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FIRST SESSION

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Tuesday, 4 December 2001

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

CONDOLENCES

John William Storrier Radford

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

> That this house expresses its sincere sorrow at the death, on 27 November 2001, of John William Storrier Radford, and places on record its acknowledgment of the valuable services rendered by him to the Parliament and the people of Victoria as a member of the Legislative Council for the Bendigo Province from 1979–1985.

On behalf of the government I wish to express my condolences to the family of John Radford.

John was a member for Bendigo Province from 5 May 1979 to 14 July 1985 but lost his seat in a redistribution. He was well connected with the farming community. He was a grazier and a finalist in the Victorian farm management competition in 1971. He was also a lieutenant in the Citizens Military Forces and for four years he was chairman of the Avoca River Soil Conservation Committee which indicates to this house and to the community his commitment to the land and the ongoing resources it provides to Victorians. He was an executive member of what was then known as the Victorian Farmers Union, working in its pastoral division, and was chairman of the north central Dunolly silo committee, which also indicates his commitment to graziers — to ensuring that they got a good price for their product and that it was well managed and distributed throughout the market.

He was also the inaugural president of the local historical society, which shows his commitment to the community and that he wanted to pass on to his community his knowledge to ensure that the history of the area was not lost. I can understand and appreciate that as I have relatives who are very much committed to that process. He was president of the local Lions Club for a couple of years, which also shows his ongoing commitment to the community generally. As everyone knows, Lions clubs are involved in ensuring that the community is looked after, and through fundraising they assist in building the community and ensuring that the community relationship is spread out. That is important. That shows John's interest in the community and in ensuring that the community, and particularly children, knew about the past.

He was also involved in promoting the area. He was a member of the North Central Tourist Authority, which is starting to grow and is helping to make sure that the rest of the metropolitan area gets to see what is available in regional and rural Victoria. He worked tirelessly on that. He also found time to be a member of the local Country Fire Authority brigade, as are a lot of people in rural and regional Victoria who know they need to volunteer their services to protect their properties in the event of fire.

He was also involved in the grazing industry. A lot of people forget that textiles come from that industry — people think they just come from a factory machine. He was involved with the Melbourne College of Textiles advisory committee and was actively involved in the shire council for some time.

While in Parliament he was a member of the Company Takeovers Committee from July 1979 to July 1982 and a member of the Salinity Committee from 1982 to 1985, which again, shows his commitment to the land and to ensuring that it is able to be passed on from generation to generation.

On behalf of the government I pass on condolences to his family — his wife, Maggie; his children Simon, Kate and Hugh; and his grandchildren Tom, Jock, Samuel and Eliza.

Hon. BILL FORWOOD (Templestowe) — It is an honour to speak on the motion of condolence for John William Storrier Radford and to mark his record of outstanding service to this Parliament and to the Liberal Party, but above all to his community and the people of Victoria, especially country Victoria.

John Radford was born in Western Australia in 1930 but was educated in Victoria at the University of Melbourne. He became a farmer just outside St Arnaud in the early 1950s, which started a very long and involved association with that area and also with farming throughout the state. As the Leader of the Government said, he was a finalist in the farm management competition in 1971. I understand he took great pride in the property he farmed outside St Arnaud, at Gowar East.

In his initial contribution in this place in 1979 John Radford touched on a number of things. The first was local government. John served on the Shire of Kara Kara for eight years and he made the point that at that time there were 22 different municipalities within the boundaries of Bendigo Province. Obviously things have changed since then but John referred to the connection

between a local member and local government — and 22 seems a lot to me.

John Radford also talked about decentralisation and Telecom and Telecom charges; some of these things seem to go on forever. He sought an even greater reduction in Telecom's charges to the country. John also touched on an issue that was very lively earlier this year — that is, fuel prices. Many of these issues seem to remain relevant in country Victoria.

By far the greatest part of John Radford's initial contribution dealt with soil conservation. *Hansard* records Mr Radford as saying:

> I now wish to devote some time to a subject very dear to my heart, namely, soil conservation.

John went on to describe the farm that he operated as undulating to steep cropping and grazing land in the 18-inch rainfall area with sedimentary and granitic soils where soil conservation has to be an integral part of the management to ensure continuing productivity. John said:

> My association with soil conservation goes back over many years as I was an elected land-holder member of the Avoca River Soil Conservation District Advisory Committee for some 18 years.

That included four years as the committee's chairman. That is an indication of John Radford's involvement in his local community. The Leader of the Government mentioned some of the things John did in his local area. Not only was John on the silo committee but he was also the inaugural president of the historical society and president of the Lions Club. He was also on the agricultural society and the National Trust and was a member of the Maryborough solar energy committee a long time ago.

Hon. J. M. McQuilten — I knew him.

Hon. BILL FORWOOD — Mr McQuilten knew him in those days. John's contribution to his local area was outstanding and that continued for many years and expanded into statewide issues such as his involvement with the farming organisations, the textile advisory committee, the Country Fire Authority, the tourist authority and his service in the military.

John Radford was a stalwart of the Liberal Party in the area for many years. From memory he was president of his local branch for 9 or 10 years and he was chairman of his electorate council and then the Ripon one soon after that. John was also involved in the finances of the Liberal Party. It is a bit harder in the Liberal Party than in the Labor Party — we do not have unions to give us the money. John Radford's contribution as chairman of the western area finance committee was remarkable. He went on to become a member of the state finance committee and was vice-president of the Wimmera federal electorate council. John was one of those people who stood for difficult seats. In 1973 he stood for the Labor Party seat of Kara Kara near Bendigo.

As the Leader of the Government has said, John served on two committees in this place. He was an outstanding gentleman and well liked in this place. I looked at some of the contributions he made in this place and many of them had a very strong agricultural flavour. In his early years John spoke on the importation of exotic animal diseases and more than once on the spotlight shooting of deer. He spoke on the Barley Marketing (Amendment) Bill, the Canned Fruits Marketing Bill, twice on the Country Fire Authority and also on drought. He touched on education particularly in relation to Echuca and on the environment, including issues involving toxic waste disposal and the illegal dumping of wastes.

He spoke in this place about fuel costs, as I mentioned earlier; about ground water and irrigation; on more than one occasion about local government; about the protection of animals; on more than one occasion about racing and trotting, including the establishment of the Totalisator Agency Board; about Telecom charges; about vermin and noxious weeds; and about the Victorian Farmers and Graziers Association.

John Radford was a contributor in Parliament and was well known for his contributions. Apparently his contributions to the adjournment debate were lengthy — he would not have survived very long with the present 3-minute limit under President Chamberlain!

As the Leader of the Government said, the 1985 redivision saw the seat of Bendigo Province abolished and the seat of North Western Province created. In those circumstances, John Radford nominated for Liberal Party preselection for Ballarat Province, which was unusual. Apparently the redivision line went straight through his property — his house was on one side and most of his property was in Ballarat Province — and much of the Bendigo Province area came into Ballarat Province. He was unfortunate in being beaten for preselection by Dick de Fegely from Ararat . He said at the time — and it was a mark of the man — that he would continue to serve his constituents as he had always done, and he continued to do that in this Parliament for the next year before the election in 1985. His local paper said at the time that Mr Radford

had established a record of honest and untiring work, and that record is well remembered today.

On 5 June 1985 a motion of appreciation of services was moved and a number of people — including the Honourable Bruce Chamberlain, by interjection at least — spoke on that debate. I will read to the house a comment made by Bernie Dunn, who was then the Leader of the National Party. He said:

> The Honourable John Radford is a victim of redistribution. Probably the hardest thing to accept in the political scene is that one's seat can be redistributed out from under one. John Radford was a persistent person, especially during the debate on the motion for the adjournment …

He went on to say:

> He was a country man at heart and he had a commitment to the people of country Victoria. He worked and persevered constantly in that area. During much of his term in Parliament he and I were competitors in the rural area. I want him to know that members of the National Party respected his views and believed that he, with members of the National Party, was fighting for a common cause — the good of the people of country Victoria.

There is no doubt that he did fight for the good of the people of country Victoria and the people of Victoria.

On behalf of the Liberal Party, I express our condolences to his wife, Margaret; his sons, Simon and Hugh; his daughter, Kate; and other members of his family.

Hon. W. R. BAXTER (North Eastern) — It can be fairly said that by any measure John Radford was a good bloke, and I feel myself fortunate that I was able to serve with him in this Parliament.

He was good company and convivial but unpretentious. The comments made by a former Leader of the National Party in this place, the Honourable Bernie Dunn, which the Leader of the Opposition has just read summed up John Radford very well. He was a country man at heart and by deed, and Parliament benefited from his relatively brief membership of this place.

As has been explained, John Radford became a victim of a redistribution, but in a sense he came here because of a redistribution as well. At the 1979 election he defeated the Honourable Stuart McDonald, whose former Northern Province had been abolished in a redistribution. Stuart McDonald sought election to Bendigo Province because most of Northern Province had gone into Bendigo Province, and John Radford came here as a result of that redistribution. Regrettably, John went out on a redistribution after only one term. One of the risks in this game is that your seat can suddenly be taken from you.

As the Leader of the Opposition also said, John Radford was a political activist, and he served his party well. He contested a number of elections, which included taking on Esmond Curnow for the lower house seat of Kara Kara in 1973. Esmond had beaten Bill Phelan in 1970 in surprising circumstances, and even more surprising was that Essy held his seat in 1973, but there it is.

After John Radford left this place, in 1987 he and the Honourable Ron Best contested the federal seat of Bendigo, so I would have to say that John Radford was certainly a person who was prepared to put himself up for election to serve his party. He lived in that part of the state where in those times there were probably more vitriolic and bitter contests between the Country Party and the Liberal Party. Clearly he was in the thick of it, and I suppose he may well have been the cause of it in some circumstances.

He came from a place called Gowar East. I had never heard much about Gowar East until I became the roads minister and they badly needed a new bridge. Thanks to the Better Roads program I was able to provide them with a bridge. I thought of John Radford at the time.

John was a leader in his community and served it with enthusiasm and with distinction. We can be very sorrowful and regretful at his passing at a relatively young age. On behalf of the National Party I extend our condolences to his family.

Hon. M. A. BIRRELL (East Yarra) — I also want to pass on my condolences on the death of John Radford. He was a friendly farmer and a very welcoming person. I shared an office with him when I first came to Parliament, and he was someone who was always ready to have a good conversation. He had extremely strong interests in country Victoria and in farming, which for someone like me was educational, particularly as we shared an office. I remind honourable members who complain about offices that at the stage I shared an office with him there were five in the office. There are now two to an office, so conditions must be improving. There was value in a young member like me coming here and being able to learn from him.

John Radford died at the age of 71. I look back on his time in Parliament as one in which he did some very practical things and got some results. He was elected in May 1979 and entered Parliament in July of that year, having previously contested the lower house seat of Kara Kara in 1973. I was with him on the day in 1984 when the redistribution report came through. It is a humbling experience when, as an outcome of no action of your own, you read a report of someone abolishing

your entire electorate. It is an extraordinary circumstance. I saw that again with a subsequent redistribution, but I did not see it with the last. It is certainly a warning to honourable members about the rather extraordinary powers the electoral commissioners have to end their careers! His was effectively ended as a result of that. Even though he had some other options, they were not realistic ones, and therefore he had six years in the Parliament. He went on to stand again for the federal seat of Bendigo, but was beaten at the time, starting the career of John Brumby.

John Radford was an interesting character. My image of him was one of a very down-to-earth farmer with all the welcome values that that implies. It was not until I read some background material on him over the weekend that I learned of a contrasting element of his career — that he was educated at Mentone Grammar. I had not expected him to have been educated in the city; I thought he would have been educated in the country. He was head prefect and dux of the school at Mentone Grammar, and then went on to study economics at Melbourne University. Frankly, I find the contrast quite extraordinary because I did not find in him any of the airs that may be associated with those positions. In fact, I found him to be extremely down to earth. I now understand a bit better why he was such a well-versed advocate for country issues — which he was.

To a certain extent his country background, and in particular his farming background, was fortuitous as a result of his relationship with Maggie whom he went on to marry. He had decided on an army career because there was a long family history of being involved with the army. He was in the Melbourne University CMF regiment, volunteered for overseas service and was commissioned in 1950 but his wife-to-be encouraged him to be a farmer.

In agriculture he was a natural, receiving top prices for his wool and his off-shear weaners annually and he was regarded as being a very good achiever in that field. At first he lived in a small cottage next to Yawong Springs homestead. He personally made the bricks for what was to be his fine country home.

John's maiden speech was a very intelligent one; it was about his concerns particularly for issues of soil conservation, land management and a necessity for the government of the day to take action. He was as much an activist in pushing for ideas under Liberal governments as he was under the Labor governments that he came to be associated with when he was in the Parliament. He certainly put the Liberal Party on notice on issues and he did not leave them. I respected the fact that he kept coming back to an issue which he had raised but had not had a satisfactory response on. His views on these issues were reflected in a range of parliamentary speeches which the Honourable Bill Forwood and Minister for Industrial Relations have mentioned. Between 1982 and 1985 he went on to serve on what was a pioneering committee of the time, the Salinity Committee of the Parliament, and much of its policy work was picked up by the Cain government.

There is no doubt that he was a good electorate man because he doggedly pursued local issues. It is for that reason that his funeral was so well attended. He was, by all accounts, and from my personal exposure to him, a happy, contented and loving husband to Maggie and father to Simon, Kate and Hugh and, subsequently, grandfather to their children.

I pass on my condolences to Maggie. It is nice to remember someone who made a simple but important contribution to the Parliament.

The PRESIDENT — I am happy to join this motion of the house. John Radford was a big man. He had a big laugh and a warm personality. He had an interesting family background with connections to India and the military. As has been pointed out, he was active in public life before entering Parliament, as any member of this place has to have been active in the local community before they get here. I first knew John Radford on the Port of Portland Hinterland Development Committee of which he was a member from 1976 to 1978. John appreciated the importance of a strong port in regional Australia to meet the needs of rural producers and he gave his strong support to that committee. We were also fellow members of Lions International.

John was interested in all matters rural, including the Victorian Farmers Union and the Graziers Association — and didn't those two have some great scraps over the years? — the Australian wool industry conference, and his particular love was the soil conservation district advisory committee. For many years before he came to this place John was preaching about many of the matters taken as truisms today in the area of soil conservation. He was also an active member of the Country Fire Authority. He was a great advocate of the St Arnaud district including during his time as a councillor for the Shire of Kara Kara.

I suspect that John had no enemies. He and his wife, Maggie, were highly respected by all sides of the political spectrum as great contributors to their community and to rural industries in general. I pass on my condolences to Maggie; to their children Hugh, who is a well-known solicitor in St Arnaud and Donald,

Simon and Kate; to the spouses of his children Phillip and Victoria; and to their grandchildren Tom, Jock, Samuel and Eliza.

Motion agreed to in silence, honourable members showing unanimous agreement by standing in their places.

ADJOURNMENT

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That, as a further mark of respect to the memory of the late John William Storrier Radford, the house do now adjourn for 30 minutes.

Motion agreed to.

House adjourned 10.30 a.m.

The PRESIDENT took the chair at 11.02 a.m.

ROYAL ASSENT

Message read advising royal assent to:

Sentencing (Emergency Service Costs) Act
Victorian Environment Assessment Council Act

BUSINESS OF THE HOUSE

Sessional orders

Hon. M. M. GOULD (Minister for Industrial Relations) — By leave, I move:

That so much of the sessional orders be suspended to enable general business to take precedence of all other business for 2 hours following questions during the sitting of the Council on Wednesday, 5 December 2001.

Motion agreed to.

PETITION

Monash Freeway: safety barriers

Hon. N. B. LUCAS (Eumemmerring) — I present a petition from certain citizens of Victoria requesting that the Minister for Transport immediately introduce a program for the installation of centre barriers on the Monash Freeway, eastwards from Warrigal Road. The petition is respectfully worded and in order, and bears 2108 signatures. I desire that the petition do lie on the table, and be read by the Clerk.

Petition read pursuant to standing orders:

To the Honourable the President and members of the Legislative Council assembled in Parliament:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the deaths and injuries to motorists on the Monash Freeway as a result of vehicles crossing the grassed centre of the freeway.

Your petitioners therefore request that the Minister for Transport immediately introduce a program for the installation of centre barriers on the Monash Freeway eastwards from Warrigal Road.

Laid on table.

BLF CUSTODIAN

53rd report

Hon. M. M. GOULD (Minister for Industrial Relations) presented report dated 30 November 2001 given to Mr President pursuant to section 7A of BLF (De-recognition) Act 1985 by the custodian appointed under section 7(1) of that act.

Laid on table.

PAPERS

Laid on table by Clerk:

Desert Fringe Regional Waste Management Group — Minister's report of failure to submit 2000–2001 report to her within the prescribed period and the reasons therefor.

EcoRecycle —

Minister's report of failure to submit 2000–2001 report to her within the prescribed period and the reasons therefor.

Report, 2000–2001.

Melbourne Parks and Waterways — Minister's report of failure to submit 2000–2001 report to her within the prescribed period and the reasons therefor.

Mildura Regional Waste Management Group — Minister's report of failure to submit 2000–2001 report to her within the prescribed period and the reasons therefor.

Murray Valley Citrus Marketing Board — Minister's report of failure to submit 2000–2001 report to him within the prescribed period and the reasons therefor.

Murray Valley Wine Grape Industry Development Committee — Minister's report of failure to submit 2000–2001 report to him within the prescribed period and the reasons therefor.

Northern Victorian Fresh Tomato Industry Development Committee — Minister's report of failure to submit

2000–2001 report to him within the prescribed period and the reasons therefor.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Alpine Resorts Planning Scheme — Amendment C10.

Banyule Planning Scheme — Amendment C24.

Frankston Planning Scheme — Amendment C14.

Swan Hill Planning Scheme — Amendment C7.

Yarra Ranges Planning Scheme — Amendment C12.

Proclamations of His Excellency the Governor in Council fixing operative dates in respect of the following Acts:

Marine (Amendment) Act 2000 — All provisions — 3 December 2001 *(Gazette No. G48, 29 November 2001).*

Marine Safety Legislation (Lakes Hume and Mulwala) Act 2001 — Whole Act — 1 December 2001 *(Gazette No. G48, 29 November 2001).*

AUDIT (FURTHER AMENDMENT) BILL

Second reading

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That this bill be now read a second time.

The bill introduces amendments to the Audit Act to further enhance the independence of the Auditor-General, strengthen the accountability arrangements of his office and provide greater scope in his powers to promote sound financial management in the state.

In November 1999, during the debate on the Audit (Amendment) Bill 1999, the Premier advised the house that the government was considering further amendments to the Audit Act that had been requested by the Auditor-General. The Premier stated that these further amendments required more consultation than could be accommodated in the time available for the preparation of that bill. On behalf of the government, the Premier assured the house that further legislation would be introduced after the necessary consultation had occurred.

There has now been extensive consultation between the Department of Treasury and Finance, the Auditor-General, the Department of Premier and Cabinet, the Department of Justice, and other bodies, including other jurisdictions within Australia and New Zealand. As part of this consultation process the Public Accounts and Estimates Committee was also consulted fully on the Audit Act amendments. On behalf of the government I thank the chairman and members of the committee for the valuable contribution they have made to the development of the bill.

The amendments to the Audit Act introduced by this bill relate to the following issues:

Greater protection for the Auditor-General

Indemnity for Auditor-General and staff

Consistent with the government's steps in restoring the independence of the Auditor-General, the bill provides an indemnity for the Auditor-General and his staff, through amendment to section 94D of the Constitution Act. Although such indemnities in legislation are rare, this provision ensures that, as the Auditor-General is an independent officer of the Parliament, appropriate indemnity protection is provided through legislation rather than being at the discretion of the government.

Both the current Auditor-General and his predecessor have requested a statutory indemnity to cover him and his staff. In support of these requests, the Auditor-General commented that a number of other officers, such as the Regulator-General, the Ombudsman, the Legal Ombudsman and the Chief Electrical Inspector enjoy strong statutory protection.

