter trucks have become more prevalent. They are strong but they carry a good payload. The bill moves with the times and with technology. The amendments also introduce an exemption to allow a passenger to steer a heavy towed vehicle. That again is a practical and sensible amendment worked out by a broad range of groups involved with the industry.

Anyone involved in the 1995 reforms will remember the piggyback allocation entitlements — a wonderful expression. The entitlements were included so that the number of licences required by operators could be reduced. An operator could, for example, put one truck up on blocks while, under the same licence, another truck did the work so that the operator would not lose entitlement allocations. That offer was a oncer and was non-reversible.

For a number of reasons not many operators took it up. One reason was concern that the piggyback licences may lose value, but that may not have been the case. The system has matured and settled down since that time. Operators now want to have another look at that proposal. I commend the members of the Tow Truck Directorate for developing a process that will be able to accommodate that requirement. Operators who piggybacked in 1995 now need the flexibility to reverse the process, and the bill will allow that to happen. Again, this is a practical and sensible amendment to the system.

I remember the great discussions we had leading up to the 1995 reforms about how we would structure the strict character qualifications to remove undesirables from the industry. Some of the discussions were hilarious. I understand there has been a major exodus of undesirable people out of the industry — some apparently went north to warmer climates. Wherever they went their exodus has made things better for our industry, but there are still some anomalies in that area and the bill tidies them up.

A minor anomaly that is tidied up by the bill relates to storage arrangements. Even though a storage agreement is a separate agreement on the tow form, it can still be put in place. The bill requires regular notices showing storage charges to be sent to clients so that everyone knows exactly where they are. A customer can then make a commercial decision about his or her vehicle, the storage costs and what should happen to the vehicle.

I will touch on just a few of the other amendments made by the bill. The upgrading of the record keeping of repairers to provide a clear audit trail is a further clampdown on the pirating of accident tows. That is a good thing. Again, the provision has been refined over a period. It will force all repairers along the chain to obtain and provide copies of the original tow form — which is very important — with the relevant endorsements. That gives members of the community further protection and ensures they are not ripped off.

There is a loophole in the act relating to demerit points. Obviously over time such loopholes appear, and they can be addressed through amendments. The loophole is that to avoid suspension because of demerit points licences can be transferred to another person. That has been cleared up. I reinforce the government's commitment to give Victorian communities a towing industry they will be proud of and in which they can have much confidence.

In conclusion, the allocation system works well in the metropolitan area. During the 1995 reform process there was a great deal of discussion about how the system could be implemented in other areas and how it could fulfil the need to give more surety not only to the industry but also to the community. I understand Geelong is now able to run its own allocation area, and it is overseen by the Tow Truck Directorate. That is a great idea that has my full support. That initiative has always had the support of the bill committee. A minor amendment to that provision will be discussed during the committee stage.

The bill provides a legislative base to underpin any self-management system. In my office in Mildura there have often been discussions among members of the tow-truck industry about how they can organise self-management. The bill provides those people with the legislative base to form their own system and to introduce a voluntary code of practice, if they so wish, to provide the best service possible — a viable and a credible service — through the existing organisations.

This bill represents a practical tidying up of a number of issues. I am absolutely certain it will continue to improve our tow-truck industry so that it will be credible, viable, responsible and trusted by the community. That is very important for the whole industry. I commend the bill to the house.

The DEPUTY PRESIDENT — Order! I am of the opinion that the second reading of this bill requires to be passed by an absolute majority. In order that I may ascertain whether the required majority has been obtained, I will direct that the bells be rung.

Bells rung.

Members having assembled in the chamber:

The DEPUTY PRESIDENT — Order! In order that I may ascertain whether the required majority has been obtained, I ask those members in favour of the question to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clauses 1 to 7 agreed to.

Clause 8

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

1. Clause 8, page 5, lines 30 and 31, omit "all or part of a controlled area or".

As a point of clarification, I wish to inform the house that some concern was shown by the Melbourne tow-truck controlled area that the words 'all or part of a controlled area' may have had an impact. Therefore we have deleted those words. It will not change the thrust of the bill, which is to allow rural areas to maintain their self-managed areas.

Hon. PAT POWER (Jika Jika) — I make just one comment: the opposition supports this and subsequent amendments.

Amendment agreed to; amended clause agreed to.

Clause 9

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

2. Clause 9, after line 31 insert —

'(1) For section 175(1)(i) of the Transport Act 1983 substitute —

"(i) that the tow truck must not be used to lift and carry, or tow, a damaged motor vehicle if any person is travelling as a passenger in that motor vehicle unless —

- (i) the vehicle is being towed and has a gross vehicle mass of 4 tonnes or more; and
- (ii) the vehicle can only be towed safely if a person steers or controls the vehicle."

Amendment agreed to; amended clause agreed to; clauses 10 to 13 agreed to.

Clause 14

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

3. Clause 14, line 14, omit "7" and insert "10".
4. Clause 14, line 27, omit "7" and insert "20".

Amendments agreed to; amended clause agreed to; clauses 15 to 22 agreed to.

Clause 23

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

5. Clause 23, line 30, omit "(1A)" and insert "(1AA)".

Amendment agreed to; amended clause agreed to; clauses 24 to 37 agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

RAIL CORPORATIONS (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

WATER ACTS (FURTHER AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

MENTAL HEALTH (VICTORIAN INSTITUTE OF FORENSIC MENTAL HEALTH) BILL

Second reading

Debate resumed from 11 November; motion of Hon. R. I. KNOWLES (Minister for Health).

Hon. M. M. GOULD (Doutta Galla) — The opposition supports the bill, the purpose of which is to establish the Victorian Institute of Forensic Mental

Health, which will provide specialist mental health services for Victoria's criminal justice system.

The institute will provide a wide range of services to the community. It will promote, oversee and coordinate the planning of forensic mental health in Victoria; provide clinical assessment for the courts, the Victorian Adult Parole Board and other government agencies; and offer in-patient and outpatient services and specialist treatment programs for people with mental disorders. It will also provide clinical forensic mental health services and advice to government and non-government agencies with which it has agreements.

One of the most important roles of the institute will be to offer specialist treatment and support for victims of criminal offences. It will also be involved in educating the community about its work and forensic mental health generally. It is important that the community understands the difficulties faced by people suffering from mental illness.

The institute will also be involved in training postgraduates and undergraduates in the field of forensic psychiatry and in the general training of legal, medical and general health professionals. It is important that those people understand the place of forensic mental health in the criminal justice system. The other major area in which the institute will be involved is research into forensic mental health, clinical forensic medicine and other associated fields. The institute will also manage a 120-bed forensic facility on the site of the old Fairfield hospital.

The strategy for providing mental health services has been developed at the national level, and the bulk of the work involved in establishing the framework for that was done by the former Labor government. The strategy has now been signed by all state governments — including, obviously, Victoria.

In examining the place of forensic mental health and mental health in the criminal justice system, it is important to acknowledge that it is and has always been a difficult task to ensure that offenders are treated properly while guaranteeing the safety of the community as a whole.

A council will oversee the work of the institute. It will consist of the clinical director, a chief executive officer, a nominee from the Attorney-General's department and a nominee of the Minister for Corrections. The council will have six other members, at least one of whom will be a fellow of

the Royal Australian and New Zealand College of Psychiatrists, at least one of whom will have expertise in accountancy or financial management, and at least one of whom will represent the interests of the patients. Those six members will be appointed by the minister under his terms and conditions and will hold office for three years, after which they will be eligible for re-election.

In his second-reading speech the minister says the council will comprise not only the nominees I have mentioned but also a representative from the general community. From my reading of it, the bill contains no provision for a representative from the community. I ask the minister whether the statement in the second-reading speech that a representative from the general community will be on the council is correct.

The bill sets out the number of ways in which the resignation or removal of council members, including the chief executive officer and the clinical director, can take place. A member can be removed if he or she has not attended a meeting consecutively for six months; if he or she has gone into insolvency; if he or she has been convicted of an offence, the commission of which would make it inappropriate for the member to remain on the council; or if he or she has become mentally unfit to reside on the board. I am interested to know who will make that assessment.

It is important that the 120-bed facility at the Fairfield site does two things. Firstly, it is important that it raises the status not only of the mental health profession but also of a number of other professions, including the medical profession, a number of members of which do not understand mental health. Secondly, it is important that it raises the status of lawyers who work in the courts and the awareness of the general community, which needs to understand the implications of mental health. The opposition supports those aims.

It is important that those who run the Fairfield facility get on well with their neighbours and build a good reputation in the area. There is concern that the institute has got off on the wrong foot, because the local community was left out of the consultation process during the planning of the site. That is not the fault of the Minister for Health, who has a reasonable reputation for consulting. In this case the Minister for Planning and Local Government was responsible. The local community believes it has been left out of the process and has raised its concerns with the opposition.

During the course of our consultation process a number of organisations expressed concern, including the Mental Health Review Board, which said it had not been consulted about the bill in any great detail. If that is not the case, I should be pleased to hear the minister say so in his response.

Clause 5 inserts proposed section 117N in the Mental Health Act. Subsection (1) says:

The minister may give to the institute any written direction that he or she thinks fit.

Concerns have been raised with the opposition that the proposed subsection seems heavy handed. The institute should be about educating the community and other professions and raising the status of forensic mental health, but instead of being independent it seems it will be at the beck and call of the minister.

Proposed section 117O(9) states:

The Minister may, from time to time, by written notice to the Council, direct the Council to include in, or omit from, a statement of corporate intent, a business plan or a financial statement of a specified kind, any specific matters.

The minister is imposing strict controls on the council. That is unwarranted and takes away the council's independence. The bill allows the institute to impose fees and charges for services. There is no doubt that the government is moving to a user-pays system, which diminishes what should be a good bill.

Although the opposition has raised a number of concerns, it supports the establishment of the institute and hopes it will raise the status of forensic mental health in Victoria. I ask the minister to respond on the points I have raised.

Hon. J. W. G. ROSS (Higinbotham) — I am pleased to support the Mental Health (Victorian Institute of Forensic Mental Health) Bill. I believe it is important to realise that the bill mainly applies to a relatively small number of individuals who are given custodial sentences as a result of committing serious crimes against the person, such as homicide or callous offences, as a consequence of psychiatric illness. Another difficult group of individuals who come before the courts may be kept in custody because they are unfit to plead, again on psychiatric grounds. It is important to recognise that those individuals pose a risk to the community and must be accommodated in high-security premises.

The people with mental illnesses about whom we are talking also include non-offenders such as involuntary psychiatric patients. But specific problems run all the way through to the types of clients described in the community visitors reports, such as the patient who was at the forensic psychiatry centre for some six and a half years. It appears that the patient was sentenced to 10 years imprisonment for drug-related offences, with his status being later changed to unfit to plead.

Although those individuals with forensic psychiatric sequelae are small in number, they represent a subset of a much larger group of Australians who at some stage in their lives will experience mental health disorders, either transient or ongoing, that will significantly reduce their quality of life. Although forensic patients represent the absolute extreme in terms of levels of mental disability and associated crime, it could well be that the seeds of such impairments are more prevalent than any of us care to admit.

Official estimates of the prevalence of individuals with some degree of mental impairment are as high as one in five adults, many of whom are highly reliant on a range of health services. However, I am pleased to say that both the commonwealth and Victorian governments, as Miss Gould noted, have designated mental health as a priority area for policy development and further expenditure.

The national mental health policy was adopted by all the states and territories in 1992 and was followed by the publication of a five-year national mental health plan. Victoria's plan, *Mental Health Service: a framework for service delivery*, was published in 1994. It details the means by which services for Victorians with mental illness will be provided to implement the national plan in this state. It is important to say that at the national and state levels priority is given to the management of people with the most severe mental disorders in terms of providing acute care, integrating service delivery and maintaining continuity of care.

The bill deals with the most severely mentally impaired individuals who require special security arrangements or who are unfit to plead. As I have said, thankfully their numbers are small. However, the bill is part of what can only be described as a grand package of initiatives that will place Victoria's most severely mentally incapacitated individuals in state-of-the-art custody and put our local forensic mental health services at the forefront of the profession in several regards.

Firstly, the administration of the forensic mental health service will be autonomous. The main provisions of the bill amend the Mental Health Act to enable the establishment of the Victorian Institute of Forensic Mental Health, and a number of consequential amendments are being made to the Health Services Act to enable the newly created institute to be funded.

Overall, the administrative infrastructure will be in accordance with the government's policy of separating the purchase of specialist services from the traditional day-to-day detail of delivering psychiatric services. That is to say, there will be a service purchaser-provider split, with the government being mainly concerned with providing funding and suitable facilities for the delivery of world-class services. It is, if you like, the apocryphal distinction between steering and rowing. Rowing, or the day-to-day delivery of services, will be achieved through a statutory agency known as the Victorian Institute of Forensic Mental Health.

The new agency will be managed by a specially established council that will include the clinical director of the institute, the chief executive officer, a nominee of the Attorney-General, a nominee of the minister administering the Corrections Act, and six other members who will include a fellow of the Australian and New Zealand College of Psychiatrists, a person with expertise in finance and accounting, and a person who represents the interests of patients.

Miss Gould raised questions about proposed subsections (5) and (9) of proposed section 117O. The proposed section makes it clear that the minister has a positive role to play. That is appropriate because the minister is after all accountable to the community for the overall direction of the state's health services. The legislation is specific about how the institute will achieve its objectives through the publication of a corporate plan, and there is also provision for subsequent discussions of that plan with the minister. The main function of the institute will be to provide a range of primary health care services in the field of forensic mental health, including assessment and treatment. The institute will also provide professional and community education on and conduct research into forensic mental health.

The model provides for a high degree of autonomy in the professional direction and day-to-day activities of the institute while giving political accountability back to the community through the

Minister for Health. There is no doubt that the autonomy enjoyed by the council will be enhanced by its formal association with Monash University and the reputation for professionalism of the foundation director, who I am delighted to say will be Professor Paul Mullen, a professor of forensic psychiatry. In these circumstances there can be no doubt about the professional integrity of the institute and its capacity to pursue an independent research program without fear or favour.

At the present time, forensic psychiatric services are split between two facilities. The one at Ararat comprises a 20-bed facility with three units, an acute in-care unit of six beds, a sub-acute unit of seven beds and a rehabilitation unit of seven beds. There is also a facility at Rosanna. These facilities have become old, tired and run down, and we can all breathe a sigh of relief now that we are able to refurbish them in the interests of the forensic mental health service.

The establishment of the Victorian Institute of Forensic Mental Health will result in a complete redevelopment of the entire forensic mental health service. As a part of the package, a new 120-bed facility will be built at Fairfield at a cost of some \$25 million. As soon as practicable after the passage of the bill, the new institute will take charge of subcontracted security arrangements and will prepare the way for the commissioning of the facility in the last quarter of 1998.

Victoria will then be in a position to attract the highest quality psychiatric and nursing staff to provide specialist treatment and assessment services for the prison service and the courts because of the facilities that will be on offer. To that one can add the central location of those facilities in pleasant surroundings near a large city with good links to tertiary and other institutions. I have no doubt that those resources will enable the institute to rapidly gain an international reputation for clinical excellence in what can only be described as a somewhat esoteric field that has been a neglected backwater of psychiatry for much too long.

As someone who has been involved in health services research, I have taken a keen professional interest in the infrastructure required to undertake high-quality research. There is absolutely no doubt in my mind that the first prerequisite for any discipline is to acquire a home of its own and to have the academic freedom to pursue a relatively restricted range of research topics. That is to say, what works best is a high degree of specialisation.

To that end I have no doubt that the single-minded focus on forensic mental health services research, together with access to psychiatric patients in custody, will provide the ideal setting for world-class research in the assessment and treatment of forensic psychiatric problems.

The final and essential component for any research institute worth its salt is a teaching program to keep allied disciplines in touch with the latest research. Again I think the Platonic model of students interacting with great professors has a lot to commend it.

General practitioners, general hospital staff, private psychiatrists, lawyers, social workers, police and community development officers are only a few examples of the individuals who come into contact with mentally ill people and who are in need of specialist education in forensic psychiatry.

I am thankful that they will rarely be exposed to the severe cases that the bill and the institute it creates will deal with, but the formal association of Monash University with the Victorian Forensic Mental Health Research Institute will provide the synergy that is essential if, as a community, we are to cross-fertilise research and modern assessment and treatment across all associated disciplines.

There is no doubt that the new approach and the facilities to be developed in association with the bill represent a landmark in forensic mental health services not only for Victoria but also for Australia and, probably, the Pacific region. I am delighted to commend the bill to the house.

Hon. C. J. HOGG (Melbourne North) — I will speak briefly on the bill, which establishes the Victorian Institute of Forensic Mental Health. Opposition members' support for the bill has been canvassed by the deputy leader, and a number of the details have been sketched in by Dr Ross. I am delighted to support the bill because it represents an important plank in the edifice of services for the mentally ill in our community.

The treatment of the mentally ill has changed enormously over the past 20 years. We have seen a vastly increased understanding of many of the conditions which fall under the description of mental illness. We have seen the liberating effects of pharmaceutical products that enable people with formerly crippling mental illnesses to live relatively normally within the community.

We have seen the winding down of the great asylums that I remember from my childhood, and in their place there are now relatively small residential units with day centres, community residential units and community treatment settings. All those factors have created a progressively promising picture not only for people suffering from mental illnesses but also for their families.

I believe some of the stigma that attaches to mental illness is gradually disappearing — but it has not completely disappeared. The television campaigns that are run by the commonwealth government, perhaps in conjunction with state governments, to eliminate the stigma that attaches to mental illnesses are to be valued. It is important that we talk about issues to do with mental illness. Anything that raises people's consciousness of and seeks to normalise at least some of the factors associated with what can be troubling and frightening conditions is to be supported.

In a way, the most frightening areas of mental illness are covered by the bill, which will establish the Victorian Institute of Forensic Mental Health. There is no doubt that the community generally — the reading public, the cinema-going public and the television-watching public of this country — has a huge fascination with the idea of mental illness and crime. Often alternative types of negative stereotypes are reinforced by popular fiction. But let us not deny it: there is a huge fascination with the kinds of conditions that will be prominent in this institute.

At the same time, there is a level of community disquiet at the thought of an institute like this; I suppose one sees all sorts of community aspects. It is a little like the planning processes associated with prisons: people believe they are necessary, they know they are good for local job creation, but nobody wants one close by.

It is similarly the case with an institute such as this, yet this will be a huge boon, it appears, to Victoria not only for members of the community who are touched by mental illness but because the institute will, as Miss Gould and Dr Ross have said, be a pacesetter with excellence in its services, its treatment and, hopefully, its research.

Clearly, as I said at the start of this contribution, the institute represents important planning — in a way, the final planning — in the structure of mental health services that we need. The community at large would rather think we do not need such an

institute, but we must have some place that has the capacity to carry out research and provide treatment and care.

Forensic psychiatry is an extremely difficult area. I cannot say how impressed I and other members of the parliamentary Family and Community Development Committee were when Professor Paul Mullen testified at the committee's hearings when dealing with the Governor's pleasure reference — a challenging reference which crossed into this area where crime and mental illness intersect. I am not suggesting that the scope of this bill was not somehow included in that reference, but committee members had the opportunity to meet that eminent figure in this field.

I conclude by wishing the bill a speedy and safe passage. I realise it will be some time before the institute is completed and operating, but within the overall planning for mental health services the institute will be extremely important. In some ways it will be the least easily understood, but it will provide a humane setting for services that have not always been housed in humane settings. As health minister I remember visiting J ward at Pentridge Prison. That was a sobering experience. Other honourable members may also have visited that location. The Minister for Health nods his head in agreement.

I should like to think our secure facilities are secure, humanely run and decently constructed. It seems that on all counts this bill, as it describes the proposed institute, meets the kinds of standards honourable members would like to see. I certainly am happy to give it my support.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

In so doing I thank Miss Gould, Dr Ross and Mrs Hogg for their support. I consider this to be a very important piece of legislation. As honourable members have said, it represents a critical step in a comprehensive medical strategy. The government can come under attack on many fronts, but I think history will show that one of its most important

achievements has been a significant reform of the mental health system.

As a community we do not accommodate the concept of mental illness, despite the fact that one in five Australians at some time in their lives will experience it. Although mental illness is a mainstream health issue, we often find it difficult to grapple with it. It is easier to deny its presence.

A couple of weeks ago I launched a video, the whole concept of which revolves around the different attitudes the community adopts towards mental illness compared with other traumatic circumstances. If somebody has a traumatic accident or physical illness, one will send flowers or casseroles, for example, but if a family member has a serious mental illness our friends and our families do not know how to respond. We do not send flowers or casseroles or get-well cards despite the fact that mental illness is a traumatic intervention in life.

I believe that is a great challenge for our society. How do we regard mental illness? It is an illness in exactly the same context as any other physical illness. When we start to think about that, we will start to develop appropriate responses and ensure our service system responds appropriately.

The bill deals with perhaps one of the most vulnerable groups in our community. These people suffer from severe mental illness which is reflected in criminal behaviour. Our normal human response is, 'This is criminal behaviour and, therefore, it ought to be condemned. These people ought to be alienated or locked up'. Yet, by definition, they are not actually responsible for the actions they have perpetrated.

Why should we be sensitive to their needs? Because our response to those people will be reflected in our response to every other person who suffers from a mental illness. If we make the people who are the subject of this bill guilty, we will make others who suffer from mental illness guilty and alienate them from society. Although these are difficult reforms — they frighten the community and us, as individuals — it is our response to those people that will determine our response to others who suffer from mental illness. The 'others' are 20 per cent of the population — they are us. They are members of our families or people we know.

The bill is an important one. It is important that we develop as individuals and as a community. One of

the great opportunities we have as a state is that our population of about 4 million is, according to the experts, of a scale where you get a myriad of services and structures that will provide a comprehensive service response.

The most difficult are those who are covered by the bill. Mrs Hogg was correct to acknowledge the great benefit Victoria has in Professor Paul Mullins, a world expert in his work with people with forensic psychiatric disabilities. He has provided the government with sound advice, which it has sought to follow.

Miss Gould raised a concern that the community representative be someone who is also perceived to be representing the community, and that is the government's intention. She also suggested that the Mental Health Review Board felt it had not been consulted. I do not have background information on that, but I would be surprised if the board were anything other than supportive of the way the legislation is drafted because anyone who is involved in mental health services or who is interested in the field would be supportive of the legislation, of what motivated the legislation and of the outcome of the legislation.

I thank honourable members for their support of the legislation. In ways we will never understand I believe the passage of the legislation will represent a significant leap forward in the broader community's understanding of the issues of good mental health, mental illness and the development of a response to the challenge that is appropriate in a society that claims to be caring, informed, enlightened and moving into the 21st century.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

PODIATRISTS REGISTRATION BILL

Second reading

Debate resumed from 11 November; motion of Hon. R. I. KNOWLES (Minister for Health).

Hon. M. M. GOULD (Doutta Galla) — The opposition will not oppose the Podiatrists Registration Bill. However, I foreshadow that in the

committee stage it will move an amendment to clause 58.

I have had quite a bit of experience with podiatrists because I have been taking my daughter to a podiatrist since she was five years of age. Fortunately, the problem with her feet was picked up at the local shoe shop when I was buying her first pair of school shoes. It was suggested that I go to the local community health centre to have the podiatrist look at her feet. My daughter is pleased that the house is dealing with the bill because she was terrified that I was going to produce her first orthotics, which were no more than 3 inches long. However, they are still locked away in a cupboard with the first plaster cast of her feet, much to her pleasure!

I took her to the community health centre in Bell Street, Coburg, to make an appointment with the podiatrist and over the next three years she went to the podiatrist regularly. As her feet grew, so her orthotics grew, and they had to be adjusted with extra pieces added to build up the arches in her feet. When I came to this place I stopped taking her to the local community health centre and took her to a private podiatrist in Mount Alexandra Road. She continues to have her orthotics upgraded and plaster casts of her feet are taken.

If she does not wear the orthotics she suffers muscle strain in the back of her legs because she has flat feet which are in-turned, but that does not occur often. The only time she does not wear her orthotics is during the school holidays when she does not transfer them from her school shoes to her runners. She will have to wear orthotics until she is at least 18 years of age because she hopes to wear high-heeled shoes one day. She would not be able to do that without the constant supervision of a podiatrist to ensure that her feet are straightened and her arches improved. I have had that experience with podiatrists over the past eight years and I suspect I will continue to have contact with podiatrists until my daughter can look after herself.

To become a qualified podiatrist it is necessary to take a three-year degree course through the La Trobe University. A fourth honours year is also available. Next year the course will be extended to three and a half years. The opposition's concern revolves around the necessity to protect the community from unregistered podiatrists who may practice podiatry without being qualified. The bill contains provisions relating to the functions of a registered podiatrist but there is no requirement that a person be registered to

perform those functions. Departmental officers told the opposition that the public should be protected against persons holding themselves up to be registered podiatrists but that there was no need to protect the public from a person who simply says he or she is a podiatrist.

Hon. R. I. Knowles — They cannot call themselves podiatrists if they are not registered.

Hon. M. M. GOULD — The concern is that the bill specifically refers to a 'registered podiatrist'. That is the issue.

Hon. R. I. Knowles — They cannot call themselves podiatrists unless they are registered to enable them to call themselves podiatrists.

Hon. M. M. GOULD — The concern relates to clause 58(1). A person could claim to be a podiatrist. The clause refers to a person being a 'registered podiatrist'. If the person does not say that he or she is a 'registered podiatrist' the person is not in breach of the clause.

Hon. R. I. Knowles — If a person is not registered, the person cannot take or use the title of podiatrist or registered chiropodist or any title calculated to induce that belief.

Hon. M. M. GOULD — The issue raised by the Australian Podiatry Association (Vic.) is that it would be open to interpretation. The foreshadowed amendment would ensure there is no misinterpretation of the provision and put it beyond doubt that a person cannot use the term 'podiatrist' if the person is not a qualified podiatrist.

Clause 58 ensures that a person would not be able to claim to be a registered podiatrist. The concern is that it is not sufficient to protect the public because a person can purport to be a podiatrist or a foot-care worker so long as he or she does not use the word 'registered'. The issue has been raised with the opposition and, like the Australian Podiatry Association (Vic.), the opposition is concerned to ensure that the public is not put at risk by anybody misusing the title.

The government has argued that if a person purports to be something he or she is not the police can be brought in and possible prosecution may ensue. However, if the government left in the bill the regulatory regime that currently exists the Podiatrists Registration Board of Victoria would have adequate control over the people who purport

to be podiatrists. Information obtained from the department and from the podiatry association reveals that if someone purports to be a podiatrist and is not, the matter does not come under the auspices of the board but involves prosecution by the police.

Hon. R. I. Knowles — The board has no jurisdiction.

Hon. M. M. GOULD — That is right.

Hon. R. I. Knowles — No, under your scenario if a person purports to be a podiatrist and he or she is not, the board — —

Hon. M. M. GOULD — Can't do anything about it. You have to go down the track of trying to get the police — —

Hon. R. I. Knowles — It is a breach of the act.

Hon. M. M. GOULD — It is the same as what happened — —

Hon. R. I. Knowles — But your amendment does not change that.

Hon. M. M. GOULD — It prevents it from being able to — —

Hon. R. I. Knowles — It does not.

Hon. M. M. GOULD — It does. It would give the board the opportunity to say that that person was performing duties that fall under the definition of podiatry, yet that person is not registered. Therefore, the board can — —

Hon. R. I. Knowles — Do what?

Hon. M. M. GOULD — Take the appropriate measures.

Hon. R. I. Knowles — To do what?

Hon. M. M. GOULD — To prevent them from practising. We will test the clause in committee. The opposition has concerns about some of the people who have been involved in foot care. A number of case histories have been brought to my attention about people who have carried out practices that should be left to qualified podiatrists, and such practices have led to further issues about their treatment.

A 40-year old woman with a medical history of diabetes and other diseases saw a non-podiatrist foot-care worker at the Bellarine Community Health Centre. Because the practitioner did not have podiatrist qualifications the woman's treatment was mismanaged and infection set in. Her ingrown toenail required extensive treatment by a qualified podiatrist. An 80-year-old woman who had restricted mobility and was under the care of a podiatrist at a nursing service in Brunswick was referred to a woman who was assisting with home help. Because of the woman's limited mobility she was unable to cut her own toenails. The home helper who was to assist her in the exercise was given explicit instructions not to cut one particular toenail, but she did. The result was a severe infection which required further podiatry treatment and medical intervention.

As I indicated at the outset, I have some experience with podiatry and orthotics. One non-podiatrist is supplying preformed flexible innersoles that are made specifically for clients. The person selling those innersoles gained a Bachelor of Sports Science degree in South Australia. The fellow is known to target athletes and others through advertising in major newspapers in different states, including Victoria. One case is currently under investigation in South Australia involving a client who subsequently developed a stress fracture directly resulting from inappropriately fitted orthotics. There are cases in Victoria where inappropriate innersoles have been prescribed for patients. This situation is known to podiatrists in Victoria who end up with these people as clients and who have to attempt to rectify their problems.

The Australian Podiatry Association would like to see a system operating in Victoria similar to the one in the ACT where the board of podiatrists would be the body that would determine whether a person was going beyond his or her qualifications by entering into the qualified podiatry profession. As I said at the outset, podiatrists have to undergo a three-year university degree, which soon will be three and a half years.

Podiatry is an important industry. A number of elderly people require podiatrists regularly. Podiatrists are also very much aware of the susceptibility of elderly people to diabetes. Earlier today the Minister for Health raised the issue of the large number of Victorians who suffer from diabetes. Diabetes affects elderly people's feet, which is usually the first sign of the disease. Podiatrists are aware of that condition and

understand the importance of infection control and of recognising the telltale signs. They can then ensure that people are referred for appropriate treatment. It is important that there are qualified workers.

Because of the demand for podiatrists the Department of Human Services has undertaken a program in six community health centres. Foot-care workers underwent a week's training course at various TAFE colleges. The Victorian branch of the Australian Podiatry Association was involved in that program but believes it was left out of a lot of the consultation processes. The association believes the system was working in reverse. People had undergone the foot-care training course for a week and were put in the position of deciding whether a patient required a podiatrist. That assessment should be made by a qualified podiatrist.

There is a demand for podiatry services in community health centres. In the past some community health centres chose to charge fees and a large number did not. The changes introduced by the government mean that people on low incomes and those with health cards have to be charged for podiatry services. The charge is \$6.50 a visit or \$10 for full cost recovery. It is unfortunate that the fees have been introduced because it is the elderly people in the community who most use the services of podiatrists. They are the people who suffer from ingrown toenails — a condition that can cause nasty infections. Elderly people can also contract diabetes and gangrene. It is important that people have access to podiatrists. Patients will cease going to community health centres because of the imposition of the fees.