The indemnity that has been provided exempts the Auditor-General and his staff from any personal liability for acts or omissions in performance of official duties, provided they have been done in good faith.

Disclosure of information in reports yet to be tabled

As part of the amendments to the consultative process, the government has provided the Auditor-General's proposed reports with greater protection. Under section 20A(2) of the bill, a person receiving a proposed report or part of a proposed report must not disclose any information in that report unless acting in the course of their official duties, or the information has been made public in a report by the Auditor-General to the Parliament.

The bill also introduces penalties for persons or body corporates that breach these secrecy provisions. In disclosing information outside of the avenues available under section 20A(2) a person is liable to a maximum penalty of 50 penalty units, while a body corporate is liable to a maximum penalty of 250 penalty units.

Scope of Auditor-General powers

Scope of powers

The Auditor-General has sought clarification in his powers and functions under the Audit Act. To ensure a common understanding of what types of activities his office may undertake, the Auditor-General requested the Audit Act be amended to set out clearly the general scope of his powers and therefore his duties and functions. To this end, the government has proposed in the bill amendments to the Audit Act to provide clarification of the powers and functions of the Auditor-General through a revision of the objectives of the act, under section 3A.

In addition, the government recognises the important role the Auditor-General plays in the identification of any wastage, lack of probity or financial prudence in the management or application of public resources. Accordingly, the public interest focus of the Auditor-General's work is now clearly articulated in the Audit Act.

Extension of the authorities definition

The Auditor-General has raised concerns that the definition of an authority in section 3 of the Audit Act is insufficient to give him the power to audit entities controlled by the state or other authorities.

The definition of an authority in section 3 of the Audit Act includes a corporation, all the shares of which are owned by or on behalf of the state, whether directly or indirectly. This section does not confer power on the Auditor-General to audit partly owned corporations, no matter how close to 100 per cent the state's effective shareholding is. While section 3 allows for other persons or bodies to be prescribed as authorities, the Auditor-General has expressed the preference that a power to audit bodies that are not wholly owned be provided explicitly.

The bill amends section 3 to provide the Auditor-General with the power to audit all entities controlled by or on behalf of the state or authorities.

Where the state or an authority does not hold a controlling interest in an entity, the Auditor-General shall continue, as now, to audit the authority in whose books this minority shareholding appears as an investment and comment on the value or risk of such an investment.

This amendment will ensure that the Auditor-General has responsibility for the financial audit of all entities in which the state or an authority has control.

Auditor of Victorian public sector non-authority bodies

Circumstances can arise where it is desirable for the Parliament to enable the Auditor-General to undertake financial statement audits for entities not coming within the definition of an authority under the Audit Act, but still within the Victorian public sector. An extension of the Auditor-General's powers to audit these types of entities provides him with greater opportunity to scrutinise the use and flow of public funds.

Under section 16G, the bill provides the Auditor-General with the power to audit entities outside of the definition of an authority under the Audit Act, but still within the Victorian public sector. The Auditor-General will only be able to undertake such audits if invited to do so by the entity and it is in the public interest and practicable for him to do so.

Examination of funded bodies

The Auditor-General has advised the definition of a public grant in section 20 of the Audit Act has caused some interpretive difficulties for his office. For example, the question has been raised whether goods or services provided to a community or private body at subsidised or nominal cost, or free of charge, constitute a grant within the meaning of the section.

The bill provides clarification of the nature of grants to funded agencies. The purpose of the amendment is to ensure that the Auditor-General has clear directions as to what resource flows to funded agencies he has the power to examine.

To achieve this, under section 16C of the bill, the Auditor-General has been provided with a general audit power to conduct any audit necessary to determine whether a financial benefit, paid by an authority to a person or entity that is not an authority, is being applied economically, efficiently, effectively and for the purposes for which it was given.

Revised threshold for the delegation of authority to undertake financial audits

The threshold for the Auditor-General to delegate the undertaking of a financial audit and signing of an audit opinion is currently set at authorities with net assets of $1 million or less. The Auditor-General requested this threshold be increased to cover authorities with $5 million or less in expenditure for that financial year.

The increase in the delegated threshold is not a move towards greater outsourcing of the Auditor-General's work. Approximately 70 per cent of the

Auditor-General's current financial audit work program is contracted out to private audit service providers. The main difference between contracted out work and that work coming within the delegated threshold is that an audit service provider is required to sign the audit opinion as the Auditor-General's agent under the delegated provisions.

The purpose of this amendment is to achieve greater efficiency and effectiveness in existing outsourcing arrangements of the Auditor-General. It provides him with the ability to gain greater flexibility in achieving value for money (and accountability) from private sector audit firms he contracts work to. Under the current threshold levels 91 per cent of contracted audits are required to be reviewed (and often have rework conducted) and then signed by the Auditor-General. Leaving only 9 per cent of audits being signed off by the contractor who actually did the work. This situation does not lend itself to an efficient means of contract management for the Auditor-General.

Through the bill, the new section 7G increases the threshold limit to entities with expenditure of $5 million or less. It also includes the requirement that only those persons registered as company auditors, under the Corporations Act, may be delegated the authority to undertake financial audits as agents of the Auditor-General. Although currently the Auditor-General only delegates audits to company registered auditors, the Audit Act did not specify this requirement.

More practicable time frame for tabling the Auditor-General's narrative report on the annual financial report (AFR)

The Auditor-General has requested a more practicable time frame be provided in the tabling of his narrative report on the annual financial report, under section 16A. The current timing requirement is presentation to the Parliament within seven sitting days after the tabling of the annual financial report (which is set from 27 October).

The bill provides that in section 16A(4) of the act 'seven sitting days' is deleted and the date 24 November under section 16AB(2)(b) is substituted in place thereof.

The bill also amends the current requirement in section 16A(3)(a)(ii) that states the Minister for Finance only has seven days in which to provide comment on the Auditor-General's report on the AFR. This requirement is amended to 10 business days. This provides for a more realistic time frame in which to comment and removes the confusion as to whether the number days referred to in the Audit Act are business days or calendar days.

Greater accountability for the Auditor-General

Publication of auditing standards

The Audit Act requires the Auditor-General to comply with those auditing standards produced by the accounting profession.

Section 7B(2)(f) of the bill sets out amendments whereby the Auditor-General will be required to summarise in his annual report details of any additional standards he develops above those produced by the accounting profession.

Professional quality control arrangements

In extending the powers of the Auditor-General, such as the ability to audit non-authority entities within the Victorian Public Sector and the delegation of a greater number of audits, it is important the Parliament is provided with greater accountability mechanisms over the Auditor-General's work.

As part of the development of greater accountability, the bill sets out a new requirement for the Auditor-General to summarise in his annual report the quality control processes undertaken by his office each year. This will provide an effective mechanism through which the Auditor-General can highlight to the Parliament the quality control systems he maintains and any improvements undertaken in these systems from year to year.

Auditor-General's annual plan

Under the current requirements of the Audit Act (section 7A(4A)) the Auditor-General is required to have regard for any comments received back from the PAEC on a review of his annual plan, but does not have to change the plan or document where he does not accept a recommendation. We do not believe the Auditor-General should have to change his annual plan but should have to document where changes from the PAEC recommendations have not been made. This approach provides a much stronger accountability back to the Parliament in its review of the Auditor-General's planned activities and establishes a more transparent process between the development and review of planned work.

The bill introduces a new section 7A(4A) that requires the Auditor-General to indicate in his annual plan the

nature of any changes suggested by the PAEC that he has not adopted.

Administration of the Audit Act

Clearer distinction between audit opinions and audit reports

The Audit Act contains numerous references to requirements that the Auditor-General prepare and present a report. This wording draws no distinction between a report in the sense of an audit opinion and the more extensive narrative reports that the Auditor-General prepares for some audits.

Sections 9, 9A, 15 and 16 of the Audit Act have been amended through the bill to make a clear distinction between the types of reports prepared by the Auditor-General.

Clarification of audit fee

The current wording of the Audit Act is not clear in what services the Auditor-General can charge a fee. The bill, under section 10, sets out the Auditor-General's power to only charge for his mandatory financial statements audit activities. No charges will apply to those audits and reports reflecting his discretionary work in informing the Parliament on accountability and resource matters. Instead, these audits and reports are funded through the Auditor-General's annual appropriation.

Narrative reports covering more than one financial audit

The Audit Act's current provisions provide the Auditor-General with the power to make a narrative report on a performance audit that relates to the activities of multiple authorities, but he may not make a single narrative report that relates to issues arising from the financial audits of several authorities.

The bill, through amendment to sections 15 and 16, provides the Auditor-General with the ability to make a narrative report covering more than one audit.

Enhancements to the consultative process for audit reports

In the development of a report to the Parliament the Auditor-General goes through a process of consultation with entities directly related to the report and other interested parties. As part of this process the Auditor-General is required to seek formal submissions or comments from these groups and include this material in his final report to the Parliament.

Under the current reporting provisions of the Audit Act the Auditor-General is required to provide these parties with a copy of the summary findings and proposed recommendations. However, the Auditor-General has advised government that he wishes to have the option of providing a full copy of a report or a section of a report that is relevant to a particular party. In most circumstances it is appropriate to provide an entity with a full copy of a proposed report. However, situations do arise where it is more appropriate for an entity to receive only that part of a report that directly relates to them.

Under a new section 16(3)(a) the bill provides the Auditor-General with the discretion to provide a full copy of a proposed report to an entity, or only that part or parts that directly relate to the entity, for comment.

I commend the bill to the house.

Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).

Debate adjourned until next day.

Hon. R. M. Hallam — On a point of order, Mr President, in the time that I have had to compare the second-reading speech just delivered by the minister and the bill that was delivered to the house, I am not convinced that the lower house amendments have been incorporated. I seek clarification from the Leader of the Government that she has read the right second-reading speech.

Hon. M. M. Gould — To be honest, I am not sure. I was handed this one as — —

An Honourable Member — You're the minister responsible, aren't you? Come on!

Hon. M. M. Gould — Mr President, I was advised by the department that the speech I have read was the right one. I will make an inquiry into whether it needed changes as a result of some alterations that have been made. I am happy to do that and advise the honourable member promptly.

Hon. R. M. Hallam — Further on the point of order, Mr President, I made the point in respect of the amendments which go to the question of a report coming from the Auditor-General when the house is in recess as opposed to when the house is not sitting. That issue was debated at some length in the other place, and I am led to believe there was agreement on that and the bill was amended. However, I refer the Leader of the Government to the heading 'Efficiency in

Auditor-General audit operations' in the second-reading speech, which states, in part:

> Under section 16AB the bill provides for the transmission of reports of the Auditor-General when the Parliament is not sitting.

I suggest to the Leader of the Government that that is one clear example of the second-reading speech being not just inappropriate but quite misleading. There may also be other instances.

The PRESIDENT — Order! Obviously, the Leader of the Government will get instructions on those matters as a matter of urgency because the house needs that information. If the second-reading speech is simply that made in the Legislative Assembly without taking into account changes made in that place, the quicker we get a fresh set of speeches the better.

LIQUOR CONTROL REFORM (PROHIBITED PRODUCTS) BILL

Second reading

Hon. M. R. THOMSON (Minister for Small Business) — I move:

> That this bill be now read a second time.

From time to time certain products coming on to the Victorian liquor market constitute an unacceptable risk in terms of their potential to encourage the misuse and abuse of alcohol, particularly by young people.

While there is a commitment to responsible product development, packaging and marketing from the mainstream liquor suppliers in Australia, some marginal suppliers and importers often fail to comply with such industry standards in an effort to increase their market share.

It is a deficiency of the Liquor Control Reform Act 1998 that the minister has no power to ban an alcoholic product from sale where it is apparent that the product is unacceptable to the community and/or could encourage the misuse or abuse of alcohol.

The immediate need for such a power is clearly shown through the ongoing retail availability of unacceptably high alcohol content food essences in 375 millilitre bottles which are exceedingly dangerous, particularly in the hands of young people. Some of these products have an alcohol content of over 70 per cent, which is more than twice the alcoholic content of typical spirits such as scotch or vodka.

There is ongoing potential for other unacceptable products to come onto the market from time to time, for example high-alcohol ice-creams, milk with alcohol content, products packaged in such a manner that they are particularly directed to or attractive to young people et cetera.

In exercising the regulation-making power, the minister will be required to have full regard to the community interest, particularly in respect of the harms that may arise as a consequence of the ongoing availability of alcoholic products of concern.

Such regulations will be subject to the rigorous regulatory impact statement process, including extensive community and industry consultation.

Whilst the regulation-making power is necessarily wide to cover all potential eventualities, its application will be highly targeted to specific products or types of products that are a danger to the community, particularly young people.

The potential problems caused by the sale of high-alcohol content essences was brought to the Bracks government's attention by Mr and Mrs Clark, whose son Leigh died tragically after consuming Hoyts vodka essence supplied by a family friend. The government does not wish to pre-empt the coroner's decision in this matter but has decided to act in a timely manner to further strengthen the legislation to ensure the responsible selling of alcohol and alcohol-based products in Victoria. This bill is proposed because other action taken at the Victorian and commonwealth levels to restrict the sales of high alcohol-based food essences has not been successful.

While existing regulations bring the retail sale of such products under the control of the Liquor Control Reform Act 1998, the risk of young people accessing them through home, friends or illegal sales remains.

The Liquor Control Reform (Prohibited Products) Bill provides that the minister may make regulations providing that alcoholic products or classes of products are banned from sale where it is in the community interest to do so. The bill further provides for those regulations to be disallowed by a house of the Parliament.

The penalty for breaching such regulations is to be 30 penalty units (currently $3000).

The bill further creates the offence of a person selling an alcohol-based food essence that is packaged in a container that is above 100 millilitres capacity in the

case of vanilla essence and above 50 millilitres capacity in respect of any other alcohol-based food essences.

The penalty for breaching this provision is to be 30 penalty units (currently $3000), with such offences being subject to the infringement notice provisions of the act.

The amendments will have no impact on the wholesale sale of food essences for food manufacturing purposes and for domestic use in small containers.

These amendments to the Liquor Control Reform Act 1998 will further facilitate and encourage the responsible development of the Victorian liquor industry.

I commend the bill to the house.

Debate adjourned on motion of Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until later this day.

AUCTION SALES (REPEAL) BILL

Second reading

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I move:

That this bill be now read a second time.

The bill implements the government's response to the recommendations of the national competition review of the Auction Sales Act 1958 (the 'act') by repealing that act and making the necessary consequential amendments to certain other acts as a result of the repeal. The act provides for the licensing of auctioneers of goods including livestock.

The national competition review was undertaken in 1999–2000. The review involved consultation with a wide range of organisations including the Livestock Saleyards Association of Victoria, the Victorian Farmers Federation pastoral group, the Victorian Stock Agents' Association, the Auctioneers and Valuers Association, the Real Estate Institute of Victoria and the Victoria Police. The review concluded that the benefits of licensing auctioneers of goods are outweighed by the costs.

The repeal will remove a cumbersome and outmoded licensing regime, which provides no real benefit to those engaging auctioneers or those buying at auction.

A savings provision in the bill requires records of livestock kept under the act to be preserved under the Livestock Disease Control Act 1994 to maintain the benefits of record-keeping requirements in terms of tracking and controlling livestock disease.

The repeal will commence on 1 January 2002. This will enable current licensees and intending applicants to be advised of the discontinuation of licensing well in advance of the November application date for new licences.

A range of acts such as the Second-Hand Dealers and Pawnbrokers Act 1989, the Motor Car Traders Act 1986, the Summary Offences Act 1966, the Estate Agents Act 1980, the Transfer of Land Act 1958 and the Instruments Act 1958 currently recognise the licensing of auctioneers. Consequential amendments to these remove references to licensing without otherwise changing the position of auctioneers generally.

I commend the bill to the house.

Hon. C. A. Furletti — I had it in my mind that there was an agreed commencing date of 1 January 2003, and I note the second-reading speech refers to 2002. I just seek clarification and I will look at my notes as well.

Hon. M. R. THOMSON — That is right. That should read 2003.

Debate adjourned on motion of Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until later this day.

COUNTRY FIRE AUTHORITY (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a second time.

The purpose of this bill is to implement a limited range of amendments to the Country Fire Authority Act 1958, to further improve the effectiveness of the Country Fire Authority.

Membership of the authority

This bill originally sought to simplify and streamline the current nomination procedure for members to the CFA board.

The bill proposed to remove the current requirement for the Insurance Council of Australia (ICA) to provide nominations for two positions on the board. This

change was proposed in direct response to the ICA's publicly stated policy position of not participating on the board.

The bill would have replaced the ICA nominations with a direct nomination power by the Minister for Police and Emergency Services. Ministers have already been exercising this power under default provisions in section 7(2) of the current act since the ICA stopped making nominations in the mid-1990s. The system has worked well and generated no significant complaints. The proposed change would simply have clarified what is already established practice.

The bill also sought to simplify board nomination procedures by removing the requirement for the Municipal Association of Victoria (MAV) to distinguish between rural and urban wards when making nominations for two positions on the CFA board. This proposed change was in direct response to the MAV's concerns that the current rural and urban distinction was difficult to interpret in practice.

The bill did not aim to make any substantive change to MAV's representation. The MAV would still have been required to provide nominations for two board members. It would simply have streamlined the current nomination process by letting the MAV decide who would be the most appropriate persons to nominate from local government within the CFA administered area.

Unfortunately, the opposition has determined it will play politics with these proposed changes. It indicated it would block the proposed changes, publicly characterising them as an attempt by the Victorian government to stack the CFA board.

This is clearly incorrect. The proposed changes were focused only on making commonsense improvements to current nomination processes. No substantive changes to the current structure of the board were proposed.

The bill contains a number of other important machinery changes to CFA's operations that need to be made before the next Victorian fire season. In the interests of passing these other proposed changes as speedily as possible and maximising public safety, the government decided to delete these proposed changes from the bill. The necessary house amendments have already been made in the lower house.

Under the amended bill, CFA board nomination processes will now remain unchanged.

The government regrets the opposition's position has made it impractical to pass these changes which would have been consistent with the ICA's stated policy, assisted the MAV and saved time for all concerned.

Use of prescribed devices during a fire danger period

The act already provides for the restricted use of some appliances in the country during a fire danger period. Other appliances such as gas-fired scatter guns, which are now in regular use, are not technically governed by the restrictions. There will be an amendment to allow for regulations to be made to provide for the safe usage of these appliances at a time when the risk of fire is at its height. These regulations will be developed in close collaboration with the rural industries affected in order to provide the best and most appropriate means of reducing fire risk.

Municipal fire prevention plans

A vital part of dealing more effectively with fire is appropriately locating responsibility for managing the risks in both natural and developed environments.

Municipal councils are already required to prepare a fire prevention plan, which identifies the risk treatment strategies to be used. Guidelines have been prepared by the Country Fire Authority which are comprehensive and appropriate for the needs of councils and are regularly monitored to provide the best guidance possible. Provision will be made for the municipal fire prevention plans to be prepared in accordance with those guidelines, which are expressed in the language of risk management and more suitable and flexible than regulations.

This bill will further clarify the existing responsibilities of councils, for the preparation of a municipal fire prevention plan which relates only to the land for which the municipal council has fire protection responsibility. It is proposed to specifically exclude the land which comes within the area of responsibility of the Department of Natural Resources and Environment. This will not diminish the effectiveness of the planning process, which will continue to be developed on the advice of municipal fire prevention committees which are representative of key local interest groups including the department.

It will be the responsibility of each municipal council to maintain and formally approve its plan and to act upon it. This will emphasise the importance of proper planning for the purpose of increasing fire safety for the community.

Miscellaneous

There are in addition a series of other minor amendments of a technical nature which will assist in the management of the Country Fire Authority and assist it to carry out its duties and obligations under the act.

There are also some redundant provisions which will be removed and statute law revisions.

I commend the bill to the house.

Hon. B. C. BOARDMAN (Chelsea) — Before I move that the debate be adjourned, I simply say that that is one of the most disgraceful second-reading speeches I have heard, and it will be the subject of debate on the next day of meeting. Therefore, I move:

That the debate be now adjourned.

The ACTING PRESIDENT (Hon. Jenny Mikakos) — Order! Mr Boardman will have his opportunity at that time.

Motion agreed to and debate adjourned.

Debate adjourned until next day.

ENERGY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

This bill is designed to further clarify the regulatory framework for the electricity and gas industries. In the last session of Parliament the government completed its restructuring of gas and electricity legislation with the passage of the Gas Industry Act 2001. This bill represents a further step in refining the regulatory framework in accordance with this government's energy policy.

The bill is consistent with the government's objectives relating to the gas and electricity supply industries, including the provision of an effective and workable safety net for domestic and small business customers. The bill streamlines the existing default contract provisions in both the Electricity Industry Act 2000 and the Gas Industry Act 2001. These provisions are relevant where a customer moves into premises and takes supply of gas or electricity without having entered into a contract with the relevant retailer or, having entered into a market contract with the relevant retailer, subsequently cancels that contract during the cooling-off period. The bill also makes amendments to the supplier of last resort provisions in both the Electricity Industry Act 2000 and the Gas Industry Act 2001.

The bill also provides for technical amendments to the electricity cross-ownership restrictions as they apply to new generation facilities; the approval process applying to any retail gas market rules submitted by the Victorian Energy Networks Corporation or a gas distribution company to the Office of the Regulator-General; and the scope and operation of the cost recovery power contained in section 68 of the Gas Industry Act.

I turn now to each part of the bill. Part 1 of the bill simply states the purpose of the bill and provides for its commencement.

Part 2 of the bill contains amendments to the Electricity Industry Act 2000.

Clause 6 deals with the operation of the supplier of last resort provisions, and clarifies that terms and conditions approved by the Office of the Regulator-General in relation to supplier of last resort arrangements may also provide for the ongoing supply of electricity following the expiry of the three-month period fixed by section 27 of the Electricity Industry Act.

Clause 7 consolidates the existing provisions of the Electricity Industry Act relating to the formation of deemed contracts where customers move into premises and take supply of electricity without first formalising their contractual arrangements. Clause 7 provides that, in these circumstances, the customer will be deemed to have a contract for the supply and sale of electricity with the licensee responsible for those premises for the purposes of wholesale electricity market settlement. Clause 7 also provides for such a deemed contract to arise where the customer entered into a contract with the relevant retailer prior to entering premises but then exercises its right to cancel the contract during a cooling-off period set by the Fair Trading Act 1999 or by the Essential Services Commission (the successor to the Office of the Regulator-General) through its regulatory instruments. In each case, the tariff, terms and conditions that will apply are those that would apply if that customer were a party to a contract under section 37 of the act. In addition, the present provisions provide for when these deemed contracts come to an end. Clause 7 provides that the Office of the Regulator-General's successor, the Essential Services Commission, may determine additional events upon

which the deemed contracts come to an end — such as the receipt of two electricity bills, reflecting the end of two billing cycles.

As I noted earlier in this speech, the bill modifies the electricity cross-ownership provisions as they apply to the development of new generation facilities. Currently, the Electricity Industry Act 2000 provides that an existing generation or distribution company does not hold a prohibited interest as a result of holding an interest in another generation company which has established a new generation facility. However, as presently drafted it is technically possible for the new generation company to itself hold a prohibited interest as a result of the operation of the Corporations Act. Clause 8 therefore proposes an amendment to make plain the new generation company's entitlement to benefit from the exemption in section 68(8A) of the Electricity Industry Act 2000. This amendment is consistent with the government's objective of encouraging the development of new generation capacity in Victoria.

In addition to the above provisions, part 2 of the bill contains various miscellaneous provisions. Clause 3 ensures that the provision in the Electricity Industry Act making it relevant legislation for the purposes of the Office of the Regulator-General Act 1994 is aligned with the equivalent provision in the Gas Industry Act 2001. Clauses 4 and 9 make minor amendments consequential to clause 3 and the enactment of the Essential Services Commission Act 2001. Clause 5 makes a minor amendment consequential to clause 7.

Part 3 of the bill amends the Gas Industry Act 2001.

Clause 11 replicates clause 6 for the gas industry. It deals with the operation of the supplier of last resort provisions, and clarifies that terms and conditions approved by the Office of the Regulator-General in relation to supplier of last resort arrangements may also provide for the ongoing supply of gas following the expiry of the three-month period fixed by section 34 of the Gas Industry Act.

Similarly, clause 12 replicates clause 7 for the gas industry. Clause 12 consolidates the existing provisions of the Gas Industry Act on the formation of deemed contracts where customers move into premises and take supply of gas without first formalising their contractual arrangements. It will also arise in circumstances where the customer entered into a contract with the relevant retailer prior to entering premises but then exercises its right to cancel the contract during a cooling-off period set by the Fair Trading Act 1999 or by the Essential Services Commission through its regulatory instruments. In each case, the tariff, terms and conditions that will apply are those that would apply if that customer were a party to a contract under section 44 of the act. In addition, the present provisions provide for when these deemed contracts come to an end. Clause 7 provides that the Office of the Regulator-General's successor, the Essential Services Commission, may determine additional events upon which the deemed contracts come to an end — such as the receipt of two gas bills, reflecting the end of two billing cycles.

Clause 13 amends section 65 of the Gas Industry Act 2001 to clarify that the Office of the Regulator-General can require changes to any retail gas market rules submitted to it by Vencorp or a gas distribution company for approval.

Section 68 of the Gas Industry Act 2001 provides for cost recovery by the distribution companies of the costs they incur in relation to implementation and development of retail gas market rules. Clause 14 amends this section to clarify the intended scope and operation of that cost recovery power.

Clause 15 allows for Vencorp to provide systems and services relating to full retail competition outside of the state. This amendment recognises Vencorp's substantial contribution to the implementation of full retail competition in Victoria, and the value that this work may hold for other jurisdictions. It will allow other jurisdictions to benefit from Vencorp's expertise in operational aspects of a competitive retail gas market, and may ultimately permit gas market participants to benefit from greater national harmonisation. The provision of these services outside of Victoria is subject to the approval of the minister, following consultation with the Treasurer.

Clause 16 corrects minor errors.

I commend the bill to the house.

Debate adjourned on motion of Hon. PHILIP DAVIS (Gippsland).

Debate adjourned until later this day.

ANIMALS LEGISLATION (RESPONSIBLE OWNERSHIP) BILL

Second reading

Debate resumed from 28 November; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. PHILIP DAVIS (Gippsland) — In speaking on the Animals Legislation (Responsible Ownership) Bill my initial remarks will be to outline briefly the purposes of the bill. Broadly, it seeks to amend both the Prevention of Cruelty to Animals Act 1986 and the Domestic (Feral and Nuisance) Animals Act 1994. In respect of those two acts it inserts new offences, extends regulation-making powers and provides for the search of dwellings and the seizure of animals, which will be subject to a warrant. It also deals with the registration and control of restricted breed dogs: it amends the enforcement powers, increases the registration fee paid by councils from $1 to $2.50 per dog and extends the uses to which the money can be put.

That is an overview. I will now go through the rest of the bill in more detail. The bill seeks in part to deal with attendance at animal fights. We know that there is a cultural attitude to some sporting activity which can only be described as not customary in Australia — that is, to pit animals against each other for the purpose of some form of sporting entertainment. Clause 3 of the bill deals with the creation of an offence to discourage people from attending animal fights. If it is an offence to attend a fight the promoters of such activities will be discouraged further, notwithstanding that there are already severe penalties for providing premises and being the owner of animals involved in such fights.

The bill also deals with the matter of inspectors entering dwellings. It increases the capacity for intervention by inspectors in the interests of animal welfare so that if there is a reasonable suspicion of cruelty the inspector can apply for a warrant from the court so that they can pursue the protection of animals.

In addition the bill contains a power to deal with compliance. Inspectors are often faced with situations where they provide advice to owners of animals at risk but the advice is ignored. At present in a situation where cruelty may cause an animal to continue to suffer because of inaction on the part of the owner or the person responsible for it, the court can make orders for the owner to comply but only if he has already been convicted of the offence. This delays the opportunity for timely intervention. The bill will allow an inspector to issue a notice that requires a person to comply with specific written instructions to alleviate cruelty to the animal or to prevent a situation in which cruelty is likely to occur. It will be an offence not to comply with a notice, and I think that is a sensible approach.

Clause 7 of the bill deals with warrants to seize animals. The bill allows an inspector with written permission of the secretary to apply to a magistrate to seize an animal from premises, including a dwelling, if the inspector reasonably believes that the welfare of the animal is at risk.

Clauses 24, 25 and 26 deal with increased penalties for dog attacks. Regrettably we see in the media presently reports of what would on the face of it appear to be a spate of increased dog attacks. I am not sure whether statistically that is the case, but given the way these matters are reported one cannot help but feel some sense of intimidation for the community when people are assaulted by what appear to be vicious dogs. There is no doubt that improving the accountability of owners of dogs is important. That provision is sensible.

Clause 9 deals with restricted breeds and certain arrangements in place at a commonwealth level. The commonwealth legislation restricts certain breeds of dogs from being imported into Australia. The dog breeds currently prohibited from being imported are the dogo Argentino, the fila Brasileiro, or however you say it, the Japanese tosa and the American pit bull terrier or pit bull terrier.

Hon. E. G. Stoney — You obviously don't own one.

Hon. PHILIP DAVIS — No, I do not.

Hon. E. G. Stoney interjected.

Hon. PHILIP DAVIS — Mr Stoney is right, I am not familiar with these dogs — kelpies and blue heelers are more my line. If he wants I could talk about a few good kelpies: Jess, Judy, Lucy, Twiggy, Nick, Rusty and Jock. I can pronounce those names pretty freely, because as most farmers know, you always name a dog so that you can use a four-letter word when you call it to come. It makes getting on with the business of handling stock a lot easier does it not, Mr Bishop?

Hon. B. W. Bishop — It does indeed.

Hon. PHILIP DAVIS — In any event, I am not familiar with those dogs, but the commonwealth legislation prohibits them from being imported. In this bill the government is asking the Parliament to deal with the registration and control of the restricted breeds. In effect that deals with the American pit bull terrier, the breed presently in Australia. The bill requires a level of control of that animal.

This is not a field in which I am an expert, but I am advised a range of views is held about whether certain breeds of dogs should be targeted as dangerous dogs. However, this debate will go on. I am sure there are members of breed societies and breeders of particular

dogs who have the view that it is the action and not the breed of a dog that should determine whether it is dangerous. On the other hand, a strong concern is currently being raised within the community about what is seen to be the collective behaviour of particular breeds of dogs and, given the incidence of dog attacks, the government is probably right to deal with that concern. However, the Liberal opposition has certainly come to no final conclusion about that matter.

The bill makes other minor but important changes which, as has been set out in the second-reading speech, are self-evident. The one area I want to comment on in particular relates to clause 8, which deals with regulations prohibiting certain activities, procedures and implements. The bill proposes regulations that will prohibit the use of pronged dog collars and electronic dog training collars and also the pin firing of horses. While Liberal opposition members have no problem with those or other regulations prohibiting the possession of certain dogfighting or cockfighting implements, this clause in its original form did present us with a difficulty.

In its original form clause 8 proposed much wider regulation-making powers which would have imposed prohibitions on traditional farming activities. I refer specifically to activities such as marking of calves and lambs, branding, dehorning and mulesing. The prohibition of those agricultural activities would have caused significant and serious consequences for the welfare and health of livestock and there is no doubt such regulations would have interfered with proper commercial agricultural practices. Further, those wide regulation-making powers could have seen a move to outlaw, for example, the possession of rabbit traps — I know Mr Stoney has a particular interest in that area — and branding irons and calf-marking equipment.

The Liberal Party raised that aspect of clause 8 and I am pleased to note that the Minister for Agriculture in the other place succumbed to its representations and that the bill has been amended by the removal of those wide regulation-making powers. As a result, I can say with some confidence that while the Liberal opposition is concerned about some aspects of this bill, it will not delay its passage.

Hon. KAYE DARVENIZA (Melbourne West) — I am very pleased to have an opportunity to speak in support of the Animals Legislation (Responsible Ownership) Bill 2001. I am pleased to be able to say that the bill will not be opposed but will be supported in its passage through the house by both the Liberals and the Nationals.

The bill amends both the Prevention of Cruelty to Animals Act 1986 and the Domestic (Feral and Nuisance) Animals Act 1994. Like some of my colleagues in this chamber, I am an animal lover and a dog owner. I believe very strongly that the amendments proposed in this bill are necessary because they will help to protect animals from cruel acts that are inflicted upon them by humans who have absolutely no excuse for what can only be described as appalling behaviour and treatment of the animals that they are responsible for.

As the previous speaker, Mr Philip Davis, said, we only have to look at the stories reported by the newspapers and by the media generally to get an understanding of not only the apprehension that members of the public have about dogs and dog attacks which they perceive as vicious but also some of the very cruel and inhumane acts that are inflicted upon animals by their owners. The amendments in this bill will alleviate the cruelty that is inflicted upon animals and they will also instil greater confidence in members of the public generally in their apprehension about dogs and dog attacks.

As with other bills that have come before this house, the government has been through an exhaustive consultation process with all the stakeholders with an interest in the changes to the legislation, as well as the general public.

The Animal Welfare Advisory Committee advises the minister on issues that affect animal welfare. That includes giving advice on programs and strategies for the practical application and implementation of legislation, as well as advice on policy recommendations for changes to legislation which will result in improved welfare for animals in this state.

The Animal Welfare Advisory Committee made a number of recommendations to the Minister for Agriculture for amendments to the Prevention of Cruelty to Animals Act and the Domestic (Feral and Nuisance) Animals Act. As a result of that committee's recommendations a discussion paper that included the proposed amendments to the legislation was developed. The discussion paper was widely distributed, and stakeholders and the community were consulted on the proposed amendments. In response to the discussion paper there was consultation not only with the Animal Welfare Advisory Committee but also the Municipal Association of Victoria, the Royal Society for the Prevention of Cruelty to Animals, the Lost Dogs Home and the public.

The bill aims to improve the welfare of animals in this state in a number of very important ways. It will ensure

that animals in distress can be assisted and can be removed when necessary from a distressing or cruel situation. It will prevent the use of various procedures and implements on animals that could cause them harm or suffering. It also seeks to improve public safety and confidence by introducing banning some breeds of dogs from importation because of their history of being bred for fighting and their being perceived as potentially dangerous. As the honourable Mr Philip Davis has said, some discussion still needs to be had about that being because of the breed of an animal — —

Hon. Philip Davis — Breed or deed.

Hon. KAYE DARVENIZA — Or the animal itself. My own dogs and I have spent quite a bit of time with a dog trainer, Mr Vern Ryan, who works in Werribee in my electorate. When I go along to his classes Vern always maintains that it is the owners he is training, not the dogs, and that owners have to take a great deal of responsibility for the behaviour of their animals.

I know that not everyone would agree with that, but there are breeds of dogs which are bred for the activity of dogfighting. It is also true that there are some breeds of dogs that appeal very much to some dog owners who in some instances conduct themselves in ways that do not represent responsible dog ownership and who want a particular breed of dog because they want to teach the dog to attack and assault people and to be a guard dog on their premises or in their homes. Often the way they handle, train and treat their dogs is not conducive to the dogs being well socialised and able to move within the community so the community is kept confident and safe.

I will now go to the bill and deal with a couple of clauses in it. Clause 3 makes it an offence to attend an animal fight. Subclause (4) states:

> A person must not attend an event at which an animal is encouraged to fight another animal.

At present the Prevention of Cruelty to Animals Act allows for the prosecution of those who own animals injured in or provide facilities for animal fights. But animal welfare organisations and the general public believe that by attending dogfights you are just as culpable, because you are encouraging the fights to take place and are continually sustaining those activities and practices. The clause therefore inserts a new offence of attending a dogfight.

Clause 4 expands the enforcement powers of the Prevention of Cruelty to Animals Act. It extends the powers of an inspector so an inspector can enter private residences under a magistrate's warrant. It will allow for controlled entry where there is sufficient evidence of continuing cruelty to animals.

Cases of trapped and neglected animals can be attended to with this extended power without a risk of charge against the inspector for forced entry or trespass. Where there is sufficient evidence that animals are being abused or have been injured and the owner chooses to hide them inside their own residence they will now be accessible because inspectors will be able to enter and locate these animals and provide adequate treatment for them.

Clause 6 provides the power for a warrant to be issued by the magistrate and allows the inspector to seize an animal from the premises, including a person's dwelling, if the inspector believes on reasonable grounds that the welfare of the animal is at immediate risk. A warrant issued under this provision authorises the inspector, together with a member of the police force if necessary, to seize an animal and to take that animal to any place that the inspector sees fit and to retain possession of an animal for any time necessary for the animal to be adequately cared for and treated. These provisions strengthen the ability of the inspector to intervene putting an end to any cruelty that might occur to an animal. We know there are animal owners who are not prepared to take the necessary action to stop the suffering of animals that they are responsible for. This provision protects the animals against that type of owner.

Clause 8 inserts the new regulation-making powers and will allow regulation to be made to prohibit the possession and use of certain implements and will also prohibit the undertaking of certain procedures on animals. If cruelty occurs as a result of the use of implements or the performance of particular procedures, under the general provisions of the act, prosecution can occur.

The new regulating-making powers will allow the minister after both an impact assessment and consultation with the public to regulate procedures, activities, devices and equipment which are judged likely to cause harm to an animal. Devices such as electronic training collars, steel-jawed traps and implements used for animal fighting might be included in the banned and controlled regulations. Procedures such as tail docking of puppies and firing of horses are the sorts of procedures that will be covered by the regulations.

The aim of the clause is to make a considered assessment of the issues and then to introduce regulations that will be acceptable to both the

community and to animal welfare agencies. This section of the bill is about prevention so that acts of cruelty do not occur and the clause allows for regulations to be made that the government sees as being necessary.

Clause 10 provides for the recognition of organisations that represent responsible restricted breed owners. At the moment, under the act, the minister is not able to give any recognition to any organisation representing restricted breed owners. The government believes it is only reasonable that if an act is to recognise the breed for the purposes of restriction it should also be possible to recognise the efforts of various organisations to have standards promoting management and ownership of restricted breeds. These organisations would demonstrate a commitment to the development of responsible dog ownership by being involved in activities such as programs of education and support that would focus on the owners of these types of dogs.

Clause 23 of the bill aligns the commonwealth and state legislation regarding pit bull terriers. Clearly the commonwealth has made an assessment that certain breeds of dog bred for fighting are an undesirable type of dog to be in the community for all the reasons previously outlined: that they are bred for dogfights; that the community does not have confidence that these dogs will not attack them or their children or other dogs; and that these dogs are often attractive to particular types of owners who want to have aggressive dogs with attack capabilities.

Where such dogs are present in the Victorian community it is only reasonable that they are managed by their owners in a manner that ensures both public safety and community confidence. A number of restrictions will apply to the restricted breeds of dogs: that there is a maximum of two restricted dogs per person without a permit from the council; escape-proof and child-proof fencing; permanent identification by use of microchip technology; compulsory notification to the council if the dog escapes, attacks or dies or there is a change of ownership; and compulsory notification by a prospective owner that the dog is of a restricted breed.

Muzzling and leashing of dogs when in public areas are signs that alert the public to restricted dogs. The government believes that there should be modest signs indicating there is a restricted dog on the premises such as signs that say ‘Beware, restricted dog’. A restricted dog cannot be owned or tended by a minor. It cannot be out in the community, whether it is muzzled, on a leash, or in any other way, if it is under the control of a minor. The amendments proposed in the bill go to the reasonable behaviour of a dog owner. The government believes these sorts of restrictions will address many community concerns regarding these types of dogs.