The opposition's concern relates to clause 58(1). In the committee stage the opposition will attempt to make clear who is entitled to practice as a podiatrist. We need to know who is entitled to put a shingle in front of the surgery and thus claim to be a podiatrist. These people must be appropriately qualified and registered. Foot care workers should not be used where podiatrists are recommended because of the risk to the health of Victorians. The community should not be endangered. The opposition does not oppose the bill generally.

The DEPUTY PRESIDENT — Order! I am advised that the second reading of this bill requires to be passed by an absolute majority of the whole number of the members of the Legislative Council. In order that I may ascertain whether an absolute majority exists I direct that the bells be rung.

PODIATRISTS REGISTRATION BILL

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COUNCIL

Wednesday, 19 November 1997

Bells rung.

Members having assembled in chamber:

The DEPUTY PRESIDENT — Order! I am of the opinion that the second reading of this bill requires to be passed by an absolute majority. In order that I may ascertain whether the required majority has been obtained I ask those members in favour of the question to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clauses 1 to 57 agreed to.

Clause 58

Hon. M. M. GOULD (Doutta Galla) — I move:

Clause 58, line 16, after this line insert —

“;or

(e) provide a podiatry service for fee or reward.”.

The purpose of this amendment is to clarify that a person who is not a qualified podiatrist cannot provide podiatry services for fee or reward. The amendment is designed to ensure that people will not be able to give the impression through false advertising or other means that they are podiatrists. Podiatrists must be registered with the board.

Hon. R. I. KNOWLES (Minister for Health) — For fairly straightforward reasons the government does not accept the amendment. When it comes to occupational registration in the health area no act defines the actual procedure. That is so for good reason. It is often difficult to accurately define whether we are talking about medical practice, chiropractic, osteopathy or podiatry. In an attempt to preserve public safety we protect the title by legislation and then set up a mechanism for determining who is eligible to use that title.

Hon. M. M. Gould — I thought the optometrists bill had —

Hon. R. I. KNOWLES — No, we did not define optometry. We described those who could call

themselves optometrists, and they are people registered by the board, just as we are saying with this bill that the only people who can claim to be podiatrists or chiropodists are those who are registered by the board. The advice given to the government is that if it were accepted the amendment would offer no additional protection to the community but would open up the definition of podiatry, on which the bill is silent. But if we open up the definition we run the risk of weakening the public protection envisaged by the legislation. I urge the committee not to accept the amendment.

Committee divided on amendment:

Ayes, 6

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

Noes, 28

Asher, Ms	Hartigan, Mr
Atkinson, Mr (Teller)	Katsambanis, Mr
Baxter, Mr	Knowles, Mr
Best, Mr	Lucas, Mr
Birrell, Mr	Luckins, Mrs
Bishop, Mr	Powell, Mrs
Boardman, Mr	Ross, Dr
Bowden, Mr	Smith, Mr
Brideson, Mr	Smith, Ms
Cover, Mr	Stoney, Mr
Craige, Mr	Strong, Mr
Davis, Mr D. McL.	Varty, Mrs
Davis, Mr P. R.	Wells, Dr
Furletti, Mr	Wilding, Mrs (Teller)

Pairs

Eren, Mr	Hallam, Mr
Power, Mr.	de Fegely, Mr
Pullen, Mr	Hall, Mr
Theophanous, Mr	Forwood, Mr

Amendment negatived.

Clause agreed to; clauses 59 to 97 agreed to; schedule agreed to.

Reported to house without amendment.

Report adopted.

Third reading

The DEPUTY PRESIDENT — Order! I am of the opinion that the third reading of this bill requires to be passed by an absolute majority of the whole

number of the Legislative Council. In order that I may ascertain whether the required majority exists, I ask those members supporting the bill to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

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

That the house do now adjourn.

Laser pens

Hon. JEAN McLEAN (Melbourne West) — I raise with the Minister for Small Business, who is the representative in this house of the Minister for Fair Trading, a problem about laser pens. During the Melbourne Festival I was accompanying a photographer around the Flinders Street station who was undertaking a project and taking photographs. Every time she snapped the camera a red light dashed across her face. That happened on two or three occasions. We finally saw somebody in a car holding what looked like a pen and obviously a light was coming from it.

I did not know what it was until a few days later when I read an article in the *Herald Sun* of 2 November headed 'Pilot's laser fright':

The pilot of a packed plane narrowly avoided a crisis when a hand-held laser pen was shone into his cockpit.

John Middleton, 46, was flying an Airworld Airbus 320 from the Greek island of Crete with 180 holiday-makers aboard when the red laser beamed into his cockpit as he flew into Manchester Airport.

The pilot said:

It was an intense red light and it was coming from the ground ...

I think the person was trying to aim it at my aeroplane. If it had shone into my eyes it could have been

dangerous. If it had damaged my eyesight it would have been the end of my career.

Another article in the *Herald Sun* of 16 November headed 'Laser pens turn into weapons' states:

Laser 'weapons', such as the one used to attack tennis champion Pat Rafter recently, are available over the counter in Melbourne.

The article goes on to explain that if these lights were shone into the eyes of tennis players it could stop them from winning. The article continues:

Britain has banned high-intensity laser pointers and set fines up to \$1100 for offenders after a series of dangerous incidents.

But in Melbourne laser pointers five times more powerful than safety experts recommend are available in stores for \$70 ...

They can project a narrow, pointing beam up to 300 metres and, if used improperly, can cause dangerous distractions and permanent eye injury.

These matters are of concern to the police. Last night I spoke with Mr Boardman, who also expressed concern about laser pens. Will the minister ask the Minister for Fair Trading to take whatever action is necessary to protect the community from the improper use of laser pens?

Chronic fatigue syndrome

Hon. N. B. LUCAS (Eumemmerring) — I ask the Minister for Health whether he would agree to having his departmental officers investigate the possibility of the government assisting in the raising of public awareness of chronic fatigue syndrome, also known as myalgic encephalomyelitis, and to examine ways in which the work of the ME/CFS Society of Victoria can be assisted.

Chronic fatigue syndrome is a serious and debilitating illness that can last for years, and sometimes for life. CFS is recognised across the world as a problem of some seriousness which causes profound exhaustion. In some cases the illness causes persistent disability and it can recur for some years. The experience of CFS is best described by relating it to a severe dose of influenza that does not improve.

I know of a young lady, a former professional colleague of mine, who has been afflicted with this illness for the past five years. It has caused her to be away from the workplace on two occasions for longer than one year. I know her unique spirit and character will see her through to a full recovery.

The diagnosis of CFS is not clear. Research shows that it is a difficult illness to diagnose and it is extremely difficult to find out what caused it in the first place. Researchers believe the symptoms may be caused by a continuing auto-immune response due to persisting infection or the failure of the immune system to turn off after an initial infection.

There are between one and two cases per 1000 people across the nation which means that between 18 000 and 36 000 Australians suffer from CFS. That could cost the nation up to \$75 million annually.

Finally, the ME/CFS Society has been formed as a non-profit charitable organisation dedicated to providing support, information and advocacy on behalf of the CFS community in Victoria. The ME/CFS Society of Victoria, which is run by volunteers, has been going since 1980. It has helped thousands of Victorians understand and manage the illness. I ask the minister to respond.

Mildura hospital

Hon. B. W. BISHOP (North Western) — I direct to the attention of the Minister for Health some comments in the local media about the new hospital at Mildura. I invite the minister to comment on the public survey carried out to gauge the community's response to the proposal, which involves the private sector building and operating a hospital to provide government-contracted services to the Mildura community. The new hospital will provide the same services that are provided by other public hospitals — the only difference being I believe that additional services will be available. Has the minister been briefed on the public survey; and if so will he comment on the briefing?

Also, concern has been raised about the Auditor-General's review of the Latrobe hospital which operates under the same system.

The PRESIDENT — Order! Mr Bishop may raise only one issue.

Hon. B. W. BISHOP — I ask the minister to comment on the public survey.

Mornington Peninsula: outsourcing

Hon. K. M. SMITH (South Eastern) — I raise for the attention of the Minister for Finance, who represents the Minister for Planning and Local Government in another place, the contracting out by the Mornington Peninsula Shire Council of services involving local law enforcement, parking control, boat launching and so on. I am concerned about the matter because the awarding of the contract has not been as transparent as it should have been. The contract was eventually won by the in-house team.

I quote from an article that appeared on the front page of the 16 October edition of the *Southern Peninsula Mail* — which is a magnificent paper circulated on the Mornington Peninsula by the Independent News Group. Some of the comments in the article have sent a shiver up my spine.

Honourable members interjecting.

Hon. K. M. SMITH — I thought that would worry some honourable members! I am concerned about some comments made by Mr Fred Pallas, the manager of the unit that has been awarded the contract. Fred Pallas has a great record. He was formerly the parking inspector in the Shire of Mornington. I happened to be in Mornington around 9 o'clock one Sunday morning with Mr Cooper, the Minister for Transport in another place, when that ever-alert parking inspector, Mr Pallas, decided to book a couple of people. I watched him pull up right on the corner of an intersection to book somebody who was parked in a no-standing zone, even though it was quiet and there were not many cars around to warrant his concern. Mr Pallas parked his car illegally, because it was sticking out into the main street.

The PRESIDENT — Order! I ask the honourable member to relate his comments to the issue he first raised.

Hon. K. M. SMITH — I am filling in the background to show what Mr Pallas is like. He is an undesirable person to have operating a service such as that.

Honourable members interjecting.

Hon. K. M. SMITH — The comments Mr Pallas made about the so-called transparent contract he applied for concern me. The article states:

Eight bidders put forward a number of options to the council. Competition was 'very strong', according to the unit's manager Fred Pallas.

How would he have known it was very strong until the contract had been awarded? The article continues:

... neighbouring Frankston City Council was one of those looking to win the shire's business.

One wonders how he would have known that Frankston council was in it unless the information was given to him. The article continues:

... there was 'quite a feeling of joy' among his team, which has been preparing its bid to win back its work since before Christmas last year.

One must wonder why it took so long, given that the contract was awarded in October of the following year, some 10 to 12 months later. Despite that, Mr Pallas had inside knowledge about what he was competing for.

The PRESIDENT — Order! I ask the honourable member to put his question or make his complaint.

Hon. K. M. SMITH — I ask for a full investigation of the awarding of the contract by the Mornington Peninsula Shire Council to its in-house team. I consider the matter to be serious, given that Mr Pallas, the in-house service manager had inside knowledge of the bidding process and his competitors and prior knowledge of the awarding of the contract.

Responses

Hon. R. I. KNOWLES (Minister for Health) — Mr Lucas raised the significant impact chronic fatigue syndrome has on those who suffer from it. It is accurate to say that the medical profession has been very slow to recognise the debilitating condition, the causes of which are not easily understood. The evidence suggests they are multifactorial — that is, there are many different causes. As I said, it is a serious and debilitating for those who suffer from it. The response needs to be community based rather than hospital based. I have asked the department to look at the means by which we can develop a better response for those who suffer from the condition. I will certainly keep Mr Lucas informed of the approach we are taking as it develops.

Mr Bishop raised local concern about the current program to develop a new hospital to meet the needs of the Mildura community. There is no doubt that a number of people who are making claims about how the new hospital will operate are factually incorrect and are creating unnecessary concern in the community. I again assure the house that the government is involved in developing a new facility that will deliver public health services in Mildura on exactly the same terms as they would be delivered if the facility were a public provider. The advantage is that the services will be delivered from a facility which is purpose built and which has the capacity to meet the needs of the local community as we move into the next century.

As the honourable member knows, the government has responded to the initiative taken by the local board. Those who have looked at the proposal and who understand it are supportive of it. I have no doubt that when the facility is complete the Mildura community will be supportive of it and will be well served by it. This is a classic example of the contrast between the government, which is looking to the future and seeking to provide the best range of services as practically as possible, and its political opponents, who rely on ideologically based policies from the past that were irrelevant then and are irrelevant now.

Hon. R. M. HALLAM (Minister for Finance) — Mr Smith referred to the probity of the process associated with the letting of a contract by the Mornington Peninsula Shire Council. He asked me to raise the issue with the Minister for Planning and Local Government, and I will do so. As an aside, I acknowledge the importance of the proper process in this case because if the principle of compulsory competitive tendering is to be respected, as we would all hope —

Hon. D. A. Nardella — It is not respected — that is the problem.

Hon. R. M. HALLAM — If it is not respected, the issue raised by Mr Smith takes on greater proportion, because we must be concerned about the process itself. I offer no comment about the outcome in this case, but I acknowledge the importance of the process. I will pass the issue on to the minister in the spirit in which it has been put to me.

Hon. LOUISE ASHER (Minister for Small Business) — Mrs McLean raised an issue about laser pens for the attention of the Minister for Fair Trading. I must admit I had not heard of laser pens,

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but my interest grew stronger when Pat Rafter was mentioned. I was enormously concerned that Pat Rafter may have been affected by these laser pens. I am delighted that Mrs McLean has discussed the issue fully with Mr Boardman. I am sure I will get a full report from him. I will convey Mrs McLean's concerns to the minister.

Motion agreed to.

House adjourned 10.41 p.m.

Thursday, 20 November 1997

The DEPUTY PRESIDENT (Hon. P. R. Hall) took the chair at 10.03 a.m. and read the prayer.

RESIDENTIAL TENANCIES BILL

Second reading

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

That this bill be now read a second time.

The Residential Tenancies Bill 1997 is a significant piece of legislation which continues the process of tenancy reform in this state. For the first time, legislation affecting residential tenancies and the occupation of caravan parks rooming house residency has been brought together into one single act written in plain English.

On its introduction in 1980 the Residential Tenancies Act represented a major overhaul of the arrangements governing private and public rental housing in Victoria. In 1988 the Caravan Parks and Movable Dwellings Act was introduced to ensure that appropriate rights and responsibilities were provided for long-term residents in caravan parks, as well as clarifying the terms and conditions of such tenure arrangements. In 1990 the Rooming Houses Act was introduced to recognise the particular housing arrangements that apply between owners/managers of rooming houses and their residents.

The Residential Tenancies Bill 1997 now provides clear and comprehensive legislation for these three categories of housing tenure, with common provisions where possible and separate provisions where they are required to preserve those aspects specific to a particular tenure type. This bill outlines procedural requirements for those seeking to understand their rights and responsibilities or resolve disputes.

According to the 1996 federal census, there were 389 000 Victorian households in rental accommodation, or about 25 per cent of all Victorian households. The rental sector included some 290 000 households renting privately, about 68 000 households in public rental and 5200 persons living in boarding houses. In addition, the Australian Bureau of Statistics tourist accommodation survey in

June 1995 identified some 6300 households who were living as long-term residents in Victorian caravan parks.

Given these numbers, residential tenancies legislation is vital in striking a balance between the interests, rights and responsibilities of those who own or invest in a property, which they make available on a leasehold basis for accommodation for others and the interests of those who make such accommodation an appropriate home for themselves and their families.

This bill is the product of extensive consultation and consideration of a wide range of views. It improves the clarity of the existing legislation, streamlines disputes resolution mechanisms through the Residential Tenancies Tribunal and introduces some important reforms and initiatives that will benefit all Victorians.

There are a number of key issues that are addressed and resolved in this bill. The differences between tenure types are reflected in the bill. A residential tenant has exclusive possession of the entire rented premises which the landlord may not disturb without cause. Rooming house and caravan park residents have shared use of communal facilities and the owner or manager is often also living on the site. Residency rights in caravan parks do not usually arise until a person has occupied a caravan in the park for at least 90 consecutive days or where the caravan park owner has expressly consented to the caravan being occupied as a person's only or main residence. Caravan park provisions reflect the fact that caravan residents often need to deal with both the owner of the caravan and the owner of the caravan park, and the bill reflects the separate responsibilities of each of the parties in such cases.

Other factors specific to caravan parks and rooming houses include the wider range and variety of shared or communal services and facilities provided to residents. Such services and facilities can include the provision of meals, shared cooking facilities, communal bathrooms and communal living and recreation areas. The duties and obligations of rooming house and caravan park residents and owners reflect the specific nature of this type of accommodation, namely shared facilities and increased potential for interference or disturbance of an individual's quiet enjoyment or use of their room or van. Conversely, there are other duties and obligations imposed on residential tenants and their landlords which reflect the fact that the landlord and

the landlord's agents are not usually present on the site.

Notice periods for remedy of breaches and for termination are generally shorter for rooming houses and caravan parks in recognition of the greater mobility of residents of such accommodation and the greater accessibility of the owner or manager. For a very small but important sector of our community the bill continues the security accorded to protected tenants, who are now quite elderly, in terms of part 5 of the Landlord and Tenant Act 1958. The bill provides for a number of important improvements which extend the coverage of the legislation and better define prevailing tenancy roles and responsibilities.

The bill introduces new provisions dealing with violence by tenants and residents of rooming houses, caravan parks and certain managed high-density residential developments. The new provisions permit the manager or owner of a rooming house or a caravan park or the manager of a managed high-density building to require a tenant or resident to leave the premises if a serious act of violence by the resident or tenant has occurred on the premises.

A request to leave, which must be in a prescribed form, has the effect of suspending the resident or tenant's right to remain on or return to the premises until the end of two business days. If the landlord or owner makes application to the tribunal for an order of possession within this time, the suspension is automatically extended until the tribunal makes its determination. If the landlord or owner fails to make an application by the end of the second business day, the suspension is automatically lifted and the resident or tenant may return to the premises. A resident or tenant who remains on or returns to the premises during the period of suspension commits an offence and faces a penalty of 10 penalty units for each offence.

A resident or tenant who the tribunal determines has been wrongly requested to leave may claim compensation from the landlord for any loss suffered. This compensation would be in the form of the rent or hiring charges for the period of the suspension.

The bill resolves difficulties currently experienced in determining whether goods left behind by a tenant after termination of a tenancy should be stored. The existing provisions had been interpreted to require an assessment of the relative value and storage cost of each good of value left behind. Consultation

revealed that this often resulted in tenants' household furniture being destroyed, as each item was of little value. This provision now requires consideration of the combined value of all goods left behind and the total removal, storage and sale cost of such goods. The new provisions will protect all of a tenant's goods up to a combined value of those goods.

The bill also introduces new provisions to protect a tenant's personal documents from destruction if left behind at the end of a tenancy. In the past, personal documents were sometimes destroyed by landlords as being of no monetary value. Personal documents are defined in the bill as official documents, photographs, correspondence and any other document which it would be reasonable to expect that a person would want to keep. A former landlord or owner of a rooming house or caravan park must take reasonable care of such documents for at least 28 days before they may be disposed of according to law.

The bill specifically addresses deficiencies in the existing rental bond system. Under the current rental bond system, bonds are not held by a party neutral to the tenancy agreement, returns on the investment of bond moneys are not maximised and there is a degree of non-compliance with the current bond lodgment procedures.

The bill replicates much of the existing policy relating to residential bonds, such as condition report requirements, maximum bond limits and rules relating to the entitlement to the bond. However, there are changes to these provisions to accommodate the proposed centralised administration of all residential bonds by a central bond manager and to streamline the rental bonds lodgment, refund and entitlement system.

The bill provides for a single person body corporate, to be known as the Residential Tenancies Bond Authority, which will contract the services of a central bond manager to administer the rental bond system. This contract will be awarded after a competitive tendering process has been conducted. The central bond manager will administer the rental bond system on the following basis:

bond moneys and a bond lodgment form will be lodged with the central bond manager by the landlord or agent;

the bond moneys will be paid into a central trust account by the central bond manager;

the central bond manager will provide payment acknowledgment to both the tenant and landlord (or agent);

applications for refunds of bond moneys will be forwarded to the central bond manager by post or a pre-registered facsimile service with refunds made in the most cost-effective manner, preferably by electronic funds transfer; and

investment income earned on moneys standing to the credit of the central trust account will be utilised for a number of purposes, including providing income to the Residential Tenancies Fund to discharge functions under the legislation.

The implementation of a central bond authority will address the key areas of concern with the current rental bond system by improving compliance with bond lodging requirements, enhancing interest returns on moneys held and providing for the neutral holding of the bond moneys.

The bill allows for part of the income earned from the investment of moneys held to be returned to tenants. The Minister for Fair Trading will specify an interest rate from time to time if it appears that there is sufficient surplus available after consideration of market interest rates, the cost of services under the bill and any other sources of income for the Residential Tenancies Fund.

A new notice provision has been introduced into the bill to clarify the procedures for terminating a fixed-term tenancy agreement at the end of the term in an efficient manner. There are also new notice provisions which offer a balanced requirement for landlords to give tenants adequate notice where they seek to regain possession of the property at the end of a fixed term.

A notice to vacate must be used by a landlord to advise the tenant that the fixed-term agreement will terminate at the end of the fixed-term period. Specific notice periods apply for tenancies of less than six months duration and for those of six months or more. A subsequent notice must also be served if the landlord intends to use the alternative fast-track method at the Residential Tenancies Tribunal, provided for in the new legislation, to gain possession of a property should the tenant remain after the end of the fixed term. The tenant has a number of opportunities in this process to make an objection to the Residential Tenancies Tribunal.

The new alternative possession method is a fast-track procedure introduced into this bill. Given that 80 per cent of order of possession cases before the tribunal are currently undefended, the alternative procedure provides significant opportunity to streamline the operations of the Residential Tenancies Tribunal.

The fast-track procedure may be used only where the landlord is applying for an order of possession based on rental arrears or where appropriate notices to end a fixed-term tenancy have been served. The landlord is required to give or serve on the tenant a copy of the relevant notices to vacate, a copy of the landlord's application under the alternative procedure, two blank notice of objection forms for the tenant to use, and a statement of the tenant's rights.

If the tenant lodges an objection, the alternative procedure cannot be used and the matter proceeds to a tribunal hearing in the usual way. If the tenant does not lodge an objection, the application is to be dealt with on the papers by the registrar of the tribunal. The papers will consist of the landlord's application, together with a supporting affidavit of evidence, details of the tenancy, the rent owing and/or other relevant information. Where the fast-track system is used for rental arrears, the tenant must owe at least 14 days rent to the landlord.

A determination by the registrar in accordance with the alternative procedure for possession is deemed to be a determination by the tribunal. A tenant may apply to the tribunal for review of the registrar's decision using existing provisions which enable a review of other *ex parte* decisions.

Hearing delays have frustrated both landlords and tenants alike and the bill provides opportunity for timely hearings for disputes over urgent repairs, resolution of rental arrears and speedy consideration of issues relating to violence on certain premises.

Provisions which facilitate the government's reforms in public housing are contained in the bill. These provisions allow statutory authorities engaged in the provision of housing to give a tenant a notice to vacate where the tenant is no longer eligible for housing assistance against eligibility criteria. A requirement that the eligibility criteria be published in the *Government Gazette* provides necessary protections for tenants to ensure that their eligibility is assessed against defined and available criteria.

The bill has been underpinned by a most comprehensive, open and valuable consultation process and two important consultant studies. These processes have all contributed to the final drafting of the bill.

Consultants reviewed the draft provisions in accordance with competition policy and recommended a number of amendments to ensure that anti-competitive elements were removed. The most significant of these were:

the removal of any restriction on the period between rent increases, while maintaining mandatory notice periods; and

the reduction of the notice period for a notice to vacate for no specified reason from six months to three months.

The bill is extensive, and the provisions aim to substantially improve residential tenancies legislation in this state. Victoria has been the leader in fair and effective residential tenancies legislation in this country, and the bill will further establish such benchmark arrangements in tenancy law.

I commend the bill to the house.

**Debate adjourned on motion of
Hon. D. A. NARDELLA (Melbourne North).**

Debate adjourned until next day.

RAIL CORPORATIONS (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

Following passage of the Rail Corporations Act 1996, V/Line Freight and Victorian Rail Track were separated from the Public Transport Corporation and established as state business corporations.

V/Line Freight Corporation (VLFC) was established as a rail freight operator, in direct competition with private sector rail and road freight operators. Victorian Rail Track Corporation (Victrack) was set up to establish, manage and maintain Victoria's non-electrified rail infrastructure network, including track, signalling, train control and stations.

The bill further progresses the government's transport reforms, enabling the privatisation of VLFC and V/Line Passenger (VLP), and preparing Met Trains and Met Tram for privatisation.

The government's broad objective in reforming Victoria's public transport system is to obtain the best possible services for public transport users at least cost to taxpayers. To achieve this objective, the reform strategy will aim to minimise subsidy costs subject to meeting agreed levels of service; maintain flexibility in transport provision; minimise disturbance; transfer risk to the private sector where appropriate; encourage worthwhile innovation; continue high levels of safety; and maintain multimodal ticketing.

These public transport reforms are consistent with the structural reform principles of the competition principles agreement — namely, the separation of regulatory from commercial functions, the separation of potentially competitive elements and the provision for access to essential infrastructure.

Part 1 of the bill states the purpose of the bill and includes definitions. Part 2 provides for the amendment of the Rail Corporations Act 1996, and contains eight separate divisions. The bill provides for the privatisation of VLFC and VLP, and the eventual winding up of the VLFC shell after privatisation. This section gives the government the power to sell, assign or transfer the assets and liabilities associated with the business of VLFC.

The bill provides for the establishment of two government-owned metropolitan train corporations — Met Train 1 and Met Train 2 — and sets out their functions and powers. Both entities will be set up to operate metropolitan rail passenger services and other related services and will have the power to enter into contracts or agreements which allow them to perform these functions. The corporations are also provided with the power to sell, assign or transfer the assets and liabilities associated with the business of both Met Trains corporations, subject to approval of the minister.

Similarly, the bill provides for the establishment of two government-owned metropolitan tram corporations — Met Tram 1 and Met Tram 2 — and sets out their functions and powers. Both entities will be set up to operate metropolitan tram passenger services and other related services, and will have the power to enter into contracts or agreements which allow them to perform these functions. They will also be permitted to install,

remove or relocate stopping places after consultation with the Victorian Roads Corporation and relevant municipal councils. These corporations will also have the power to sell, assign or transfer the assets and liabilities associated with the business of both Met Tram corporations, subject to approval of the minister.

Division 4 of the bill extends the Rail Corporations Act 1996 to provide for the allocation of former PTC assets and liabilities to a government-owned rail corporation. The division also provides for the allocation of assets and liabilities from the PTC or a government-owned rail corporation to a private entity.

The bill also provides for the transfer of PTC staff to government-owned rail corporations; expands the functions of Victrack to include the management of tramway, light rail and metropolitan train services and infrastructure. This is a default provision for Victrack to step in if any operator is unable to fulfil its responsibilities; amends the Transport Act 1983 to assign limited roles and responsibilities of the PTC to government-owned rail corporations and private passenger transport companies; provides for public and private transport companies to issue infringement notices for fare evasion, subject to prescribed criteria and ongoing qualifications being met by both the private transport companies and individual employees; and amends ancillary acts to accommodate government rail corporations and, in certain cases, private passenger transport companies.

The bill demonstrates the government's support for an effective and efficient public transport system, which is structured to provide the best possible service for all public transport users, at the least cost to Victorian taxpayers.

I commend the bill to the house.

Debate adjourned for Hon. PAT POWER (Jika Jika) on motion of Hon. D. A. Nardella.

Debate adjourned until next day.

WATER ACTS (FURTHER AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The bill makes a significant contribution to the process of reform in the water sector. It contains important measures for both metropolitan Melbourne and rural Victoria.

Metropolitan pricing reform

Of great importance are the changes that provide the legislative underpinnings to the recently announced package of reforms to metropolitan retail water and sewerage prices. The new pricing package introduces a flat service fee for each property connected to a water or sewerage system. Water and sewerage rates are to be abolished and the bill extensively amends the Melbourne Metropolitan Board of Works Act to reflect this change. The current system of basing charges on property values is unnecessarily complicated and unfair, involves large cross-subsidies, results in prices that are irrelevant to costs and provides little incentive to conserve water. Transitional arrangements are contained in clause 8 to enable the new pricing structure to be introduced on 1 January 1998.

Another significant feature of the reform package is the reform of legislative exemptions from the payment of water and sewerage charges. These changes will come into operation on 1 July 1998. After 1 July 1998 all metropolitan customers will be liable for water usage charges. All customers will be sent a usage bill but state government and state government funded bodies such as hospitals and public schools will be reimbursed through normal budgetary processes. All connected properties will also be liable for a service charge but qualifying customers will be eligible for an exemption of up to \$260. The exemption will also be available to qualifying customers of non-metropolitan urban water authorities. The exemptions will be funded through transparent community service obligation payments made by government to the authority or retail business providing the service.

The exemptions will be available for properties used predominantly for education, hospital and nursing care, religious worship, outdoor sporting and recreational activities or charitable purposes, provided the activity is conducted on a not-for-profit basis. Water for firefighting purposes from public hydrants will continue to be provided free.

Clauses 25 and 31 amend the legislation to enable the minister to make orders specifying the amount of the exemption and the classes of properties for which an exemption must be granted. The

legislation also provides for the water businesses to be reimbursed the amount of any exemption.

Part 2 of the bill

Part 2 of the bill contains the changes to the Melbourne and Metropolitan Board of Works Act which remove the ability to impose water and sewerage rates. It also amends the act's drainage rating provisions. Over the years, the drainage rating provisions have become extremely complex and unduly prescriptive. The level and structure of drainage charges will continue to be subject to government regulation, but greater flexibility will be allowed in how the fees are structured. This flexibility is already available outside the metropolitan area.

There is no immediate proposal to move off drainage rates or to make any other substantial change to the way metropolitan drainage and flood plain management is funded. However, the new flexibility is important for encouraging innovative drainage solutions for new developments. Where particular residential developments specially benefit from works carried out or maintained by Melbourne Water, the new flexibility can be used to require those properties to make an appropriate financial contribution.

Part 3 of the bill

Part 3 contains amendments to the Water Act 1989. The most significant of these concern the management of scarce ground water resources, interstate trading in water, fees for water licences and corporate planning requirements.

The new charging arrangements for ground water used for stock and domestic purposes will only apply in limited circumstances and implement a recommendation of the State Groundwater Council. Stock and domestic users within a ground water protection supply area will be subject to a charge only if the management plan for the area provides for this. Limiting the ability to charge to ground water supply areas, puts in place a statutory consultation and management plan development process which will fully involve ground water users prior to a decision being made to impose stock and domestic charges. A management plan is developed in consultation with local users and must be approved by the minister.

The changes contained in clauses 15 and 20 implement a decision made in June 1996 by the

Murray Darling Basin Ministerial Council to develop a pilot scheme for permanent interstate trade. The Council of Australian Governments supports interstate trade as a means to encourage the most efficient use of water and ensure a greater economic return on water. The proposed pilot scheme will involve permanent trading in water across state boundaries between users in the Mallee region of Victoria, New South Wales and South Australia. For the pilot scheme to proceed, changes are required to the Murray-Darling Basin Agreement and each state's legislation.