The last clause I will mention is clause 27, which is headed ‘Payments to the Treasurer’. This clause requires councils to pay the Treasurer an additional $1.50 for each dog registered. The government believes there is a need to fund education programs and other initiatives so that people understand the legislation and the restrictions that will be placed on them. Education cannot be undertaken without the appropriate funding, which is really about returning the funds to the community so that the community can understand the new law.

Funds could also be allocated to enable research into domestic animal management and to establish the best ways to inform members of the community about possible causes of dog attacks in our community. A number of dreadful attacks have occurred causing significant injuries and even resulting in the deaths of members of our community. Only last week two Rottweilers set upon a gentleman in suburban Melbourne, inflicting serious injuries on him. The community needs to feel much safer about the sorts of dogs that are being kept and about how they are being housed, cared for and tended when in public.

In conclusion, this is good legislation that addresses a whole range of concerns and issues that have been raised by the welfare advisory committee, as well as other interested groups and the community generally. The bill will protect animal welfare and ensure that those who are responsible for enforcing the legislation are better equipped and better able to go about their duties and carry out their responsibilities in line with the law. The bill deals with community concerns about the keeping of animals that they believe may attack, be dangerous and cause serious injury. It is good legislation and deserves the support of all members of the chamber. I commend the bill to the house.

Hon. B. W. BISHOP (North Western) — It is always a pleasure for members of the National Party to speak on bills such as the Animal Legislation (Responsible Ownership) Bill. Honourable members who are based in country areas are pleased to talk about dogs in the farming environment and also the metropolitan environment.

Hon. Philip Davis — Name them!

Hon. B. W. BISHOP — I will, just give me a moment. The National Party does not oppose the bill. I put on the record the National Party’s commitment to

responsible and caring ownership of animals and the prevention of cruelty to those animals. I make that point strongly because it is like caring for the land. If we do not care for our animals and the land our production is not sustainable and economic pressure is put on our farming systems.

I have often observed some tension between the metropolitan and non-metropolitan areas as to how the two areas treat and care for their animals. I understand that clearly because it is a totally different approach. Today we will probably use the example of dogs in the metropolitan and non-metropolitan areas. I am sure all dogs in the metropolitan area are well treated, loved and cared for. One of the dogs that always features in this house when we talk about dogs is the Honourable Neil Lucas's dog, Watto. He has been mentioned on the record a few times and I am sure that the treatment of Mr Lucas's dog would typify most if not all those living in metropolitan areas.

Hon. N. B. Lucas — He is a good-looking dog!

Hon. B. W. BISHOP — We have had some great debates in this house of a serious nature but also had a bit of fun on the side. Mr Stoney and I have often chuckled about the performance of our farm dogs. We had that opportunity during what I will loosely call the debate on the legislation covering dogs on the backs of utes, which we have had a couple of goes at in the Parliament.

I thought about all of the dogs we have had on our farm, and I must admit it took me some time to remember them all, but I thought I would give them a run today — and Mr Stoney might do some of his later, as well. Their names were: Bob; Digger; Lass; Snifter, a great dog and very handy; Chippy, and she was also a good dog; Boss; Blue; and Zip. I admit that our farm now has only one dog, and he is hardly what you would call a working dog, although if he were identified, I am sure he would think himself very suitably tagged a working dog. His name is Nick, and he is a Jack Russell. One might think he is pretty harmless, but he certainly works hard. When the ute is going around he doesn't get on the back; he sits up behind the driver's head, which is a very privileged position for a dog of that type. His vision is good, and he can take care of all the events that come within his line of vision. All of the dogs we have owned were different; but I can assure honourable members that they were all loved and well cared for during their time on the farm.

Last night at a function a group of us were talking about this bill, and Don Kilgour — the honourable member for Shepparton in the other place — and his wife Cheryl spruiked about their dog Mitchell. I am absolutely certain that that dog holds a strong and privileged position in their house, and like dogs on backs of utes, if ownership papers were handed out for the Kilgours, Mitchell would be well up on the ownership list of that household.

Everyone cares for their dogs in different ways. On our farm, because they are working dogs, they will work until they drop, whether it be working stock on the road or in the yard in hot weather. The owners of working dogs have to carefully husband the resources of those dogs by tying them up either in the back of the ute or on the back of the motorbike to give them a spell, but those dogs are bred to work, and that is what they want to do. It is a very good education for people to see working dogs in full flight at any of the country shows. Those sheep dogs are absolutely committed to the task. That is so from pups onwards, they have it bred in them. I am sure agricultural pursuits in Australia would not be possible without Australia's working dogs. Now I had better get back to the bill.

It deals with two principal acts. One is the Prevention of Cruelty to Animals Act 1986 and the other is the Domestic (Feral and Nuisance) Animals Act 1994. During the briefing on this bill the National Party expressed extreme concerns with the original clause 8. We are delighted that the pressure we and others applied saw that clause amended by the other house. It has been replaced by provisions setting out specifically what the legislation will ban.

Some examples are dog and cockfighting implements, and many other similar fighting implements. It also talks about pronged collars and electronic dog training collars. I suspect that the regulatory powers would see such things as, for example, electronic dog training collars being used under particular circumstances. I am not sure of that, but perhaps that is the way it goes. I know myself, training eager young working dogs, that while I would never use those electronic collars I have sometimes thought they would be very handy with a really keen dog, to teach it some discipline when still in the learning phase.

The real problem the National Party had prior to clause 8 being altered was the problem of regulations. They could impact strongly on agricultural practices, without standing the scrutiny and accountability that Parliament imposes, and that is from both sides of the ledger. We are pleased that that situation has been altered. Anything that changes existing procedures dramatically should come before Parliament where adequate scrutiny can be carried out.

There is a difficulty in bridging the gap between city and country on those issues, and we have had some good debates in this house on that topic. One such difficulty is the right to farm where there are differences between metropolitan and non-metropolitan areas and where the two overlap as they do sometimes. There are cases where the urban sprawl spreads out into agricultural areas, and people raise concerns that, for example, grape harvesters might operate at night, in what is almost an urban environment. Put simply, the best thing to do in a case such as that is to decide who was there first. It is a zoning issue, but it is an example of difficulties that arise between metro and non-metro areas. While the agricultural practices are within acceptable guidelines for agriculture, they should remain where they have been for many years. It is really a zoning issue.

The agricultural practices that we were concerned about, where regulations could simply have been brought in, include the practices in piggeries, broiler production, chicken production, feed lots, egg production and a number of other agricultural industries. They could have been very exposed if the original clause 8 had not been altered.

A good example would have been the views of our good friend Dr Hugh Wirth from the Royal Society for the Prevention of Cruelty to Animals, who was carrying on about rabbit traps. I understand he believes no-one should possess a rabbit trap. I cannot remember the last time a rabbit trap was used on our farm, but I am quite sure that somewhere in the back of the shed there are a few rabbit traps hanging up that we have used in the past, and the National Party does not want to have regulations sneaked into this place that make innocent people criminals overnight when they have done absolutely no wrong. So I am pleased to see that provision disappear.

The bill gives increased powers to enter and search premises and to seize animals. Although the National Party supports the legislation, we are often wary of such provisions because these matters must be handled sensitively and not in a heavy-handed way by the officers who might carry out the provisions. They are strong provisions and must be used sensitively and with accountability.

Reference is made to cockfighting and dogfighting, which is already banned, and rightly so in today's age. It may have been popular a long time ago but certainly not now. Any of us who have been around animals are always disturbed when animals fight, because animals do fight. I have seen horses, dogs, chooks, roosters and sheep, particularly rams, fighting, and we do all in our power to stop them. It beats me why anybody would want to see an organised fight of that sort. The National Party is delighted at that inclusion in the bill. While other legislation imposes severe penalties for providing premises for animal fights, now there are severe penalties for people who attend and watch such fights. I understand fines of up to $6000 can be imposed, which the National Party strongly supports.

Basically there are three amendments to the Domestic (Feral and Nuisance) Animals Act 1994. The bill introduces definitions for 'restricted breed' of dogs and 'recognised organisation'. As I understand it, a recognised organisation is an organisation concerned with restricted breed dogs. I believe a number of organisations are in that category, which I remember from past legislation.

The bill has an owner-onus provision under which an owner who registers a dog must declare that dog, if it is of a particular type, as a restricted breed, and councils will also be required to register the restricted breed. I have a letter the honourable member for Wimmera in the other place received from the Northern Grampians Shire Council, which states:

> In reading the proposals included within the abovementioned bill we were very interested to note the intention to increase the payment made by councils to the Treasurer for each dog registration from $1 to $2.50.
>
> As council is already required to act as a collection agency for the fee we have no concern with this arrangement continuing; however, we do have concerns about the proposal to increase the level of payment.
>
> Councils will have two choices if this proposal is enacted. We can absorb the fee into our own registration costs or increase the fee to cover it. Absorption is unlikely to be favoured, especially in rural areas, as the fees currently charged are generally minimal. It is much more likely that fees will have to be increased, and if this is the case the anticipated concerns and complaints about the increase will no doubt be directed at local government, it being the point of collection.
>
> My council would be most interested in knowing whether or not the state government intends to publicise the increase, should it eventuate, and how it is intended that the extra revenue will be expended and for what benefit.
>
> Council does support the changes to the relevant acts and has for some time asked for clearer and more stringent responsibilities to be placed with dog owners but has no information to equate the increase in fees to the new proposals.

The letter is signed by the corporate services manager, Peter Elliott. Councils must be notified within 24 hours when a restricted breed dog is sold or lost, and a new owner must be notified if they purchase a dog that the dog is a restricted breed and of a particular type. I noted

that the Honourable Philip Davis struggled to name the dogs, but they are all a particular breed of dog.

The restricted breed must be confined within the owners premises and people can own only two restricted breed dogs. They may obtain a permit from the council if they want another dog, provided it is available. The National Party was interested to learn at what age the dogs had to be under control and was informed that breeders are all right because pups under six months of age are not seen as dogs. Therefore breeders will have the flexibility to continue to breed dogs of that type.

A person under 17 years of age cannot own a restricted breed. I suspect the aspect of the bill that will cause the most difficulty will be in that breed-specific area. The National Party heard some diametrically opposed opinions when this matter was discussed. I must say that some of the dogs on our farm would be nearly unidentifiable if one wanted to trace them back. I can remember my son having a three-quarter bull terrier and one-quarter Queensland heeler, whose name was Boss. He was probably properly named, but it would have been hard, unless one had a fair idea, to accurately identify that dog. He was a wonderful dog with kids and people, but he was tough on other dogs. I suspect that breed had a stubbornness that was not always dangerous to humans but in a territorial sense was tough on other animals.

It is difficult to pick the most dangerous dogs. I have seen excellent Queensland heeler work dogs being very touchy and having to be treated with the utmost care. At the other end of the scale I have seen a fox terrier bitch with pups who would take to anyone who went near her pups. I have seen kelpie mothers who would certainly have a real go at you if you went near their pups, so it is hard to identify what would be recognised and categorised as a dangerous dog in relation to the safety of our communities.

Members of the National Party had a good look at the review panel process. That will be interesting too, because the panel will be charged with the responsibility of classing a dog as a restricted breed. For example, if someone disagrees about his or her dog being classified as a restricted breed he or she has 30 days to have that reviewed, for which a fee is payable. The panel consists of three people. I note that the Royal Society for the Prevention of Cruelty to Animals has avoided that responsibility, as it is not represented on the panel. The review panel must make a decision about the dog. As I went through the legislation I could see no provision for the owner to appeal against the panel's decision, but the minister might clear that up in the third-reading response.

To put it frankly, the National Party reckons that all this area is a bit wobbly, and I suspect that the courts will get a fair run at it when the bill comes into operation. The National Party suspects that the bill will do little to solve the problem of dog attacks on people in the community. It will simply multiply the complexity of dog owners' compliance with councils. I make that point because a careful reading of the statistics shows that about 80 per cent of dog attacks occur in the backyard, where the family dog will nip a visitor or one of the family. While there is a wide difference of opinion — for example, many people would say, 'It is not the breed, it is the deed' — to a reasonable degree we in Victoria manage that well through the dangerous dog provisions in the act. Perhaps the next bill will show a greater focus on the management of dogs and community safety relative to dog attacks.

To conclude, the alteration to clause 8 removes many of the difficulties the National Party had with the bill. We were concerned about the wide-sweeping power to make regulations that would have been conferred by the original clause 8, which could have made it difficult for people in rural agricultural pursuits, but some of our concerns have been removed now that that provision has been deleted. However, we believe it will be difficult to put some of the provisions of the bill in place, especially those relating to particular breeds of dogs.

The National Party therefore urges the government to go back and have a good look at the dangerous dog section of the legislation, which has a good mechanism for public safety and the management of dogs. It seems to me that we are making an issue out of particular breeds of dogs. Some may be very difficult to identify, and that certainly puts a difficult task in front of the owners, the new review board and the councils. Again I suspect that the courts will get a fair bit of business from this legislation.

Hon. E. G. STONEY (Central Highlands) — I rise to speak briefly on the Animals (Responsible Ownership) Bill. Today honourable members have been challenged to name their dogs. We have heard about Mr Bishop's dogs, Mr Davis's dogs and Mr Lucas's dogs. I want to tell the house about my dogs, and the three that come to mind are Tex, Tan and Ring, but my favourite was Flirty. I do not know why we called her Flirty, but she always had pups in tow!

Owning and managing animals responsibly means you have to walk a fine line. It has been my experience that

people who do not have a background in owning animals do one of two things: they either spoil them and love them to death, or they lose interest, treat their animals carelessly and cause them pain and distress. We often hear of horses starving in paddocks, of sheep, fly-blown and dying in the corners, jammed up in small blocks adjacent to towns. I know of a mob of 20 sheep that were all fly-blown and several had gone off into corners to die. That was caused through a lack of attention after people thought they would love to have a few sheep, but then lost interest in them. You hear about dogs tied up for weeks on end, barking and distressed, because as Mr Bishop would know, you need to keep a dog's interest, particularly that of a working dog. You must keep him exercised and doing the things he really loves. Either Mr Bishop or Mr Davis said that when that is done, working dogs — heelers and kelpies and indeed short-haired border collies — will work until they drop because they love it so much.

I make the point that very rarely do you find that people who farm animals commercially ill treat them. Apart from the fact that they really like and understand their animals, ill treating their animals is very bad for farmers' hip pockets. There is a combination of the fact that they farm animals because they like doing so and the fact that they know it is bad commercial practice to ill treat them.

The bill amends both the Prevention of Cruelty to Animals Act and the Domestic (Feral and Nuisance) Animals Act. Farmers and other commercial owners of animals have been wary of both of those acts. There have been repeated attempts over many years to tighten how farmers and other people who farm animals commercially treat animals. Home owners of pets are generally the ones being targeted by these acts, but I fully agree that farmers also need to protect their animals.

As has been alluded to earlier, it happened again with this bill, because farmers were gathered up in the original clause 8. When the bill was introduced into the other place it had the potential to stop dead many traditional farming methods. It would have introduced the power to bring in regulations that could have stopped very important farm management techniques such as mulesing and calf and sheep marking — in fact even the ear marking of calves, which is very important for identifying stock, especially up in the high plains where a lot of stock run together.

All these were gathered up in the push to outlaw things like cockfighting, dogfighting and pin firing of horses. What got me really going and what caused publicity in rural Victoria was a proposal to ban the use and possession of steel-jawed traps. The feeling in rural Victoria was that this was absolute rubbish. I am not sure what Ms Darveniza said in her contribution, but I suspect she believes it is still possible to ban or outlaw steel-jawed traps. I understand proposed section 42(1) of the Prevention of Cruelty to Animals Act inserted by clause 8 prohibits the introduction of regulations to ban the use or possession of steel-jawed traps.

The press in country Victoria really got fired up on this issue. A couple of country members, including the honourable member for Swan Hill in the other place and I, publicised the proposition to ban steel-jawed traps. A long article in the Warrnambool *Standard* of 12 July refers to this issue and states:

> Retired farmer Dudley Wythe said he started trapping rabbits as a 14-year-old, catching up to a 1000 a week …
>
> He said the traps were handy for problem foxes and should be allowed on private land. Trapping was not cruel if traps were checked regularly, he said.

An article in the *Weekly Times* of 8 August records comments against the proposal, particularly one from Geoff Hahn of Perry Bridge, near Maffra. The article states:

> 'Without rabbit trapping, we and many other families would have gone broke.
>
> …
>
> Don't smash rabbit traps: instead proudly hang them up in honour as they deserve a real place in our history'.
>
> Of all the forms of rabbit control, Geoff suggests the simple trap is the most humane.

Experienced rural people have come out against a silly proposal to ban steel-jawed traps.

Mr Ricky Seiter of the Australian Mouse and Rat Trap Museum at Shepparton, in North Eastern Province, represented by the Honourables Bill Baxter and Jeanette Powell, sent me an email which states:

> I am writing to express my anger at the proposed amendments to the Prevention of Cruelty to Animals Act 1986, in particular the sections pertaining to the banning of possession of steel-jawed rabbit traps. Once again wildlife protection groups have overstated the need to ban these from ownership. I note the use of a clause '(unless possessed as a curio and disabled)'. I feel that disabling traps that are kept as part of a collection is totally uncalled for. I have spent many years and much money assembling my collection and do not wish to see them destroyed because a select minority do not like them.

The government has misread the mood of rural people. It was a stupid, badly thought out idea that deserved to be thrown out. Farmers have a long and proud history with animal husbandry. Long before veterinarians

established themselves in rural Victoria — and we are blessed with a fine profession of veterinarians throughout rural Victoria — local farmers developed a knowledge and flair for animal husbandry, and many farmers were in great demand in helping with calving. Indeed, my father was very good at helping heifers calve. I remember one year having 80 heifers joined with a short-horned bull — a bad move — and 78 heifers had to be assisted, which taught me a great deal about delivering calves. I am sure many honourable members in this place and in the other place have delivered many calves and lambs, and have done it quite well.

In closing I take issue with the marking of lambs and calves. After marking they jump up and, with a swish of their tails, rush off to their mothers to have a drink and are as right as pie. With the swish of a few tails in this house, this legislation will be supported, now minus a very stupid and unworthy provision that would have impacted on how many farmers manage their stock and their collections of steel-jawed traps.

Motion agreed to.

Read second time.

Third reading

Hon. C. C. BROAD (Minister for Energy and Resources) — By leave, I move:

That this bill be now read a third time.

In doing so I thank all honourable members for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 1.01 p.m. to 2.02 p.m.

QUESTIONS WITHOUT NOTICE

Alpine Resorts Coordinating Council: appointment

Hon. BILL FORWOOD (Templestowe) — I refer the Minister for Industrial Relations to the recent appointment of ALP and trade union mate, Bill Shorten, who is secretary of the Australian Workers Union and a preselected candidate for the ALP, to a paid position on the Alpine Resorts Coordinating Council. Is this not just another example of mates for the boys — jobs for the boys?

Hon. M. M. GOULD (Minister for Industrial Relations) — I take slight offence at the Leader of the Opposition referring to ‘mates for the boys’; I think he was referring to jobs for the boys.

The government has made clear its consultative approach, which contrasts to the approach taken by the opposition. The government will involve all stakeholders in its discussions with the community to ensure that boards appropriately represent all stakeholders.

Hon. Bill Forwood — What can he do? Ski?

Hon. M. M. GOULD — On the comment made by the Leader of the Opposition on the appointment of Bill Shorten to a position on the board, it is appropriate to ensure that all stakeholders are involved in the board. Bill Shorten has coverage of numerous employees there and will ensure that their interests are taken up with the board. I have no problems with Mr Shorten’s appointment

Yallourn Energy: dispute

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Industrial Relations inform the house of the purpose of yesterday’s meeting that she convened between Yallourn Energy and the relevant unions?