Care is being taken to ensure that the overall cap on diversions will not be broken because of this interstate trade, and that environmental approval processes are roughly equivalent in each state. At this stage, trade is to be confined to private diversion licences, which have low annual charges, so that the differences in each state's pricing regime will not distort trade. The pilot scheme will not be extended to users in irrigation districts until a level playing field has been established for pricing.

Clauses 17 and 18 give authorities the ability to set fees at a level to recoup their administrative costs in providing various services. Currently, statewide fees are set by regulation with no regard to an authority's business cost structure. Fees for processing licence applications will be set by authorities under delegation from the minister. Fees for other services will be scrutinised by government as part of the business planning process, and the changes to the latter will make the fee setting and oversight process more transparent.

Clause 23 implements the government's commitment to provide \$410 million to the non-metropolitan urban water authorities to facilitate price reductions, averaging 18 per cent, and to partially fund 370 projects across the state. The funds will accelerate capital works to improve water quality and the environment. The financial assistance will significantly enhance the quality of life across regional Victoria. The ability to appropriate the money will ensure that the funds are made available in this financial year.

Part 4 of the bill

Part 4 amends the Water Industry Act 1994. In addition to reforming exemptions from charges, there are other changes which deal with pricing matters.

The changes in clause 28 complement the reform of exemptions. With the changes to exemptions on 1 July 1998, the need for alternative charging arrangements for non-rateable land will also disappear and the sanitary service charges will be repealed. In the meantime, however, the changes in subclause (1) ensure that an occupier of non-rateable land cannot be charged for a sanitary service charge and a sewage disposal charge at the same time.

The changes in clause 29 to the liability of certain occupiers reflect the move to consumption-based charging. They provide that all separately metered tenants can be made responsible for charges directly related to the amount of water consumed or waste water discharged. Separately metered residential tenants can already be made liable for usage charges and the changes extend that principle to all categories of occupiers.

The amendments in clause 35 require a retail licensee to prepare a drought response plan and emergency management plan, and enable water restrictions contained in a plan to be imposed after advertisement. All metropolitan retail licences and non-metropolitan authorities are preparing or have prepared plans for responding to a water shortage caused by drought. The new provisions give this practice a legislative basis and ensure that water restrictions are imposed in the context of a total strategy for dealing with a water shortage.

Plans are prepared by the licensee, with community input, and must be approved by the minister. A drought response plan will contain various sets of restrictions of varying severity, which progressively come into effect as supplies become more limited. An emergency management plan will also contain restrictions to deal with a shortage caused by an emergency, such as the contamination of a supply source. By public notice, a licensee will be able to impose a set of restrictions contained in a plan and, after a further warning notice is given, a person can be prosecuted for non-compliance. A reserve power has been included to enable the Governor in Council to override the provisions of a plan or to direct a licensee to take specified action in an emergency or a drought.

Another set of important measures are contained in clauses 38 and 39. These provisions contain a number of evidentiary provisions designed to reduce the time and cost for all parties of litigation involving a retail licensee and to strengthen a licensee's ability to deal with the problem of dangerous and unauthorised discharges to sewers.

The illegal use of a sewer to get rid of dangerous material can have very significant impacts on the environment, the health and safety of sewer workers, sewerage treatment processes and the life of a sewer. Licensees are prohibited from accepting trade waste having these effects but the act lacks teeth to enable successful prosecution where such discharges occur.

Part 5 of the bill

The final group of amendments are contained in part 5. They ensure that references in public health legislation to water authorities apply to all bodies with public water supply responsibilities. The relevant definitions and references contained in the Food Act 1984, the Health Act 1958 and Health (Fluoridation) Act 1973 are to be updated to include the metropolitan retail licensees, municipal councils with water supply responsibilities and Melbourne Water Corporation.

Clause 44 of the bill inserts section 13 into the Health (Fluoridation) Act 1973. Section 13 states that it is the intention of section 4 of the 1973 act, as it applies with respect to the expanded meaning of the term 'water supply authority', to alter or vary section 85 of the Constitution Act 1975.

I wish to make a statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section by the bill.

By way of background, the Health (Fluoridation) Act 1973 imposes obligations on a water supply authority in relation to the fluoridation of public water supplies and contains protections for that authority when acting in accordance with the act. Section 4 of the act specifically provides that no action shall lie against a water supply authority, a member of an authority, a person acting under the direction of an authority or a contractor acting on behalf of an authority, in respect of anything done in regard to the fluoridation of a public water supply in accordance with the provisions of the act. The reason for the exemption is to ensure that a body is not exposed to litigation when acting to implement a decision of government based on public health grounds.

By expanding the term 'water supply authority' additional bodies are brought under the scope of the act and have the benefit of the prohibition contained in section 4. It is intended that the amendments have this effect and that no actions be allowed against these bodies with water supply responsibilities, as

provided for in section 4. If these bodies are to be made subject to the obligations imposed by the act and carry out activities in the public interest in accordance with the act, they should also be able to take advantage of the protections afforded by the act.

I commend the bill to the house.

Debate adjourned for Hon. PAT POWER (Jika Jika) on motion of Hon. D. A. Nardella.

Debate adjourned until next day.

WILLS BILL

Second reading

Debate resumed from 12 November; motion of Hon. LOUISE ASHER (Minister for Small Business)

Hon. D. A. NARDELLA (Melbourne North) — The opposition supports the bill. It is progressive in nature, but it has been a long time coming. It repeals the Wills Act.

Wills are important, and every person needs one. People who die intestate — that is, without a will — may cause their families and those close to them to face a serious situation, and their wishes may not be carried out because they have not left legal instructions. It can also mean that the people who survive the deceased can suffer delays and disadvantages.

Many people do not have wills or their wills may be out of date or not relevant to their current circumstances. Wills may not be properly written or documented or their intention may be unclear. The bill will assist people making wills. It simplifies the process.

I commend the language of the bill, which is in plain English, and it is set out in a way that allows even a non-lawyer to find the answers to questions. It is similar to other legislation that has resulted from the work of the joint parliamentary Law Reform Committee.

Since 1837 English legislation has provided for wills, and that is where our legislation originated from. Because there were problems about how wills were to be made, the technical aspects of will-making were set out in 10 procedures or points. Approximately 20 years later the act was amended to deal with the problems that arose from that

original legislation, which demonstrates the difficulties in this area of the law.

When it enacted the 1958 Wills Act Victoria amended the legislation that originated from England. It endeavoured to simplify the process, but the act did not deal with *de facto* couples. In those years it was not easy for married couples to get a divorce — which reminds me of a program that was shown after *Epic Theatre* on Channel 7 on a Sunday night called *Law Court*. The program televises court cases and divorce cases were featured on some occasions. Those programs showed what people went through in those times to get a divorce. They had to disclose infidelity, which was the main reason for divorce at the time. The process was very rough on divorcing couples. Many people did not separate and did not get divorces because of the trauma. Much has changed since 1958. In 1974 the Federal Family Law Act provided that couples could divorce under a no-fault system. It is much quicker and less expensive.

The Wills Bill takes account of a situation where a married couple divorces. It amends the existing right for a former spouse to inherit. That is quite appropriate. The bill recognises that many people do not want to have their possessions left to others as a result of oversight. The bill also allows minors to make a will, which is again appropriate — for example, a minor may inherit or acquire a large amount of money or possessions. The Supreme Court protects minors in the event of death and ensures they are able to make a decision.

The bill also allows the Supreme Court to make wills on behalf of people who in ordinary circumstances may not be able to do so. Clause 21 deals with persons who do not have testamentary capacity, which is also appropriate. The relevant checks and balances are there; it is about judges retaining discretion in those circumstances. The opposition applauds this provision. The Supreme Court can also vary a will; it remains the appropriate court to determine wills and the wishes of deceased people. When all is said and done, it would be easy if everyone had a current will.

The bill also allows minors who are to be or are married to make a will, which is also appropriate. Young people should have the right to determine their lives and what happens to their possessions after they die. What is the difference between a young person who is going to or is married and one who is not married? The test should be if they understand what they are doing, and there is no

coercion; there should not be artificial barriers preventing young people from making a will. That issue may need to be further considered, but all too often we put barriers in the way of young people that prevent them from taking responsibility for their lives. Again, artificial barriers are in place if young people have to go through an expensive Supreme Court process to make a will — unless they are married or are about to be. Young people may wish to make a will if they are in that position.

I understand the law has tried to protect young people by thinking they may not understand what they are doing. Those attitudes are probably incorrect and should change. Young people should have greater flexibility to put wills together. If at 16 years they are able to learn to drive a car and at 17 years and 9 months they are able to learn to ride a motorcycle, young people have the capacity to make a will and look after their affairs, if that is what they want to do.

I return to the point about people not making wills. The bill will encourage people to get into the habit of making wills and continuing the process throughout their lives. It may not be appropriate for a lot of people but there are some for whom it would be appropriate. Under the bill mistakes made by testators and testatrices, or by people witnessing a will, will not affect their entitlements. For example, in the past a spouse who witnessed a will on behalf of the other spouse would automatically be excluded from any benefit and the will would be declared invalid. Through changes in this legislation that is not the case. This situation has now changed and a will can be valid under this legislation and can be dealt with by the Supreme Court; and again, the judge's discretion is paramount.

Other changes to the legislation include the abolition of the interested witness rule and the introduction of a requirement that a beneficiary survive a testator by 30 days. My understanding is that in the past, if a couple was killed in a car accident, it was determined that the older person died first and in most cases everything was left to the spouse who was younger. In the event of the older deceased person's wishes not being fulfilled, the wishes of the younger person would be taken to their full extent. Under the new legislation the possessions would be split half each, which is a better way of dealing with these types of tragic situations. No longer will it be mandatory for people to sign their names at the foot of the will.

The bill repeals the current provisions dealing with soldiers and mariners; other steps will be taken to make sure they have wills. Those people were in a privileged position in the past, but that has changed. The admittance of intrinsic evidence includes evidence of a testator's intention where any part of a will is ambiguous or uncertain. It gives power to the court to rectify a will where a court is satisfied that the will does not reflect the intentions of the testator. The bill also details the people who can inspect a will. There are also provisions dealing with a testator's family maintenance. The bill is not prescriptive; anyone can be within this group. The Supreme Court can determine who is eligible under this set of provisions. The court can take into account the relationships, obligations and responsibilities of people who apply or should come under this part of the legislation.

The bill deals with various aspects of the testator's family maintenance. They are the size and nature of the estate, the financial resources and financial needs of the applicant and any benefits previously given by the deceased to any applicant or beneficiary, which is appropriate. The government will deal with de facto relationships in the same way. By using its judicial discretion the Supreme Court can deal with people who are not married and who have been living together for a long time, but under the criteria I talked about earlier. It is appropriate that that change is made. As I said, the days of experiencing the acrimonious divorce while most other people remain married are gone. The opposition supports the bill and encourages everyone to make a will.

Hon. C. A. FURLETTI (Templestowe) — It is a great pleasure for me to be able to speak on the Wills Bill. I congratulate Mr Nardella on his contribution to the debate on this significant piece of legislation. It is anticipated that this bill could well be template legislation adopted throughout Australia. It breaks new ground in many areas and extends developments that have taken place in other states of Australia.

Historically testamentary legislation has, of necessity, been inflexible and complex. There is no doubt that human relations is one of the most contentious and complex areas in society. From the mid-nineteenth century it has been necessary that legislation be introduced in an effort to control property disposition after death. Because of the nature of society in those days it appeared perfectly logical that strict and formal requirements should be laid down. It may be somewhat late in the piece to seek to address the rules that were set down so

many years ago, but I think it is necessary to record that that early legislation has served society well. The English law on wills appears, as a general proposition, to be working far better than the Napoleonic or Roman law, where the law was more codified and in some senses could be deemed to be less successful due to its greater inflexibility.

The thrust of the bill before the house diverges from the fundamental formality set down almost 200 years ago to allow greater emphasis to be placed on the intent of the testator — the person making the will. I think that is significant. When one analyses the bill it is clear there is a change of emphasis in direction in wills legislation with considerably greater discretion being given to the judicature. I believe the changes will be effective. I will express some of my concerns shortly.

The most dramatic modification the bill makes to the construction of a will is in the execution provisions, which are set out in clause 7. Section 8 of the current act requires a will to be signed under, opposite or next to the end of a will. A little flexibility is provided in section 8(a) of the current Wills Act, which provides that it does not have to be signed at the end, but near the end.

I am somewhat concerned that clause 7 of the Wills Bill states that the will is valid notwithstanding that it is not signed at the foot, providing it is made with the testator's intention of executing a will. As I indicated, the emphasis is now more on intention than form. The difficulty I have is that the purpose of requiring the strict formality of signing at the foot would quite clearly prevent additions at the end of the will, and that system has worked fairly well up till now. The courts have interpreted the requirement to mean just that. Over time, the courts held that anything that appeared after the signature of a testator was deemed to be an addition and not valid. In other words, the will itself was not invalidated, but the provisions that appeared after the signature were excluded from the operation of the will.

It concerns me to some degree that what clause 7 introduces may be very much open to contest. That reinforces another element I want to put on the record: the best insurance a testator can have is to follow the tried and true form of execution and seek legal advice on the disposition of what is, at the end of the day, all of that person's property.

I shall touch on an area Mr Nardella mentioned — the making of wills by minors. Clause 5 states that a

will made by a minor is not valid. In other words, there is an overall prohibition on minors — defined as being under the age of 18 years — having testamentary capacity. As Mr Nardella said, there is an exception in clause 6 for minors who are contemplating marriage or who are married that gives them the capacity to make wills. Quite appropriately, a minor who is married or who has been married has the power to revoke that will. It is only appropriate that if one has the right to make a will one has the right to revoke it. Mr Nardella discussed at some length the difference between a married minor and an unmarried minor. If a minor understands what he or she is doing why should there be any difference?

I regard this as significant legislation. Although a minor may marry when he or she has turned 16 years of age without any consents being necessary, a minor is not able to make a will unless he or she is married or contemplating marriage. I do not think it is so much an issue of minors being in a position to dispose of their property, nor do I suspect that the statutory wills that are provided for in the bill will be used to any great extent; I suspect the provisions inserted in clause 20 will be used rarely. There are a couple of reasons for that. The first reason is that I would not expect too many minors to have assets of any significant value. The second reason is that I would expect in most instances that minors who do have substantial assets will probably be reasonably satisfied with the intestacy provisions.

There will be exceptional circumstances. The most obvious one that comes to mind is where an orphan who has been left a considerable estate has been cared for by somebody and wants to make provision for the carer. Although the clause will be rarely used, its inclusion in the bill is important.

Division 3 brings the law into the 21st century. Clause 9 provides that the Supreme Court may admit to probate as a will of a deceased person a document that has not been executed as required by the act. Clause 9(1) requires the court to be satisfied that the person intended the document to be his or her will.

That is another example of the change of emphasis from form to intent. The clause is significant because it enables somebody to apply to the Supreme Court, saying, 'Although this document has not been prepared in the manner required, and notwithstanding that there is no signature on it, it is clear from the circumstances' — and circumstances

will be set out — ‘that the person intended it to be his or her last will and testament’.

A similar provision applies to revocation. If a person produces a document which purports to revoke a prior will but which has not been prepared in the form required, an application can be made to the Supreme Court to uphold the revocation. However, the clause extends beyond that because subclause (6) defines ‘document’. Although clause 3, which deals with definitions, states that ‘document’ means any paper or material on which there is writing — that is the normal understanding of a document — clause 9(6) states that ‘document’ has the same meaning as the definition of ‘document’ in section 38(e) of the Interpretation of Legislation Act, which says it is:

any film ... negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom

The bill bring us into the 21st century because it allows Victorians to do what people overseas, particularly in America, are now doing — that is, videotaping themselves making their wills. Signing or identifying a videotape could be difficult; but I imagine that, when that provision is married to clause 9(1), a court would, if it were appropriately presented, accept a video as a document and, therefore, as a valid and enforceable will.

Clause 9(3) further supports my contention. That clause gives the court greater discretion in considering the type of evidence or proofs in determining the validity of a will and intentions of a testator. That is an incredibly novel provision, and I suspect that in future it will be built on and adopted by other states.

Clause 11 deals with interested parties witnessing wills. The witnessing of wills by beneficiaries has been the cause of considerable litigation over the years. The current position prohibits disposition to a person who has witnessed a will, and that prohibition extends to the spouse of an interested witness. Clause 11 states that a person who witnesses a will is not disqualified from taking a benefit under the will, and neither is the spouse.

The definition of ‘interested witness’ has been dramatically extended by the courts over the years. Before I was elected to this place, I became aware of a case involving a solicitor who prepared a will for a client. As was common practice, the client, trusting

the family solicitor, appointed him as the solicitor for the estate. The client duly passed away and the will was proved. The solicitor then proceeded to act for the estate, finalised the matter and rendered an account. Payment of the account was able to be avoided because the solicitor was held to have been an interested witness. It has always been my contention that that was not the purpose of the original legislation and that it was intended to avoid undue duress, cajoling and unfairness by witness beneficiaries. Nevertheless, those provisions have now been disposed of by the current bill.

It has always been the case that a subsequent marriage invalidates a preceding will, and that should be the case. The bill modifies the current law to the extent that the will is not automatically invalid if a marriage has taken place. A person named in the preceding will, if the person is still married to the deceased at the time of death will take the disposition which has been bequeathed to him or her in the will.

There has been some minor tinkering with section 16A of the Wills Act concerning the effect of divorce on wills. Of course, a disposition to a divorced person is avoided if the will has not been changed between divorce and death. But divorce has no effect on the power of appointment exercised by the spouse of a deceased person in respect of the children of both the testator and the spouse. That provision was worked on extensively by the bills committee to produce it as presented.

The power of a testator to vary or modify wills has also been expanded. It is now easier to vary or modify a will. Under the current law a codicil is the only way a will can be changed, and that requires the same formality as execution of the original will. A will can now be changed on its current form by entries in the margin or otherwise. In keeping with the thrust of the bill the Supreme Court is given wide discretion in accepting or rejecting alterations and in considering the intent of the testator.

The most dramatic and innovative provision of the bill is part 3 which introduces the concept of statutory wills. Part 3 relates to the making of or rectification of wills by those persons who are considered not to have testamentary capacity. They fall into the category of minors or people who, for example, have dementia or are mentally impaired and so on.

I have discussed briefly the effect on minors and now refer to the significance of this innovative

ground-breaking provision. The provisions have been introduced in South Australia and Tasmania, and, I understand, in the United Kingdom since 1983 as part of its mental health legislation. The Supreme Court is the ultimate arbiter of whether a minor can or cannot make a will. In determining whether that be the case, the court must approve the terms of the will and must be satisfied that the minor understands the nature and effect of the proposals and is aware of the extent of the property that is being disposed of. One of the witnesses must be the Registrar of Probates and the will must be deposited and kept effectively in safekeeping until the minor becomes of age or marries. Although the provision is appropriate it will probably be used rarely for reasons I have given.

More significantly, part 3 provides for the making of wills for adults who do not have testamentary capacity. The bill proposes that the Supreme Court be empowered to make an order authorising a will to be made in specific terms approved by it if a person does not have testamentary capacity. The use of this provision may be rare, but it covers those circumstances where a person's known intentions will not be given effect to because of unforeseen circumstances or events. It would allow many people who are falling into bad states of dementia but have in periods of mental capacity and lucidity the ability to prepare a will. In the event that a person falls into a state of lack of testamentary capacity, anyone who has an interest can make application to the court that the will be made on behalf of the testator.

Clause 21(3) appears to be an anomaly in the bill, but one which the bills committee had some interest in drafting. It states:

The Court ... must not make an order under this section on behalf of a person who is deceased at the time the order is made.

Clearly, on the first reading, it is an anomaly. A situation could arise where an application is made and the order is held over for some time but then the testator dies. It would be inappropriate for the order to be made after the testator has died. That is the purpose of that provision. Again, the court is given wide discretion in the evidence, proofs and the information that is to be provided in any application or application for leave under division 2 of part 3. The minimum information is to be provided to the court in support of an application for leave because in such cases leave of the court must be granted before an application can be made and the court

must establish that there is a *prima facie* case for it to make a statutory will.

The provisions for the rectification of wills have also been expanded to allow the court the ultimate discretion in considering the intentions of the testator.

Clause 50 introduces some relief for the legal profession, which has for many years been concerned about its position when requests are made for copies of other people's wills. In my 30 years in the profession when somebody asked for a will it was a matter of obtaining authorisation or permission because one is never sure what class of person should be allowed to see the will. In the past it was well established that the testator was entitled to have an executor or trustee see the will after the testator's death. The clause sets out the various categories of persons who are entitled to inspect and make copies of the will. That provision will alleviate some pressure in some areas of the legal fraternity.

The other significant change is the amendment of the Administration and Probate Act regarding the testator family maintenance provisions in part IV. Currently only widows, widowers or children can contest the provisions of a will. The costs of a challenge to a will are currently paid out of the estate. It encourages rather than discourages contests. The estate can be wasted on legal expenses. It is an area of law that has been fertile ground for litigation and it is an area of the law that has been in the course of amendment for many years. The bills committee grappled with this particular problem over many hours.

The bill introduces a new concept of responsibility. Proposed section 91(1), to be inserted by clause 55, states that:

... the Court may order that provision be made out of the estate of a deceased person for the proper maintenance and support of a person for whom the deceased had responsibility to make provision.

That clearly broadens the field of potential claimants, both moral and legal. Although the bill does not contain the words '*de facto*', there is no doubt that proposed new section 91(4)(e) of the principal act states that in determining whether to make an order or grant an application the court must have regard to:

any family or other relationship between the deceased person and the applicant, including the nature of the

relationship and, where relevant, the length of the relationship.

That is only one of 12 or more relevant factors that the court must consider in determining any application made under the proposed new section.

It is my experience that wills and probate are complex and emotive areas. It is certainly time that the Wills Act was revisited, which is what the legislation does. The bill contains some matters that are of concern to me, and I will watch with interest to see how they unfold over time. Generally, the bill is good legislation, and it is time it was introduced. I accordingly commend it to the house.

Hon. W. R. BAXTER (North Eastern) — I welcome the rewriting of the Wills Act, as do Mr Nardella and Mr Furletti. The bill brings the legislation up to date and simplifies some of the complex provisions it contains. So far as it is possible, the bill attempts to put the provisions in plain English. I also welcome the further simplification and clarification of the provisions on the revocation of wills or parts thereof following divorce.

It is unfortunate that a great deal of mystique still surrounds the making of wills. It is tragic that more than 50 per cent of people die without having made a will. No matter how modest their assets may be, the trauma, confusion, disappointment and cost that that imposes on the relatives they leave behind are often great. Unfortunately, too few people think about those consequences.

I am also concerned about the misinformation that still circulates in the community. I never cease to be amazed at how often I hear it said that the estate of a person who dies without making a will goes to the government. How wrong that is. I find it extraordinary that people still believe that in this day and age. The Administration and Probate Act clearly provides for the disposition of an estate in the event of intestacy.

The government has a role to play in educating the community on those aspects of will making. In that light I commend the work of the State Trustee, the Law Institute and legal practitioners. In country towns — I am sure the same thing happens in the suburbs — legal practitioners sometimes run seminars free of charge to educate people about wills. In my experience, many practitioners make wills, particularly simple wills, for either a modest

charge or no charge at all. I applaud those community-minded solicitors for so doing.

I have mixed feelings about the advertisements I hear on the radio inviting people to buy will forms from the newsagent and complete them at home. On the one hand, I am pleased that people are being encouraged to make wills, but on the other hand I am disappointed by the suggestion that amateurs can make wills and that everything in the garden will be lovely thereafter. That may be so in 90 per cent of cases. However, given the complexity of the law, the emotions that attend the distribution of assets after death and the contests that can arise therefrom, I believe the safest course is to spend \$100 to have one's will properly constructed by a qualified person. I do my best to encourage people to do so.

Finally, I refer to the fee that is charged for obtaining a copy of a will from the probate office. The fee may be somewhat less important in the future because clause 50 clearly sets out who is entitled to a copy. I have no objection to cost recovery, the cost for a lengthy will that runs to a few pages can be significant.

I was at the probate office recently and discovered that the office does not accept cheques. I do not object to that because I know many cheques are rubbery — although mine are not! However, I was disappointed to find that the office does not accept credit cards. In this day and age, when so-called plastic money is commonplace, it would be better if the office provided credit card facilities rather than just demanding cash.

I also discovered that, despite the advances in technology, some of the procedures involved in searching for wills are archaic — and I am not referring to the wills of people who died many years ago, because I would not expect them to be on a database. I was searching for the will of someone who died in April this year — only six or eight months ago. I had to search through handwritten ledgers. There should be an electronic database so that you can key in the name of a deceased to find out whether probate has been granted. That is meant not as a criticism but as a suggestion for enhancing the services available to the public.

I end where I began, in commending the legislation and congratulating those on the Law Reform Committee. Our former colleague, the Honourable J. V. C. Guest, was instrumental in instituting a review of the Wills Act some time ago. Many people

have worked on it since then, and their work is to be applauded.

Hon. P. A. KATSAMBANIS (Monash) — I am pleased to support the bill, which has been a long time coming. A working party to review the Wills Act was first established in 1985, and in 1991 the task was handed over to the parliamentary Law Reform Committee. I add my congratulations to the members of that committee for their hard work. I particularly congratulate the former chairman of the committee, my predecessor in this place the Honourable James Guest.

The bill is the culmination of the hard work put in by James Guest and his committee, as well as the many other participants in the process, whose work stretches back to 1984. I refer to the work of the legal fraternity, including members of the Law Institute and the bar council. The bill is testament to the hard work of all those people.

The law of wills, as Mr Furletti pointed out, has often been clouded in mystery. Over the years the law of wills has developed as strongly in form as it has in substance — in other words, often there has been a strong concentration on the formalities required rather than on the content. As a consequence, a lot of misapprehension has resulted.

As Mr Baxter pointed out, almost 50 per cent of people die without making wills. It also surprises me that in many cases people who have spent a lot of time and a lot of money building up significant asset bases are not prepared to spend what amounts to just a few hundred dollars to ensure their assets are protected and handed on to their intended beneficiaries in the most cost-effective manner. That is similar to the way some people spend hundreds of thousands of dollars on a residential property but shop around for the cheapest deal on conveyancing despite the fact that the deal they get may not be of the highest quality.

Hon. Louise Asher — That is a covert plug for solicitors.

Hon. P. A. KATSAMBANIS — That may well be, and there may be a few more as I continue! The law of wills reinforces the notion in our legal system that an individual has an absolute right to possess, control and dispose of the property he or she owns during his or her lifetime. That is in the law of wills as established in common law and statute law. The law reinforces the primacy of the right of an individual upon death to pass on the assets he or she

owns to the intended beneficiaries. The primacy of the individual to pass on assets is the whole basis on which the law of wills is constructed.

We have seen the rise of intestacy laws to ensure that where a person does not make a will in his or her lifetime, his or her assets are passed on by blood line to the next of kin, which sometimes is not what the individual may have desired. A classic example of somebody with extensive assets who forgot to make a will was the late Robert Holmes a Court. It is not only those with small asset bases but sometimes others who forget to make wills.

This bill simplifies the language of the law of wills. It repeals the 1958 act and not only brings us into the 20th century but leads us into the 21st century through extensive drafting changes to the formalities of making a will as Mr Furletti said. Division 2 of part 2 makes significant changes to the way a will must be executed. In the past the strict formality required that a will had to be signed at or near its foot. That provision led to significant litigation. Where is the foot of a will? If the will has a schedule attached, does one need to sign at the end of the schedule or is it okay to sign at the end of the will and have the schedule come after the signature?

I have seen wills that incorporated trust deeds and other voluminous documents which gave rise to a lot of litigation about exactly what is the foot of a will. Many provisions in wills have been ruled invalid because they were added after what was considered to be the last signature, thereby indicating the foot of the will. That led to many anomalies and the unfortunate consequence was that the intentions of testators were not followed through.

Clause 7 provides some flexibility to a court to interpret whether a testator intended a provision to be recognised and removes the requirement that a signature must be at the foot of a will. The discretion is with the court, and in the normal course of events I, like Mr Furletti, suggest that practitioners follow the tried and tested rules that have been developed and ensure that testators and witnesses sign the foot of every single page of a will. That is simply good insurance — another good plug for ensuring you get proper legal advice! — and ensures that a will does not become tied up in litigation after the death of a testator.

Clause 9 allows the court, on application, to set aside the requirements for execution. We are moving from a system where the formalities were the most

important aspect to a system where the court has discretion to interpret the intentions of a testator. As I said, the idea is to keep things out of the courts.

People should seek appropriate legal advice and make sure their wills are drafted so as to avoid those sorts of questions arising after their death. If such problems arise in the future the provisions of clause 9 and division 3 will ensure that a testator's intentions are considered by the court.

Another significant alteration is contained in clause 11, which removes the prohibition on the interested witness rule. In the past somebody who witnessed a will was disqualified from taking a benefit under that will. That prohibition extended to the spouse of the person who witnessed the will, and any disposition in favour of the witness or the spouse of a witness lapsed. That provision led to unintended consequences, often in situations where a will was made in hospital with the testator close to death and when other witnesses were not available. Other cases included a will being witnessed by somebody who was not contemplated at the time as being a potential beneficiary but due to the effluxion of time became a beneficiary because others died before the testator. Therefore, unintended consequences flowed.

The rule applying to a situation where the intentions of a testator are clear but through the operation of law an interested witness cannot benefit is removed by the bill. Of course, the court will have to examine the intention of a testator and decide whether any duress was placed on the testator by the witness. In a situation where the witness forced the testator to make a particular provision and that can later be proved in court the witness will not benefit. The normal common-law rules applying to duress will still apply.

Clause 14 specifies the effect of divorce on a will. This situation was recently dealt with in new legislation where divorce simply revokes any dispositions made in favour of the divorced spouse. However, I, too, note the provision that allows to stand any power of appointment given to a former spouse as trustee of property which is left to the benefit of the children of both the testator and the former spouse.

Part 3 allows the court to authorise the making or rectification of wills. Mr Nardella concentrated on the ability of a minor to make a will, as authorised by the court. That is a good provision, as Mr Furletti said. It will not be used too often — perhaps only

rarely. A minor who has significant assets and wants to make a will now has available a mechanism through which he or she can go to court and make an application. The court will need to be satisfied that the minor understands the nature and effect of the sort of will being made and is aware of the property to be disposed of. The court must be satisfied that the proposed will accurately reflects the intentions of that minor and that it is reasonable in all the circumstances that the will be so made.

I shall focus on division 2 of new part 3, which gives the court the ability to authorise wills for persons who do not have testamentary capacity. That is a radical step. I first came across it in the 1991 proposals of the working party, and I must admit that I was uncomfortable when I first saw the proposal. To this day our law has said that if someone lacks testamentary capacity that person cannot make a valid will. This has been the cause of litigation because people have made wills and after their deaths others have gone to court alleging that the testator did not have testamentary capacity. Our courts have been clogged by this sort of litigation because the testator is long gone. When I looked at these provisions from the perspective of an understanding that it is practically impossible to prove after death that a person did or did not have testamentary capacity I began to warm to the provision. I am a recent convert to part 3, division 2 of the bill. If the provisions operate in the way I envisage — I do not want to hamper the court's operation — they will answer many of the questions now raised after the death of a testator.

When it is alleged that a testator does not have testamentary capacity it will be up to a court to make the decision during the life of the testator. That is much better than making a will and locking it away until after the death of the testator when the intentions or state of mind of the testator cannot easily be ascertained. In that way the matter will not be left to evidence of memory of the intentions the testator expressed many years before the court case.

I note that similar provisions have been introduced in South Australia, but there is not a lot of case law on the point. It is difficult to say whether these radical new procedures will work, but I dare say we will be monitoring the provisions in the years to come to see how they are applied. I imagine the court will exercise the utmost care when authorising wills made under these provisions. I shall also monitor them with great interest. No doubt the legal profession and those involved in probate will also monitor them closely.

Part 4 deals with the construction of wills. I shall focus on clause 39, which introduces the concept of a 30-day survivorship rule for any beneficiary of a will. This is a new provision. It has been the practise for solicitors to include a clause in a will that says that the testator's intention is to pass a certain asset on to another person if that person survives the testator by 30 days. The clause is added by practitioners to ensure the operation of the testator's intention is not somehow circumvented by the laws of succession.

Certain common-law doctrines say that when a husband and wife die together and who died first cannot be ascertained — it is usually in accidents and a provision has been included in section 184 of the Property Law Act — it is deemed that the younger person survived the older. What has often happened, especially, as I said, when a husband and wife have died in a motor vehicle or other accident and there are no children of the marriage, is that the younger person has been deemed to survive the older person and is deemed to inherit all the assets of the older person. The assets have then been passed on according to the intentions of the younger person. In many cases that has led to grave unintended consequences. That situation is often the result of the drafting. Clause 39 will ensure that those unintended consequences are minimised.

Clause 50 is of particular interest to me. It provides, for the first time in our law, for certain people to have the right to see the will of a deceased person. I am particularly interested in subclause (a), which states:

any person named or referred to in the will, whether as a beneficiary or not.

The provision reminded me of when I was an articled clerk and my principal gave me the task of completing my first probate. It was for a relative of a former justice of the Supreme Court of Victoria. I was told that it was the firm's policy to give copies of the will only to residuary beneficiaries. People named as legatees were only entitled to know what their legacies were, they were not entitled to see a copy of the will. I had the unenviable task of informing the former justice that if he wanted to look at the will he would have to wait until probate was granted and would then have to make an application to the court to obtain a copy. He went further with the matter. Eventually I was commended for sticking firmly to policy and not being bullied. Nonetheless, I had been placed in an invidious situation. I welcome the provision so that

those in similar circumstances in the future will not have to go through that sort of experience.

Part 7 introduces a radical new concept into our legal system. It amends part 4 of the Administration and Probate Act, which deals specifically with testator's family maintenance. It is that part of the Administration and Probate Act that allows what are known colloquially as challenges to a will. That is a misnomer because people who use the provision do not actually challenge the will, they challenge the provisions made under the will.

Victoria currently has the strictest definition of who can actually challenge the provisions of a will. It is limited to the spouse of the deceased person, the children of the deceased person and, in very limited circumstances, a former spouse who on the death of the deceased was in receipt of spousal maintenance — which has become almost an archaic concept because of the operation of the commonwealth Family Law Act. They are the only people who can say that provision should have been made for them. However, these provisions have led to many unintended consequences. I often use the example of orphan grandchildren for whom grandparents have assumed responsibility or for whom they are paying school fees and so forth. People living in de facto relationships are not covered. There are many other circumstances in which it may reasonably be determined that the deceased had a responsibility to make provision for someone for whom provision was not made, and the result is that those people miss out.

Part 7 of the bill changes all that. It takes away the as-of-right categories to challenge a will and introduces the concept of responsibility. The people who can come in and make a challenge under new section 91 of the Administration and Probate Act are those for whom the deceased had responsibility to make provision. The bill extends the category of people who can make a claim; it introduces the concept of responsibility and gives significant discretion to the court to interpret this provision. I am sure over the next few decades that will be well litigated and the discretion will be with the court. New section 91(4) of the Administration and Probate Act lists the criteria that the court must apply in determining whether a deceased had responsibility to make provision for a particular person; the criteria that need to be taken into the account are lengthy. I am sure the court will apply this criteria judicially to achieve the best possible results. I know many practitioners will be monitoring the development of

what is a radical and new area of our testators family maintenance laws.

A welcome change to the testators family maintenance provisions will be introduced into section 94 of the Administration and Probate Act by clause 56 of the bill. When assessing applications for testators family maintenance the court will look at any evidence of the deceased person's reasons for making the dispositions in his or her will, if any, and for not making proper provision for the applicant whether or not the evidence is in writing. For the first time this provision recognises what I said at the outset: that our law is based on the fact that an individual has the right to make dispositions in their will and to indicate how they wish their property to be disposed of after their death; it recognises that right of the individual and that individuals will have specific reasons for excluding certain people. For the first time legislation will affirm the right of testators to freely alienate their property after death through a will. The court will have to give weight to any evidence that indicates why a particular person was not made provision for, or was not made further provision for, in the will. I welcome that amendment because it gives recognition in law again of the right of the testator to freely dispose of his or her property — within limits, of course. It is the court's responsibility to make provision for certain persons in proposed new section 91; that is the limit that is imposed on that absolute right.

In conclusion, I congratulate all those who have been involved over the past 13 years in bringing us to a point where the bill is before the house. It has often been a long and laborious process. I know many practitioners who have questioned whether we would ever see a new Wills Act. I say to them that on the passage of this bill we will see a new 1997 Wills Act which will take us into the 21st century rather than sticking with the archaic provisions of the 1958 act.

The work that everyone has done has culminated in a good bill. As I pointed out, the bill introduces some radical new concepts for a rather staid area of the law, the law of wills. On balance these radical new provisions are needed. They will be put into operation by the Supreme Court in its probate jurisdiction in an effective manner to ensure that we continue to have full confidence that the law of wills will produce the correct outcomes — the outcomes that testators and their families expect this law will provide upon the death of a testator. I commend the bill to the house.

Motion agreed to.

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.

In so doing I thank Mr Nardella, Mr Furletti, Mr Baxter and Mr Katsambanis for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

LAW AND JUSTICE LEGISLATION (FURTHER AMENDMENT) BILL

Debate resumed from 11 November; motion of Hon. LOUISE ASHER (Minister for Small Business).

Hon. D. A. NARDELLA (Melbourne North) — The opposition does not oppose the Law and Justice Legislation (Further Amendment) Bill. However, it will be commenting on some aspects of the proposed legislation. Unfortunately, the bill is an omnibus bill that affects a number of acts: the Bail Act, the Consumer Credit (Victoria) Act, the Country Fire Authority Act, the Credit (Administration) Act, the Credit Act, the Equal Opportunity Act, the Firearms Act, the Instruments Act, the Interpretation of Legislation Act, the Magistrates' Court Act and the Supreme Court Act.

As I have said before in the house, this type of bill is inappropriate in that it puts together many of the amendments in absolutely unrelated areas and it is then dealt with as one bill. These types of bills should have been dealt with on an individual basis and certainly, on my understanding, the previous Labor government would not have been allowed to bring in this type of legislation in such a form.

The effect of the bill embraces a number of areas. The Bail Act and bail within our system of justice is extremely important. It is based on the premise and the principle that a person is innocent unless proven

guilty, and the onus is on the prosecution to prove that case. The other balancing aspect of that principle is that after a crime has been committed victims and others within our society are protected. Bail provides the opportunity for that to occur and for such considerations to be made by the appropriate judicial officers.

The bill changes a number of things. It brings the remand period into line with what magistrates can do; there is a maximum of eight days to remand a person before he or she has to go back to the Magistrates Court for further hearings.

Clauses 7 and 8 respond to *Khailes* case where a person's bail has been revoked. In such situations an appeal is to be heard only within the Supreme Court. The government and the opposition believe this is a waste and can only lead to delays, costs and other difficulties. Clauses 7 and 8 allow for the hearing of bail revocation cases in the Magistrates Court.

One aspect of the bill that is disturbing is that a victim of crime will be able to place his or her view before the court hearing the bail application. The opposition believes that is inappropriate. It will not necessarily assist the victim, and it will not assist the court in determining what should happen with the bail application. The opposition is concerned that it may mean that a victim is subpoenaed in a bail application and will have to undergo a further trial. That would mean that the victim may need to endure three trials. Honourable members can imagine the situation where a person who has been sexually assaulted makes application to appear at the bail hearing and is then cross-examined. The matter goes to a committal proceeding, at which the victim again undergoes cross-examination. The matter proceeds to trial, and the victim is cross-examined yet again. This provision could put the victim through the agony of being revictimised by the trial process.

The provision does not deal with compensation for pain and suffering. Under section 4(3) of the Bail Act justices and magistrates can take into account the issue of how a victim may be compromised or threatened. This proposed change is not necessary. Mrs McLean will comment further on this issue.

Other provisions in the bill relate to the Credit Act. Clause 13 provides that money for the operation of the consumer credit fund is to come out of the fund and not from consolidated revenue. That is appropriate in instances where a consumer credit

fund undertakes advertising and education. My information is that the administration cost is about \$25 000 a year. The opposition has no problem with that.

Clause 14 removes the provision for civil penalties because computer glitches in credit unions and building societies have led to overestimations of credit charges. The credit charge is not affected. The bill seeks to rectify the situation without penalties being imposed on the building societies or credit unions. The opposition's information is that incorrect estimates of instalment payments have been made in 17 000 to 18 000 credit contracts. In some instances these matters have been brought to the attention of the Credit Tribunal but no action has been taken. This amendment to the act will stop a run on credit unions. The opposition's understanding is that no-one has been disadvantaged because of the computer glitches. The opposition supports this amendment.

The bill contains proposed amendments to the Equal Opportunity Act, all of which have been requested by the tribunal. The president may refuse to register a conciliation agreement he or she believes cannot be enforced. The bill also redefines 'employer' and 'employee' to fit in with the commonwealth Workplace Relations Act. The amendments provide for more flexibility in the constitution of the tribunal. The existing provision requires that it be a tribunal of three members. The bill provides that the tribunal must consist of at least one person — there may be two or three — with the proviso that a person with legal training must be on the tribunal. Previously there was a requirement for at least one president or deputy president to be on a tribunal of three. The amendment will allow greater flexibility.

The bill will exclude personal services as an area where discrimination can be claimed. I will give an example. It will be permissible for a person to prevent, on discriminatory grounds, another person from entering his or her house to provide personal services.

The government has argued that as people are getting services in their own homes, it is inappropriate not to allow them to make decisions about who is or is not allowed in to see them.

A check needs to be kept on the number of exemptions made to the Equal Opportunity Act to ensure they are kept to an absolute minimum; otherwise, the act will become meaningless. Currently, there are around 33 grounds for

exemption, and they should not be expanded unnecessarily. The opposition does not support the granting of inappropriate exemptions because that goes against the principles of equal opportunity. Those comments aside, the opposition does not have a problem with the clause.

Clause 27 gives the president more flexibility in relation to the lodgement of conciliation agreements. Clause 51 substitutes proposed new section 41 in the Interpretation of Legislation Act. It clarifies the power to appoint somebody to a vacant position until the position is filled, and that is appropriate.

The bill also amends the Supreme Court Act and Magistrates' Court Act, as requested by the Sheriff's Office. The amendment clarifies what value of motor vehicle is exempt from seizure by the Sheriff in the execution of both civil warrants and penalty enforcement warrants that are issued for the non-payment of fines under the commonwealth Bankruptcy Act. It allows a person to voluntarily deliver a car up to the value of \$5000 to avoid gaol.

Only if a fine defaulter agrees, and if it will keep him or her out of gaol, can a car be seized. The procedure outlined in the bill must be followed — that is, a consent notice must be signed and given to the person who hands over the car. That must be kept under review to ensure that people are not coerced into handing over their vehicles in such circumstances.

The bill also specifies that a surety can be accepted by a court by audiovisual link. For example, a person granting a surety will not have to be at the same court as the accused to sign the necessary forms. He or she could be interstate or in country Victoria. Certain conditions have to be met for that to occur. For example, witnesses to the signature must be authorised under section 27 of the Bail Act. The amendment is welcome. It means that a surety can be provided without the added expense, inflexibility and inefficiency of his or her having to be in the same court as the accused — and the necessary checks and balances are included.

The bill enables the Country Fire Authority to engage a part-time deputy chair, which will allow that person to also undertake work outside the CFA. The opposition does not oppose that, but it believes there should be some recognition that the person who works only part-time should be paid accordingly. It is important to ensure that no conflict of interest arises as a result of the part-time deputy chair of the CFA taking on other work in an allied

area. The government needs to take that into consideration.

The bill also makes some changes to the Firearms Act. I am sure National Party MPs will say how fantastic and terrific the changes are. They will ensure that the cross-border purchase of firearms is controlled by requiring dealers to notify and report back to the jurisdictions in which the firearms were sold. People living along the border will appreciate the changes. The bill amends the Instruments Act to prevent the secret assignment of book debts to the prejudice of future creditors. It also protects current creditors from the assignment of book debts when that is not in the interests of the creditors.

The opposition does not oppose the bill.

Debate interrupted.

DISTINGUISHED VISITORS

The ACTING PRESIDENT

(Hon. G. B. Ashman) — Order! I direct the attention of honourable members to the presence in the gallery of a delegation from the National Conference of State Legislatures of the United States of America. The delegation is led by Mr Michael Box, the immediate past president of the conference. I am sure all honourable members join with me in extending a warm welcome.

LAW AND JUSTICE LEGISLATION (FURTHER AMENDMENT) BILL

Second reading

Debate resumed.

Hon. P. A. KATSAMBANIS (Monash) — I rise to support the bill. As Mr Nardella pointed out, it can be described as an omnibus bill because it amends 11 separate acts. That is an appropriate use of this place — rather than introducing 11 separate pieces of legislation — particularly because the bill amends acts that come under the jurisdiction of only one department — the Department of Justice. It makes minor technical amendments to ensure the continued efficient operation of our justice system. Introducing 11 separate bills would be a misuse of this place and a waste of time, resources and funds that could be best used elsewhere.

I do not intend to focus on each of the changes because they are all technical and their effects are spelt out in the second-reading speech. Clause 4

amends the Bail Act to ensure that the views of the victim can be taken into account when an application for bail is being considered. I point out to Mr Nardella that that does not impose any obligation on the victim to appear in court or to express an attitude on the bail application. The victim has the right to do so, but there is no obligation. I refute Mr Nardella's claim that victims would be subpoenaed at the bail application stage to appear in court. That is the last thing we would want to see.

The government is about ensuring that there is balance in our justice system and that the views of victims are taken into account. That is logical and sensible and gives victims of crime the right to put a case to the court if they believe the granting of bail would be disadvantageous to them. They have already been disadvantaged by the commission of the crimes, so the court should take their views into account when applications for bail are considered.

On my interpretation of the clause, victims of crime would not be required to be present in court. They could make their views known to the court by way of statutory declarations, or they could express their views to the informant, who could pass them on to the court during the bail application stage.

Clause 5 brings us into the 21st century by allowing sureties for bail applications to appear in court by audiovisual link or audio link rather than in person. That is a good use of available technology. It will alleviate some of the anomalies that occur when a surety is not able to be physically present in court to ensure that someone is released under the surety provisions in the Bail Act.

Part 6 amends the Credit Act. Clause 14 corrects an anomaly involving credit unions issuing statements to clients that contained overestimations of credit charges due to glitches in the computer packages they had purchased. When the time comes to make the payments, the clients have been advised of the correct credit charges and no overcharging has occurred. However, a strict application of the provisions of the Credit Act would mean credit unions would lose the right to recover credit charges in those circumstances, which would be unfortunate. As Mr Nardella pointed out, that could result in a run on credit union funds.

The amendment remedies that anomaly and ensures that where the credit unions have acted in good faith, they can charge the correct amount of credit and rectify any errors in the statements they have

sent to their clients. There will be no disadvantage to the clients, the contracts will stand and the credit charges will not be forgone. The amendment reduces the risk of our financial system experiencing a run on credit unions.

Part 7 makes technical amendments to the Equal Opportunity Act, which was amended about 18 months ago. The amendments finetune the act to reflect the views of the Equal Opportunity Commission and the Anti-Discrimination Tribunal and to ensure that it continues to operate as intended. Clause 20 refers to discrimination on the ground of parental status or status as a carer rather than discrimination on the ground of status as parent or carer. The definition has been extended to ensure that people are not discriminated against regardless of whether or not they have children. That is fair, equitable and reasonable. I assume that was the original intention of the legislation, but the amendment makes it clear.

Clause 21 extends the domestic or personal services exemptions to people who hire personal carers to work in their homes. The amendment means they will not have to meet the requirements of the Equal Opportunity Act, which is sensible and logical. Personal carers are often required to perform sensitive duties, so it is important to allow those who employ them to ensure that they are suitable. There is a current exemption in the act, but it is unclear whether it extends to contracts that are entered into between an individual and an agency that provides domestic services. That is because there is no direct employment contract between the person providing the services and the person receiving the services when there is an intermediary agency.

The amendment clarifies that the exemption will apply whether one is engaging someone to perform domestic or personal services directly or whether one is engaging him or her through an agency or intermediary. The exemption applies to any person's home, not only the employer's home. The bill clarifies the fact that the employer may be the third party and the service may be provided in someone else's home where there is no direct contract. That is also fair and reasonable. I note that the opposition does not object to the clause.

This small bill makes technical changes that will ensure our criminal and civil justice system continues to operate equitably. I commend the bill to the house.

Hon. JEAN McLEAN (Melbourne West) —

Although the opposition does not oppose the bill I have some concerns about the proposed changes to the Bail Act that set out the factors a judge or magistrate is required to take into account when considering whether to grant a particular person bail.

Clause 4 amends section 4(3) of the principal act by providing that when deciding whether to grant bail to a person a judge or magistrate must, if it is expressed in court, take into account the attitude of the alleged victim to the grant of bail.

My understanding is that judges and magistrates already take the attitudes of victims into account if they are expressed in court. These changes to the Bail Act are another pretence by the government that it is being tough on crime. It is a pretence that the government is protecting the victims of crime.

In 1977 when the Bail Act was introduced the then Minister for Labor and Industry, Mr Maclellan, the current Minister for Planning and Local Government, made certain points about the rationale behind granting bail. He made it clear in his second-reading speech that bail is the right of a person who has been charged with an offence unless there are reasons why the person should not be granted bail. Research into the remand section at Pentridge undertaken by the social welfare department at the time showed that at the date of the inquiry substantial numbers of people were held on remand merely because they were unable to find bail in the amount set. Thus the system appeared to have the effect of unnecessarily holding some people in custody pending trial. It imposes a penalty on those who are poor and unable to find the required security. The *prima facie* position is that bail ought to be granted unless there are compelling reasons why a person not yet convicted of any crime should be held in custody.

Until the former Labor government built the remand prison in Spencer Street, the remand section at Pentridge was overcrowded with young men being held in custody, often for long periods. In general they were in custody merely because they were unable to raise the amount of money necessary for bail. Often the date of the court hearing was many months away; that is still the case.

The reality is that, innocent or guilty, these young men were often brutalised. The remand section comprised long dormitories with bunks. There were open toilets at the end of those long dormitories, and it was often not possible for warders to check on the

situation of the young people in them because the doors had been blocked. No warder was game to go inside those cells at the time. Rapes and bashings were commonplace, as were opportunities to learn how to become more efficient criminals and how to use drugs. Many young men also became bitter at how society treats those who are poor and unemployed or otherwise underprivileged. Of course they are the young people who are more likely to resort to violence in later life.

Part of the reason the former Labor government built the remand centre in the city was to create more humane conditions for those held in remand, as people held on remand are still presumed innocent. It was felt that easy access for families and lawyers was necessary. Unfortunately the present government has closed the remand centre and sends remanded persons out to the Laverton private prison, to which there is no public transport for family and friends. This was brought to my attention recently by concerned families. The distance from the city also makes access to legal representation more difficult.

In Fairlea Women's Prison people on remand were put into the same cells as those already convicted. In 1971 when I was in Fairlea prison as a political prisoner there were 60 inmates. Many were on remand, all were poor and were clearly discriminated against because of their financial situation. They were all victims in one way or another. Most had been wards of the state, many were single mothers, including some of the inmates who were there on remand. One young woman inmate, who had been arrested on New Year's Eve that year, was still in Fairlea at Easter when I was there. Her case did not come before the court until October, when in fact she was found innocent.

In 1986 or 1987 a young man who was picked up for joy-riding and put into the remand section at Pentridge gaol was raped and very badly bashed. A report of the incident was published in the newspapers. I suggested to the Attorney-General at that time that no-one should be kept in custody if the state could not guarantee his or her safety, especially from violence and rape, because I believed then, as I do now, that the state is then responsible for a crime that is far worse than the crime the young person allegedly committed. I was told that the community would not support my proposition that we should not gaol young people unless we could guarantee their safety. The report on the legal rights of children that has been tabled in federal

Parliament confirms my fears that nothing much has changed.

The Bail Act states the basic proposition that an accused person is *prima facie* entitled to be released pending his or her trial subject only to such conditions as appear necessary to ensure the accused's appearance in court and to satisfy the need for public safety. Unfortunately, because of the hysteria that is so often whipped up in the tabloid press, it is sometimes forgotten that under our legal system the presumption is that you are innocent until proven guilty in a court of law.

In clause 4 the bill provides that when deciding whether to grant bail to a person a judge or magistrate must take into account, if it is expressed in court, the attitude of the alleged victim of the offence to the grant of bail. I believe most alleged victims would not want an accused person out on bail and would be highly unlikely to support an application for bail. Although that is understandable, it is still one of the most basic tenets of our democracy that a person is innocent until proven guilty. Given that judges and magistrates carefully weigh up the interests of all members of the community, including the alleged victim, when deciding whether to set bail, one has to wonder why this amendment to the Bail Act has been put into the Law and Justice Legislation (Further Amendment) Bill.

In January 1995 the Premier, Mr Kennett, toured Victoria's hospitals and was confronted with the outcome of violence when he saw some victims in the emergency wards. The Premier's simplistic reaction was reported in the *Sunday Age*. He allegedly told the reporters from the *Sunday Age*:

... that he would ask the Attorney-General, Mrs Jan Wade, to review laws and procedures on violent offences. In particular, he said, bail could be refused in cases of street and domestic violence.

When he made that statement the Law Institute of Victoria, the Council for Civil Liberties and the police all rejected the suggestion that bail should be refused under those circumstances. Under the Premier's proposal the onus of proof would be shifted from the prosecution to the defendant, who would be required to show that he or she deserved bail.

It is disturbing that the Premier proposes to reverse the onus of proof to refuse bail to a person who is still innocent in the eyes of the law just to win a few

brownie points with the so-called law-and-order lobby. Not a lot of thought seems to have gone into the complications that simplistic view of the law will create. One complication created by proposed insertion into section 4(3) is that if a victim expresses a view at a bail hearing about the application for bail it is possible for the victim to be subpoenaed and cross-examined at the bail hearing.

Honourable members interjecting.

Hon. JEAN McLEAN — Mr Katsambanis thinks that cannot happen; I am not so sure about that. Everybody wants to be protected from violent crime. The further erosion of civil liberties, as proposed by the Premier, will not help victims of crime, and may well damage them further. As has been repeatedly proven, poverty, unemployment and homelessness are the major causes of violent crime, especially domestic violence. The government should address those problems rather than meddle with the Bail Act.

Hon. R. H. BOWDEN (South Eastern) — I support the bill which, as honourable members will note, is an omnibus piece of legislation. I shall speak briefly about a few important aspects of the bill.

I support the part 2 provisions dealing with the Bail Act. As some honourable members know, I am a justice of the peace and a bail justice. Since 1980 I have been involved in hearing applications for and granting bail. I modestly say I have considerable experience in having to make decisions on bail applications at perhaps 3.00 a.m., 4.00 a.m. or 5.00 a.m. when I have normally not had before me the necessary and appropriate information, but have had to make important decisions regarding the liberty of persons.

Courts and bail justices, who have a vital responsibility to deal with the liberty of people, will welcome the bill's provisions that will assist their administration and making of important decisions at times when resources are not readily available. I commend the minister and congratulate the government on that important provision.

As I said, I have had 17 years experience in hearing bail applications; only rarely have applicants been represented by legal counsel. That places added responsibility on a bail justice and the courts to do the right thing by the community.

The fundamental premise is that bail is considered to be a right. That is a fair and equitable expectation. When one is forced to consider the removal of a

person's liberty, one must be sure of the circumstances. The overriding principles that bail justices and courts seriously follow is, among other things, the fact that the granting of bail is determined and decided with the thought in mind, 'Will the applicant later appear in court?'. If a serious doubt exists about that, bail should be refused.

The other important aspect is that the bail justice or the court hearing the application must be assured of the security of the community because essentially, the court and/or the bail justice hearing a bail application must keep in mind the security of the community. Very few people are remanded beyond the following day. For instance, it is most unusual for somebody not to be remanded beyond the next day of sitting of the appropriate court. Most Magistrates Courts commence sitting at 10.00 a.m. If the bail hearing has been conducted in the early hours, normally the remanded person will appear before the court within hours of the bail application hearing.

I applaud the bill for its introduction of the provision of sureties information to assist a bail application hearing. That will bring the information before the courts or the bail justice. The bill advances new reforms, improved communication and information processing. All that will work to the advantage of the accused and the community, and is to be commended.

The presumption of innocence, which is a vital part of the application for bail and an important commencement point in a hearing, is protected by the legislation. I am pleased to support particularly the provision that allows a court to take into consideration the interests of the victims who are, broadly speaking, also those about whom the community is concerned.

It is not the case, as was earlier suggested in the debate, that the bail justice or the magistrate hearing the bail application will interrogate or even cross-examine a victim. That is not on. The victim can make a statement, if he or she so wishes, but the provision in the bill is a positive move in the proper determination of a bail hearing.

I refer briefly to part 4, which amends the Country Fire Authority Act. As honourable members know, I have the privilege of representing the South Eastern Province whose wonderful constituents widely acknowledge and much appreciate CFA services. The work done by CFA volunteers in the South

Eastern Province — indeed, across Victoria — is respected, much appreciated and totally supported by the community. CFA volunteers do excellent work under difficult and dangerous circumstances. I record my total support and sincere appreciation for the work of the CFA in my province; I know other honourable members share those sentiments.

I am pleased part 4 of the bill will allow the deputy chairman of the CFA — now a much respected gentleman — or the person occupying the position of deputy chairman from time to time to engage in outside employment. I am confident that no conflict of interest questions would arise. On that basis, it is fair, reasonable and totally supportable that the deputy chairman of the CFA is able to engage in paid employment outside his or her position.

I am sure the person who fills the role will be mindful of the responsibilities and the intention behind the bill. I support the move and I congratulate the government and the minister, particularly in regard to the Bail Act and aspects of the Country Fire Authority Act, which I have just mentioned. The bill encompasses numerous important points, and it is with pleasure that I support it.

Motion agreed to.

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, Mr Katsambanis, Mrs MacLean and Mr Bowden for their comments. Mr Nardella made some comments about the use of omnibus bills. I believe his concerns have been dealt with adequately by the Attorney-General in another place.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

STATE TAXATION (AMENDMENT) BILL

Second reading

**Debate resumed from 12 November; motion of
Hon. R. M. HALLAM (Minister for Finance).**

Hon. T. C. THEOPHANOUS (Jika Jika) — The opposition does not oppose the legislation. It makes a number of technical amendments to a number of tax bills in order to close loopholes, principally in four key areas: stamp duty, debits tax, land tax, and financial institutions duty.

In regard to debits tax, the bill seeks to put beyond doubt the fact that amounts paid to accounts held with financial institutions in the names of public hospitals, state schools, state colleges and universities are exempt from debits tax. Obviously the opposition supports that amendment. It removes any doubt about the fact that these bodies are exempt as if they were charitable institutions, even though they may fulfil some functions of government.

The technical issue is that they could be seen both as charitable institutions and as fulfilling a function of government. Although a state school may not technically fall into the category of a charitable institution its position is now put beyond doubt. The opposition has no difficulty with that amendment.

The bill amends provisions dealing with financial institutions duty and one amendment makes clear that in short-term dealings the short-term dealer is not liable for the full rate applicable under FID. The appropriate rate relates to its being a short-term deal.

The bill also changes some aspects of land tax. It is a machinery matter that provides that the value of land that has been subdivided is to be determined for land tax purposes. I know some concerns have been raised about the changes, but the opposition takes the view that they are sensible.

The changes to payroll tax are fairly minor. They clean up some doubt about the exemption from payroll tax for not-for-profit providers of education services. Again the opposition has no difficulty with the change.

Changes to the Stamps Act allow for the electronic lodgment of returns. That is a sensible idea that the opposition supports. Most honourable members know that the Australian Taxation Office accepts the

electronic lodgment of tax returns from tax agents. That, too, is a sensible amendment that is part of the process of removing regulation and streamlining the way these taxes are collected. It ought to be supported by the Minister for Small Business, as should the removal of all unnecessary regulations and the streamlining of such operations. I am sure she supports the measure, as members of the opposition certainly do.

The bill will enable an individual taxpayer, with the agreement of the commissioner, to make arrangements for the payment of tax to suit his or her business. The taxpayer can tailor the payment of the tax, and that also can be done electronically and therefore much more efficiently.

The bill provides that a person who through a capital reduction or a rights alteration obtains 50 per cent or more of the voting rights of a company or whose majority holding in a company is increased by 10 per cent of voting rights must lodge a statement with the commissioner and pay duty on the shares. That provision clears up a loophole.

The bill also puts in place some anti-avoidance measures that are broadly in line with what has occurred in New South Wales, including those relating to contract splitting. Concern has been expressed about the changes, which was referred to during the second-reading debate in another place. These matters were also referred to in an article by Michael Cave in the *Australian Financial Review* that suggests the changes might have unintended consequences. The opposition does not believe they do. It believes they are acceptable.

The bill seeks to address some other loopholes, including the so-called Clayton's contracts that are established for the sole purpose of avoiding taxation. Obviously, the opposition supports the changes contained in the bill.

Sitting suspended 1.00 p.m. until 2.02 p.m.

Hon. T. C. THEOPHANOUS — Before the suspension of the sitting I informed the house that the opposition does not oppose the bill. The amendments to a range of taxes will close loopholes and make sensible changes, and the opposition supports them. I have discussed some of the changes and have indicated that the opposition believes they are sensible; it hopes they have the suggested effect.