Hon. M. M. GOULD (Minister for Industrial Relations) — As honourable members are aware, there have been ongoing industrial relations problems at Yallourn Energy. These issues stretch back to prior to the start of the Bracks government, and they have been ongoing for almost three years. With regard to this dispute there are two main groups of employees at Yallourn — the mine maintenance workers and the operators. In September of this year the Australian Industrial Relations Commission (AIRC) arbitrated on an agreement with respect to the operators. The maintenance employees have been involved in separate discussions on their new enterprise agreement.

On 28 November Yallourn Energy applied to the federal commission to have the maintenance union’s bargaining period terminated and to have that matter arbitrated. The maintenance union responded by taking industrial action, which started yesterday. That action is legally protected action under the Workplace Relations Act.

Honourable members interjecting.

The PRESIDENT — Order! I am trying to hear the Leader of the Government. I ask honourable members on both sides of the house to allow the minister to be heard.

Hon. M. M. GOULD — The government believes it is time for this matter to be fixed once and for all. Therefore yesterday I held a meeting with the unions and the company to make clear the government's position on the matter. The government will not allow this matter to compromise the electricity supply, and I made that abundantly clear to the parties yesterday. Another purpose for the meeting was to make sure the parties were encouraged to get together and resolve these issues as soon as possible. The meeting provided the parties with an opportunity to clarify their positions, and they worked towards identifying the common ground.

The Bracks government has made it clear that it will act decisively to ensure supply is not put at risk. The company and the unions must now move to resolve this issue either through negotiation or by using the services of the AIRC. As I said earlier, the matter is before the commission today as we speak, and unfortunately, as this house is well aware, this state is the only state in Australia that can rely only on the federal Workplace Relations Act. That causes long and protracted disputes like this one. Nevertheless, we have done what we can to see if we can assist the parties to get this matter fixed once and for all, and now it is in the hands of the AIRC.

Industrial Relations Victoria: executive director

Hon. BILL FORWOOD (Templestowe) — I address a question to the Minister for Industrial Relations. Is it a fact that the government's hand-picked chief executive officer in charge of industrial relations in this state has resigned because he has lost confidence in the Premier, the Treasurer and the Minister for Industrial Relations?

Hon. M. M. GOULD (Minister for Industrial Relations) — Honourable members opposite have no idea. Honourable members will be aware that when the Bracks government came to office in October 1999 it was faced with the legacy of seven years of a Kennett government approach to industrial relations. It got rid of — —

Honourable members interjecting.

The PRESIDENT — Order! The opposition has asked a question of the minister, and I am sure the house wants to hear the response.

Hon. M. M. GOULD — The former government got rid of the state's industrial relations system, it got rid of fair minimum conditions and it got rid of the government structure that could help Victorians understand industrial relations. It did not even have an industrial relations minister! It left Victoria's industrial relations to the law of the jungle.

Industrial Relations Victoria (IRV), a division of the Department of State and Regional Development, was established by the Bracks government to address the appalling state of affairs left by the previous government. IRV was established as part of the whole-of-government approach. It has a central role in monitoring and administering the government's industrial relations policy.

Geoff Fary commenced as executive director of IRV on 1 May last year. In the past 18 months he has done an outstanding job of building up the capacity and the capabilities of IRV. He was recently offered an excellent opportunity to return to the private sector, and he has chosen to take that up.

Honourable members interjecting.

The PRESIDENT — Order! The opposition has asked the Leader of the Government a question. I want to hear the answer, and I want the rest of the house to hear it as well.

Hon. M. M. GOULD — I am sorry to see Geoff go, and I wish him every success in the future. One of the things that Geoff has done very well, among a number of other things, is that he has been a good leader and has built up a great and very strong team. I would like to take the opportunity to thank him and his team for the work they have done. Without his leadership it would not have been as successful as it has.

The government will continue to develop IRV and will go through a process in line with departmental procedures to find a replacement, as Geoff will not be leaving until February.

Small business: Streetlife program

Hon. D. G. HADDEN (Ballarat) — I ask the Minister for Small Business to inform the house how the Bracks government's revamp of the guidelines for the Streetlife program will further assist Victorian small businesses.

Hon. M. R. THOMSON (Minister for Small Business) — I thank the honourable member for her question. This program was introduced by the former minister, the Honourable Mark Birrell, as an

employment program. It was of great benefit to small business, even though it came out of Mr Birrell's portfolio area. It focused on the retail sector throughout Victoria.

Yesterday I launched the new guidelines for the Streetlife program and announced funding of $1 million over the next two years. The government has changed the focus of Streetlife to that of a small business program to develop and assist small business in understanding that working together can produce greater outcomes than working in isolation, and that working in partnership with the community and local councils can also aid small business.

The government has extended the guidelines to include all business sectors, from home-based businesses to industrial-based businesses and also businesses run by people who have come from a non-English-speaking background. We have changed the grant allocation from a $10 000 grant or a $20 000 grant to grants ranging from $5000 up to $40 000. This is to broaden the scope for people who can apply for funding under the Streetlife program. The government will be looking to ensure that Streetlife offers an opportunity to enhance the skills of those who operate businesses. The beauty of Streetlife is the partnership approach and a broadening of the approach to working together with local government and looking at regional applications from a number of councils, together with local communities, so there can be multiple — —

Honourable members interjecting.

The PRESIDENT — Order! The house is trying to hear the minister. Mr Theophanous is not a minister, if he does not realise that, and I ask him to keep quiet while his minister is speaking.

Hon. M. R. THOMSON — It will allow councils to join together for regional development of projects on a number of sites. What we see with the Streetlife program is a broadening of its application to a number of businesses to ensure that Victorian businesses, no matter where they are in the state, have the opportunity to grow and develop.

Urban and Regional Land Corporation: managing director

Hon. R. M. HALLAM (Western) — My question is addressed to the Minister for Industrial Relations in her capacity as the Leader of the Government. I refer the minister to the appointment of Mr Jim Reeves as managing director of the Urban and Regional Land Corporation.

Hon. D. G. Hadden — Let it go! Give it a rest!

Hon. R. M. HALLAM — Thank you for that in-depth interpretation.

Is the minister aware of any other instance under the Bracks administration in which an appointment has been made on the basis of personal friendship or party allegiance as distinct from professional qualification, or is it that only the Premier — —

Honourable members interjecting.

The PRESIDENT — Order! I will not have an honourable member who is trying to ask a question being talked over by a number of honourable members of the house. I ask the honourable member to finish his question.

Hon. R. M. HALLAM — Thank you, Mr President. Is it that only the Premier and Deputy Premier enjoy such latitude under Labor's rules?

Hon. M. M. GOULD (Minister for Industrial Relations) — It shows the honourable member's understanding that he poses such a question. All people who have been appointed to boards or any other committees by the government have been appointed on merit and because of their ability. To cast such aspersions on the Premier and the Deputy Premier is an absolute outrage.

Fishing: recreational grants

Hon. E. C. CARBINES (Geelong) — Following the government's establishment of the Recreational Fishing Licence Trust, will the Minister for Energy and Resources inform the house of details of the Bracks government's recreational fishing grants program?

Hon. C. C. BROAD (Minister for Energy and Resources) — I thank the honourable member for her question and for her interest in recreational fishing. I am pleased to announce today that the Bracks government will provide up to $750 000 in 2002 for projects aimed at improving recreational fishing in Victoria under the new recreational fishing grants program.

The government has delivered on its election commitment to Victoria's recreational fishers by legislating to establish a trust fund, the recreational fishing licence trust account, and to establish a stakeholder-based fisheries revenue allocation committee to administer that trust fund and the grants program. In future years this trust account will provide

up to $2.5 million for fishing grants following the conclusion of payments for the bay and inlets buyback.

Today's launch of the recreational fishing grants program for 2002 is further proof that the Bracks government is working with local communities, including fishing clubs, peak recreational fishing bodies and other stakeholders, to improve recreational fishing in Victoria. Under the grants program there are four categories of projects to which revenue can be allocated. They are education, information and training; research; access and facilities; and sustainability and habitat improvement, including fish stocking.

I have written to all recreational fishing clubs, catchment management authorities, regional water authorities, municipal authorities and other interested stakeholders inviting their applications for eligible projects. Applications for fish stocking projects will close on 11 January, and grant applications from everyone else for all other projects will close at the end of February.

Projects must be designed with a clearly defined objective that will be a direct benefit for Victoria's recreational fishers. I look forward to announcing the successful projects in May next year, and they will have funds allocated to them by July next year. This initiative demonstrates the Bracks government's strong support for recreational fishing in Victoria and the delivery of its policy to develop partnerships with the recreational fishing community to protect, sustain and improve our world-class recreational fisheries.

Public sector: appointments

Hon. I. J. COVER (Geelong) — I ask the Minister for Sport and Recreation, who is also the Minister for Youth Affairs, to advise the house whether he condones the practice of making public sector appointments on the basis of personal friendships and/or party allegiances as distinct from professional qualifications and whether he can give a categorical assurance that all appointments made within his time and scope of ministerial responsibility have been strictly merit based.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome the honourable member's question. The appointments the government makes throughout its respective portfolios, my portfolio in particular, will be based on merit and skill and considered accordingly, as they have been in the past. That is unlike the situation under the previous government, which for seven years surrounded itself with cronies to the point where it did not appreciate the mistakes it was making until the electorate told it at the last election.

Sport: facilities

Hon. JENNY MIKAKOS (Jika Jika) — I ask the Minister for Sport and Recreation: in light of the Bracks government's commitment to boosting sporting opportunities for all Victorians, what steps has he taken to achieve this outcome?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for her question. Members of this house should appreciate the commitment the government has to grassroots participation in this state and the impact that it seeks to have on participation at a local community level in terms of activity, health, fitness and sport and recreation.

The high number of applications made to the Community Facilities Funding program for 2002–03 has been very impressive. There has been an outstanding level of interest in the application process. In the order of 52 planning projects were received as part of applications to develop proposals along strategic lines, which the government encourages, particularly at a community level; in the order of 27 applications were received for multipurpose and regional single-purpose facilities in the community; in the order of nine new aquatic developments were applied for; and there were something in the order of 34 applications for planned redevelopments of existing pools.

It shows not only a need for but also the government's commitment to ensuring the development of community facilities across the whole of the state, and the government has altered the funding ratios to make sure that there is greater opportunity for the communities in regional Victoria. The government expects to achieve in this coming year more than $32 million worth of investment, which was the investment in sporting infrastructure in the previous year, to continue to grow the whole of the state.

Electricity: supply

Hon. PHILIP DAVIS (Gippsland) — I ask the Minister for Energy and Resources whether in regard to the threat to power supplies by the industrial dispute at Yallourn Energy she will use the emergency provisions under part 6 of the Electricity Industry Act to guarantee Victorians electricity supplies during this summer.

Hon. C. C. BROAD (Minister for Energy and Resources) — There is no threat to Victoria's power

supplies. The management company for the national electricity market has confirmed that there is no threat to Victoria's power supplies, and that continues to be the advice to me.

I suggest that the honourable member knows full well that the powers under the act to which he has referred are only able to be exercised if there is a threat, and there is no threat to Victoria's power supplies. The government has demonstrated that it has the capacity to act decisively if there is a threat to Victoria's power supplies. The government has acted decisively in the past and it will do so again if that is necessary. However, I repeat that there is no threat to Victoria's power supplies.

Commonsense would dictate to anyone who cares to look out the window that there is no threat to Victoria's power supplies. Those forecasts have been prepared on the assumption that even without the Yallourn power station the forecast can be met by the other sources of supply.

Hon. Philip Davis — Mr President, I raise a point of order in the context of the question. Given that the Minister for Industrial Relations said in relation to this matter that, 'The government will not allow this matter to compromise the electricity supply' and further said that the government will act decisively to ensure supply is not put at risk, I asked this question of the minister responsible for energy in relation to security of supply for this summer. The Minister for Energy and Resources has not answered the question in relation to whether she will use the emergency provisions of part 6 of the Electricity Industry Act to secure supply this summer.

The PRESIDENT — Order! I listened very carefully to the question and the answer. The minister did respond. She indicated that she has no power to invoke that legislation while there is not an emergency and in her opinion there is no emergency. Am I paraphrasing the minister correctly?

Hon. C. C. BROAD — The advice to the government is there is no threat to Victoria's power supplies.

The PRESIDENT — Order! I cannot uphold the point of order.

Consumer affairs: Christmas credit campaign

Hon. T. C. THEOPHANOUS (Jika Jika) — The Minister for Consumer Affairs would be aware of my interest in consumer credit protection and education. Can the minister inform the house of what the Bracks government is doing to educate consumers on ways of using credit wisely this Christmas?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the honourable member for his question. The Bracks government is committed to tackling the issue of consumer debt and consumer awareness of how to properly manage credit and debt. The government has moved on a number of fronts in this area, including payday lending, but it wishes to ensure that consumers are aware of how they can use credit wisely and escape some of the traps.

The Reserve Bank of Australia estimates that Australian household debt stands at $75 billion and that Australia owes more than $16 billion in credit debt alone. In 1999 the Australian Retailers Association conducted a Christmas survey and found that 45 per cent of those surveyed were likely to use credit cards to pay for all their Christmas purchases. Christmas is a time when consumers often rely very heavily on the use of credit.

This year the government has again launched a Christmas credit campaign. The government wants to ensure that consumers are able to enjoy Christmas and the period after Christmas. This year Consumer and Business Affairs Victoria has decided to take a more light-hearted approach to the information it provides to consumers to encourage them to think wisely before they shop, to take time to think about how much they can afford to put on credit and to use lay-bys and pay by cash.

Rudolph the In-the-Red Reindeer has been featured on a card which will be given out to consumers to encourage them to think about their purchases over the Christmas period and to spend within their means. Some 140 000 of these cards will be distributed around Victoria as a reminder to consumers to think about their purchases. I encourage consumers who receive those cards to pass them on to others who may benefit from the light-hearted but serious message that appears on them so that this year people can enjoy their Christmas, enjoy their Christmas presents, and more importantly, be able to pay for them come January.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — I have answers to the following questions on notice: 2355, 2382, 2440 and 2462–4.

The PRESIDENT — Order! The Honourable Andrea Coote has written to me seeking my ruling in relation to question on notice 2431 relating to the recommendations of the review of the extension education program. In my opinion the question has not been answered. I therefore direct that it be reinstated on the notice paper.

Hon. C. A. FURLETTI (Templestowe) — I seek an answer to question on notice 2339, which I asked of the Minister for Industrial Relations in this house on 9 October.

Hon. M. M. GOULD (Minister for Industrial Relations) — The honourable member has written to me regarding question on notice 2339, which was directed to the Premier. I have raised it with the Premier's office, indicating that I have received a letter from the honourable member and asking the Premier to supply the answer.

The PRESIDENT — Order! It is always difficult when ministers are representing other ministers in the other place. The presumption is that the Minister for Industrial Relations will be pursuing the matter and will eventually supply the answer to the honourable member.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — Parts 1 and 2 of question on notice 2213 as reinstated by you, Mr President, and questions 2251 and 2252 standing in my name, have been on the notice paper for in excess of 30 days. I have written to the Minister for Industrial Relations advising her of that, and I now seek an explanation of when answers will be provided.

Hon. M. M. GOULD (Minister for Industrial Relations) — I have received correspondence from the honourable member about that matter and I have raised it with the appropriate minister. I am pursuing the matter and will continue to do so to get an answer for the honourable member.

Hon. G. B. ASHMAN (Koonung) — Yesterday I emailed the Minister for Energy and Resources in relation to a number of questions on notice directed to the Minister for Transport — that is, questions 2311–12, 2363–5 and 2401–10 — seeking confirmation that they will be responded to. I now seek some explanation as to why the time for the answering of these questions has been exceeded.

Hon. C. C. BROAD (Minister for Energy and Resources) — As the honourable member has said, these questions were asked of me for referral to the Minister for Transport. I will seek advice from the minister as to the answering of those questions and endeavour to ensure that the honourable member receives replies to them as soon as possible.

Hon. ANDREW BRIDESON (Waverley) — Question 2153 on the notice paper in my name was a question directed to the Minister for Education. I seek an explanation from the Minister for Sport and Recreation on when I might receive an answer to that question. I wrote to the Minister for Education on 30 November on this matter.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Appreciating the sense of urgency by the honourable member, I will raise it with the Minister for Education and seek an answer at the earliest possible opportunity.

AUDIT (FURTHER AMENDMENT) BILL

Second reading

Hon. M. M. GOULD (Minister for Industrial Relations) — By leave, I move:

> That so much of the standing orders be suspended as would prevent motions for the second reading of the Audit (Further Amendment) Bill and for the adjournment of the debate on the bill being again moved.

The Honourable Roger Hallam raised this matter with me. I said I would get back to him on it. I wish to apologise to the house for the inconvenience of reading a second-reading speech the department forwarded to me. It did have a replacement copy, but that was not received in my office. I have taken it up with the department. As I said, I apologise to the house for any inconvenience.

Hon. R. M. Hallam — Thank you.

Hon. M. M. GOULD — I thank the Honourable Roger Hallam for picking up the issue. With the leave of the house, I propose to move the second-reading speech again.

Motion agreed to.

Hon. M. M. GOULD (Minister for Industrial Relations) — By leave, I move:

> That this bill be now read a second time.

The bill introduces amendments to the Audit Act to further enhance the independence of the Auditor-General, strengthen the accountability arrangements of his office and provide greater scope in his powers to promote sound financial management in the state.

In November 1999, during the debate on the Audit (Amendment) Bill 1999, the Premier advised the other place that the government was considering further amendments to the Audit Act that had been requested by the Auditor-General. The Premier stated that these further amendments required more consultation than could be accommodated in the time available for the preparation of that bill. On behalf of the government, the Premier assured the other place that further legislation would be introduced after the necessary consultation had occurred.

There has now been extensive consultation between the Department of Treasury and Finance, the Auditor-General, the Department of Premier and Cabinet, the Department of Justice, and other bodies, including other jurisdictions within Australia and New Zealand. As part of this consultation process the Public Accounts and Estimates Committee was also consulted fully on the Audit Act amendments. On behalf of the government I thank the chairman and members of the committee for the valuable contribution they have made to the development of the bill.

The amendments to the Audit Act introduced by this bill relate to the following issues:

Greater protection for the Auditor-General

1. Indemnity for Auditor-General and staff

Consistent with the government's steps in restoring the independence of the Auditor-General, the bill provides an indemnity for the Auditor-General and his staff, through amendment to section 94D of the Constitution Act. Although such indemnities in legislation are rare, this provision ensures that as the Auditor-General is an independent officer of the Parliament, appropriate indemnity protection is provided through legislation rather than being at the discretion of the government.

Both the current Auditor-General and his predecessor have requested a statutory indemnity to cover him and his staff. In support of these requests, the Auditor-General commented that a number of other officers, such as the Regulator-General, the Ombudsman, the Legal Ombudsman and the Chief Electrical Inspector enjoy strong statutory protection.

The indemnity that has been provided exempts the Auditor-General and his staff from any personal liability for acts or omissions in performance of official duties, provided they have been done in good faith.

2. Disclosure of information in reports yet to be tabled

As part of the amendments to the consultative process, the government has provided the Auditor-General's proposed reports with greater protection. Under section 20A(2) of the bill, a person receiving a proposed report or part of a proposed report must not disclose any information in that report unless acting in the course of their official duties, or the information has been made public in a report by the Auditor-General to the Parliament.

The bill also introduces penalties for persons or body corporates that breach these secrecy provisions. In disclosing information outside of the avenues available under section 20A(2) a person is liable to a maximum penalty of 50 penalty units, while a body corporate is liable to a maximum penalty of 250 penalty units.

Scope of Auditor-General powers

3. Scope of powers

The Auditor-General has sought clarification in his powers and functions under the Audit Act. To ensure a common understanding of what types of activities his office may undertake, the Auditor-General requested the Audit Act be amended to set out clearly the general scope of his powers and therefore his duties and functions. To this end, the government has proposed in the bill amendments to the Audit Act to provide clarification of the powers and functions of the Auditor-General through a revision of the objectives of the act, under section 3A.