I raise the issue of the exemption of the family farm from stamp duty.

Hon. R. I. Knowles — I have a statement that clarifies the issue.

Hon. T. C. THEOPHANOUS — There was some doubt whether the family farm was exempt from stamp duty. I understand the bill seeks to clarify that matter and to extend the existing exemption. I also understand the Minister for Health wishes to put a further statement before the chamber to make that even clearer. The opposition welcomes that clarification, if in fact there was any doubt about it.

Another amendment in the bill seeks to clarify the effect of the consumer credit code which came into operation in November 1996. The proposal is that the exemption given under the Stamps Act for certain loans under \$35 000 do not apply to consumer credit for the purposes of acquiring a private dwelling or land on which to erect or extend the private dwelling. I am not sure — and this amendment has not been explained very well by the government — why a loan of less than \$35 000 to acquire property of a private nature should be subject to the Stamps Act but that a loan of less than \$35 000 which is not for the purposes of acquiring a private dwelling is exempt from the Stamps Act. Again, the problem these days is that there is a lot of uncertainty, even about what a loan represents. Honourable members would be aware that it is difficult to determine whether the funds for credit products presented by banks were used for land or for extending a private dwelling. Some of the products that banks are using are so flexible that a loan guaranteed against the dwelling is variable and can be increased or decreased depending on a person's financial circumstances. If you need a new car or a new refrigerator you can use the facility of your housing loan to get access to funds at the lower housing loan rate. I do not know whether the bill adequately deals with that issue. I suspect that it does not and that more legislation will be introduced to deal with the problems emerging as a consequence of the change in how banks deal with loans and credit, and particularly with the flexibility that they now give to consumers for borrowing funds against the security of a family home or other asset.

Although the opposition supports the bill it records its concern about the taxation levels in Victoria. Members of the opposition believe the changes to taxes and charges are in the main inequitable and that the proposed changes are inadequate from the point of view of stimulating the Victorian economy.

I note a couple of these changes. The government has indicated it will be taking land tax off the family home; however, it has not emphasised that currently land tax applies only to homes worth more than \$200 000. This is a huge tax reduction for people who own homes valued in excess of \$200 000, or about 40 000 Victorian home owners whose income would be in the higher brackets. That approach to tax reduction is not the approach the opposition takes. The opposition takes the view that if you are to give a tax cut everyone should benefit from it; it should not be just the better-off who benefit, which is what will occur as a result of the government's land tax proposal.

It is appalling that the Minister for Small Business suggested small businesses would be better off even though the tax threshold is to be reduced for businesses —

Hon. D. A. Nardella — She thinks they would be better off because they are going to pay more tax.

Hon. T. C. THEOPHANOUS — As Mr Nardella says, the minister thinks they will be better off because they will pay more tax.

The reduction of the threshold from \$200 000 to \$85 000 clearly means a small number of businesses across the state will pay the tax for the first time, but that does not stop the minister from saying that small business will be better off. That is reminiscent of the way the government has handled the Workcover legislation. Despite the fact that everything is being cut left, right and centre, somehow, magically, the workers will be better off. The argument is not based on logic. It is simply an attempt to confuse what is otherwise fairly clear cut: small businesses will be worse off as a result of the changes.

I put on the record that Victoria continues to be the highest taxing state in Australia. The bill does not change that in any way, shape or form. Between 1993–94 and 1995–96 the Victorian government increased taxes and charges by \$2183 per head of population. We have seen more than 7000 increases in taxes and charges in this state, which are estimated to have been raising an additional \$2 billion a year since the Kennett government came to power.

The people who are being sluggish are the ordinary families. They are the people who have borne the brunt of 17 per cent increases in electricity charges, increases in gas charges and increases in a whole

host of other fees and taxes. However, families are not the only people suffering in this way in Victoria. Businesses in this state have seen more than 750 increases in fees that directly affect them. They include increases in business licence fees, statutory bank charges and a grease trap tax that effectively levied a \$353 flat charge on small businesses in Victoria. Taxes and charges on businesses and families have continued to increase. The government offers a tax cut of \$40 000 to Victorians who happen to have land valued at above \$200 000.

The statistics do not give the full picture. The statistics do not include charges for electricity and gas. It costs an ordinary Victorian family about \$200 a year more for electricity than an average New South Wales family. It might be said that the electricity industry has been privatised, but what does that have to do with anything? Whether the government owns the electricity businesses or not, Victorians still have to pay the increased charges. As a result of the government's actions, electricity prices in Victoria have risen so that we have this disparity with New South Wales. I am sure taxes will be the subject of debate both inside and outside this place. I conclude my remarks by saying that the opposition supports the legislation.

Hon. W. R. BAXTER (North Eastern) — I am pleased to join the Leader of the Opposition in supporting the State Taxation (Amendment) Bill. I want to deal with one matter Mr Theophanous mentioned in passing, the provision that relates to the transfer of the family farm and the exemption from stamp duty that applies to certain of those transactions.

The community is well aware that the average age of Australian farmers is increasing, and has been doing so for a number of years. It now well exceeds 50 years. There is a great understanding in the community at large, including in urban areas such as Melbourne, that farmers are struggling financially and that they deserve some assistance where it can be given equitably and justifiably. In many country localities there is a crying need to encourage young men and women to remain in those districts and offer their enthusiasm and skills locally rather than moving to the larger regional centres, or even Melbourne.

In its first budget after it came to office in 1992 the coalition government introduced a range of fairly harsh measures that had to be taken to correct the ills brought about by the mismanagement of the former Labor government. Among those measures

which were so necessary at the time and which, in some respects, were distasteful, the government introduced what people have styled a concession to family farm transfers in the way of stamp duty.

That has been one of the most successful initiatives taken by the government. It has offered concrete support and assistance to people on the land. We are now somewhat the envy of the other states. Mr Bishop and I attend annual conferences of National Party parliamentarians from around the nation and we are asked, 'How did you achieve it?'. We say that we achieved it on the basis that it is logical policy. This policy has been delivering positive advantages to the people it was designed to assist.

I understand some 700 families have been able to avail themselves of these provisions since they came into effect in 1993. They have been valuable in saving families an outlay on stamp duties. Honourable members would appreciate that stamp duty can be quite substantial when one is buying or selling land or a home. The assistance offered by that measure has been two-pronged. It has assisted older farmers — husbands and wives in most cases — to hand over their farms to their sons and daughters in situations where they would not have been able to if stamp duty had been payable. If assessments of \$30 000 or \$40 000 had been levied, it would have drawn so much cash out of their businesses that they would not have had sufficient to retire on and move into the local town or wherever.

The measure has enabled people who have reached and in some cases exceeded the customary end of their working lives to cease active farm work. More importantly, it has given young people with the enthusiasm, initiative and ability to adapt and employ new technology some security and some sense of future by encouraging them to become owners of land rather than just working it without any tenure over it or any certainty at all. In many cases, young people have not even been paid anything like a living wage on the basis that they will inherit the land at some indefinite time in the future.

That was all right fifty years ago, but it is not all right for a lot of young people today. They require and deserve some sort of security and some sense of future if they are to commit their working lives to the land. I repeat that that initiative has been extraordinarily successful. I commend the Treasurer and the former Minister for Agriculture, Mr Bill McGrath, who is now the Minister for Police and

Emergency Services, for the work they did in introducing it four or five years ago.

Having said that, I point out that I have some concerns with the provisions included in this bill. If they were inappropriately applied or applied without an understanding of the realities of farming practices, they could have some unintended consequences. I will put those consequences on the record, because I understand that during the third-reading stage the minister will, by leave, read into the record a statement on how the government intends the State Revenue Office and the commissioner to apply the amendments. I want that to be on the record, bearing in mind that courts can now take extrinsic evidence of what Parliament intends into account in their interpretation of acts of Parliament.

I have some concerns with the definition of 'single farm enterprise' and with the provision that for a transfer to be exempt it has to involve a single farm enterprise. That seems to suggest that somewhere in the bureaucracy there is a view that the intention of the government and of Parliament is that the exemption will apply only when the total farm is transferred at the one time.

As anyone who represents a country electorate and who has any knowledge of farming and family arrangements understands, that is seldom the way it is done. In most cases parts of a farm are transferred serially — and there is good reason for that. Sometimes one part is transferred to encourage a son or daughter to remain by giving him or her a start, and if he or she gets started and shows initiative and a willingness to work hard, the remainder is handed over. It may well be that the existing owners — say, a husband and wife — understandably want the security of continuing to own their own home into their old age, so they will not transfer that part of the farm at that time.

I want it to be clearly understood that it is customary to hand over a farm in parts, and that that is not in any sense designed to get around the law to gain stamp duty exemption — breaking up the family farm in the process. In fact, the reverse is true. The action of transferring the farm in that way is a safeguard. It ensures the farm is kept together and owned by someone who wants to use it as a family farm rather than disposing of it to realise the assets and go off to Las Vegas or somewhere else.

I am somewhat concerned that the definition of single farm enterprise contained in clause 21 could

be interpreted in a way that is not intended. That is the way it has already been construed by some of our friends in the legal profession. In the past week rural newspapers have carried an extraordinary advertisement headed 'Urgent notice for farmers — stamp duty on family farm transfers', which says:

There is a bill now before Parliament to impose stamp duty on farm transfers that are currently exempt from duty. If you are considering a transfer of farm assets to a child or other family members, you should see us NOW ... before it's too late.

It then gives the telephone number of a firm of solicitors, which in this case is in Warrnambool. I could characterise that advertisement as scaremongering or as a genuine case of a well-known firm of solicitors misunderstanding the intent of the bill. I am prepared to give them the benefit of the doubt.

Honourable members interjecting.

Hon. Louise Asher — You are too generous!

Hon. W. R. BAXTER — The fear I have is that if that firm of solicitors, experienced as it is, has misinterpreted the definition, I wonder what some officer in the State Revenue Office will do with it — unless Parliament clearly spells out the intent. I look forward to a further explanation, which I understand the minister will make to the house in due course.

The other aspect of the legislation that gives me some cause for concern, although I do not oppose the principle as such, concerns the claw-back provisions. They provide that where a farm is transferred and stamp duty exemption is granted but within five years the land is sold to someone who does not qualify under the family farm exemption provisions, the stamp duty that would have been payable will be recoverable by the State Revenue Office.

I believe that provision could cause extreme hardship in certain circumstances. It will not arise very often, but one can well envisage a situation in which the family farm is transferred to the young son and he has a family and —

Hon. D. A. Nardella — Daughter.

Hon. W. R. BAXTER — Yes, or a daughter. Mr Nardella, if you had been listening you would have noted that I have said 'son or daughter' all the

way through. If one or other is killed or becomes a paraplegic as a result of a farm or road accident or any other sort of accident and cannot continue —

Hon. T. C. Theophanous — They will not get any Workcover!

Hon. W. R. BAXTER — Bearing in mind that most would not have been employees, Mr Theophanous, they would not have been entitled to Workcover in any event.

Hon. T. C. Theophanous — What about farm hands?

Hon. W. R. BAXTER — If you understood farming and what I am talking about, you would not have interjected.

If a farm had to be sold in those circumstances, it would be unjust if the family, which would be suffering a great deal of emotional and financial pain, had to pay stamp duty and if the government in effect received double the stamp duty — that is, stamp duty on the transfer within the previous five years and stamp duty on the sale of the land resulting from the tragic event.

I ask the Treasurer to ensure that the Commissioner of State Revenue, who I understand has the capacity to recommend that ex gratia payments be made in cases of hardship, puts in place a system that addresses the problem so that hard-pressed families in those unfortunate circumstances do not have to make submissions to members of Parliament, the courts, or whoever, seeking exemption from having to repay the stamp duty.

I will deal with one other aspect. The government should give an undertaking that if the legislation does not operate in the way it intends and Parliament intends — and in the way I expect it to — it will come back next year with clarifying amendments to make the intent absolutely certain.

Debate interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Nursing homes: fees

Hon. M. M. GOULD (Doutta Galla) — I refer the Minister for Aged Care to the fact that the Queensland government has ruled out charging

residents of its government nursing homes an annual accommodation fee of \$4000 which the federal government is now allowing nursing home proprietors to charge because it would be unfair to its citizens in state-run homes. Will the minister follow Queensland's lead and now rule out slugging elderly residents up to \$20 000 over five years in Victorian government nursing homes?

Hon. R. I. KNOWLES (Minister for Aged Care) — The government will not be seeking to take on commonwealth government responsibility. If the Queensland government chooses to do so, that is a matter for it. Queensland does not have any state debt, unlike the position in Victoria as a result of 10 years' rule under a Labor government. In addition, only 10 per cent of nursing home beds in Queensland are in the public sector, whereas in Victoria it is about 30 per cent. If the opposition is announcing a policy, I think it should know —

Hon. T. C. Theophanous — It's not true.

Hon. R. I. KNOWLES — It is true. No wonder Labor made a financial mess of the state; it does not even have basic information. If the Labor Party is making a policy statement, the government welcomes that announcement because this will be the first policy it has actually released in aged care or health. I should like to know what costing the opposition has given to its policy.

The government will concentrate its efforts on areas that are clearly a state government responsibility, such as special geriatric health services. More than 360 specialist rehabilitation beds have been opened in Victoria under the Kennett government, which is in marked contrast to Labor which totally ignored geriatric health services.

Hospitals: industrial agreements

Hon. E. J. POWELL (North Eastern) — Will the Minister for Health advise the house of the outcome of discussions between networks, hospitals and their staff on industrial agreements?

Hon. R. I. KNOWLES (Minister for Health) — Over the past few months Victorian networks and hospitals have been negotiating with their employees on new industrial agreements. Agreement has now been reached at all levels consistent with the government's overall wages policy. It represents a good outcome for both hospitals and staff.

Although there were some difficulties with some of the unions on reaching those agreements, I am pleased that negotiations have been concluded and there will not be further industrial disruption in our hospital system over wages and conditions.

All employees will receive a 3 per cent pay increase this year and again next year. That is a significant pay increase in a period of little or no inflation, but it represents the government's acknowledgment of the dependency of hospitals and the community on doctors, nurses, allied health professionals and others who provide public health services in this state.

I welcome the conclusion of the discussions between the hospitals, the networks and their employees. It represents a significant breakthrough under the new commonwealth government's industrial relations laws where agreements have been reached without the government being directly involved. That is consistent with the government's industrial relations policy. It is a fine demonstration of working together to the advantage of employers, employees and the community that they collectively seek to serve.

Auditor-General: independence

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Finance to an article headed 'Late attack on auditor plans' in today's *Age* which reports that despite the government's claims that the concerns of the Australian Society of Certified Practising Accountants had been addressed, the chief executive officer, Michael McKenna, remains opposed to the planned privatisation of Audit Victoria which he described as a fundamental sticking point.

He stated that:

If Audit Victoria is separated from the Auditor-General, it will mean far less accountability ... on financial management in this state.

Does the minister accept that the ASCPA is a professional body that is in a position to know whether the changes would compromise the independence of the Auditor-General and why has its fundamental concern not been addressed?

Hon. R. M. HALLAM (Minister for Finance) — Michael McKenna is entitled to express his view on any issue concerned with changes to the legislation.

Hon. T. C. Theophanous — On behalf of his organisation.

Hon. R. M. HALLAM — I will come to that. I say with absolute conviction that Michael McKenna does not speak for every member of the ASCPA. He certainly does not speak for me. I am a member of that august organisation and a very proud member of it, but he does not speak on behalf of me, particularly in this context.

Hon. T. C. Theophanous — Who else other than you?

Hon. R. M. HALLAM — How many questions do you want to ask? Michael McKenna does not speak for at least one member of his organisation, and that will not come as a shock to Mr McKenna because I have made that clear to him in the past.

It is my conviction that Mr McKenna is out of step with the bulk of his membership, particularly given that he has on previous occasions acknowledged that seven of the eight issues of concern originally expressed by the organisation have now, in his own words, been addressed.

I am relaxed about the comments attributed to Mr McKenna.

Hon. T. C. Theophanous — You're attacking him.

Hon. R. M. HALLAM — I am responding to what he has said in the media and the same comments upon which you wish to rely.

Hon. T. C. Theophanous interjected.

Hon. R. M. HALLAM — I did not say that. I suspect there will be many more members other than me who are unhappy about the position taken by that professional organisation.

Hon. T. C. Theophanous — He's speaking on behalf of his organisation.

Hon. R. M. HALLAM — If that is your conclusion, I beg to differ.

County Court: construction

Hon. ROSEMARY VARTY (Silvan) — I refer the Minister for Finance to the fact that his colleague the Attorney-General recently announced plans for the construction of a new County Court incorporating the former Peter MacCallum hospital and former

ABC site. Has the government purchased the ABC interest in the land and, if so, at what price and under what conditions?

Hon. R. M. HALLAM (Minister for Finance) — I am pleased to report on the outcome of what I believe has been a good negotiated process. The government has not purchased the ABC's interest in the former 3LO site but has negotiated an alternative arrangement with the ABC that will effectively mean that the site becomes available for the planned redevelopment. That is a good outcome all round.

The government has engineered the private sector provision of public facilities. There are many examples I can cite, the most readily recognised of which is City Link. In addition I can point to three privately operated prisons and the privatised electricity generation process. I also make the point that the proposed County Court building will become a product of the same infrastructure investment policy, whereby the private sector will accept responsibility for the financing, design, construction and operation of the new courts.

Prior to the government undertaking what I believe to be a novel and creative approach to the provision of much-needed public infrastructure, there was a need to identify a preferred site for the relocation of the County Court, which currently operates in inadequate premises at 223 William Street. The court needed to be separated from the existing ownership constraints, and we needed to focus on a preferred site that could be developed more effectively.

The high-profile site in William Street, between Lonsdale and Little Lonsdale streets, was identified as the preferred site, not surprisingly because it would enable a further consolidation of the legal precinct in that part of the city and add to its accessibility.

The government required the cooperation of the ABC to successfully secure an appropriate site. While the government-owned former Peter MacCallum Institute site comprises the major part of the new court — the corner — the key to the proposed development was the site formerly occupied by the ABC studios and administration offices. Rather than purchase the ABC site, the government has entered into an agreement with the ABC whereby its property will be offered for sale as part of the expression of interest process for the new court complex. The department is currently calling for expressions of interest for the demolition of the buildings, and that will commence shortly.

Following that process we will be seeking tenders for the sale of the site and the construction of the new court facility.

The arrangement offers surety for both the government and the ABC. It will provide an effective balance between maximising the terms of the sale of the land and minimising the impact of recurrent costs, and it will avoid the traditional obligation for government to purchase sites on which public facilities are to be developed.

I am delighted to have the chance to put on record my appreciation of the cooperation that has been afforded to my senior officers by the officers of the ABC. I think we have achieved a good outcome indeed.

Workcover: common-law access

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Finance to the proposed Workcover changes and ask whether it is not the case that if a woman taxidriver — —

Hon. Bill Forwood — Does this one come from Maurice Blackburn or Slater and Gordon?

Honourable members interjecting.

Hon. Bill Forwood — This is not your question, is it? You did not make up the question.

The PRESIDENT — Order! I ask Mr Forwood to desist and allow the Leader of the Opposition to ask his question.

Hon. T. C. THEOPHANOUS — And you are wrong.

Hon. Bill Forwood — I will not respond.

Hon. T. C. THEOPHANOUS — You happen to be wrong. I refer the minister to the proposed Workcover changes. Is it not the case that if a woman taxidriver were assaulted and raped while on duty she would not be able to lodge a civil suit for damages under common law even if the perpetrator were someone of considerable means, whereas if the same woman were assaulted and raped while off duty she would be able to lodge a civil suit for damages? How does the minister justify protecting one rapist from a civil suit but not another?

QUESTIONS WITHOUT NOTICE

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COUNCIL

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Hon. R. M. HALLAM (Minister for Finance) — The answer is yes, but I absolutely dispute the imputation in the question that the perpetrator of a crime such as that would be absolved.

Hon. Pat Power — No, the woman, the victim.

Hon. R. M. HALLAM — The implication is — —

Honourable members interjecting.

Hon. R. M. HALLAM — That is right, that is the implication. You gave two sets of circumstances and related that to the perpetrator of the crime. That is exactly what you did — and that is what you did yesterday.

Honourable members interjecting.

Hon. R. M. HALLAM — You are putting out into the marketplace an imputation that a perpetrator in those circumstances would not be held accountable for the crime.

An Honourable Member — No, no.

Hon. R. M. HALLAM — Yes, yes, yes. I make the point, as I did yesterday, that just because — —

Hon. T. C. Theophanous — On a point of order, Mr President, maybe the minister is not capable of listening to the question. I do not have a problem with his answering in the way that he has, but that does not give him the licence to misrepresent the question or what I have said. I specifically asked about civil damages. The minister has misrepresented the question.

The PRESIDENT — Order! There is no point of order. If the member feels he has been misrepresented, there are ways open for him to address that issue — but not by a point of order. I ask the minister to answer the question.

Hon. R. M. HALLAM — As I said yesterday, the fact that the first driver cited is protected by statute law and therefore does not need to resort to a common-law action does not mean that the perpetrator of the crime gets off scot-free. That was my point yesterday. It does not change anything in respect of any criminal action, except that in this case — —

Hon. T. C. Theophanous — I did not say that. I asked about civil action.

Hon. R. M. HALLAM — In this case the victim does not have to resort to civil action to gain compensation.

Hon. T. C. Theophanous — The perpetrator escapes civil action.

Hon. R. M. HALLAM — That does not necessarily follow. I am not sure how many times you have to be told.

Hon. T. C. Theophanous — Tell us how it does not follow.

Hon. R. M. HALLAM — I told you yesterday that the fact the employee does not have access to civil action does not mean that the employer is denied access to civil action. That is exactly what I said yesterday. If you want to hear it for the third time, ask me the same question again!

Honourable members interjecting.

Hon. R. M. HALLAM — You are as thick as a brick!

Hon. T. C. Theophanous — Fool! He is suggesting the taxi company would sue on behalf of the worker. Who would get the money then? What an idiot!

The PRESIDENT — Order! If the house continues to ignore the Chair I will close question time.

Boating: volunteer rescue grants

Hon. I. J. COVER (Geelong) — Will the Minister for Roads and Ports inform the house of the government's program to aid volunteer marine rescue groups in their relief operations with the boating community and all users of Victoria's waterways during the holiday period?

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I have made funding allocations to assist volunteer marine rescue groups to purchase new rescue boats and equipment for the forthcoming summer season, to the extent that 41 groups and clubs across Victoria will receive grants on a dollar-for-dollar basis.

It is important to recognise that while recreational boating is essentially a safe activity, it does not take much to throw that out of balance. One small mistake or a rapid change in the weather can often

lead to tragic circumstances. In those times, the boating community and the people using our bays and waterways benefit from the assistance of the volunteer members of our many marine rescue groups, yacht clubs and water safety groups that provide an essential community service.

The grants will assist volunteer marine rescue groups to respond to assistance made through the water police or to respond independently depending on where the need arises. The grants will provide 167 new rescue boats, 23 motors for rescue boats, and radios for the forthcoming season.

The government has also set aside special funding for the use of fuel by the water police and other volunteer groups that assist the water police in rescue and enforcement activities. The funding clearly shows the government's commitment to promoting safety by all users of our Victorian beaches, lakes and rivers, whether they be swimmers, surfers, waterskiers or people who use personal watercraft or other boats.

The program recognises the important role volunteer rescuers play in the provision of a safe environment for Victorian boating activities.

Aged care: fire safety

Hon. M. M. GOULD (Doutta Galla) — I refer the Minister for Aged Care to the 1996 annual report of the community visitors, which specifically recommended that fire safety in special residential services should be upgraded. I further refer to this year's annual report which states that inadequate fire safety standards are a matter of grave concern.

Will the minister now admit that the government has failed in its responsibility for the safety of frail, elderly people and people with disabilities in special residential services?

Hon. R. I. KNOWLES (Minister for Aged Care) — The answer is no.

Liquor Licensing Commission: on-line services

Hon. B. W. BISHOP (North Western) — Will the Minister for Small Business advise the house of the latest developments in the opening up of access to the services of the Liquor Licensing Commission?

Hon. LOUISE ASHER (Minister for Small Business) — I thank Mr Bishop for his question and

for his interest in using technology to get services into country Victoria.

Some time ago I commissioned a review of the Liquor Licensing Commission administrative structure with the aim of making the LLC more accessible to business, particularly in regional areas. There are key advantages in using technology in country Victoria to increase the volume of business information available on the system.

The Liquor Licensing Commission will be on the Victorian government business channel which will soon become operational. However, as an interim step the LLC has improved its access across the state. For example, we will provide on-line liquor licence and licence-related transaction information via the new access program to the commission, which will be trialled from next December. The information available will include searches for new applications that have been lodged and granted, renewal of liquor licences, information on licensed premises, and so on.

Further, the Liquor Licensing Commission is keen to ensure that sufficient information for hotel businesses and a whole range of businesses involved in the liquor industry is available on the Internet. The sort of material progressively becoming available on the Internet includes information about Victorian laws, the national competition policy, review, fees and charges, application forms for liquor licences, how to object to a liquor licence permit, and so on.

The end result is of particular importance to regional Victoria. From 1 January next year liquor licensees, solicitors, liquor producers and wholesalers, liquor industry associations, local government, members of Parliament and any parties that have reason to deal with or conduct business with the Liquor Licensing Commission will be able to directly access up-to-date licence information 24 hours a day through either their home or office computers. It is an excellent development in the LLC as a precursor to the Victorian government business channel, and will ensure that the information in this vital area of Victorian business, particularly small businesses in country Victoria, is available 24 hours a day.

Road safety: Blackburn High School

Hon. PAT POWER (Jika Jika) — Is the Minister for Roads and Ports aware of four separate accidents in which students have been struck by cars on the street outside Blackburn High School, resulting in

their receiving head injuries and broken bones? What action has the minister taken to prevent such accidents at the school? Further, and importantly, will the minister give an assurance that he will provide financial assistance to the City of Whitehorse so a pedestrian crossing and traffic lights can be installed to remove the current dangerous situation for students at the school, where four accidents have occurred in the past three months?

Hon. G. R. CRAIGE (Minister for Roads and Ports) — I thank Mr Power for his question as he has proven beyond doubt that he is a sheep in wolf's clothing — or is he a wolf in sheep's clothing! As Mr Power has raised it, I will take that information as being factual and correct.

Hon. Pat Power — Absolutely.

Hon. G. R. CRAIGE — Over what period did the four accidents occur?

Hon. Pat Power — The past three months.

Hon. G. R. CRAIGE — I will examine the matter and get back to the honourable member.

Trade and investment: Britain–Australia

Hon. R. J. H. WELLS (Eumemmerring) — Will the Minister for Industry, Science and Technology inform the house of the latest steps taken to expand mutual trade and investment between Britain and Australia?

Hon. M. A. BIRRELL (Minister for Industry, Science and Technology) — I am pleased to advise the house that the Right Honourable Margaret Beckett, president of the Board of Trade in Britain, is now in Melbourne as a major part of the international effort of the British government on its New Images program.

The Right Honourable Margaret Beckett is one of the most senior British cabinet ministers and we certainly welcome her as the first representative of the Blair government to visit Melbourne. In company with her husband, this is her first trip to Australia. We are honoured that of the five international cities in the world where the New Images and UK Now programs are being run, Melbourne is the Australian city chosen for the programs.

The links between Britain and Australia are culturally strong. Most honourable members would not understand the mutual investment links between the countries. The UK is the largest destination of Australian foreign direct investment and has also been Australia's largest source of foreign direct investment.

Indeed, recent privatisations in the areas of energy, prisons and airports have had British companies as major investors.

We have been able to welcome to Australia important new British investments in companies such as Martin Dawes, Logica Pty Ltd and UCB and reinvestment from companies like Pilkington.

It is therefore important that Australians focus on future opportunities with Britain at a time when members of this government and others are talking about the increasing relationships we will have with nations to our north, in the Asia-Pacific area.

In that context it is important that we keep up strong investment and trade links with Britain. A number of the largest British companies in the world have their headquarters in Melbourne, including BP, BTR, Cadbury Schweppes, Glaxo Wellcome, Penguin Books, Pilkington, and Smith and Nephew, just to name a few.

I had much pleasure in hosting a luncheon today for the British Minister for Trade when I welcomed her to Melbourne. Today, she is also opening the UK Now exhibition at the Melbourne Exhibition Centre. I encourage honourable members to attend the exhibition and to reflect on the opportunities of mutual commercial and cultural advantage between our countries.

STATE TAXATION (AMENDMENT) BILL

Second reading

Debate resumed.

The PRESIDENT — Order! I have suggested to the house that it would be advantageous if the Minister for Finance were at this stage able to make a statement in relation to the transfer of a family farm because it would help other honourable members. The Leader of the Opposition has agreed to that.

Hon. R. M. HALLAM (Minister for Finance) (*By leave*) — I thank the house for its indulgence. Several issues have been raised with the government about the exemption from stamp duty provided for intra-family transfers of the family farm. It is therefore desirable to provide some comments by way of clarification of the government's intention regarding those provisions of the bill.

The policy purpose of the exemption from stamp duty on intra-family transfers of land used for primary production is to militate against the break-up of family farms and to encourage the next generation to take up ownership of the family farm and to continue to operate it as a family farm. That is the policy rationale for the requirement that the land be transferred as a 'single farming enterprise'. The exemption is not intended simply to be a general exemption for transfers of ownership of parcels of farming land among family members. Two limited cases have been raised with the government where it is argued that transfers would be within the policy objective but the exemption may not apply.

The first of these concerns a farm that is being transferred in a number of successive stages. In such cases the parcels of land being transferred in each stage may not themselves be single farming enterprises but the individual transactions are nevertheless part of an overall single process of transfer to the same family member transferee or transferees.

Such transfers may occur where there are particular reasons why the current owners do not want to transfer the whole farm immediately, but nonetheless there is a firm and definite agreement or arrangement to transfer the whole or the bulk of the existing family farm over time while continuing it in operation as a single farming enterprise.

If such instances arise and the parties can satisfy the commissioner that a particular transfer forms part of such agreement or arrangement and are prepared to give undertakings equivalent to those contained in the legislation that the farm will continue to be operated as a single farming enterprise for at least five years following the relevant transfer, the government will provide an exemption from stamp duty by way of *ex gratia* relief. If it proves that there are more than a limited number of such instances, the government will consider amending the legislation to expressly cover such instances.

The second case that has been raised with the government arises when different parts of the family

farm are held in different names — that is, they are held by different members of the family — and one or more transfers are made that result in the family farm being held as a single farming enterprise by the one set of family interests — in other words, the ownership of the family farm is consolidated by the transfers.

Again, this fulfils the policy objectives of the provisions, and if the parties can satisfy the commissioner that that is the situation and the parties are prepared to give undertakings equivalent to those contained in the legislation that the farm will continue to be operated as a single farming enterprise for at least five years following the transfer, the government will provide an exemption from stamp duty by way of *ex gratia* relief. If it proves that there are more than a limited number of such instances, the government will also consider amending the legislation to expressly cover these instances.

Another issue has been raised regarding the situation where a farm is transferred to a family member and attracts the stamp duty exemption but subsequently the new owner wishes to sell an individual paddock or small portion of the farm. The government's intention is that that should not affect the exemption, provided that the core of the property transferred remains a single farming enterprise. The State Revenue Office has advised the government that that is also its interpretation of the provisions and that it intends to administer them accordingly. In such a case the portion sold will, of course, be subject to duty on the second such sale.

The issue of possible cases of hardship has also been raised with the government. It is firmly of the view that no codified hardship provision should be written into the act in relation to the payment of previously exempted stamp duty in the event that the farm is sold within five years of the intra-family transfer. However, if cases of extreme hardship or unforeseen events arise which necessitate the sale of the family farm within the five-year period and are established, the government will assess such instances on a case-by-case basis for *ex gratia* relief where appropriate.

Hon. R. H. BOWDEN (South Eastern) — I support the State Taxation (Amendment) Bill and shall speak briefly on some of the clauses. It is with much pleasure that I suggest to honourable members that it is important that clause 3 be part of the bill. It makes amendments to the Debits Tax Act. It is important that the public appreciates the value

of government services provided by agencies and other institutions that need appropriate tax relief. For instance, TAFE colleges, state schools, universities and many other organisations and institutions in our community do fine public-related work, and clause 3 clarifies that the bodies specified in the bill will be exempt from debits tax.

At first glance the rate in the dollar for debits tax does not appear high, but the savings to these worthy institutions over a period will be considerable because of the high volume of the transactions that flow through their accounts. I am delighted to see this provision in the bill.

During his contribution to the debate Mr Baxter explained why he believes we must continue to recognise and support family farming activities. In a wide area of the beautiful South Eastern Province I represent, farming and agricultural activities are extremely important. I am delighted that clause 21 provides an exemption from stamp duty for single farming enterprises being transferred between family members. I wholeheartedly support that provision as an expression of the support, commitment, interest and encouragement of the government for the farming community and agricultural sector.

I listened with appreciation to the statement made by the Minister for Finance a few minutes ago. It clarifies the situation for the farming community. I congratulate the minister on providing that clarification.

Under the provisions of the Payroll Tax Act 1971 payroll tax will not apply to educational institutions that are specifically defined in the bill, which is desirable and reassures the educational service providers, the registered schools and the institutions nominated. Again, I congratulate the government. I am pleased to support that initiative because it is a fine feature of the bill. I have pleasure in supporting the bill.

Hon. C. A. STRONG (Higinbotham) — I also support the State Taxation (Amendment) Bill, which will do many things to protect state finances; it also provides some relief to important areas that have been mentioned by previous speakers.

I will not dwell on many of the other issues that were covered in the minister's second-reading speech. However, I refer the house to the way taxes are collected and the changes the bill makes in that area.

It is unfortunate, but the government has no option other than to collect taxes to fund the state's activities. However, I do not believe many governments have done enough to make the collection of taxation as easy as possible for business.

New division 2A of the Stamps Act deals with approvals for special return arrangements. Over the years tax collection has come under rigid and prescriptive rules. Those rules lay out how collection is to be done, what form returns are to take, exactly what information is to be shown on these returns, the timing of returns, the information that backs up returns and so on. These have been designed for the tax collectors rather than for ease of business making the return. The government has been trying to simplify and reduce the amount of regulation on business. This new division is another step in doing that. Businesses that pay tax, particularly stamp duty, are all different from one another. Businesses today collect a lot of their information on computer systems, and it often takes a lot of work to translate one computer system to another and then prepare information that might go onto a particular form required by the tax office.

The amendments in new division 2A allow the controller of state revenue to change the returns and the way the information is collected and transferred to him. In the new world of electronic technology much of the transfer information is available on computers, and if it is available on computers it seems silly to download it onto a bit of paper, put the piece of paper in an envelope and send it to the State Revenue Office when it could just as easily be done by a computer and sent to the computer system of the State Revenue Office.

New division 2A allows the Comptroller of Stamps to define how the information is to be collected and returned to him, which is enormously important. Obviously there will be limitations, but the comptroller will be able to structure return mechanisms and response times that will fit into the industry's own information packages, which will simplify the return of data enormously and simplify the procedure for business.

Victoria is leading the way in trying to lift the burdens on business to attract more business and so businesses are able to operate more easily. I hope new division 2A inserted into the Stamps Act by clause 16 of the bill before the house will also flow through to some of the other state revenue acts and will keep Victoria in its lead position as a business-oriented state.

Hon. B. W. BISHOP (North Western) — I join the debate on the State Taxation (Amendment) Bill because of the effect the bill will have on the farming community and because of the good process that was put in place some time ago. There is no doubt that the exemption for transfers of the family farm from the stamp duty taxation process, which was driven by the Treasurer and the former agriculture minister in the other place, Bill McGrath, has been well accepted in rural Victoria. It has been a wonderful opportunity for rural Victoria to restructure farm business into the future.

The bill brings further flexibility into play. As I understand it, the bill seeks to clarify and extend the current exemptions and it provides further flexibility to family trusts. From people who have gone through the process before I understand that they had to put in place a separate new set-aside family trust to be able to transfer parts of the family farm. Had they a family trust now they would be able to utilise that trust to make those arrangements work, and that is a great step forward.

I reiterate the point that Mr Baxter made so well in his contribution to the debate: the flexibility and opportunities that existed in the past must be retained for the future. With Mr Baxter, I was involved in some of the discussions about flexibility. I welcome the comments by the minister today. I am sure they will go a long way to satisfying most of the concerns that have been raised by members of Parliament. It is absolutely essential that the previous flexibility is maintained; it revolves around the translation of a single farm enterprise. I am delighted to have been assured that if over time that provision does not work as the government expects it to, it can be revisited and adjusted up in the future. It is important to note that family farms have generally been put together over at least two and sometimes three generations.

Often the first generation would be the mother and the father and sometimes the home block would be owned by the mother. That was left over from the old death duty days when the first generation built that protection into the structure of the farming business. They may have had three or four blocks of land, one owned by Mum and the others owned by Dad. They would be looking to transfer those blocks of land to their son or daughter. That is quite a sensible way to go about it. The concern was, of course, that it would not be a viable farm if the blocks were split up. Again we welcome the words of the minister, which I believe cover that area.

The transfer of a family farm business is quite often difficult. It can sometimes lead to rather embarrassing situations among families and is often quite emotional. The transfer is often between the first and second generations. Both of those generations struggle, firstly, to provide the security for the first generation and, secondly and just as importantly, to provide the opportunity for the second generation.

We could ask ourselves why this exemption helps. The answer is pretty simple and straightforward. Many farms carry some debt — in fact most do. Even the farms that do not carry debt are gathered up in this net. Let me give the house the example of a reasonable sized farm where the owners wish to restructure the family farm business by shifting part or all of the land from the first generation to the second generation. Let us assume the farm has a debt.

The family would go to the bank and say, 'We wish to restructure our family farm business'. The bank would support that wholeheartedly. The bank has an idea of what they are trying to do and it gives good advice. The first and second generations might say to the bank, 'Well, that is what it is. We have a loan, but the transfer might cost us \$25 000 in stamp duty'. The bank says, 'It is a great idea, but if you have a debt I really can't have you adding that \$25 000 to the debt, so I am afraid I will have to refuse you'.

It is a difficult situation for people who wish to move with the times and restructure their farms. Obviously the exemption allows them to do that much more easily. There are a number of advantages, both social and corporate. A lot of options are involved. The members of the first generation might decide they cannot move as they do not have the flexibility, so they stay on the farm. That means the farm has to provide two streams of financial support. As Mr Baxter has said, in these difficult days of slim margins that puts a lot of pressure on both families when the problem can be avoided by some sensible restructuring.

Why shouldn't the members of the first generation be able to retire, divest themselves of the property over time so that they are sure of what they are doing, move into town and benefit from the services that would be more accessible to them in the town — health, transport and other services — and have the benefit of some of the concessional assistance other sectors of our community enjoy? Particularly when the people who make up the

second generation — it may be the son or the daughter — may well be 30 or 40 years of age, may well be married, and may well have two or three children. They have probably worked on that farm all their lives and invested a lot of blood, sweat and tears in it. The family of the second generation should be able to set a clear course. If they want to expand, diversify, or whatever, they ought to be able to do that with a sense of ownership. That can be achieved with these exemptions in place. Most importantly, the future of the first generation would not be at risk. This is a wonderful tool in rural areas for planning the future of a family farm business.

I commend the government and the Victorian Farmers Federation, who have joined together to run a program called Farm Smart. I attended a couple of seminars where I heard some excellent speakers who talked about transferring the farm business. They brought the matter down to a grassroots level. It was clear to me that farming families could get together with that sort of leadership to bring the planned restructuring to fruition.

In the past there was probably not a lot of expertise around in the business community, the legal community or the accountancy community in relation to these things, but over time people have specialised in these areas. One such person is a fellow I know well, Dick Dwyer from Bendigo. Dick is a legal practitioner who has devoted himself to estate planning over the past few years. He has become quite expert at it. Many of us welcomed his strong views on this measure. They were strong views, but they were clearly enunciated. They were put professionally and they were of great assistance to members as we worked through the bill.

I conclude by saying that one of my good friends put together a farm. After working hard as a shearer and a share-farmer he became a landowner. Using this process, over time he was able to put his three sons in a position where they were able to create individual farm units. He and his wife were able to shift to a small property closer to town.

Now those first-generation farmers are totally satisfied on a small property in town where they have tons of interests and the three sons are set up on totally independent farming units. It is a good result for all parties. The district has three independent young fellows with the initiative and the viability to go ahead. That could not have happened unless the rules were there for them to work within.

I welcome what the minister said today. I believe his words cover most of the difficulties. I particularly welcome the fact that, over time, as sometimes occurs with legislation, if we find that this does not quite work in the real world we can come back and tidy it up, as we do with many pieces of legislation. It will make it better for all of us in the community. I commend the bill, and I commend the consultation and cooperation that has allowed the bill to pass in both houses.

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.

In doing so I thank my colleagues on this side of the house for their comments and I thank the opposition for its support.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

CRIMES (AMENDMENT) BILL

Second reading

Debate resumed from 12 November; motion of Hon. LOUISE ASHER (Minister for Small Business).

Hon. D. A. NARDELLA (Melbourne North) —
The opposition does not oppose the Crimes (Amendment) Bill but places before the house a 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 —

- (a) enable the house to consider as separate measures —
 - (i) division 1 of part 2 of the bill; and (ii) the clauses dealing with the new forensic sample regime in part 4;

- (b) include proper mechanisms to annually monitor and report to Parliament on the impact of the provisions on a victim's court experience;
- (c) allow for initiatives to preclude the serving of a subpoena for victim's counselling notes and files; and
- (d) allow appropriate consultation procedures on the impact of people's rights as a result of increasing police powers'.

The bill arises from recommendations in the rape law reform evaluation report and in the reports of the former Crime Prevention Committee entitled *Combating Child Sexual Assault — An Integrated Model*, dated May 1995, and *Combating Sexual Assault Against Adult Men and Women*, dated November 1996.

Along with Mr Smith, I had a lot to do with the former Crime Prevention Committee. Its first report on child sexual assault contained 130 recommendations and its second report contained 50 recommendations. The reports were and still are groundbreaking.

The members of the committee were expertly and professionally led by Mr Smith. We travelled all over Australia, other than to Perth, investigating all aspects of the best programs available. Although the committee saw many excellent programs, it also saw some not-so-good ones. All of them were thought provoking.

Some members of that committee also went overseas. One important outcome of that trip was that the group who went — I was not one of them — gained much experience and made many contacts with overseas agencies. The trip consolidated Victoria's position at the forefront of dealing with these issues. Because of the networking and the contacts that were made, once the reports were tabled in the house copies were sent all over the world. It is unusual for that to happen. Under the leadership of Mr Smith, the committee gained respect around the world to an extent that has not been equalled.

I say this in all modesty, but it would be difficult to find another committee that does that type of work — or any type of work — with the same vigour, commitment and professionalism and with staff of the same calibre. I say that not just because I was a member of it. The former Crime Prevention Committee dealt with these issues seriously and sensitively.

The members of the committee who represented Victoria all over the world were the Honourable Ken Smith, who was the chairman; Don Kilgour, the deputy chairman and the member for Shepparton in the other place; Robert Doyle, the member for Malvern in the other place; Andre Haermeyer, the member for Yan Yean in the other place; Hurtle Lupton, the member for Knox in the other place; Gary Rowe, the member for Cranbourne in the other place; Bob Sercombe, the former member for Niddrie in the other place; Jan Wilson, the member for Dandenong North in the other place; and me. There was a time when Mal Sandon, a former member for Carrum, was also a member of the committee.

The other arm of that committee was its staff: Alan Ogilvie, the director of research; Tiffany Tyler, the research officer; Lisa Casamento, a research consultant; and Lorraine Beyer, also a research consultant. The reports the committee produced were the result of the hard work and dedication of all the members on the committee and its staff.

A number of the committee's 130 recommendations have been included in the bill. For example, recommendation 67 of the first report, *Combating Child Sexual Assault — An Integrated Model*, says that where courts deal with sex offenders who have committed crimes against minors, section 47A of the Crimes Act should apply to all persons, not just to those having care, supervision or authority over the victims.

Recommendation 69, which has also been picked up, is about joinder trials. The recommendation is:

... that legislation be enacted which presumes multiple victim sexual assault cases, which are presented together, will be heard together.

There was much debate among committee members about these matters. The recommendations are detailed and thoughtful, dealing as they do with a difficult subject.

The government has picked up many of the committee's recommendations in framing other legislation. For example, recommendations 115, 116 and 117, which recommend that there be criminal history checks of people looking after children, were included in the Children's Services Act.

Although, as I said, the bill picks up many of the committee's recommendations, more must be done. For example, recommendation 9 in the first report recommends the setting up of a Child Protection

(Sexual Assault) Board. Recommendation 13 recommends the setting up of two pilot projects, one in a metropolitan region and one in a country region, to establish sexual assault response teams. Unfortunately the government rejected those recommendations in its response to the report.

Those initiatives should be picked up by the government and trialled in Victoria in metropolitan and country areas. The members of the former committee believed those important initiatives would assist in bringing to justice the perpetrators of sexual assault against children. We must maximise the opportunities for convicting sexual offenders, while guaranteeing their civil rights are protected. We must also ensure the victims are looked after and supported throughout their ordeals. I am certain Mr Smith will endorse my comments about the work the committee did under his chairpersonship.

The bill, which is multifaceted, does a number of things. Firstly, it widens the scope of people who can be convicted of maintaining sexual relationships with children. That is based on the recommendations made by the committee. Secondly, it precludes defence counsel cross-examining complainants about their sexual history unless written notification is given beforehand.

Clause 9 prevents prior sexual activity being brought up in a court case. That adds to the legislation that was enacted in 1991, parts of which are not working. The legislation was a breakthrough, but some of the provisions have not been upheld by the courts. They were aimed at ensuring that victims of sexual assault were not questioned about their prior sexual histories because that was considered not relevant to the cases before the court.

The evaluation committee that monitored the 1991 legislation heard startling evidence, backed up by the evidence given to the former Crime Prevention Committee, that 19 per cent of complainants were questioned about their sexual histories with the permission of magistrates and 46 per cent were cross-examined on prior sexual history without the leave of the court. A total of 65 per cent of sexual assault victims were questioned about their prior sexual histories. I consider that breaking the law.

The committee heard examples of the barriers that were placed before victims who reported sexual assaults. We heard not only about the victims who went through those ordeals but also about other victims who, understanding how the judicial system worked, would not report incidents such as rape to

the authorities. Those barriers were built up within the judicial system.

Some of the most telling aspects came to light when a number of people were asked whether, if somebody close to them was sexually assaulted, they would advise that person to go through the judicial process. The response was generally no because, among other things, of the barriers that had been placed in their way. People who had been sexually assaulted felt they had been re-victimised in the investigative and judicial processes. The committee's reports deal with many aspects of the judicial and investigative phases of the system.

Under the current regime a person cannot be questioned about his or her prior sexual history unless a judge gives that authority. As set out in clause 9, a defendant who wants to use the plaintiff's prior sexual history as part of his or her defence must give written notice 14 days before the beginning of a trial to give the judge the discretion to either allow the questioning or disallow it. Two aspects are involved — firstly, a written notification; and secondly, the judicial discretion to make a decision before the beginning of the trial. It is extremely important to ensure that those requirements are adhered to — unlike the 1991 changes — and that defence lawyers cannot get around them.

There were some interesting debates when defence lawyers addressed the committee. I notice Mr Smith nodding his head; he remembers them, also. It was challenging for us. For example, a particular defence lawyer said that when she is defending a client she has to use every opportunity to defend her client properly.

If barriers are placed in the way, a miscarriage of justice may occur. I do not know whether I have given a proper precis of her submission. The point she got through to us was that there was an alternative view — that is, about an accused being defended to the best of his or her lawyer's ability.

The bill gives effect to the ideals of the 1991 act, and it is a welcome addition to the legislation covering the area. The bill assumes that defence counsel will know 14 days prior to the time set down for the trial whether he or she wants to raise the complainant's prior sexual history. The 14-day period is appropriate and gives defence counsel some flexibility in deciding whether that sexual history is relevant to his or her client's defence. As I said before, that strikes a very good balance between

ensuring that the victim is not continually re-victimised and giving defence counsel the opportunity to place before the court all the evidence necessary for the court to determine the case.

We should consider what occurs at committal proceedings. The former Crime Prevention Committee heard evidence that at committal hearings there is an unfortunate propensity for victims, those who have allegedly been sexually assaulted, to be grilled severely without having anybody there to defend them, be it the magistrate or the DPP. The committal proceedings are a baptism of fire for the victims. I do not think the bill deals with that, but there must be scope to ensure that that does not continue to happen.

One of the recommendations made by the committee specifically concerned children who were victims of sexual assault. It said that for the committal proceedings the record of interview between the police and the victim of the assault should be the evidence-in-chief. That works in Sweden. Placing that information before the court would allow the matter to be determined without requiring the victim to relive the trauma.

In a legalistic sense, and Mr Furletti will understand what I mean, the accused is not required to face his or her accuser. The process should become part of the process for committal proceedings involving sexual assault cases, especially child sexual assault cases where the trauma and the potential for re-victimisation is extreme. It would ensure proper trials and limit the disincentives to people disclosing evidence of assaults or taking action in the criminal justice system.

Among others, the bill allows adult women to give evidence by video link-up — that is, by means other than those requiring direct or visual contact with alleged perpetrators. I applaud the government for putting that into effect. It was recommended by the committee — and it highlights one of the cases that came to our attention.

The story involves a young child. It is a bit gruesome, but I will tell it so that honourable members understand the importance of this type of legislation. The child had been sexually assaulted. She had been relaxed and had been able to deal with matters before the trial began. She had gone through the court process, had understood what it all meant, and had prepared herself for her time in court.

When she was finally called to the witness box she froze. Nobody could work out why she was not answering the questions. She had been mesmerised and the case did not proceed. The perpetrator of the crime had in his hands a pencil or biro that made a clicking noise. The victim was so traumatised by the noise he made clicking his biro that she could not take things any further.

It is traumatic enough to recount that episode; it must have been devastating for the young person who experienced it. I do not know what words I can use to describe the pain that person experienced; I am sure it must have been extremely difficult for her.

The proposed legislation is important. The bill limits the comments judges can make about the reliability of a complainant's evidence where the complaint is not made for some time. The bill also reverses the current practice of ensuring separate trials where multiple charges are laid. Concern has been expressed about that provision. In its recommendations the former Crime Prevention Committee said it was felt that accused persons were freed in circumstances where court cases had been split because two or more victims had been abused in similar circumstances.

The bill reverses the current practice of disallowing evidence to be led in relation to propensity or similar fact matters. Previously that was disallowed as it had the capacity to prejudice a jury to convict on reputation rather than the facts. The opposition has problems with this clause. It means judges will be more prepared to allow propensity evidence with all the resultant problems.

The bill also significantly expands the range of offences where police can apply for a forensic procedure to take intimate specimens from people. The opposition has a real concern about the provision as it will mean the police will be able to take intimate specimens from a person. A person who has no relationship with an accused may be forced to give samples of pubic hair, including its root; a swab of the external genitals; saliva; scraping of the mouth; or a dental impression. This particular part of the bill has a wide application for offences listed under schedule 8.

The powers enabling the police to set up a database are wide. A person does not need to be a suspect but simply to have been convicted of a schedule 8 offence or be within a youth training centre, a prison, a police gaol or a mental health service. Police would only need apply to a magistrate or the

Children's Court. The opposition has grave concerns about the abuse by the authorities of civil liberties, but I understand what the government is attempting to do and how it is trying to clear up cases now on the books. There have been cases where people have been caught because their DNA samples were recorded interstate. This matter needs to be re-examined, which is why I have detailed it in my reasoned amendment.

Paragraph (a) of the reasoned amendment details the opposition's problems with those provisions, particularly the increase in police powers and the inappropriate changes to people's civil liberties. The opposition seeks to have those measures dealt with separately.

Paragraph (b) is most important because a precedent has been set. After the 1991 changes to sexual assault legislation the government undertook to monitor the amendments; the relevant provisions in the bill result from that monitoring. It was important to undertake that monitoring before this bill was introduced. I ask the minister and the house to urge the Attorney-General to monitor how the changes are working to ensure we do not have lawyers working around the government's intention. I would appreciate the minister passing on my request to the Attorney-General.

Paragraph (c) allows for initiatives to preclude the serving of a subpoena for a victim's counselling notes and files. A provision missing from the bill concerns the serious situation where, at the moment, many defence lawyers are issuing subpoenas against sexual assault workers; they thereby aim to get the notes the workers have made after victims have sought their assistance and advice. Unfortunately, many people are being victimised; that legal action does not assist whatsoever in the healing processes for victims.

The issue has been raised with the government and the opposition for a number of years. Workers in the sexual assault field are finding it difficult to provide the best service to victims because they feel they cannot take case notes; if they do, a defence lawyer can subpoena the notes and use them in court. I ask the government to examine that situation and ensure those notes cannot be subpoenaed. It is a serious matter, which is why I have included reference to it in my reasoned amendment.

Paragraph (d) allows for further and appropriate consultation on the impact of people's rights as a result of increasing police powers.

The opposition finds the increase in police powers to be very disturbing. Consultation should be undertaken with interested parties to work through these and other issues. The government needs to talk to groups such as Liberty Australia, consumer legal services, the police and the community regarding what it is attempting to do with the legislation. It would be better if that process could be undertaken quickly.

One thing the bill does not do is to provide enough resources for the police and the forensic scientists to expeditiously process the information they have on hand. The opposition will not oppose the bill, but for the reasons I have outlined it has moved a reasoned amendment. Nonetheless, I thank the government for a number of provisions the bill puts in place, which are gratifying.

Hon. C. A. FURLETTI (Templestowe) — I am pleased to offer my support for the bill and my opposition to the reasoned amendment moved by the opposition. I shall comment upon the reasoned amendment and give my reasons for opposing it.

It appears that the opposition should have dealt with paragraphs (a) and (d) together. Mr Nardella suggested that part 2 division 1 and part 4 of the bill relate to police powers and civil liberties, and that ties in closely with paragraph (d) of the reasoned amendment. I strongly support and applaud the extent of consultation that has taken place. I suggest that the bill, if nothing else, is a verification of the degree of consultation, attention and care the government has taken with the Victorian community.

Paragraph (b) of the reasoned amendment deals with mechanisms for monitoring the impact and provision of a victim's court experience. What the government is doing is monitoring the effect not only of the victim's court experience but also of the legislation, and is doing so on an ongoing basis. This bill is a typical example — as was legislation that was passed by the house earlier — of the necessary and ongoing amendment, upgrading and improvement of the law under which all Victorians live.

Paragraph (c) of the reasoned amendment seeks to preclude access to a victim's counselling notes and files. I agree that this is a sensitive area. I am concerned about the possible effects, but the opposition has put forward no evidence of any misuse of such notes or information. In my view any evidence that helps to determine the truth and to

achieve justice must be available to the criminal justice system. I also agree that balance is essential. However, to suggest that the notes should not be taken and that matters must be retained in memory is stretching the situation a little too far. We are dealing with a balance of interests in the community.

With regard to consultation, I refer to the comments I made about paragraph (a). Those are the main reasons for my opposition to the reasoned amendment.

We in Parliament have a heavy task. Legislation such as this that brings home to us the balance we must strike between the victims of crime, the accused in criminal matters and the community which we represent and which we are obliged to protect. The government is conscious of the need to monitor these matters. The bill gives effect to numerous recommendations made by REAC and the former Crime Prevention Committee, which was referred to by Mr Nardella.

Notwithstanding my opposition to the reasoned amendment, I congratulate Mr Nardella on his contribution. He and Mr Smith did an enormous amount of work on the Crime Prevention Committee. Their work was of the highest standard, which is evident in the recommendations the committee presented. I have no doubt the members of the committee underwent personal suffering and anguish while they were doing that work. I record my thanks to Mr Smith and Mr Nardella, the other members of the committee and the staff who supported them.

The bill amends two acts which probably more than any other legislation control the administration of criminal justice in Victoria — the Evidence Act and the Crimes Act. The main areas of the bill have been addressed by Mr Nardella. The main change made by the amendments to the Evidence Act deals with the cross-examination of victims of crime regarding their sexual history.

Only this morning an article on the front page of the *Age* recounts a case history from the report of the Australian Law Reform Commission and the Human Rights and Equal Opportunity Commission. It was found that a 14-year-old girl who gave evidence at a committal hearing about a sexual assault was cross-examined for 5 hours. The defence lawyers accused her of sleeping around, even though she was only nine years old at the time of the assault, and she was accused of giving evidence for cash. The article finishes with a stark description of

the girl leaving the court room and vomiting. Obviously, that is extremely distressing, and it is the sort of situation that should be avoided at all costs.

Again, let me stress there is always a very fine line to tread. In my legal practice I have known of many defences that have been launched on a wing and a prayer where there is probably no formal defence, but the defence lawyers employ tactics such as those about which we complain and utilise the system that allows fishing expeditions of the nature I have just referred to. Those sorts of tactics detract from the issues before the court and constitute a serious denigration of complainants and their reputations, notwithstanding there may be no basis to the line of cross-examination. As has been suggested by Mr Nardella, there is no doubt that that deters victims from complaining of abuse of legal conduct.

As a general principle I agree with and strongly support the legislation. As Mr Nardella said, at the moment more than 50 per cent of cross-examination of the sort objected to is undertaken without the leave of the court, which is required under section 37A of the Evidence Act. This is an instance — and there are others in the bill — of a reversal of responsibility where the defence will need to decide early in the piece whether this course of cross-examination will be undertaken. The defence will need to present an application in writing for leave to follow that course. It will need to set out in detail the nature of the inquiry and the proposed cross-examination and will need to be submitted to the court within specified time limits. Only if the matter is substantially relevant to the case will a judge grant leave to pursue that course of cross-examination. That is a good provision, and it does not deny the opportunity of raising such a defence if the prior sexual history of a victim is of substantial relevance.

Another feature that is well worth noting is that at the end of a committal hearing a magistrate will be obliged to notify the accused of those requirements so that when the accused comes to trial he will not be able to rely on a plea of ignorance for not having fulfilled legal requirements.

Another amendment to the Evidence Act allows the greater use of technology in the delivery of evidence in trials. Currently section 37C of the act allows, in fairly restricted circumstances — including serious emotional trauma, stress and intimidation — a victim to apply to give evidence by a means other than personal attendance. In April this year I spoke on amendments introduced by the Evidence (Audio

Visual and Audio Linking) Bill which clearly establish that the technology is available for evidence to come from any number of different locations. I am pleased the bill facilitates the nature and grounds of applications to enable victims to use alternative procedures so that can provide their evidence without having to experience the trauma of coming face-to-face with somebody who has defiled or assaulted them. Like Mr Nardella, I applaud the government on this innovative step.

The bill also amends the Crimes Act. It is always a fine line trying to keep the legislative and judicial arms of our Westminster system separate. The amendments to sections 37 and 61 of the Crimes Act are intended to apply to a judge's directions to a jury in sexual assault cases. As I have said, criminal defences are often launched on a wing and a prayer. The fact that there is a lack of corroboration of a witness's story and that some time may have elapsed between the event complained of and its reporting has always been fertile ground for defence lawyers. Regrettably, in some instances it has not escaped adverse comment by the judiciary.

To a certain extent the bill seeks to direct and limit that area of comment while at the same time relying on the judge's discretion to ensure that justice is done. The bill also amends section 47A to diminish the degree of detailed evidence necessary for repeat offences perpetrated on a victim by making less stringent the evidentiary elements needed for conviction.

Another amendment applauded by Mr Nardella with which I agree, as it will not interfere adversely with the search for justice, is the reversal of the onus in applications for separate trials. Currently if an accused were to seek separate trials arising from the same facts or similar circumstances, in the majority of cases that application would be granted. The amendments in clause 7, which seeks to substitute a new subsection 372 in the Crimes Act, reverse that presumption. Multiple counts arising from the same facts or series of offences will now be presumed to be triable together unless the accused makes application and can satisfy the court that the failure to grant separate trials would have a serious prejudicial effect on the defence.

Proposed section 398A of the principal act relating to the admissibility of propensity evidence introduces some flexibility and commonsense to the current rule and seeks to give statutory effect to the 1991 House of Lords decision followed in our own High Court in *Pfennig*. It is a fairly complex area of the

law, but it seeks to restrict separate trials when the facts are common. It will also grant to the judge and the jury the authority to consider and determine whether the concepts of concoction or collusion between multiple victims should be taken into account in their deliberations.

There are some major amendments concerning intrusion into the privacy of suspects. They relate to the introduction of forensic procedures and the taking of what are called intimate samples. When I first considered these amendments I was taken aback. I can appreciate the concern of the opposition as expressed in the reasoned amendment. However, one has to consider that the objective of any criminal justice system is to obtain the truth and to mete out justice.

Forensic procedures can be performed only through court orders. When we look at the manner in which forensic procedures can be undertaken and the way technology has developed over the years so that in forensic DNA technology we have what could really be regarded as science-fiction fingerprinting and the greatest assistance to crime busting for 100 years, and when we consider the range of offences in which forensic sampling can be taken — they are the most serious of offences, as set out in schedule 8 — and appreciate that these amendments will assist us enormously in the two ultimate objectives of determining the truth and achieving justice, there can be no objection.