In addition, the government recognises the important role the Auditor-General plays in the identification of any wastage, lack of probity or financial prudence in the management or application of public resources. Accordingly, the public interest focus of the Auditor-General's work is now clearly articulated in the Audit Act.

4. Extension of the authorities definition

The Auditor-General has raised concerns that the definition of an authority in section 3 of the Audit Act is insufficient to give him the power to audit entities controlled by the state or other authorities.

The definition of an authority in section 3 of the Audit Act includes 'a corporation, all the shares of which are owned by or on behalf of the state, whether directly or indirectly'. This section does not confer power on the Auditor-General to audit partly owned corporations, no matter how close to 100 per cent the state's effective

shareholding is. While section 3 allows for other persons or bodies to be prescribed as authorities, the Auditor-General has expressed the preference that a power to audit bodies that are not wholly owned be provided explicitly.

The bill amends section 3 to provide the Auditor-General with the power to audit all entities controlled by or on behalf of the state or authorities.

Where the state or an authority does not hold a controlling interest in an entity, the Auditor-General shall continue, as now, to audit the authority in whose books this minority shareholding appears as an investment and comment on the value or risk of such an investment.

This amendment will ensure that the Auditor-General has responsibility for the financial audit of all entities in which the state or an authority has control.

5. Auditor of Victorian public sector non-authority bodies

Circumstances can arise where it is desirable for the Parliament to enable the Auditor-General to undertake financial statement audits for entities not coming within the definition of an authority under the Audit Act, but still within the Victorian public sector. An extension of the Auditor-General's powers to audit these types of entities provides him with greater opportunity to scrutinise the use and flow of public funds.

Under section 16G, the bill provides the Auditor-General with the power to audit entities outside of the definition of an authority under the Audit Act, but still within the Victorian public sector. The Auditor-General will only be able to undertake such audits if invited to do so by the entity and it is in the public interest and practicable for him to do so.

6. Examination of funded bodies

The Auditor-General has advised the definition of a public grant in section 20 of the Audit Act has caused some interpretive difficulties for his office. For example, the question has been raised whether goods or services provided to a community or private body at subsidised or nominal cost, or free of charge, constitute a grant within the meaning of the section.

The bill provides clarification of the nature of grants to funded agencies. The purpose of the amendment is to ensure that the Auditor-General has clear directions as to what resource flows to funded agencies he has the power to examine.

To achieve this, under section 16C of the bill, the Auditor-General has been provided with a general audit power to conduct any audit necessary to determine whether a financial benefit, paid by an authority to a person or entity that is not an authority, is being applied economically, efficiently, effectively and for the purposes for which it was given.

7. Other audit services

The Auditor-General has sought an explicit power in the Audit Act to enable him to provide additional auditing services to authorities, when requested to do so. Situations can arise where, due to the knowledge the Auditor-General may have of an authority's activities or particular expertise in a sector, an authority may wish to engage the Auditor-General to undertake additional audit services.

Through section 16E the bill provides for a limited extension of the Auditor-General's powers to undertake additional audit services for authorities. Under this provision, the Auditor-General can only provide these services where an authority has requested him to do so and the authority has gained the approval of its responsible minister to make the request.

8. Information to public officials during the course of an audit

The Auditor-General has requested he be provided with the ability to communicate information to other persons and bodies where it is considered appropriate.

A situation may arise during the course of an audit where the Auditor-General becomes aware of information that is more suitably dealt with by another person or body. For example, if fraud is found taking place in an authority the Auditor-General may wish to pass on this information to the Chief Commissioner of Police. However, under the current provisions of the Audit Act the Auditor-General cannot pass on any information, obtained during an audit, to other persons or bodies.

A new section 16F is proposed in the bill to enable the Auditor-General to provide written information to a minister, the Chief Commissioner of Police, an authority, a member, officer or employee of an authority and a statutory office-holder — for example the Ombudsman. Where the Auditor-General passes information on under this section, he must notify the Premier.

Efficiency in Auditor-General audit operations

9. Capacity to transmit reports to the Parliament out of session

The Auditor-General has requested that he be provided with the power to send his completed reports to the Parliament when it is in recess and therefore be provided with parliamentary privilege. This would obviate the need for additional work to ensure that reports are still current at the time of transmission to the Parliament and would better meet the public need for information to be available as soon as possible after an audit is completed.

Under section 16AB the bill provides for the transmission of reports of the Auditor-General when the Parliament is in recess. Section 16AB sets out specific requirements for both the Auditor-General and the Clerks of the Parliament in the operation of this provision. The Auditor-General is required to give one business day's notice of his intention to transmit a report to the Parliament and once the report has been provided to the Clerks, the Auditor-General is required to publish the report on his Internet web site.

As part of this process the Clerks must notify members on the same day of the receipt of the notice from the Auditor-General and distribute the reports to members as soon as practicable. The report must then be laid before the house on the next day of sitting. This last provision is to ensure a report transmitted to the Parliament, while in recess, is not precluded from being debated in the Parliament once the Parliament is sitting.

10. Revised threshold for the delegation of authority to undertake financial audits

The threshold for the Auditor-General to delegate the undertaking of a financial audit and signing of an audit opinion is currently set at authorities with net assets of $1 million or less. The Auditor-General requested this threshold be increased to cover authorities with $5 million or less in expenditure for that financial year.

The increase in the delegated threshold is not a move towards greater outsourcing of the Auditor-General's work. Approximately 70 per cent of the Auditor-General's current financial audit work program is contracted out to private audit service providers. The main difference between contracted-out work and that work coming within the delegated threshold is that an audit service provider is required to sign the audit opinion as the Auditor-General's agent under the delegated provisions.

The purpose of this amendment is to achieve greater efficiency and effectiveness in existing outsourcing arrangements of the Auditor-General. It provides him with the ability to gain greater flexibility in achieving value for money (and accountability) from private sector audit firms he contracts work to. Under the current threshold levels 91 per cent of contracted audits are required to be reviewed (and often have rework conducted) and then signed by the Auditor-General, leaving only 9 per cent of audits being signed off by the contractor who actually did the work. This situation does not lend itself to an efficient means of contract management for the Auditor-General.

Through the bill, the new section 7G increases the threshold limit to entities with expenditure of $5 million or less. It also includes the requirement that only those persons registered as company auditors, under the Corporations Act, may be delegated the authority to undertake financial audits as agents of the Auditor-General. Although currently the Auditor-General only delegates audits to company registered auditors, the Audit Act did not specify this requirement.

11. More practicable time frame for tabling the Auditor-General's narrative report on the annual financial report (AFR)

The Auditor-General has requested a more practicable time frame be provided in the tabling of his narrative report on the annual financial report, under section 16A. The current timing requirement is presentation to the Parliament within seven sitting days after the tabling of the annual financial report (which is set from 27 October).

The bill provides that in section 16A(4) of the act 'seven sitting days' is deleted and the date 24 November under section 16AB(2)(b) is substituted in place thereof.

The bill also amends the current requirement in section 16A(3)(a)(ii) that states the Minister for Finance only has seven days in which to provide comment on the Auditor-General's report on the AFR. This requirement is amended to 10 business days. This provides for a more realistic time frame in which to comment and removes the confusion as to whether the number of days referred to in the Audit Act are business days or calendar days.

Greater accountability for the Auditor-General

12. Publication of auditing standards

The Audit Act requires the Auditor-General to comply with those auditing standards produced by the accounting profession.

Section 7B(2)(f) of the bill sets out amendments whereby the Auditor-General will be required to summarise in his annual report details of any additional standards he develops above those produced by the accounting profession.

13. Professional quality control arrangements

In extending the powers of the Auditor-General, such as the ability to audit non-authority entities within the Victorian public sector and the delegation of a greater number of audits, it is important the Parliament is provided with greater accountability mechanisms over the Auditor-General's work.

As part of the development of greater accountability, the bill sets out a new requirement for the Auditor-General to summarise in his annual report the quality control processes undertaken by his office each year. This will provide an effective mechanism through which the Auditor-General can highlight to the Parliament the quality control systems he maintains and any improvements undertaken in these systems from year to year.

14. Auditor-General's annual plan

Under the current requirements of the Audit Act (section 7A(4A)) the Auditor-General is required to have regard for any comments received back from the PAEC on a review of his annual plan, but does not have to change the plan or document where he does not accept a recommendation. We do not believe the Auditor-General should have to change his annual plan but should have to document where changes from the PAEC recommendations have not been made. This approach provides a much stronger accountability back to the Parliament in its review of the Auditor-General's planned activities and establishes a more transparent process between the development and review of planned work.

The bill introduces a new section 7A(4A) that requires the Auditor-General to indicate in his annual plan the nature of any changes suggested by the PAEC that he has not adopted.

Administration of the Audit Act

15. Clearer distinction between audit opinions and audit reports

The Audit Act contains numerous references to requirements that the Auditor-General prepare and present a report. This wording draws no distinction between a report in the sense of an audit opinion and the more extensive narrative reports that the Auditor-General prepares for some audits.

Sections 9, 9A, 15 and 16 of the Audit Act have been amended through the bill to make a clear distinction between the types of reports prepared by the Auditor-General.

16. Clarification of audit fee

The current wording of the Audit Act is not clear for what services the Auditor-General can charge a fee. The bill, under section 10, sets out the Auditor-General's power to only charge for his mandatory financial statements audit activities. No charges will apply to those audits and reports reflecting his discretionary work in informing the Parliament on accountability and resource matters. Instead, these audits and reports are funded through the Auditor-General's annual appropriation.

17. Narrative reports covering more than one financial audit

The Audit Act's current provisions provide the Auditor-General with the power to make a narrative report on a performance audit that relates to the activities of multiple authorities, but he may not make a single narrative report that relates to issues arising from the financial audits of several authorities.

The bill, through amendment to sections 15 and 16, provides the Auditor-General with the ability to make a narrative report covering more than one audit.

18. Enhancements to the consultative process for audit reports

In the development of a report to the Parliament the Auditor-General goes through a process of consultation with entities directly related to the report and other interested parties. As part of this process the Auditor-General is required to seek formal submissions or comments from these groups and include this material in his final report to the Parliament.

Under the current reporting provisions of the Audit Act the Auditor-General is required to provide these parties

with a copy of the summary findings and proposed recommendations. However, the Auditor-General has advised government that he wishes to have the option of providing a full copy of a report or a section of a report that is relevant to a particular party. In most circumstances it is appropriate to provide an entity with a full copy of a proposed report. However, situations do arise where it is more appropriate for an entity to receive only that part of a report that directly relates to them.

Under a new section 16(3)(a) the bill provides the Auditor-General with the discretion to provide a full copy of a proposed report to an entity, or only that part or parts that directly relate to the entity, for comment.

I commend the bill to the house.

Hon. D. McL. Davis — On a point of order, Mr President, earlier today there was a difficulty with the second-reading speech. I draw the minister's attention to the section of the speech she has just read before point 11. Under point 10 there may be some material missing out of the second-reading speech that was circulated. I appreciate that the minister has the right to vary her second-reading speech. I am seeking some clarification.

Hon. M. M. GOULD — On the point of order, Mr President, the honourable member would be aware that under point 9 there were some changes as a result of amendments that were completed in the other house. This has been a cut-and-paste job, which is why it looks blank, but it flows; nothing has been left out.

Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).

Debate adjourned until later this day.

PETROLEUM (SUBMERGED LANDS) (AMENDMENT) BILL

Second reading

Debate resumed from 27 November; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. PHILIP DAVIS (Gippsland) — I am delighted to have the opportunity to speak on the Petroleum (Submerged Lands) (Amendment) Bill because — and I am sorry the minister responsible for the bill is not in the house, but maybe the Leader of the Government will relay this comment to her — I can say absolutely that the Liberal Party supports the bill without reservation at this point.

Hon. R. M. Hallam — It is a big call.

Hon. PHILIP DAVIS — It is a big call; we do not often do it.

The principal purposes of the bill are: to complement certain amendments to the commonwealth Petroleum (Submerged Lands) Act 1967, which have been made through seven commonwealth amending acts since 1994; to create infrastructure licenses; to strengthen the work program bidding system; to strengthen compliance with work programs; to limit the number of renewals of exploration permits; to improve the rights of titleholders; to enable rights and responsibilities conferred by a permit or lease to be suspended if it is in the interests of the state; to update arrangements for pipeline licences; to introduce indefinite terms for production of pipeline licences; to create a new offence of intentionally or recklessly interfering with or damaging operations; to rewrite in clearer terms the confidentiality periods relating to the release of information provided by companies; to revise the cash bidding arrangements for surrendered areas in which petroleum has been discovered; and to make various minor and technical amendments.

The Liberal Party has consulted widely with stakeholders and found universal support for the bill, which is probably best summarised by this response from the Australian Petroleum Production and Exploration Association:

> APPEA supports the Petroleum (Submerged Lands) (Amendment) Bill since it brings the Victorian act into line with amendments already made to the commonwealth act.

It further says:

> We regard this consistency as important.

Obviously it is important from a regulatory perspective. Industry, in any field, does not need to be burdened with overly complex regulatory arrangements, particularly in the petroleum industry where there is a great range of players in terms of the size of the businesses involved in the industry.

We should put into context the need for such legislation. Obviously state and territorial borders do not define where petroleum will be found. Necessarily, therefore, there is an overlay and complex relationship between jurisdictions concerning the regulation of the petroleum industry, and obviously arrangements need to be coordinated.

As a result of the federal and state Offshore Constitutional Settlement of 1967, when a scheme was agreed to by the states, territories and the

commonwealth to deal with the issue of who deals with offshore waters, when it was agreed that the states would be responsible for the coastal water being 3 nautical miles to seaward, with commonwealth waters being the balance of the national Australian sovereign waters beyond the 3 nautical mile limit, since then efforts have been made to ensure that there is a reasonable conformity between the legislative and regulatory framework with respect to petroleum in Australia; and the Victorian legislation has set out to mirror the arrangements set for the commonwealth.

There have been seven amending acts in the commonwealth since 1994, and therefore Victoria's legislation is now, as a result of amendments in the commonwealth Parliament, out of step in some respects with commonwealth legislation. Therefore it is sensible that this amending bill brings the legislation back into conformity.

The petroleum industry is very important not just to Victoria but Australia, and I will put that comment into context. I am advised that production in 1999–2000 of crude and liquid petroleum gas and natural gas had a total value of $8 billion, and of that there were net exports of $1 billion. That is quite important in the national economic scene, but we need to fit that figure into the context of the location of that energy fuel source relevant to the total national requirements for energy.

Oil and natural gas account for about 54 per cent of Australia's energy fuels, but certainly there is a keen interest in the petroleum industry from the perspective of commonwealth revenues, and it is astounding — given the telephone-book size numbers we deal with when talking about the oil industry — to find that the petroleum resource rent tax remitted to the commonwealth government in the last financial year of 2000–01 was an estimated $1.76 billion.

Excise fees on petroleum products and crude oil are expected to contribute, in the same period, $12.892 billion to the commonwealth government, and the minister might be able to inform the house — because in my research I was unable to find it easily — of the amount paid by producers, who also pay exploration and production licence fees to the Victorian government. I am not sure of the total value, and I would be pleased to be advised of the amount during the course of this debate if somebody is able to provide that information to the house. But it is certainly nothing of the scale that is generated to the commonwealth.

Nevertheless, there are the economic spin-offs which are so very important to the whole of Victoria, and Victoria does share in that windfall through other revenue streams such as payroll tax and other taxes over which the state has control, but particularly it is important to the general economic welfare of the state.

I can say with some personal awareness that it is important to the Gippsland region in particular, especially to Sale. Not only do I come from the Sale district of Gippsland, but I also worked for four years in the 1970s in the oil industry. I fondly remember my time associated with Esso, although I have to say that when I went back to full-time farming I thought I had got away from shift work — that is, until I came into Parliament and found that here there is shift work wherever you go. My desire to participate in this debate is premised on a recognition of the importance of the oil industry to Victoria.

At present Australia produces about 80 to 85 per cent of its crude oil requirements, with 44 per cent of crude oil and condensate produced out of Bass Strait. The Carnarvon Basin off the north-west coast of Western Australia is the next biggest producer, with around 41 per cent of Australia's total oil production. The Gippsland Basin leads the way as Australia's largest producer of natural gas. It has a 33 per cent share of the nation's natural gas market and 69 per cent of its liquid petroleum gas production. North West Shelf Gas Pty Ltd is Australia's largest liquefied natural gas producer.

It is important to put into perspective what resources are available. Obviously changes occur in investment in innovative technology for exploration and development, but at the present rate of consumption it is estimated that the world has reserves of around 50 years of crude oil and over 70 years of natural gas. The first Australian oil was discovered in 1924 at Lake Bunga in Victoria's south-east Gippsland region, not far from Lakes Entrance. The Gippsland Basin oilfields were first discovered in 1965. The Barracouta field has dominated crude oil production in Australia since its commission in 1968.

In 1985 production from the Gippsland Basin peaked at an annual average of 450 000 barrels per day. I recall that when I was there in the 1970s Longford was producing in excess of 480 000 barrels per day, but it was not a consistent rate of production. Average daily oil production declined to 200 000 barrels per day in 1999–2000. Although the decline in that level of production is significant, it is still the source of almost 37 per cent of Australia's crude oil production.

Gas is increasingly important to consumers in the domestic and retail market, and obviously as an industrial fuel. The significant demand for gas is

growing at a rate of about 1.3 per cent per year . In 1999–2000 Bass Strait produced about 538 million cubic feet per day, representing 23 per cent of national gas sales. The Otway Basin, which occupies the south-west edge of Victoria and extends across to South Australia, has been a relatively immature source compared with Bass Strait, but recent discoveries offshore at Minerva and La Bella have enhanced the potential situation there considerably, and now there are onshore discovery developments. Victoria has a history of oil production, and with new production opportunities there are some exciting developments occurring with gas.

With further development of the petroleum industry it is important to recognise the need for consistency of approach between the commonwealth and state regulators. There are three principal acts under which the Victorian government regulates the industry. They are the Petroleum (Submerged Lands) Act, the Petroleum Act, which deals with landward issues, and the Pipelines Act. The amendments we are dealing with today are exclusive to the Petroleum (Submerged Lands) Act.

Five principal changes are worth noting. One is the implementation of infrastructure licences that deal with production facilities that will be built outside licensed production areas. For example, an existing platform for a production licence area may have ceased viable production but may be within proximity of other licence areas into which that platform could be plumbed, which means that the infrastructure assets on the seabed can have a longer life, be better utilised and do not have to be removed immediately upon the decline in production from a particular licence area.

The bill also strengthens the work bidding system, which means that instead of bidding cash to deal with exploration licences, operators may bid a guaranteed work program that they will undertake. That makes the utilisation of resources more pertinent to the interests of both the state and the stakeholders, because instead of having real estate tied up as acreage operators will be able to effectively undertake active exploration programs. That is an important initiative.

The limit on the number of exploration permits to be renewed will provide greater turnover of and access to that acreage by players. Permits will be granted for an initial term of six years, at the end of which 50 per cent will be relinquished and the remainder will be renewed for a further five years. The minimum size that can be renewed is four blocks, and that is only once. At the end of the five-year term of a four-block area the permit is surrendered.

For clarification I am advised that a block is equivalent to 5 minutes of latitude by 5 minutes of longitude, which is approximately 65 square kilometres or part thereof — and the ‘part thereof’ is because the blocks are adjacent in some cases to the coast, which does not run according to the grid maps, so inevitably a part of a block will run into the coast.

Further, the bill provides for the introduction of production and pipeline licences for indefinite terms, which in effect recognises that these facilities are put in place for the life of the field. Again that is a sensible move away from the 21-year licence arrangement which gave an opportunity to continue to roll the licences over. The bill provides for a licence to be surrendered at the end of the production life of the field rather than lasting for 21 years when a field may have a limited production life of, say, only 5 years.

My only other comment relates to the creation in the bill of a new offence of intentionally or recklessly interfering with or damaging operations. A maximum penalty of 10 years imprisonment is introduced for this offence, and that is a reflection of the potential risks such action could bring. I have been advised that there is capacity to deal with these issues under the Crimes Act, but I take it that the intention of this provision is to ensure that there are additional remedies and deterrents in the event of people who, for some reasons, deliberately and recklessly damage any facilities involved in the oil and gas production industry. There is a heightened awareness of matters relating to the protection of community resources and security of our oil and gas supplies, and it is critically important that this provision be adopted.

I congratulate the government on introducing the bill. It is a sensible addition to the legislative program. Whereas I am not so generous in my remarks about some other bills, this is an appropriate measure, and I have pleasure in supporting it.

Hon. P. R. HALL (Gippsland) — I am pleased to make a few comments on the Petroleum (Submerged Lands) (Amendment) Bill and to indicate that the National Party supports the bill.

As Mr Davis said, offshore oil and gas exploration is very important to this state. It is a generator of much economic activity. Without the rich natural gas fields in other parts of Victoria and particularly off the Gippsland coast, we would be at a competitive disadvantage in both the living standards that we enjoy in this state and our manufacturing activity.

We in Victoria often take for granted our good fortune in having natural gas supplies. For many of us the basics in life such as heating, cooking, hot water, the fuel we use in our cars and even some of the power we use are products of the natural gas supplies that we enjoy in this state. Without those supplies the impact on both living standards and manufacturing in Victoria would be dramatic. But we also often forget that many people in Victoria still do not enjoy the luxury of having a natural gas connection. There are still large parts of Victoria that are not on a natural gas reticulation network and consequently people in those areas rely on bottled gas for much of their domestic purposes. So when we talk about our good fortune in having such large quantities of natural gas we should bear in mind that the benefits of that are not enjoyed by all Victorians. Many people have for a long time been paying excessive prices for bottled gas.

I welcome the government inquiry, of which I have just learnt today, into the price of bottled gas to see whether there is a monopoly in that area. For a long time we in the National Party have complained that more needs to be done to address the issue of increasing bottled gas prices. I support the inquiry that the government has finally said it is prepared to take. I understand the government will be directing the Essential Services Commissioner to review the pricing of bottled gas used for domestic and commercial purposes.

The National Party looks forward to the review and will take great interest in its outcome. I hope it delivers beneficial outcomes to the people we represent, especially in the more remote areas of the state.

Oil exploration is an important industry. It has flow-on effects to other industries. Mr Davis put on record the contribution the industry makes to Victorian commodities. Unfortunately, Australia's reserves of oil are not unlimited. It is better off with its natural gas reserves, which will last for a long time. Australia relies on oil imports to meet its needs for petroleum products. Sometimes that is to Australia's disadvantage and is why it is subject to world oil parity pricing. It is difficult to understand why petrol prices increase so rapidly, why they are higher in country Victoria than in metropolitan areas and why we have world parity in the pricing of oil products. The reason is that Australia is not self-sufficient in oil. International companies own oil supplies, which impacts on where they process and sell their products. Australia is not an island in isolation but trades internationally and is subject to the pressures of international markets. Oil is one of those commodities that is dictated by economies much bigger than ours, and we are forced to accept the trade conditions offered from being part of the international market.

The bill amends the Petroleum (Submerged Lands) Act 1982, which establishes the framework for offshore oil exploration and the production of petroleum resources. As mentioned in the second-reading speech, there is commonwealth and individual state legislation to reflect the common framework. Some may ask: why do we need commonwealth and state legislation to control this matter and not have one piece of legislation? It is tied up with the fact that the states manage certain lands and consequently have a constitutional role in controlling drylands and coastal waters 3 nautical miles from the coast, while the commonwealth has jurisdiction for international waters. Therefore we need state and commonwealth acts covering oil and gas exploration and production. Much of the exploration for oil and gas takes place in commonwealth waters. There are some minor exploration activities in coastal waters, but the pipelines traverse coastal waters and are part of the Victorian government's jurisdiction.

A joint agreement between the state and the commonwealth called the Offshore Constitutional Settlement of 1967 sets out jurisdictional issues. Victoria administers all oil and gas exploration, which is commonsense, because even though there is separate state and commonwealth legislation, having one jurisdiction controlling the administration of all matters eliminates duplication and the possible frustration of the industry. Because of the agreement every time the commonwealth act is amended state acts of Parliament have also to be amended, which is why we are here today debating a series of amendments to the state act that mirror those previously made to the commonwealth act.

I am informed the state act was last changed in 1993. I will not elaborate on all the amendments, which cover issues involving infrastructure licences, changes to the work program bidding system, renewal of exploration permits, rights of titleholders and pipeline licences. That is an important amendment. I refer honourable members to the second-reading speech which refers to the arrangements for pipeline licences and states:

> This will provide for a more certain title for pipelines such as the Tasmanian pipeline where Duke Energy is not a production licence-holder.

Duke Energy is not involved in the production of natural gas, but is involved in the piping of natural gas and there are several examples in Gippsland where it has played an active role. It is involved in the construction of a pipeline connecting Victoria and Tasmania to supply Tasmania with natural gas, which

will be of great benefit to the people of Tasmania. The pipeline will run to Bell Bay which has electric generation capacity and the Tasmanian government will use the natural gas produced in the Gippsland Basin to fire electric generators. For some time Tasmania has had concerns about security of supply and has used oil to drive some of the generators. Natural gas is more efficient and a more environmentally friendly fuel, so I am sure it is a welcome addition to the Tasmanian economy. The pipeline begins at Longford and there will be flow-on effects to the Victorian economy because the natural gas we find will be piped across to Tasmania.

Some of the other amendments in this bill cover the area of the terms for production and pipeline licences. It also introduces offences for intentionally or recklessly interfering with operations and one or two other amendments of a technical nature. All the amendments are rather technical in nature and I do not intend to go into them, but the people with whom we have consulted believe these changes will improve the exploration and production of offshore oil and gas and ensure they are efficient.

The Australia Petroleum Production and Exploration Association was consulted. It is the peak organisation for producers and explorers in this area. We have had confirmation from it that its members are very happy with the bill and believe it will bring benefits to the exploration and production of oil and gas in Victoria.

The bill appears to have the support of all those in the industry, and I am happy to add the support of the National Party.

Hon. G. D. ROMANES (Melbourne) — I am pleased to speak on the Petroleum (Submerged Lands) (Amendment) Bill, the purpose of which is to harmonise Victorian legislation with the commonwealth Petroleum (Submerged Lands) Legislation Amendment Act 1994 in honour of the offshore constitutional settlement that was reached between the commonwealth and the states in 1967 under which the commonwealth and the states agreed that they should:

> … endeavour to maintain, as far as practicable, common principles, rules and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources in submerged lands.

This bill is in line with the government's desire to encourage new and responsible oil and gas exploration in Victoria. It is a cornerstone of the state's resource policy and is part of an important strategy for broadening the state's energy supply options.

By bringing the Victorian act of 1982 to mirror status with the commonwealth act the government aims to reduce complexity for offshore petroleum explorers and developers and to provide consistency, certainty and confidence. Since 1994 there have been seven commonwealth acts to which there have been seven sets of amendments that have put in place changes to the legislation at that level. While there are small, incremental changes going on all the time, these changes have had a cumulative effect over the last seven years and the time has come to restore the Victorian act and make it consistent with the commonwealth act. This has been precipitated by the substantial changes to the infrastructure licences and confidentiality clauses which have been put forward as amendments to the commonwealth act in the last couple of years.

All those changes have made it imperative that Victoria's legislation mirror the commonwealth legislation in order to honour the previous agreements made with other states and the commonwealth. Victoria is the first state to take this step. The proposed changes in the bill have been put forward with the agreement of the commonwealth and the states, and as the Honourable Phil Davis indicated earlier, with much enthusiastic support from industry and other stakeholders. I am pleased that both the Liberal and National parties have indicated strong support for the bill.

I do not propose to mention all the changes made in the bill, which will amend the Victorian act to mirror the commonwealth act, because a number of them have been referred to by previous speakers. In particular the bill provides for a new class of licence — that is, the infrastructure licence. The bill will strengthen the system of work program bidding for exploration permits and will limit the number of times an exploration permit may be renewed. The bill updates arrangements for pipeline licences and introduces indefinite terms for production and pipeline licences with cancellation if an area pipeline is not operated for five years. The bill makes it an offence to intentionally or recklessly interfere with or damage offshore petroleum operations or facilities.

Although all of those provisions in the bill have been mentioned by the two previous speakers, there are some others that I will add to that list. The bill improves the rights of titleholders and mirrors the commonwealth act to provide that where an exploration permit-holder applies for a retention lease or a production licence close to surrender time the permit continues until a minister decides whether or not to grant that permit. Within the act there are limited grounds for refusal —

for example, if an applicant for a permit gave inadequate information in the application. The grounds for refusal open to the minister are limited. When the minister makes a decision, he or she must give reasons in order to ensure transparency in the processes.

The bill mirrors the commonwealth act to enable rights and responsibilities conferred by a permit or lease to be suspended if it is in the interests of the state.

The bill also rewrites in clearer terms the confidentiality periods relating to release of information provided by companies. It mirrors the commonwealth act to substitute clearer provisions relating to when other parties may have access to petroleum-related data required by companies and submitted to the government. In doing so it saves on duplication of effort to collect relevant data and thereby assists in investment in the petroleum industry in this state.

The bill also mirrors the commonwealth act to provide new arrangements with regard to highly valuable three-dimensional seismic data recorded commercially for sale on a non-exclusive basis. It gives the collector an opportunity to gain a return on investment with a longer period open to the investor. It encourages the collection of data and thereby takes those valuable steps in promoting the area of investment to bidders in the industry. The bill also revises cash bidding arrangements for surrendered areas in which petroleum has been discovered and makes various other minor and technical amendments.

One area in which the bill is ahead of the commonwealth act is in the provision of the gender-neutral terminology outlined through the terms of the bill.

The Victorian government has a clear commitment to encourage petroleum exploration and production in Victoria. By the end of the year we may see the highest level of exploration in over a decade and renewed attraction to activity in onshore and offshore petroleum exploration. In support of that commitment the Bracks government is funding a program of research, mapping and databasing to encourage industry investment. It has increased funding of $7.5 million for development and regulation over the next four years.

We should note that there is new development in the state and four projects under way, with an increased supply of energy to Victoria and the opportunity to diversify the supply of energy in this state and to therefore help secure the supply of petroleum and gas. The new projects are Patricia Baleen in the Gippsland Basin, Yolla in the Bass Basin, Minerva in the Otway Basin and other Otway Basin discoveries that have increased gas reserves adjacent to Victoria by approximately 25 per cent.

Exploration in Victoria is also at a new level. Pan Canadian Petroleum Ltd recently gained two deepwater exploration permits in the Gippsland Basin, and this is the first release of much of the deepwater acreage in 34 years. There is also one retention lease which has been under way for 15 years offshore from Golden Beach. Esso also is undertaking a 4000-square kilometre three-dimensional seismic survey over its fields in the Gippsland Basin with the potential outcome from its activity to disclose many drilling targets for the future.

Increasing activity and interest in the petroleum industry can be seen, and is a clear demonstration of the positive business climate for investment throughout the state under the Bracks Labor government. The increasing interest, exploration and discoveries at this time will in turn further accelerate activity in Victoria along the coast in particular. A framework of certainty is needed to facilitate that activity, to allow new players to enter the field and to assist them with rules that are clear.

The regulatory framework and the rules of both the Victorian and commonwealth governments need to be consistent, provide clarity and facilitate activity by providing confidence in the framework that is in place within which the industry will operate. I understand that the regulatory framework in Victoria provides a reasonable level of certainty that is not available in many other countries. The amendments being put forward by the bill will add to that certainty and clarity, and in particular will provide consistency, which will mean that many companies acting in the field of exploration and development will find it easier to participate because they will need to work with only one set of documents, one set of rules and therefore one set of paperwork. It will make it easier for them to comply with the two sets of legislation governing the adjoining offshore zones, given that the Victorian legislation covers the 3 nautical miles from our coast and the commonwealth legislation covers the area beyond.

One of the issues for many companies is that it is the Victorian government which administers the legislative provisions and framework on behalf of the commonwealth, and therefore the processes will be greatly simplified by harmonising the rules in the two zones.

As I said before, one of the important outcomes of the bill is to provide that certainty and consistency and the clear regulatory framework to encourage confidence in the industry, to thereby encourage investment activity and to build the resources and provide a diverse and increasing supply of energy for the state.

In putting this bill before the house the government is acutely aware of the need to reach those objectives and to assist in strengthening the petroleum industry and facilitating its capacity to supply petroleum and gas to meet the future needs of the people of Victoria. I have much pleasure, along with previous speakers from the Liberal Party and the National Party, in commending this important bill to the house.

Hon. C. A. STRONG (Higinbotham) — In speaking on the Petroleum (Submerged Lands) (Amendment) Bill I believe we need to acknowledge the importance of petroleum products to our lifestyle and our economy. To think about that we only have to look at a typical day. Probably most of us have started the day in a house that has some gas heating in it. We have used hot water in the morning, which has been generated either by gas or by electricity, which also uses petroleum products in gas-fired generation.

Petroleum products are an essential part of our lifestyle in every way. Because they are such an essential part of our lifestyle, they are of necessity also enormously important to our economy. Among many other areas of use, petroleum products are used in transport, and in a large landmass like Australia, transport is an enormously important factor in the costs of our goods and services. Petroleum products are enormously important there.

Petroleum products such as gas and diesel are important in industry. No advanced economy can really exist without the use of these products, and likewise no lifestyle to which we have become accustomed can exist without these products. If Australia did not have petroleum products, we would have to import them from overseas. To do so would have an enormous impact on our balance of payments. The mere fact that we produce petroleum in this country which we can use and which in fact meets most of our requirements means that Australia is blessed, because there is an enormous saving that helps our balance of payments, the strength of our currency and all those related issues. Therefore, it is absolutely critical that petroleum is produced in Australia and that there is an ongoing ability to explore for petroleum to ensure that we can find new sources when the existing sources are being depleted and so on.

The other truth of the matter is that the exploration for and exploitation of petroleum is done by large international corporations. It is an incredibly expensive enterprise to explore for petroleum, particularly offshore. That is why most of the onshore exploration has already taken place and all over the world offshore exploration is being conducted. That offshore exploration is very difficult and very expensive.

What also needs to be said is that there is, in reality, no scarcity of places where exploration can be carried out. Therefore it is critical that artificial barriers to entry that would discourage petroleum exploration in Australia are not erected. As I have said, petroleum products are vital to our lifestyle, our economy and our balance of payments, so it is enormously important that we do not erect artificial barriers to entry that would mean that large international companies do their petroleum exploration somewhere else. It is critical that we are a jurisdiction that is attractive to petroleum exploration and exploitation.

One of the last things any petroleum exploration company would want would be artificial interjurisdictional regulations. When these companies come to Australia they want to be able to explore and exploit petroleum reserves under the one set of rules and regulations. They do not want to be on one of the side of the border in an exploration field exploring under New South Wales laws and regulations and on the side be exploring under Victorian laws and regulations. The last thing they want are those sorts of complications. It is appropriate, therefore, that there is a consistent set of laws and regulations that cover the exploitation of this resource in Australia, whether it be in New South Wales, Queensland, South Australia or Victoria or in the commonwealth jurisdiction. The same rules, regulations and laws must apply.

There was a successful attempt to harmonise these in the 1960s so that the commonwealth had jurisdiction over all waters in excess of 3 nautical miles from the Australian coastline and the various states had jurisdiction over the area from the shoreline to 3 nautical miles out. However, as a result of the agreements in the 1960s it was decided quite correctly that whether they be state or federal all the regulations should be made uniform and consistent so that exploration and production were carried out under the same laws and regulations.

Over time laws are changed, and the commonwealth legislation has been amended on various occasions since 1967, as of course have the regulations of Victoria and the other states. In the past six years various amendments have been made to the commonwealth

legislation and it is necessary for the state's regulations and legislation to be brought up to date with the commonwealth act so there is a consistent set of laws and regulations across Australia. This is what the bill does. Basically it is mirror legislation which picks up and amends the Victorian act to bring it into line with the federal act. As other speakers have said, it has the enthusiastic support of all sides of the house because petroleum exploration and exploitation is such an important lifestyle and economic factor.

I will quickly run through some of the major issues that have changed as a result of the amendments. One of the major amendments is the ability to have an infrastructure licence. In the past if you wanted to build some sort of infrastructure it had to be part of a production licence, but now there is the ability to have either new or existing infrastructure that can be used for other production licences. There might be oil drilling or exploration equipment which was put in place for a production tenement 10, 15 or 20 years ago that is now exhausted, but with new technology that same production equipment can be used for a new exploration area. So the infrastructure licence facility allows for infrastructure which is no longer within a production licence area to be maintained so long as it is used for production or exploration somewhere adjacent. That is an important amendment.

There are a couple of important amendments that deal with the whole question of incentives for exploration. Quite clearly if you are in the exploration business you want to get exploration rights over as large a potential area of oil or gas supply as you possibly can, and you try to keep that exploration licence for as long as possible to build up a bank of healthy exploration areas to use. However, it is clearly not in Australia's interest for people to take an exploration licence over a potentially prosperous area and not work it.

We want people to get out, do their exploration and turn the field into a productive one rather than proving it up and leaving it as insurance for when fields elsewhere might be under stress. A few things in the bill encourage that process. One is the ability to use bank guarantees instead of cash deposits for a guarantee of exploiting an exploration area. Another is the limit to the number of renewals that an explorer can take over an exploration area — that is, they are not able to renew their exploration licences indefinitely. It is part of encouraging people to get to, to focus on the best area and to move into production as soon as possible. There is a new regime in place for handing back exploration areas and a time limit on that.

Similarly, as with the infrastructure licence arrangements, there are also amendments which make clear the licensing of pipelines. Once again, as exploration expands there is the potential as well as the actuality of pipelines from one production area crossing another production area. Amendments in the bill clarify these arrangements.

In the area of encouraging exploration there is some clarification on the release of survey data. As some honourable members may be aware, it is generally a condition of exploration licences, whether they are for petroleum or minerals and the like, that the exploration information a mining or petroleum company gathers as part of its exploratory activities is handed over to the government at the end of the exploration period. The logic is fairly clear: it is to allow the government, which obviously has an interest in the ultimate exploitation of these resources, to establish a database of what minerals are available in Victoria.

Mineral exploration has been occurring for more than 100 years, and some of the data is 50, 60 or even 100 years old. Many of the areas have been re-explored. For example, an area might have been subject to an exploration licence 60 years ago; then someone else comes along 20 years later and has a look; then another explorer comes along 10 years later, so the accuracy of the information is built up over time and made available to anybody who wants to use it to explore the mineral resources of the state. Similar provisions exist for petroleum mining. The provisions are further clarified in this bill to make sure that fairness and equity are preserved.

An explorer who has put in an enormous amount of work and expense into getting seismic and other information can use that information or sell it to other explorers. The bill stipulates that after a certain time that information must be handed over to the government, the length of time depending on the sort of information it is: it must be handed over to the government in five years in the case of two-dimensional surveys and after eight years in the case of three-dimensional surveys. That is an important clarification.

Anybody involved in exploration knows you simply cannot overestimate the value of this historical exploration information — it allows you to pinpoint the best and most productive places to further explore. With those few comments I have much pleasure in supporting the bill.

Motion agreed to.

Read second time.

Third reading

For **Hon. C. C. BROAD** (Minister for Energy and Resources), Hon. M. R. Thomson (Minister for Small Business) — By leave, I move

That this bill be now read a third time.