When considering the nature of the intimate samples — they include blood samples, saliva samples, swabs and so on — it should be remembered that a blood sample is taken without consent from the driver of a vehicle who is injured in a car accident to determine whether he or she has been driving while under the influence of alcohol. I have no serious objection to forensic sampling of the nature proposed in the legislation if someone is suspected of or charged with a serious crime such as murder, kidnapping or any other major offence.

The whole area of criminal justice is of the utmost sensitivity and delicacy. I do not accept that the purpose of the bill — as has been suggested by some — is to increase the conviction rate for sexual offence matters. As a lawyer I respect the right of individuals to a defence and to a fair trial. I also respect the rights of the victim and the obligation on the legal system to seek and achieve justice as the community expects and deserves. I trust that the granting of discretions to the judiciary will be well

administered, as I am sure it will because I have the utmost confidence in the system.

The bill is a major step taken by the government in the fight against crime. The government initiated the fight five years ago and will continue to carry it on. I strongly commend the bill to the house.

Hon. M. T. LUCKINS (Waverley) — The purpose of the Crimes (Amendment) Bill is to amend the Crimes Act by expanding the range of offences for which the police can apply to a court to have suspects and convicted criminals undergo forensic procedures — namely, DNA sampling. It also clarifies the permissible use of material and information obtained by that sampling. I reject the reasoned amendment moved by the opposition.

The bill deals with particular concerns of the community, which have been around for many years, about sexual offences and how courts deal with cases. To delay the bill will possibly do damage to past and future victims of terrible crimes and therefore create an injustice.

The bill has been drafted to give effect to recommendations made in a number of reports over the past four or five years. Those reports include *Combating Child Sexual Assault — An Integrated Model*, published in May 1955, *Combating Sexual Assault against Adult Men and Women*, dated November 1996, and the *Rape Law Reform Evaluation Project* report.

All recommendations made in these reports have resulted from extensive consultations. The reports make recommendations to amend all sorts of aspects of sexual assault laws. The amendments we are dealing with today are consistent with the government's commitment to reform the criminal justice system to ensure that as well as meeting the needs of victims and providing better access to justice it has the confidence of the public.

The changes in the bill clarify and improve the operation of the existing provisions in the Crimes Act as well as inserting new provisions in respect of the joining of sexual assault charges and the admission of certain evidence which may prejudice the jury against the offender. These amendments will result in a more efficient, fair and consistent operation of the criminal justice system.

The amendments will facilitate the joint hearing of sexual assault charges to ensure that related charges are heard together. Examples would be an assault of

two sisters, or of a number of boys in the same school or camp, or the rape of a mother and her daughter by the same perpetrator. The bill also limits the inadmissibility of evidence which may be prejudicial to the accused. In making these changes the government is responding to calls from the community to have similar cases tried together where the case involves the same offender but different victims.

I have heard many examples — as I am sure Mr Nardella has in his involvement in the work of the Crime Prevention Committee — of perpetrators being acquitted because of a lack of evidence to convict on just one charge, whereas if the cases had been joined there would have been abundant evidence and an established pattern of behaviour and sexual assault.

Division 2 set out in clause 4 of the bill deals with the requirement for judges to provide directions to juries on the consent of the victim only when it is relevant and only in explaining the law to the jury to help its members to apply the law to that case. A judge would not be able to put his own opinion about the consent of the victim and influence the jury.

Clause 5 relates to sexual relations with a child under the age of 16 years. The new provisions extend the scope of section 47A of the Crimes Act beyond the requirement that the child must be in the care, supervision or authority of the accused for a case to be brought to trial. That means that if a child is assaulted — for example, at a family gathering — the case can still be brought even if the accused was not solely responsible for the child at the time.

Clause 6 inserts a limitation on comments made by judges about a delay in making a complaint after an assault. Sometimes the delay can cast doubt over the reliability of the victim's evidence. Once again the judge cannot imply a reason for a delay in making a complaint of assault just because there has been some time lapse between the occurrence of the assault and the charge being laid. The judge must inform the jury that there may be a good reason why the victim of a sexual assault may delay or hesitate about lodging a complaint.

Given the intimate nature and the terrible psychological effects such an assault would have on a victim, victims often have trouble coming to grips with the assault, particularly as a lot of sexual assaults are conducted by people known to the victims. That occurs particularly in family

circumstances where incest is involved or where someone in authority such as a priest or a teacher commits an offence. Obviously there are many reasons why a victim might feel uncomfortable about taking the final step of having the perpetrator charged with the offence.

Clause 9 deals with the Evidence Act, which Mr Furllett referred to in his contribution. The clause contains the requirement that a detailed written application to cross-examine a complainant about her prior sexual history must be provided to the DPP well in advance of the proceedings. The amendment will ensure the provision is complied with and not ignored. It will mean that the prior sexual history of the victim must be proved relevant to the case. The incident Mr Furllett related of a nine-year-old child being accused of sleeping around is one example of how victims are often be dealt with maliciously in the court environment. The provisions will ensure a more consistent and fair approach to the prosecution of sexual assault matters overall.

Part 4 deals with forensic procedures. Schedule 8 outlines the forensic sample offences, which include murder, manslaughter, kidnapping, rape, indecent assault, assault with intent to rape, and all sorts of offences relating to children under the age of 10, under the age of 17 and so forth. They also include burglary where there is an intent to commit a sexual or indecent assault, and aggravated burglary where the perpetrator deliberately and in a premeditated manner breaks into a home with a view to sexually assaulting the owner or occupant. That is something that I, as a woman, am very conscious of when I come home. I would hate to have an intruder in my home — it is supposed to be your castle — and be raped or assaulted in that environment.

The act provides that persons found guilty of engaging in certain sexual conduct may be liable to provide blood samples. The bill will extend the range of offences to cover not only sexual offences but also violent offences and drug offences. The amendment addresses community concern about serious crime. It strikes an appropriate balance between law enforcement and the need to maintain necessary safeguards that preserve individual liberty.

That is also achieved through the supervision of the judiciary. The police may apply to the court for an order to obtain or retain a forensic sample from a person who has been found guilty of a forensic sample offence. The information will be retained on a DNA database. The retention of information is an

important weapon for police in particular in the fight against crime, because it not only acts as a powerful deterrent to perpetrators reoffending but also aids in detecting future offences and solving unsolved crimes.

One case to which we can relate clause 25 is that of Robert Arthur Lowe, a former constituent of mine who has been found guilty of the murder of Sheree Beasley and who is considered to be the possible murderer of another girl of a similar age. When Mr Lowe was taken to court the police applied to have a forensic sample taken. Mr Lowe objected, so the court could not order him to provide that sample. The clause will ensure that when police have DNA evidence from a victim and have a fair idea about a suspect, the two samples can be brought together and the perpetrator can be dealt with by the law.

The bill also makes provision for persons to volunteer samples of DNA that stay on the database. That will assist those who have offended in the past and who have been dealt with because they will be able to eliminate themselves as suspects. For example, if a child is indecently assaulted in a schoolyard a known sexual offender who lives around the corner would be able to say, 'Look, it wasn't me'. He would not need to worry about alibis and so forth, because he could prove it by saying, 'Here is the DNA sample. Check it on the database. You can eliminate me from your suspect list'.

There is a fine line between protecting the rights of the accused and the rights of the community. But so far as I am concerned, those who perpetrate sexual offences — paedophiles, in particular — are the scum of the earth. In my opinion, people who assault children always reoffend. They will never be cured and they are always on the prowl for other victims. If they are not guilty the procedure will eliminate them; if they are guilty, they should be dealt with by the courts and go to gaol to pay for the terrible psychological and physical damage they have done to their victims.

DNA sampling provides a means to further improve the early detection and prevention of crimes, and it will give the police extra powers in gathering forensic evidence. Equally, appropriate safeguards and police responsibilities have been established to balance the exercise of these powers and the rights of the individual. Not only will these changes assist with the early resolution of crimes, they will also act as a deterrent to future offenders.

Clause 25 deals with retroactive operations. It permits the taking of samples from people who are already undergoing terms of imprisonment or detention and who have previously been found guilty of forensic sampling offences. That is where we will get Mr Lowe. It will not only significantly assist the police in the resolution of serious unsolved crime, but it will also deter others from reoffending on release, because they will know that the police have their DNA samples on the database and that if they commit other crimes they will be found out. Interestingly, similar provisions were introduced in the United Kingdom earlier this year.

As I said, the samples can be given voluntarily. This will significantly support and help the group of people who have prior criminal histories but who have a desire to make it back into society and not reoffend, because they will be able to eliminate themselves as suspects. Clause 19 allows nurses to take forensic samples, including intimate samples. In the past that was restricted to medical practitioners.

In conclusion, the bill extends the range of offences for which a court may order compulsory procedures to be executed and forensic samples to be taken to include burglary, aggravated burglary, arson, arson causing death, contamination of goods, trafficking of drugs of dependence and cultivation of narcotic plants being not less than a commercial quantity. It also expands the circumstances in which a court can order that DNA forensic sampling be undertaken to include offences where a victim has not been found — for example, kidnapping — or where a child is conceived as a result of an alleged sexual offence such as rape.

It will also enable a member of the police force to apply to a court for forensic samples to be taken from persons found guilty of certain offences.

I thank the former all-party Crime Prevention Committee for examining this important area of sexual assault and for identifying areas of concern from victims and the police force, the enforcers of our laws, and proposing reforms to improve the access of victims to justice. This issue would have been difficult to deal with, and I thank members of that committee because they have been deeply affected by some of the experiences and the crimes they have been made aware of. It would be difficult not to be personally affected by such crimes because they are intimate and can affect victims and their relationships with others for the rest of their lives. I thank the committee for its recommendations. I

reject the reasoned amendment and commend the bill to the house.

Hon. K. M. SMITH (South Eastern) — It gives me pleasure to support the Crimes (Amendment) Bill and reject the reasoned amendment. I compliment the Attorney-General and her staff on examining the former Crime Prevention Committee's report that was tabled some two years ago. Many of the recommendations are still being implemented. The Attorney-General and the ministers for Education and Tertiary Education and Training have continued to implement many of the 130 recommendations.

Clause 5 of the bill proposes to remove from section 47A of the act the expression 'and who is under his or her care, supervision or authority'. The committee examined that area because of a loophole. For example, a friend of a family may have gone on a social outing and continued to commit offences against the children of that family. Because the children were not under the care, supervision or authority of that person, the offender could not be charged under that section of the act. That will be remedied by this bill.

Unfortunately we are talking about offences against children, particularly by paedophiles. Those people infiltrate and gain the confidence of families, and then abuse that confidence. Those devious people, unfortunately, could not be dealt with under that particular section of the law. As I said, that will be rectified.

Clause 6 relates to a technical problem that occurs when judges warn juries in sexual cases. For example, if some time had elapsed between when the offence was committed and when the victim made the complaint against the accused, the judge might warn the jury in a way that gave the jury the feeling there was some reason why the case should not have come before the court. There are always reasons why a woman or a child might not report having been sexually assaulted or assaulted in other ways. Certainly sexual assault is traumatic for any person and there may be reasons for not reporting the crime. Certain warnings by the judge to the jury could put the jury off. I am pleased that clause 6 will remedy that problem.

Clause 7 refers to joinder trials. Such trials are not normally supported by the judiciary; they are certainly not supported by defence lawyers because they always say it is better where more than one person is involved that the cases be heard separately. A number of accused seem to walk away

because one person could not give evidence against another even though they were both present when the offence was committed.

The committee spoke to Bernard Bongiorno, who at that time was the Director of Public Prosecutions. I am pleased that he is now not the DPP from some of the things he said at the committee hearing.

Mr Bongiorno said:

The joinder of trials so that we are trying people for more than one event or more than one complaint introduces an element of prior conviction ...

As the DPP he should have been looking at the cause of the problem, investigating it fully and getting on with prosecutions. Mr Bongiorno looked at it in a way that was different from the way I looked at it.

The separation of trials is a complex issue. The committee was informed of a case where a man had been reported for sexually assaulting two boys. The man was in bed and each of the boys had his hand on the man's penis and certain offences were committed during the period the boys were with him. Unfortunately the trials were heard separately and the accused was found not guilty of offending against the two boys. Because there were separate trials one defendant could not give evidence against the other and that made it difficult for the prosecution to take place. When one boy gave evidence against the second boy he was not permitted to comment on what he was doing to the man's penis; it was not relevant to the offence because it was the other boy who was being offended against. The bill will overcome that problem.

The committee was advised of a person who was accused of offences against four boys. There was no application from the defence and the charges were heard at one trial and a conviction recorded. That is what will occur under this legislation in cases where each person can give evidence about happened to the others. On appeal the charges were separated and the accused was found not guilty of each of the charges.

That proved to me there was a guilty party, but because the boys could not give evidence separately the accused was found not guilty. What did he do? He walked out of court and, as most paedophiles do, he probably offended again. We are now in a position of being able to do something about these types of cases. I congratulate the Attorney-General and the members of the former Crime Prevention

Committee, because the provision is based on a recommendation it made.

Clause 9 relates to evidence being sought from a complainant about his or her previous sexual experience. I have a problem with that, particularly if it does not relate to the particular case. I am pleased that the Attorney-General has included rules and requirements that set time limits. The DPP will give a specified time by which the rules are to be met. That will make it a lot easier on people who have been offended against but who are concerned that when they get to court their previous sexual histories will be brought up in front of all and sundry.

Under the legislation any questions they will be asked about their sexual histories will have to be given to them in writing prior to the court hearing. The fact that they will know the questions they will be asked will forewarn them of the manner in which the answers could be used against them. I understand that will also occur before committal hearings.

A large amount of evidence was given to the Crime Prevention Committee about the haranguing that goes on at committal hearings. Defence lawyers see committals as an opportunity to break the spirit of people bringing charges against their clients. The hearings are used as opportunities to give witnesses a severe bashing around the ears, to denigrate them by raising their former sexual experiences, to confuse them and to call them liars and numbers of other things. Barristers use committal hearings to rattle children who are scared to death of appearing in courtrooms anyway by abusing them and otherwise trying to break their spirit. I am pleased the change has been made.

Clause 10 sets out alternative arrangements for giving evidence. I mentioned before the concerns some people have about appearing in court. Mr Nardella related the story of the man who flicked his pen in a way that terrified the victim, because that is what he did when he offended against her. Although the Crime Prevention Committee travelled to a number of places around the world its members saw a great example of closed-circuit television in Adelaide.

A small room was set aside for the complainant, from where he or she could see the judge. When questions were asked the judge, the jury and the accused could also see the victim because the television camera was focused on him or her, but the

victim was never in a position where he or she could see the accused. Talking to a TV camera is not like standing up in a tense courtroom. The trauma in the courtroom does not affect the victim, because he or she is in a separate room supervised by a court official.

That not only applies in the case of children. The Crime Prevention Committee was given video evidence of adult females relating cases of incest against their parents. I thought the presentation was good, and I am sure the same thing will happen in Victorian courts. Once again, that is based on another recommendation of the Crime Prevention Committee.

Mr Furletti has given a good run-down on propensity evidence. I congratulate him because it was something I had found difficult to understand, my not being a legal eagle. In plain terms, propensity evidence is similar fact evidence. I was pleased when he talked to me about it and clarified its meaning. His explanation was clear. The provision will work well.

Hon. D. A. Nardella — I got Peter to explain it to me!

Hon. K. M. SMITH — I would be more than happy to sit down later and talk to you about it.

Clause 16 deals with forensic procedures, which the opposition is objecting to. I do not have any objection to the taking of forensic samples or to the way in which they will be taken. The rules set out in the bill give people the opportunity to object if they wish and to eventually have their samples destroyed. It also gives the police the opportunity to be able to gather evidence, particularly from people who are currently in gaol.

Clause 25 deals with people in gaol having samples taken from them. That brings to the forefront the case against Robert Arthur Lowe, the man who was tried and convicted of the murder of Sheree Beasley. He has been fighting for a long time against allowing the authorities to take further samples of his blood or any other samples that would allow DNA testing, because there may well be other victims further down the track.

This man murdered a young child by having oral sex with her until she suffocated. He then stuck her body in a drain pipe at Red Hill. There is every chance that he had committed such a crime before. If that is the case the police will be able to gather that

evidence and have a look at some of the DNA samples that have been taken from other victims — and if necessary prosecute the man. One would hope that he is prosecuted if other victims of his are found. I do not think he will be let out of gaol. Let's hope they lock him up with two locks on the door. We do not need that sort of animal in this world!

The change is based on another recommendation of the Crime Prevention Committee. I hate to keep saying that, but we published a report some two and a half years ago and I am marking the recommendations off. There are still a number of recommendations to be implemented. It is a matter of some bureaucrats taking the bull by the horns and being prepared to let us implement some important recommendations such as establishing sexual assault response teams and setting up some of the pilot schemes that were mentioned earlier. The process was started, but I think it was put up by the police and the Department of Human Services to placate some of the those who were complaining, including me. I hope those recommendations will be put in place in the future.

Two days ago a mother came to my electorate office — unfortunately I was not there — together with the grandmother of her child. The child had been offended against by her father during his weekend access to her. The police thought it was a strong enough case and examined it closely. Department of Human Services officers thought the complaint was legitimate and they, too, examined it closely. However, both came to the conclusion that there was not enough evidence to proceed.

Police officers interviewed the child, but because of their lack of training in interviewing young children they felt it would be a case of the word of a child against the word of an adult. The police were not prepared to prosecute. Sexual assault teams would include experts who could interview such a child. Then, with luck, a prosecution could be launched.

In that example the grandmother has given me a hard time because I can do nothing further. She witnessed her granddaughter being sexually assaulted by the child's father. The grandmother has taken the matter as far as she can — even to the Ombudsman. A blunder occurred when the father was initially interviewed. The grandmother is trying to take the matter to the courts, but she cannot take it further. I can tell the house the episode has ruined that grandmother's life. Instead of acting as a normal grandmother, her whole life has been dominated by the offence against her granddaughter. It is difficult

for me to tell her I cannot do anything for her. I very much support the bill. It is good to see it pass.

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

	<i>Ayes, 32</i>
Asher, Ms	Hall, Mr
Ashman, Mr	Hallam, Mr
Atkinson, Mr	Hartigan, Mr
Baxter, Mr	Katsambanis, Mr
Best, Mr	Knowles, Mr
Bishop, Mr (<i>Teller</i>)	Lucas, Mr
Boardman, Mr	Luckins, Mrs
Bowden, Mr	Powell, Mrs
Brideson, Mr	Ross, Dr
Cover, Mr	Smith, Mr
Craige, Mr	Smith, Ms
Davis, Mr D. McL. (<i>Teller</i>)	Stoney, Mr
Davis, Mr P. R.	Strong, Mr
de Fegely, Mr	Varty, Mrs
Forwood, Mr	Wells, Dr
Furletti, Mr	Wilding, Mrs

	<i>Noes, 9</i>
Eren, Mr	Power, Mr
Gould, Miss	Pullen, Mr (<i>Teller</i>)
Hogg, Mrs	Theophanous, Mr
McLean, Mrs (<i>Teller</i>)	Walpole, Mr
Nardella, Mr	

	<i>Pair</i>
Birrell, Mr	Nguyen, Mr

Amendment negatived.

The PRESIDENT — Order! I am of the opinion that the second and third readings of this bill require to be passed by an absolute majority of the whole number of members of the house. I ask honourable members supporting the second reading of the bill to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time; by leave, proceeded to third reading.

Third reading

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

That this bill be now read a third time.

In so doing, I thank Mr Nardella, Mr Furletti, Mrs Luckins and Mr Smith for their contributions. By way of observation, today's debate on the bill in this chamber has been not only informative but sensitive, for which I congratulate honourable members.

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

ST ANDREW'S FOUNDATION BILL

The PRESIDENT — Order! I have had the opportunity of examining the bill and it is my opinion that it is a private bill.

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

That this bill be dealt with as a public bill.

Motion agreed to.

Second reading

Debate resumed from 19 November; motion of Hon. LOUISE ASHER (Minister for Small Business).

Hon. D. A. NARDELLA (Melbourne North) — The opposition supports the bill, which establishes the St Andrew's Foundation. The bill will allow for the distribution of funds from the endowment fund comprising charitable gifts and donations. Those funds are currently being managed by the former hospital's board of management, which has continued to hold and administer the money.

It provides grants and donations towards hospitals, aged care facilities and community service programs that are provided by the Presbyterian and Uniting churches. The St Andrew's Hospital was closed after 56 years of service. The opposition supports the bill.

Motion agreed to.

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 not only for his support but also for his speedy support!

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

HEALTH SERVICES (ST ANDREW'S HOSPITAL) BILL

Second reading

Debate resumed from 19 November; motion of Hon. R. I. KNOWLES (Minister for Health).

Hon. M. M. GOULD (Doutta Galla) — The opposition does not oppose the bill, which deals with issues relating to the closure of St Andrew's Hospital and in particular to the disposition of funds it acquired over the years. The bill does not determine the way in which the funds are to be divided, but it repeals the St Andrew's Hospital Act and the St Andrew's Hospital (Guarantee) Act.

It also provides that the Secretary to the Department of Human Services be the successor in law and therefore be responsible for the remaining assets of St Andrew's Hospital. As I said, the opposition does not oppose the bill.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank Miss Gould for her support of the measure.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

EDUCATION (PRESCHOOLS) BILL

Second reading

Debate resumed from 19 November; motion of Hon. R. I. KNOWLES (Minister for Health).

Hon. M. M. GOULD (Doutta Galla) — Kindergarten education is an important way for children to enter the school world. I suspect a number of members of the house who were sent off to kindergarten by their parents have sent their children off to kindergarten and some whose children are too young will be sending them off to kindergarten when they are old enough.

Preschools today survive as a result of the involvement of parents and committed staff. Recently kindergartens have cautiously moved into the school system, but it is strongly advocated that they remain under the jurisdiction of the Department of Human Services and do not move to the Department of Education. Preschools must remain the primary focus for early childhood development, not curriculum-based outcomes, as the minister said in his second-reading speech.

Preschools are important for the early development of children. They assist in the development of skills at a pace that suits the child. Those skills include language, social interaction, cognitive and motor skills.

Kindergarten teachers in my electorate have advised me that many children who enter kindergarten have never spoken English because they have been looked after by their grandparents. As honourable members know, many people from non-English-speaking backgrounds live in my electorate. For many of the four-year-olds it is the first time they have come into regular and structured contact with people who speak English, which of course is something other children take for granted. The teachers say that it takes a little time for the children to learn how to cope with children of their own ages and the demands of sharing and cooperating with others.

The structured format is not presented in a threatening way, but in an environment where children can adjust at their own pace. Prep teachers

tell me that within 30 minutes or less on the first day of school they can pick the students who have been to kindergarten because they know where to put their bags, where to sit and to find paper, crayons and pencils. A child who has not been to kindergarten will walk into the room and wait for someone to tell him or her what to do, whereas children who have been to preschool have some idea of the structure involved in school. Preschool teaches children to play with a purpose, which in turn allows them to develop their skills.

Kindergartens are undergoing difficult times because of government funding cuts, which have resulted in huge fee increases. The volunteer committees are now weighed down with paperwork and are forced to raise funds for the most basic kindergarten needs instead of having to raise them only for the little extras such as clowns or outings. Preschool committees must be involved in massive fundraising drives to maintain the teachers and the basic equipment the kindergartens need to fulfil their role.

In discussing the bill the opposition was advised there were no guidelines for consultation or plans to consult with the preschool community on its view of the impact of the legislation. For that reason, I move the following reasoned amendment:

That all words after 'That' be omitted with the view of inserting in place thereof 'this house refuses to read this bill a second time until members of this house and the public have had an opportunity to scrutinise proposed guidelines relating to preschool programs and, in particular, guidelines controlling the practice of potential commercial preschool entrepreneurs.

The bill allows for preschools to be established on Department of Education land in schools where there are primary school children. There has been no consultation with the kindergarten community and teachers about how the proposal is to be implemented.

Last year Kindergarten Parents Victoria conducted a survey when there were rumours that the Department of Education may be taking over the role of kindergartens, which was a concern to KPV. The Department of Human Services established a consultative committee to consider whether kindergartens ought to remain under the Department of Human Services. KPV issued a survey to its members and received a 72 per cent return; approximately 540 members of the KPV responded to the survey.

They were asked whether kindergartens ought to be transferred or taken over by the Department of Education. A question was asked whether members of the KPV agreed that kindergartens were badly managed by parents: 72 per cent did not agree with that question. A second question was whether they thought the state primary school system could provide children with a more appropriate quality kindergarten program: 3 per cent said yes; 30 per cent, maybe; and 84 per cent, no.

A third question was: who would they like to see the kindergarten set by? Option (a) was the school council: 1 per cent said yes; 98 per cent, no; and 1 per cent, maybe. Option (b) was the Department of Education: 3 per cent said yes; 89 per cent, no; and 8 per cent, maybe. Option (c) was early childhood professionals: 96 per cent said yes; 1 per cent, no; and 3 per cent, maybe. That gives us an indication of the KPV's member response about who they believe ought to manage and oversee the kindergarten curriculum.

A fourth question was: does your committee want to see kindergartens provide more/some child-care facilities? Some 15 per cent said yes; 71 per cent, no; and 13 per cent, maybe. It is clear that kindergarten committees are interested in delivering a particular curriculum, not necessarily child-care facilities.

In relation to how kindergartens have survived over the years through committees of management, which are based on community effort, the question was: does the committee of management want to be involved with the management of the kindergarten service and employment of staff? Some 76 per cent said yes; 8 per cent, no; and 16 per cent, maybe. I put those responses on the record because they are pertinent to the bill, which will allow for school councils to manage kindergartens.

The reason for the reasoned amendment is that there has been no consultation with the preschool industry about the bill. Clause 3 allows preschool programs — including programs for three-year-olds who turn three up until 30 April of that year — to be conducted by the school or the school council. It also allows the council to employ staff and grant licences to private providers to conduct the program or enter into joint arrangements with other school councils.

The opposition expresses concern that this provision will open up state education land to be used by private providers for profit, which goes against the view that education should be free. The bill will open up state land that should be used for our

children's education; and that land will now be used for profit by private providers. It may not have been the intent of the bill but the provision certainly allows for it.

The bill requires preschools that will be developed on Department of Education land to comply with the Health Act. And when the regulations that fall under the Children's Services Act of last year are finally in place preschools will be required to meet them, which is appropriate. We have been waiting a long time for the Children's Services Act regulations to be enacted. The minister is faced with an ongoing problem. The opposition has been advised that the regulations will be in place in six months time — in July of next year — even though it has had correspondence from the department advising it that in August of this year they would be only six weeks away. With a bit of luck those regulations should be in place by July 1998.

The bill prohibits Department of Education funding to be spent on capital works for preschools. That will make it difficult to establish preschools in schools in a large number of areas as preschools depend heavily on local government to provide capital works funding. Community churches also play an important role in funding such works. This prohibition will cause local government and community groups to rethink their involvement in preschools, and only for-profit private providers will be left. It will restrict preschool access to low-income families because of the high fees, which is a concern raised by the bill. The bill also makes it clear that any income that comes into the preschool must remain in the preschool; and schools cannot use their income to fund preschools.

I put an interesting scenario to the department at a briefing on this matter: if a private-provider kindergarten were placed on a school campus, the school was in a reasonably wealthy area and the community was good at fundraising, if the kindergarten and school jointly had a weekend fair at the school and raised considerable funds, how would you divide up the money if the money raised by the school is not allowed to go to the kindergarten and vice versa?

I put this scenario to the departmental officers. If the part of the school that collected the funds could not be distinguished, what would stop the kindergarten from claiming for three-year-olds, for whom there is full cost recovery? The kindergarten could use an advertising ploy and suggest that kindergarten for three-year-olds would be free because they were

subsidised from the fundraising. That would mean their kindergarten class was cheaper. The children would then go on to the more highly subsidised four-year-old area. That would act as an incentive to keep the children in the schools. The department could not answer the question because the bill does not provide for such a situation. The reasoned amendment allows for community consultation.

The opposition does not oppose preschools operating on Department of Education sites. To meet the guidelines and regulations set out in the Children's Services Act there has to be capital works funding, but the Department of Education is prohibited from funding such capital works.

In its consultations the opposition spoke to Kindergarten Parents Victoria. That association raised concerns about the lack of consultation. It has written to the Minister for Education raising a number of issues, some of which it asked to be taken into consideration when preschools are established. Those issues included a commitment that funding arrangements would not change without consultation with parents; that during the consultation stage copies of relevant curriculums, teacher qualification options and funding levels would be discussed; and that changes that did not include childhood teachers would not be endorsed. That is an important issue. There is a difference between a childhood teacher and a primary school teacher. They have different qualifications, different training and different skills.

Kindergartens must operate according to the regulations under the Children's Services Act. Parents have a continuing role in both management and delivery of services that currently exist in kindergartens. The bill allows school councils to conduct the program and employ the teachers, which is now the responsibility of the management of the kindergarten — the parents. Currently school councils do not have the responsibility of employing teachers and that may be something in which they have not previously been involved. They will need to be aware of the responsibilities attached to it. They will need to be aware that kindergarten committees now know of the excruciating details involved in paying wages, taxes, superannuation, annual leave and long-service leave.

School councils have to be involved in negotiations regarding industrial workplace agreements. These agreements should recognise the qualifications and skills of kindergarten teachers. At the moment school councils are not involved in industrial areas.

It is a concern that child-care centres, which include kindergartens, may be lowering the standard by not employing appropriately qualified staff. Some child-care centres are not allowing sufficient preparation time for the staff to ensure delivery of a quality program. With kindergartens incorporated in school grounds, concerns have been raised that there will not be adequate funding to ensure security. We must remember that three and four-year-old children will be mixing with older children. Under the bill a kindergarten can be established in the grounds of a primary school. As a result, 17-year-olds could be roaming around the school yard. They are perfectly entitled to be there, but there are some concerns for the smaller children.

Fees for kindergartens are another concern. Fees can range up to \$500 a year. Parents can be charged \$85 to \$100 a term. Parents will get used to paying this fee when they send their children to the kindergarten at the school. The following year when they pay the voluntary fees they could find that the fees are half what they were paying for the previous year. Parents would see that as a good deal.

The opposition has indicated that it cautiously supports the bill, so long as the community is consulted about the guidelines. Because that has not occurred I have moved the reasoned amendment. Before this legislation comes into operation it is important that the public and the members of this Parliament have an opportunity to scrutinise the proposed guidelines.

The bill will allow kindergartens to operate in schools. At the moment that is against the law. However, a number of kindergartens already operate on Department of Education land. They include kindergartens at Shepparton, Tullamarine, Chelsea, Highett, Balmoral, Portland, Vermont and Strathbogie, and there are other areas where such kindergartens exist. At the moment they are operating illegally and will continue to do so until the bill is enacted. They have been flourishing without control.

A number of other issues have been raised, including the question of whether preschools can be established where there is objection. Who will provide the capital for kindergartens on greenfield sites? Who will take care of the industrial relations for staff when there are three different licensing options? Those questions have not been answered.

The guidelines are not out. We need to answer those questions. It is because of those unanswered

questions that I have moved the reasoned amendment, and I urge all honourable members to support it.

Hon. P. R. HALL (Gippsland) — I oppose the reasoned amendment and support the bill. Although I welcome the opposition's cautious support for the bill, I am far more enthusiastic because it is a great initiative. I should explain that the provision of preschool programs is optional.

Miss Gould suggested schools right across the education system will be wanting to operate kindergartens. However, I do not think that will happen. Some will want to, but I believe the number will be small. School councils will have the choice of operating or managing kindergarten facilities, either on or outside school premises. I emphasize that the choice will be left to the local community, represented by its school council.

When the question of whether it was appropriate to locate kindergartens in schools was raised, one of the types of schools mentioned was the P-12 school, the students of which range in age from 18 to four years. Some communities will think that is inappropriate, so kindergartens will not be run on their school grounds. However, it was not a good example to choose, because the P-12 colleges are in small towns like Mallacoota and Swifts Creek in my electorate.

Hon. R. M. Hallam — They are working well.

Hon. P. R. HALL — Yes, they are working extremely well. Those communities are close, and there is a lot more trust between younger kids, older kids and families. For that reason, I do not think the P-12 schools were a good example to choose. However, I repeat that the choice of running a preschool program will rest with schools and their local communities.

I was interested to read a press release from the Minister for Planning and Local Government that arrived in my office this morning. It says that my electorate has the highest preschool and primary school attendance in the state, which surprised me. In his press release the minister says that a report undertaken by his department, entitled *Victoria in Fact*, found that, based on data from the 1996 census:

... 12.8 per cent of the Gippsland region's population attends a preschool or primary school compared with the Victorian average of 10.8 per cent.

My electorate must have a very young population! That is why initiatives such as this are important to Gippsland. I will outline some of the benefits of the measure and then comment on some of the reasons given by the opposition for moving the reasoned amendment.

Two or three years ago, when the government moved from the central employment of kindergarten teachers to locally based employment arrangements, kindergarten committees of management were concerned that they did not have the experience to undertake the employment functions that were involved in employing and writing out pay cheques for kindergarten teachers and their assistants. They felt it would be an onerous task, and I had sympathy for them. After all, people who serve on kindergarten committees of management are usually there for only one year or two while their children attend the kindergarten. For a volunteer mum or a dad who has no experience in the functions of employment, undertaking those tasks can be rather daunting.

During that time, I met many committees of management in my electorate. Some strongly expressed the view that there was a need for a more logical approach — that is, that preschool services be located under the education umbrella rather than under the community services umbrella. They felt kindergartens provided as much of an education function as a social development function. I take on board the statistics referred to by Miss Gould. But I make the point that many committees of management in my electorate believe preschools belong under the education umbrella.

If a school chooses to run preschools, the kindergarten committee of management will benefit because the school council, which already has some experience in employing staff, would take over the employment and payroll functions. Often, schools also have paid administrators called bursars whose jobs involve employing staff and so on.

The co-location of kindergartens and schools will be convenient for parents. They will not have to juggle dropping kids off at primary school and taking others on to kindergarten because each has a different starting time. Some teachers have dual accreditation qualifications: they are registered preschool teachers as well as primary school teachers. Where such staff exist, there may be a benefit in employing them partly at preschool centres and partly at primary school centres. In some cases — particularly in country areas — the

co-location of those facilities would result in their better utilisation.

In some areas excess land or buildings could be conveniently converted to establish preschools in line with the requirements of the Children's Services Act. Every school and community will have a different view about this. However, this has not been foisted on them; they will have a choice. I am sure they will take all those issues into consideration.

Miss Gould's essential point in arguing for the reasoned amendment was that there has been no consultation with local communities. The issue has not been ignored: it has been in the public arena for some time. There has been a fair bit of debate in recent years about preschools, particularly their funding. So the question of how preschools should be funded and whether they should be located under the education or community services umbrella has been considered by the community at large.

The bill does not transfer responsibility for kindergartens to the education department; they will still be funded by community services. It simply gives school councils the option of having community services fund their kindergarten operations. Although I cannot say whether the list of schools already operating preschool services is correct — I am not in a position to confirm or deny it — I can say that a number of independent schools are running programs from kindergarten to year 12 and have been successfully doing so for a long time.

If they can do it, I am sure the state system can also do it — if local communities consider it appropriate. This is an excellent initiative, one which a lot of people have looked forward to for some time. I am sure that in years to come the concerns expressed by the opposition will prove to be unjustified as we work through the teething problems. The proposal has a lot of potential to benefit the education system. I support the bill and reject the reasoned amendment.

Hon. C. J. HOGG (Melbourne North) — I support the reasoned amendment and the comments made by Miss Gould. I support the reasoned amendment because I believe the debate about the place of preschools in education has to be held by each preschool and school generation. It is not sufficient to say we had the debate when the children's services report was published in 1982 or 1983. Over the past few years there has been an ongoing debate about the fundraising required of

committees of management. This is a lively topic that needs to be debated over five years or so.

I take the point Mr Hall made that the bill does not make anything compulsory but simply gives primary schools a chance to do what independent schools have been doing successfully for some time. If the players in the field have not been sufficiently consulted, it would not hurt to allow the legislation to lie over until February or March, when the debate could be joined by all parties.

Preschool education is the best headstart young children can be given. President Clinton's education initiative in the United States will turn out to be largely about giving children that head start. All governments across Australia should be relentless in their provision of preschool education. We should be selling the advantages of preschool education to community groups that have traditionally relied on putting their four-year-olds into kindergarten. I know the bill is about the possible availability of three-year-old placements in kindergartens. Kindergarten for four-year-olds is of enormous benefit, as it would be for three-year-olds.

The debate is about whether kindergartens should be managed by the Department of Education. That in a sense presupposes that kindergarten to the end of school is part of the one educational experience, which is in part right and in part not right. Kindergarten, or preschool, is educational, but it is more than that: it is about all kinds of subtle childhood development experiences, including engaging children's attention, stimulating their sense of wonder, assisting them to sit still and concentrate, developing fine motor skills and coordination, teaching them to play together, and allowing them to do the sorts of things they would not do at home.

Preschool has a lot of the same aspects as the early years of education, but it is not the same. I have always come down on the side of thinking that kindergartens should be managed by parents under the auspices of the Department of Human Services. I have always seen the case for co-locating preschools and maternal and child-care services, and I equally can see the case for co-locating kindergartens and primary schools if that turns out to be appropriate for small country towns or small suburbs that have lots of young families. An individual argument must be made in each case. This is a debate that must be held every now and then. One cannot simply presume that the debate has occurred and that's it.

Miss Gould raised a number of questions in her contribution. A period of consultation would allow people interested in kindergartens and primary schools to come together to answer some of them. If I were on a school council that was offering grounds to a private supplier and provider of kindergartens and there were problems with a school fete, I would make some arrangements beforehand. Problems might arise with the supply of equipment to the school and the kindergarten. Those questions could be answered with additional consultation, but I believe the bill has a lot to recommend it.

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

Ayes, 31

Asher, Ms	Hallam, Mr
Ashman, Mr	Hartigan, Mr
Atkinson, Mr	Katsambanis, Mr
Best, Mr	Knowles, Mr
Birrell, Mr	Lucas, Mr
Bishop, Mr	Luckins, Mrs
Boardman, Mr	Powell, Mrs
Bowden, Mr	Ross, Dr
Brideson, Mr	Smith, Mr
Cover, Mr	Smith, Ms
Craige, Mr	Stoney, Mr (<i>Teller</i>)
Davis, Mr D. McL.	Strong, Mr
Davis, Mr P. R.	Varty, Mrs (<i>Teller</i>)
de Fegely, Mr	Wells, Dr
Forwood, Mr	Wilding, Mrs
Hall, Mr	

Noes, 8

Eren, Mr (<i>Teller</i>)	Nardella, Mr
Gould, Miss	Power, Mr
Hogg, Mrs	Pullen, Mr
McLean, Mrs	Walpole, Mr (<i>Teller</i>)

Pairs

Baxter, Mr	Theophanous, Mr
Furletti, Mr	Nguyen, Mr

Amendment negatived.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank honourable members for their in-principle support of the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 2 December.

Motion agreed to.

ADJOURNMENT

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

That the house do now adjourn.

Aged care: fire safety

Hon. M. M. GOULD (Doutta Galla) — I refer the Minister for Aged Care to his response to my question today in relation to fire standards in special residential services. Can he advise the house what measures he has put in place to ensure that all SRs comply with the building amendment regulations with respect to smoke alarms?

Mornington Peninsula: outsourcing

Hon. B. C. BOARDMAN (Chelsea) — I raise with the Minister for Finance representing the Minister for Planning and Local Government in another place a matter relating to the recently announced tourism promotion contract with the Mornington Peninsula Shire. The contract was announced on Tuesday, 11 November, and the successful bid came from the shire's in-house sport and recreation department. What appears on the surface to be a matter of great concern is that the other two tenderers, the Mornington Peninsula Tourism Forum and a consortium called Tourism Management Services, which includes the Balnarring-based company ASN Pty Ltd, have been totally locked out of the process.

It appears that they have been treated with some disrespect and inequity.

By way of background, the Mornington Peninsula Tourism Forum is the peak tourism organisation on the Mornington Peninsula at the moment. It has been in operation for three years and was initiated as a result of local government and federal government funding. It has achieved considerable and excellent results in that three-year period. It has industry on side and is perhaps one of the best tourism associations in the state. It is probably in the top two in the state and is used by many other associations as the model for their tourism promotional services. The Tourism Management Services consortium is an event manager that has wide experience in event management nationally. It saw the tender as an opportunity to do some good local work.

The applications closed on 5 September, and apart from initial meetings with the council's external contract unit it appears that both the applicants have been locked out of the process. I should make the point that after the initial meetings with the council's contract unit the Mornington Peninsula Shire Council was advised by its own unit that the Mornington Peninsula Tourism Forum was the preferred applicant. At that stage it seemed to all tenderers that everything was fine.

On 21 October the chief executive officer of the Mornington Peninsula Shire, Mr Warwick Dilley, informed the Mornington Peninsula Tourism Forum at a briefing that the council had decided to cease all negotiations with the tourism forum. He further stated it was for budgetary reasons. There was still no joy even after the tourism forum re-evaluated and re-presented its budget to the council. The council did not take the re-presented budget into consideration and all doors were locked. All opportunities to negotiate and present its case were completely lost to it.

Further, the other tenderer, Tourism Management Services, wrote to the chief executive officer on 23 October expressing concern that a serious breach of process had occurred in that specifications for the tender had changed and only one tenderer was afforded the opportunity to know the new or varied specifications. That information was included in a flier, dated 21 October, that contained details indicating that the council would deal only with the preferred tenderer. Even after these concerns were raised, the CEO responded that the contract unit would hold no further debriefing on the project and would not elaborate further on its press release.

From that moment on the consortium was not allowed to negotiate any further with the council.

The situation has become particularly complicated because the consultant for the in-house bid received \$15 000 in consultancy fees. The consultant's name is Talia Kenyon. Her husband is Ralph Kenyon, the customer service manager of the council, and it has been inferred that Mrs Kenyon has had unprecedented levels of access to council staff, councillors and information. What is even more surprising is that as a result of this successful tender Mrs Kenyon has been appointed the interim CEO of Tourism Promotion Services.

The PRESIDENT — Order! I ask the honourable member to put his question or make a complaint.

Hon. B. C. BOARDMAN — I ask the minister to ask his colleague the Minister for Planning and Local Government in another place to initiate an audit and an investigation of this tender process to establish whether or not the process was transparent and equitable to all tenderers.

Northern Melbourne Institute of TAFE

Hon. PAT POWER (Jika Jika) — I seek the assistance of the Minister for Health in raising with his colleague the Minister for Tertiary Education and Training a matter relating to the Northern Melbourne Institute of TAFE. By way of background, some time ago I raised an issue about disciplinary procedures at primary, secondary and tertiary schools and colleges in my electorate. I record my appreciation of the prompt response I received from the Minister for Tertiary Education and Training.

As a consequence of some local interest in this issue, I have been approached by a former student of the Northern Metropolitan College of TAFE, a young woman named Rachael Cawood, who lives in the electorate represented by me and Mr Theophanous. She experienced some personal difficulties with another student at the college. Following an alleged assault on another student, Ms Cawood was suspended by the college.

The report of the way in which the issue was managed by the college has caused me some concern. It appears that Ms Cawood was expelled from the college without being guaranteed access to a fair and reasonable process. No-one directly witnessed the alleged assault. The way in which the college unilaterally, in my view, deemed

Ms Cawood should be suspended appears to be less than appropriate. I ask the Minister for Tertiary Education and Training to investigate whether the process that led to Ms Cawood's suspension was fair and reasonable.

Taxis: interstate driver accreditation

Hon. W. R. BAXTER (North Eastern) — I refer the Minister for Roads and Ports to the operation of taxis along the state border. I understand, for example, that Wodonga-based taxis and taxis licensed by the Victorian Taxi Directorate can pick up passengers in New South Wales so long as they have been pre-booked. When I return from Parliament to Albury Airport I often telephone ahead to Wodonga airport and book a cab for a certain time. That has been a satisfactory arrangement. I support Wodonga taxis rather than New South Wales taxis.

I have been informed by the Wodonga taxi operators that they are being harassed by New South Wales police. They are not permitted to pick up passengers in New South Wales unless the drivers are accredited by the New South Wales government. That severe impost would affect probably 40 or 50 Wodonga drivers. I would have thought that under mutual recognition such activity would not be legal in any event. I know the Victorian government has been more ready than other states to take up mutual recognition and, in fact, leads the nation; but there is no reason why New South Wales should drag its heels.

I ask the minister to clarify the situation. If the scenario I have sketched turns out to be correct, will the minister say what action could be taken to protect the Victorian taxi industry?

Housing: facilities for the disabled

Hon. B. T. PULLEN (Melbourne) — I raise with the Minister for Health, as the representative in this house of the Minister for Housing, the position of a constituent, Mr Cedimir Popovic, who suffered gunshot injuries to his arm during the Bosnian war. He requires housing with special bathroom fittings. He has been accepted on the waiting list for public housing but not at a priority level. Because of the present shortage of public housing, Mr Popovic faces several years on a wait-turn basis.

Mr Popovic is living with his wife in private accommodation. He has approached private landlords to have fittings installed. He tells me those

fittings are provided free of charge by the Commonwealth Rehabilitation Service. But it appears private landlords are reluctant to allow that work to be done because of their fear that if Mr Popovic moves on, they will be faced with the cost of converting the bathrooms to their original state. It appears that on two occasions Mr Popovic has been evicted and has had to move to other properties. Obviously he thinks moving to public housing would be better for him because he could obtain greater security and probably a more tolerant landlord in arranging fittings to suit his disability.

I ask the minister to request the Minister for Housing to investigate whether any system could be put in place to provide some sort of bond to private landlords. Although this is the only case of its kind that has been brought to my office, I suspect there may be other cases of people with disabilities who have problems in getting such conversions in private rental situations because of the landlords' fear that they would need to later change the bathroom fittings. Perhaps a policy point is involved. I ask the minister to at least investigate whether people with such disabilities in similar situations could be supported.

Aborigines: health policy

Hon. D. McL. DAVIS (East Yarra) — I raise with the Minister for Health, as the representative in this house of the Minister responsible for Aboriginal Affairs, the issue of Aboriginal health in Victoria. The minister may be aware of my interest in public health and my membership of the Public Health Association of Australia.

The association's recent 29th annual conference, held last month in Melbourne, passed a statement known in the association as the Melbourne Statement, which comments favourably on progress in Aboriginal health in Victoria. It states:

This conference notes with some optimism the progress made in Victoria in implementing the framework agreement on Aboriginal health. We congratulate the Victorian Aboriginal community-controlled health services, the Victorian Department of Human Services, the Office of Aboriginal and Torres Strait Islander Health Services and ATSIC for their commitment to developing this partnership which is critical to improvements in Aboriginal health. We believe the collaborative regional planning process is likely to lead to a more efficient and effective allocation of resources in Aboriginal health in Victoria.

Given the positive endorsement of Victoria's policy in this area by the leading public health association in Australia, what will the agreement mean for Aboriginal health in Victoria given that Aboriginal Victorians are among the most disadvantaged and vulnerable people in the community? I further ask the minister what action the government will take to implement the partnership and advance Aboriginal health in Victoria.

Teachers: TAFE contracts

Hon. D. A. NARDELLA (Melbourne North) — I raise a matter for the attention of the Minister for Health, as the representative in this house of the Minister for Tertiary Education and Training. Today a group of dedicated teachers and their union, the Australian Education Union, met with a number of my parliamentary colleagues from the other place to discuss the discriminatory and exploitative practices used by the management of the Footscray campus of the Western Metropolitan College of TAFE, which particularly affect women teachers employed on contract.

It was interesting to note that my parliamentary colleagues had to meet the teachers on the footpath outside the college because the management would not allow them to come on site. The teachers, some having worked as teachers for 20 years, now find themselves — just before Christmas — unemployed. Their contracts have not been renewed. They are left without the financial resources they need for their families. The misguided management, having no regard for the commitment and dedication of those fine teachers, is seeking to follow mindless and heartless government ideology to save money by exploiting the teachers.

I shall provide some examples of the people being treated with absolute contempt by their employer. Delia has had 20 years dedicated service but will receive no pay until 15 January. She has had to reapply for her position and be ranked against colleagues. She has had enough and her talent has now been lost.

Case 2 involves Nelly, who has eight years of dedicated service. She will receive no pay until 15 January, with no pay over Christmas. She has to reapply for her own position and be ranked against her colleagues. Case 3 is Caroline, who has 15 years of dedicated service. She is facing Christmas and January 1998 without pay. She is expected to fit the same amount of work into a shorter year for less pay. Case 10 is Jessica, with four years of dedicated

service. She generates an income for the institute by developing industry training programs, writing manuals and working in industry workplaces. She has to reapply for her job and be ranked against her colleagues, and she also faces Christmas without pay until some time in January.

I ask the minister to refer the matter to the Minister for Education for his attention and resolution so that these teachers and others whose holidays have been stolen are treated with fairness and equity.

Vicroads: tourism signage

Hon. R. A. BEST (North Western) — I direct to the attention of the Minister for Roads and Ports the issue of the tourist road signage for the Goldfields Mohair Farm at Ravenswood. It is a tourist attraction and manufacturing enterprise. Mr Joe Clarke is the operator and proprietor. He has been trying to negotiate with Vicroads to retain the tourist signage to the mohair farm. He has recently been advised that there are two unauthorised road signs on the Calder Highway. Vicroads wrote to Mr Clarke on 29 October. The letter states:

Current guidelines for tourist signing permit signing of establishments such as yours from the closest 'declared road', in your case this being the Bendigo-Maryborough Main Road, and I believe suitable signing has been provided at this location by the City of Greater Bendigo.

Vicroads has noticed that the unauthorised signs have still not been removed, as requested, and as Vicroads has not consented to the provision of these signs you are hereby officially requested to arrange the removal of the signs as soon as possible to avoid any further necessary actions.

In a letter to me Mr Clarke states:

Ron, without those signs in place, the retail outlet, animal farm and nursery stands to fall, as we depend on local and out-of-town tourists and until we receive our overseas orders which we are currently negotiating for there is not much money rolling over. If the business falls away I would have to look seriously at retrenching staff.

The Regional Signage Committee, which is responsible for addressing the signage of tourist attractions in the area, supports Mr Clarke and his retention of the signs. It is an important tourist attraction, and I ask the minister to look at the

situation and provide any assistance possible for Mr Clarke and the Goldfield Mohair Farm.

Workcover: common-law access

Hon. T. C. THEOPHANOUS (Jika Jika) — I direct to the attention of the Minister for Finance a matter that concerns his responsibility for Workcover. Essentially I want to follow up a question I asked today that built on questions I have asked over the past couple of days relating to the issue of third-party claims. Workers can sue third parties where those third parties were responsible for or contributed to the workers' injuries. In his response today to the case of the female taxidriver he said she would not be able to sue in a civil court for civil damages under common law. He went on to say that that did not mean the perpetrator would not go unpunished. If I understood him correctly, he said that the punishment would occur on two levels: firstly, criminal action would be brought against the perpetrator — and the opposition agrees there is no difference between the two examples I gave in relation to criminal action — and, secondly, it would be possible for the employer to take action.

Hon. R. M. Hallam — No, by the authority.

Hon. T. C. THEOPHANOUS — I believe you said 'the employer', but you may have meant the authority.

Hon. R. M. Hallam — No, the authority.

Hon. T. C. THEOPHANOUS — I am happy to check the *Hansard* record, but I am sure the minister said 'employer'. If that is not what he meant he can explain that in his response.

My question is about the action that would be taken, whether by the employer or the authority, to recover the costs the Victorian Workcover Authority may have borne by providing compensation to the injured worker. The problem is that compensation under the Workcover legislation, even if it were granted, would result in two things. Firstly, the compensation would be only at the level of whatever the Victorian Workcover Authority paid out. It would not include compensation that would be payable in a similar situation under common law for the impairment, pain and suffering the person may have endured. It would simply be whatever the authority's costs were. Secondly, and equally importantly, the victim would have to go before a court and would be subjected to cross-examination. Presumably, the victim of rape would receive no

benefit because whatever benefit was derived would go to the Workcover Authority and not to the individual involved.

I ask the minister to confirm whether my interpretation is correct. If it is will he reconsider third-party claims in these situations, which is what happens in the United States of America, where there are no common-law claims?

Responses

Hon. R. I. KNOWLES (Minister for Health) — Miss Gould asked about fire standards in supported residential services. She seems to be under the misapprehension that they are government facilities. They are not; they are private facilities that receive no recurrent subsidy. I have previously explained to Miss Gould and to the house that what the government has done is to ensure that the regulations are observed. That has been an ongoing program over five years.

As a way of trying to raise standards the government has brought under the act a significant number of boarding houses that have been identified more appropriately as supported residential services. There has been a significant raising of the standards through that effort and through the deregistration of a number of supported residential services which were not up to scratch and which gave no indication of ever being likely to do so.

It is a balancing act because those services provide something like 8500 beds in Melbourne. If those beds are not available people face the significant risk of homelessness. The government is trying to ensure that it brings those homes up to an acceptable level in the context that the only revenue available for the residents and the providers of those homes is what the residents can afford to pay. The vast majority of people in supported residential services are pensioners. The department will continue to work with the health services in an endeavour to raise those standards.

Mr Power raised a matter for referral to my colleague the Minister for Tertiary Education and Training regarding the circumstances of a Ms Cawood. He inquired whether the process has been fair and appropriate. I will pass on his request.

Mr Pullen raised a matter for the attention of the Minister for Housing. He inquired whether it is possible for assistance to be available where a person

with a disability who requires specially adjusted housing facilities could approach the private landlord and encourage him to make a rental adjustment.

Hon. B. T. Pullen — It could be a bond scheme or something like that. I understand we are talking about something that costs only a few hundred dollars, not thousands.

Hon. R. I. KNOWLES — Sure. I will refer the honourable member's request to the minister, and I am sure she will respond to him.

Mr David Davis raised an important issue — the Public Health Association's recognition of the work that is occurring in Victoria in an endeavour to lift the health status of Victorian Kooris. It is an important initiative. In many respects it is adopting a different approach from that adopted in the past, which was often described as a top-down approach. The program the government has embarked on is more a bottom-up approach. It involves a four-way agreement between the commonwealth government, the Victorian government, ATSIC and the Victorian community's Aboriginal health services.

A number of projects operate in the Koori community to assist Kooris to identify their own health priorities. Their aim is to ensure that the service system is able to respond to those needs through changes in generic health services and to provide services that are more sensitive and culturally relevant to the Koori community. The development of specialist Koori-provided health services is also an important government initiative. There are many ramifications. Hepatitis and diabetes are significant issues as there is a much higher incidence of those diseases among the Koori community.

It is important to recognise that a framework is in place. It will take many years for us to get rid of the significant disadvantages Kooris currently experience. The life expectancy of Kooris is significantly lower than that of the rest of the community. The health status of Kooris in Australian and Victoria is much lower than that of non-Kooris. Koori health is an important priority for this government, and it is pleasing to have that priority recognised by the Public Health Association of Australia. I know the association is advocating that other states and territories give Aboriginal health the same priority it has in Victoria.

Mr Nardella raised for referral to my colleague the Minister for Tertiary Education and Training a matter relating to concerns expressed by staff at the Footscray campus of the Western Metropolitan TAFE college. I will pass on his request to my colleague.

Hon. R. M. HALLAM (Minister for Finance) — Mr Boardman raised with me concerns about the process associated with the Mornington Peninsula Shire Council's letting of a tender for its tourism promotion services. The honourable member suggests the process has been unfair to the extent that two tenderers appear to have been effectively locked out of it. He asked that I take the issue up with my colleague the Minister for Planning and Local Government with the request that he investigate the probity of the process. I will pass that on.

Mr Theophanous raised with me the same issue he raised during question time earlier today, and indeed yesterday during question time. It concerns the proposed changes to workers compensation and, more particularly access to common-law actions against third parties. The scenario he painted today was that of a female taxidriver who was raped while at work. In the circumstances he implied that there would be no common-law action available to the taxidriver against the perpetrator of the crime. He asked me whether that was accurate and I said yes. I stand by that answer. The honourable member's imputation was that the result would be unfair because the taxidriver would be entitled to a lesser outcome.

In the course of the discussion the honourable member now tells me I said action by the employer would not be precluded. If I said that, I was wrong. I meant the principal, which in this case would be the Victorian Workcover Authority. That is the effect of the response I gave yesterday. I cannot remember the precise section of the act — I think it is section 83 — but it gives the Victorian Workcover Authority the ability to take action against a negligent third party where it is held accountable for compensation under a no-fault system.

I invite the honourable member to approach the problem a little differently. He is suggesting that the system being proposed would be somehow unfair to the taxidriver in that circumstance because she would be precluded from taking common-law action. However, it would be appropriate for the honourable member to take time out and think about the problem laterally. The proposed changes

mean the taxidriver would not be required to take a common-law action to be entitled to compensation. I think that is the fundamental difference.

Hon. T. C. Theophanous — What about the rapist?

Hon. R. M. HALLAM — Let me finish. If you are going to use an example citing a taxidriver at work and compare that with the same circumstances where the victim was not at work, I simply make this point: if the victim is not at work and therefore does not have the protection of workers compensation, what if the criminal in this case has left the vehicle and disappeared? The victim would have no capacity to take any action at all. Sure, a criminal action is still available, but in both cases if criminal action were taken the victim would in most cases be subjected to the cross-examination you suggested was most unfair.

What I am putting to you, Mr Theophanous, is that under the system where no fault is involved at all — —

Hon. T. C. Theophanous — But she has to be cross-examined for the Workcover Authority to recover funds, not for her to get any money.

Hon. R. M. HALLAM — I make this point: under section 83, where the authority has met the compensation claim, it is now entitled to stand in the place of the claimant and to recover. I suggest that is a far better system than one that relies on a common-law finding. You immediately see the extent of the lottery: if you cannot find the perpetrator of the crime, irrespective of how rich he or she might be, it does not make any difference. How can you take a common-law action against someone you cannot identify?

Hon. T. C. Theophanous — That is just a furphy, and you know it is a furphy.

Hon. R. M. HALLAM — No, it isn't.

Hon. T. C. Theophanous — The example I gave you is one in which the perpetrator was identified. You can go off and find any other silly example to bring in here as a furphy.

Hon. R. M. HALLAM — You have changed the circumstances now.

Hon. T. C. Theophanous — I have not changed the circumstances at all.

Hon. R. M. HALLAM — You have, because you are introducing a different component to the extent that the perpetrator can be identified. My point is that it is not — —

Hon. T. C. Theophanous — I am saying that the perpetrator would be sued in a civil action in one case and will not be sued in a civil action in another case.

Hon. R. M. HALLAM — Maybe.

Hon. T. C. Theophanous — You are saying 'maybe'.

Hon. R. M. HALLAM — Maybe, but remember that the question of whether he would be sued might depend as much on whether he can be traced as anything else. Given what Mr Theophanous says is an inequity — and I dispute that — he asks whether I will now reconsider the question of third-party claims in the legislation coming before the house. I invite him to run the argument when the bill comes on for debate. If Mr Theophanous wants to have a look at the best possible argument, he should continue to cite the American experience where the level of litigation does anything but recommend the system. Mr Theophanous should try to talk to some of his colleagues in New Zealand. They would be delighted to have the opportunity to remove third-party litigation.

Hon. T. C. Theophanous — Third-party litigation does not affect compensation.

Hon. R. M. HALLAM — That may be your suggestion. It has sent a shiver across the entire community of the United States because of the advent of access to litigation against third parties. It has caused great distress right across the American health system.

Hon. T. C. Theophanous — Among rapists and among people who were negligent.

Hon. R. M. HALLAM — We will have to debate it another day.

Hon. G. R. CRAIGE (Minister for Roads and Ports) — Mr Baxter raised an important issue with

me concerning the cross-border operation of taxis. Taxis in Victoria have been operating across the border into New South Wales. Mr Baxter raised the issue of what occurs in Albury-Wodonga. Cabs from Wodonga operate into New South Wales. We have already been through a significant process involving taxis operating into Mildura, Wentworth, Echuca and Moama.

Unfortunately, the New South Wales government introduced an accreditation process in 1992 that was clearly disadvantageous to Victorian taxis in border areas. The legislation said that any vehicle carrying passengers for fare or reward had to go through a lengthy accreditation period. That was not enforced until recent times. It has created quite a problem for Victorian operators.

It is unacceptable, from my point of view, that we are now facing this issue, especially when one considers the way this state has embraced mutual recognition. More importantly, I would argue that there are some constitutional issues that could also be prominent in this matter if we wished to take it down that path. I do not wish to pursue that course, other than to inform Mr Baxter that I have instructed the Victorian Taxi Directorate to enter into discussions with the New South Wales Department of Transport to look for a sensible solution. I am sure a solution will be found and Wodonga cabs will be able to operate in a fair way into New South Wales.

Mr Best raised an issue concerning a Mr Clarke who owns a mohair farm at Lockwood. The matter involves tourist signage. This government gives a high priority to businesses that operate and attract tourists. In view of the fact that the regional signage committee supports Mr Clarke's position, I will personally take up the matter with Vicroads and look for an outcome that is clearly of benefit to him as an operator and to general tourism in the area.

Motion agreed to.

House adjourned 6.55 p.m. until Tuesday, 2 December.