I thank honourable members for their contributions to the debate and the opposition and the National Party for their support of this bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

TRANSPORT (ALCOHOL AND DRUG CONTROLS) BILL

Second reading

Debate resumed from 28 November; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. G. B. ASHMAN (Koonung) — The Transport (Alcohol and Drug Controls) Bill amends the Transport Act 1983 and the Constitution Act 1975. It is worth noting that the bill requires a section 85 statement of an amendment to the Constitution Act. The government, when in opposition, was critical of section 85 statements, but their inclusion is now a regular occurrence in its legislation. The opposition will not oppose this bill, and therefore the debate on it will be reasonably brief.

It is very difficult to argue against the objectives of the bill. We already have zero blood alcohol legislation in place for some employees of public transport operators and this legislation has been introduced with the aim of extending that zero blood alcohol requirement to a wider range of employees.

It is stated that this legislation comes out of three incidents in the public transport system: one each at Ararat, Holmesglen and Footscray. There was a derailment at Ararat and the subsequent investigation led to the dismissal of a long-term employee. The second incident, at Holmesglen, occurred under slightly different circumstances although at the time the Minister for Transport indicated quite clearly that it was the operator's fault. Subsequent inquiries clearly showed that it was not the operator's fault but that the driver had overridden the safety provisions and collided with the rear of a train, having proceeded at the normal speed and not at the designated speed, which I understand is a significantly reduced speed after a safety incident. This painted Connex in quite a bad light and it found that it needed to respond quite quickly to try to save its reputation with its passengers, that is, its customer base.

That incident indicates why we should not jump to conclusions when such incidents occur on the rail system but rather should allow the investigators to assess all of the facts and wait for the reports. There is a significant financial investment by the private transport operators in the system and they need to protect that investment. As a community we need to protect the reputation and integrity of the public transport system.

The third incident, at Footscray, involved an empty train returning to Williamstown. As I understand it, the driver was not found to be under the influence of alcohol or illicit drugs but may possibly have been under the influence of a prescription drug.

This bill introduces some new offences. In doing so it picks up many of the provisions of the Road Safety Act in relation to alcohol and drug testing. The definitions of drugs and prescribed drugs in this legislation will be identical to those contained in the Road Safety Act so we will have consistency across the legislation.

The bill makes it an offence for rail safety workers to be engaged in their work while impaired. The definition of a rail safety worker is quite broad. It does not extend to just drivers, station masters and signal operators but also workers who may be involved in track maintenance. It will extend to anyone who will be in a position where they could be required to assist with evacuating passengers or guiding them to safe areas if there were to be an incident. Therefore, the definition of a safety worker is now quite broad.

Under the legislation employers can be prosecuted if a worker is found to be under the influence of drugs while on the job. As it was explained to me, the testing regime will not be a 100 per cent test of employees. Rather it will be a random test that will be undertaken when the employer believes there may be some influence of drugs or alcohol. However, that raises some interesting questions as to whether there should be mandatory testing of all employees, hence my reference to the minister. The penalties proposed by the bill to be applied to the operator are quite significant. If I have read it correctly, they are up to $200 000 for an offence, and a number of offences could lead to the cancellation of the operator's accreditation.

There is some potential under this legislation for the operators to take the view that they should test all their employees on a regular basis. I hope that the Minister for Industrial Relations will be sympathetic if that course of action is taken. I am not persuaded that the union movement will readily accept what will amount to being very close to being mandatory testing of all employees. But the penalties proposed are such that operators will incur significant fines if their employees are under the influence of alcohol and drugs.

The issue will be monitored by other groups of employers, because the practice of employers requiring their employees to have zero blood alcohol levels and to present to work free of drugs that can influence their behaviour is increasing across a whole range of employment areas. I can think of a number of industries where that might apply: the transport industry certainly requires workers to have zero blood alcohol, and I am well aware of a number of road transport companies that are conducting regular blood alcohol checks on their employees.

The amendment to the act will accredit a number of authorised officers to carry out alcohol and drug testing. As I have said, the provisions under this legislation will be the same as those under the Road Safety Act. The police will also be able to conduct tests, but generally only when there has been an incident that they have been called in to deal with.

It is interesting to consider what other areas this zero blood alcohol requirement might expand into. It might be appropriate if the requirements expanded to include local government by-laws officers who are dealing with the public on a regular basis and who from time to time have to deal with incidents in public places.

The bill will extend coverage of the act to include tourist railways, of which there are a number in Victoria, but on my reading of the bill I am unclear whether or not it will include operators of chairlifts. It strikes me as being quite reasonable that the legislation should cover chairlift operators and operators of passenger boats and other craft because all of them deal with the public and all of them may at some stage be called upon to provide emergency services to the public.

Under proposed section 93(5A) inserted by clause 7, if safety workers are tested within 3 hours of finishing work and they are found to have drugs or alcohol present in their blood, it is presumed that they have performed safety work in the past 3 hours and the onus of proof is then placed on them to demonstrate that they have not performed any safety work in that period. As I understand it, that is the only provision in the bill which places an obligation on workers. As is the case with motor vehicle drivers, workers in these circumstances cannot refuse to take a blood test. The method of testing is the same as that provided for in the Road Safety Act, and as I understand it the penalties are similar.

Clause 6 of the bill states that proposed section 93(1AA) will allow the minister to declare drugs to be prohibited substances. The bill is unclear as to who will make that declaration, but I assume it will be the Minister for Transport and that the declaration of prohibited substances will be identical to that contained in the Road Safety Act.

The bill provides for a new offence, which is worth some comment, because when I first read it I had some concerns that it might be the forerunner to the introduction of industrial manslaughter legislation and that that legislation would overflow into the act. I am assured that that is not the intention of clause 20, which provides that a person who is accredited must comply with a condition of accreditation set out in section 117(4A) and that failure to do so will result in a penalty of up to 2000 penalty units. That is a very significant penalty on employers.

What concerns me is proposed section 118(3) inserted by clause 20, which states that:

> In any proceedings for an offence under subsection (2) against a person who is accredited, the fact that a worker has been found guilty of an offence against section 94(1)(a) or (ab) while carrying out safety work for that person is admissible in evidence.

My concern is that that evidence could flow into other jurisdictions. I seek some clarification of what that subsection means and what other jurisdictions that evidence is proposed to flow into. Will it mean that, if criminal proceedings are instigated against the employer of such a person, that evidence can be admitted? If so, what opportunities will there be for cross-examination on that evidence?

Although it has some minor concerns, which I have briefly outlined, the Liberal Party is not opposing this legislation. We note that it comes into effect on 1 July 2002, so there is sufficient time for some of these matters to be clarified. That would be very useful for the operators and for the employees. As I said, we do not oppose the bill.

Hon. B. W. BISHOP (North Western) — It is with much pleasure that I rise to speak on behalf of the National Party on the Transport (Alcohol and Drug Controls) Bill. The National Party believes this is quite an important bill. Its purpose is to put in place three

main changes. The first is to prohibit the carrying out of safety work while impaired by a drug. The second is to make further provision for a condition of accreditation under division 3 of part 6 of the Transport Act that requires persons accredited under that division to take responsible steps to ensure that workers employed or engaged by them do not carry out safety work after consuming alcohol or while impaired by any other drug. The third is to create a new offence for a failure to comply with the condition of accreditation referred to.

National Party members consulted widely on this bill. We certainly had some concerns in our early briefings on a couple of aspects of it. We went out and requested comment from Freight Australia, the National Express group, the Transport Workers Union, Australian Southern Railroad, West Coast Railway, the Royal Automobile Club of Victoria, Victorian Employers Chamber of Commerce and Industry, Yarra Trams and Connex Trains, and we got good responses. I report to the house that the National Party will not oppose this bill.

I should also report that during the run-up to the introduction in the house of this bill we had a couple of briefings from departmental officers. I would like to thank them for the generous amount of time and the effort they put into the briefings. As usual, they were very good.

At one stage the National Party was going to raise in committee some issues of concern that had been brought to it by Freight Australia and by Yarra Trams. However, during the process of the briefings and negotiations with the minister, the minister sent me a letter which the National Party believes — and Freight Australia and Yarra Trams also believe, as we have discussed it with them — covers the issue. But I will deal with that later. As I said, the National Party had some real concerns with this bill. Put quite simply, our concerns were — and to a degree still are — that this bill puts full legislative onus on the accredited persons or companies for all their safety workers and underpins that requirement with a new maximum penalty of 2000 penalty points, or $200 000 — quite a substantial amount of money.

During the briefings we found that these new provisions that have come into place are a joint consequence of accident reports, highlighting the need for better safety arrangements to be put into place with drugs, including prescription and over-the-counter drugs, and coming into line with amendments introduced earlier this year to the Road Safety Act to include testing for those who are reasonably suspected of being impaired from illicit prescription and over-the-counter drug use.

It is interesting to note that in 1994 legislation was introduced to cover the testing and penalties relating to zero alcohol in safety workers. This bill proposes to extend that process to drugs and applies not quite the same but similar procedures as applied by the Road Safety Act. As noted by the Scrutiny of Acts and Regulations Committee, this bill does not provide a defence to a drug impairment of a worker following medical advice.

Each accredited company will nominate authorised officers who will undergo training to equip them to test the safety workers whom they believe are impaired by alcohol or drugs. Authorised officers, irrespective of which accredited company nominates them, can be seconded by the Secretary of the Department of Infrastructure to conduct tests where required. This was important to us, particularly as the National Party represents a large part of regional and rural Victoria, including some isolated areas, where there is likely to be limited access to those authorised officers.

The police are only involved in testing after an accident or by request after an incident. We should note that an accident is a physical collision, whereas an incident is a serious breach of safety regulations. Police testing and the procedures they will use will closely mirror those provided by the Road Safety (Alcohol and Drugs Enforcement Measures) Bill, which we passed earlier this year. During the briefing we were advised that the gazetted list of prescription and over-the-counter drugs for this bill will be based on that gazetted for the Road Safety (Alcohol and Drugs Enforcement Measures) Bill. The final list will be released on the commencement of the legislation.

It is also interesting to note — and we were somewhat comforted by the fact — that a six-month training and education program will be undertaken before the commencement of the legislation, which is envisaged to be 1 July 2002. So there is a bit of time to work through the issues raised by the bill.

I should note that the bill includes a section 85 statement relating to the registered medical practitioners and approved health professionals who will take blood and urine samples. That is what the bill does. I will now return to the areas of concern that have been raised with the National Party. I have three contributions. I refer the house to a letter I received from Mr Terry Poynton, head of safety of the National Express group, which represents the National Bus Company, V/Line, M Train and M Tram. He states:

> I am writing in response to your recent letter regarding the introduction into Parliament of the subject bill.

He is referring to the Transport (Alcohol and Drug Controls) Bill. He continues:

> As a major operator of public transport services, National Express fully supports the intent of the bill, to strengthen the rail safety provisions of the present legislation. It is important that staff in key safety-related positions are free from impairment. Indeed, National Express has in place a zero tolerance policy for all staff.
>
> This policy ensures that potential employees are tested prior to employment and all staff are tested as specified in the present legislation. We generally have the support of the work force in this matter and do not anticipate any obstacles in implementation of the new regime.
>
> We have been involved in the consultation with the Department of Infrastructure and anticipate further consultation as staff are trained and authorised under the new legislation.
>
> I hope this will help you in your deliberations. Please do not hesitate to contact me in the future if I may be of further assistance.

However, when we came to Yarra Trams, it raised an issue and I would like to report to the house what the issue was. A letter to me pointing out that issue states:

> Yarra Trams agrees with the intent of the proposed bill. We do, however, believe that the legislation may create the potential for abuse by one operator against another through the sharing of authorised officers.

We mentioned that point in the run-up to this debate. It continues:

> We suggest that an appropriate amendment to the proposed legislation should reflect that in the event that an organisation's authorised officer attends a location that involves that organisation when an authorised officer from another organisation is already in attendance, control with respect to issues which involve the proposed legislation should automatically pass to the authorised officer of the interested organisation.
>
> Should you require any further comments regarding this matter, please contact our legal officer, Mr Boyd Power …

That is signed by Hubert Guyot, chief executive officer of Yarra Trams, so that company had some concerns. So did Freight Australia which raised three issues of concern: one in section 14 of the act; two in section 19; and three in section 20. I will run through those because they are quite interesting.

At this point in time I thank my colleague the Honourable Roger Hallam, who gave me great assistance in working through what appeared at the start to be relatively complex issues, as we met with people such as Brian McNaught, manager of access and property for Freight Australia. In section 14 Freight Australia had concerns with the broadening of the act to include officers of the department and the definition of authorised officers. The correspondence states:

> We also agree with the concerns raised by Yarra Trams that it may not be appropriate for 'authorised officers' of one company dealing with the staff of another.
>
> Addressing the issue of authorised officers from one company auditing another, in the circumstances where a serious event occurs the principal responsibility for collecting evidence lies with the police, who would on all occasions attend the scene. Police are rightly granted the authority in the bill.
>
> Where an employee of an accredited operator becomes an 'authorised officer' (section 14(1)(a)), such persons should be restricted in accordance with section 14(2).

The company sought an interpretation of that from the Minister for Transport. It also added that:

> Freight Australia is also concerned that section 14(1)(b) introduces the officers of the department as 'authorised officers'. This extends the current role of the department from being a co-regulator with the industry to a active policeman with interventionist's role. For the following reasons we would seek and undertaking from the minister indicating the application of that clause …

They are the issues Freight Australia raises on section 14.

On section 19 Freight Australia says:

> Requires that an accredited person 'takes reasonable steps' to ensure a worker is alcohol and drug free. Part of accreditation requirements is that an accredited body demonstrates how and what it does to prevent alcohol and drug abuse in the safe working environment. This must be done before an organisation is accredited. Why then introduce this 'reasonable' requirement? If the actions are approved by the director/secretary and being followed (failure to do so would mean an accredited organisation would lose its accreditation). This clause introduces a further uncertainty. An accredited organisation, acting in good faith, according to its accreditation requirements, can be found to be 'unreasonable' by the courts. One would expect that the director's staff would be the best judge of the requirements of the industry. If on the other hand the courts agree, the whole section is unnecessary.

On behalf of Freight Australia the question is then asked:

> Can the minister give an undertaking that it is 'reasonable' for the accredited organisation to comply with its approved procedures defined in its accreditation?

In regard to section 20 Freight Australia says that it:

> … seems unreasonable. The number of people found guilty of alcohol and drug abuse is determined by a number of factors. It can be that the company is vigorous in testing staff and applies its procedures strictly, thus giving rise to many convictions. Alternatively, it may mean that the organisation

has careful selection criteria and does not hire staff at risk of alcohol and drug abuse. The number of convictions is likely not to have any bearing on the organisation's compliance with its accreditation, or on its behaviour being 'reasonable'.

Freight Australia has requested an explanation from the minister. They are the three issues raised by Freight Australia and it also raises the one that Yarra Trams brought to our attention.

We then had a further briefing from the Minister for Transport's department, which was also excellent, and undertook negotiations with the minister. We then received a letter from the minister which we believed in most parts satisfied the concerns of our constituents, the operators.

During discussions with the representatives of the operators — that is, Mr Boyd Power from Yarra Trams and Mr Brian McNaught from Freight Australia — they also agreed that the bulk of their concerns in that area were addressed.

I have permission from the President and Hansard for the minister's letter to be incorporated into *Hansard*, as it does a good job of answering operators' concerns. I ask for leave to have it incorporated in *Hansard*.

Leave granted; see page 1673.

Hon. B. W. BISHOP — I again thank the minister and his staff for working through these issues to reach what we consider to be a satisfactory conclusion. I compliment Freight Australia, Yarra Trams and National Express on their interest in this process and their commitment to safety, as I am sure is shared by all the other operators around Australia. I have been further advised by the operators that the Department of Infrastructure is now holding discussions with them and is working through the issues, many of which were raised with us, to ensure that a sensible and practical application of all the relevant safety procedures is put in place for the safety of all concerned.

In conclusion, this has been a good exercise for the National Party. We have had a strong consultative process with the operators. We still have some nagging concerns about some issues in the bill and will continue to monitor them through the operation of the bill in the future. The National Party does not oppose the bill.

Hon. S. M. NGUYEN (Melbourne West) — I am pleased to contribute to the debate on the Transport (Alcohol and Drug Controls) Bill. The bill shows the government's commitment to making Victoria one of the safest places to work and also the safest place for using public transport. Not long ago we were talking about road safety, and now we are talking about rail safety in public transport. The bill will strengthen the rail safety provisions of Victoria's transport legislation.

One of the reasons for the changes proposed by the bill has been the number of accidents relating to our workers in the past 12 months. The bill will protect the interests of the Victorian community. Under the Transport Act and transport regulations, Victorian rail safety workers are required to have a zero blood alcohol level when they are carrying out safety work.

Mention has been made of both trains and trams in railway and road operations. The bill identifies many things about alcohol and drugs in relation to safety workers and safety work. Public transport users and motor car users always expect train or tram drivers to have a zero blood alcohol level when they operate or drive trains or trams. It is important for the government to identify that and to make the appropriate changes to the legislation.

Train and tram drivers and rail safety workers have to be responsible and make sure they do not consume alcohol when they operate machines or do other work. That is especially so with trams, because trams are on the roads with cars. During peak times when there are many cars and other forms of transport on the road, people want to be sure they can travel safely and that there are no accidents. Traffic jams may occur if there is a car accident involving a tram. They cause a lot of problems on the road, which take a lot of time to resolve. The police also have to become involved, and the transport company needs to investigate and do all sorts of tests to make sure everything was done the right way.

We emphasise that we want to make sure workers know better before they undertake their duties. The accredited company has to be responsible and ensure its workers know everything and understand things in the way the government requires.

The background to the bill mentions three rail accidents. One was a goods train accident at Ararat, the second was at Holmesglen and the third was at Footscray. It has been suggested strongly by the media and also the public that the government has to take a strong stance against people who drive a train or tram after having consumed alcohol or drugs, and this bill will provide more power to the authorised officers or the police to conduct breath tests. In addition, an authorised officer who believes a worker is about to carry out or is carrying out safety work, or an authorised officer or a police officer who believes a worker has in the past 3 hours carried out safety work, may require that worker to undertake a preliminary

breath test provided there is a belief on reasonable grounds that there is alcohol in the worker's blood. It is an offence for safety workers to have a blood alcohol level above zero per cent, so it ensures there is no alcohol at all, not even 0.01 per cent, in their blood.

The accredited rail operators are required by their rail safety accreditation conditions to have in place a safety management system to better control the staff, to ensure the staff understand that they must maintain zero blood alcohol and not be impaired by illegal drugs. Anyone who breaches these requirements can be sacked. The government is not trying to punish the workers through this legislation; rather it is trying to better educate the community and workers. The bill will force accredited organisations to provide community education to workers to enable them to better understand the effect prescription drugs can have on their work and to encourage them to take more responsibility.

Information will be multilingual to ensure non-English-speaking-background workers understand the new laws and changes and their responsibility for turning Victoria into a safer place to work. Some workers do not feel comfortable about this measure. They feel the government is trying to punish them or sack them. That is what we have heard from the workers, but we will take the time to educate them and ensure that they better understand the situation and feel more confident to do their duties. We are talking about prescription drugs, over-the-counter medication and those sorts of things. People with illnesses use these drugs to help their conditions, but these measures will ensure that workers understand how they can report to their employers and how they can look after themselves without it affecting their performance.

Covering the large number of accidents costs governments and companies money. If any incidents occur they will be investigated by the Department of Infrastructure, and the police will take a key role in the investigating and also in taking blood tests. Anyone with alcohol or drugs in their systems will be sanctioned strongly.

This bill concerns people's safety. The government is interested in seeing motorists and workers drive and work safely. Public transport users need to have faith in the public transport system. The bill provides penalties for workers and employers who breach the law — up to $250 000 for a company. The department will consult with the community, the workers and the relevant organisations such as health professionals and the transport industry. Those involved should have a say so there is a win-win situation rather than not supporting changes. The government will take a strong stance against people who do not take drugs or alcohol responsibly.

The bill will take effect from July next year. Workers will be more informed through better education programs. I support the bill.

Hon. ANDREW BRIDESON (Waverley) — It is a pleasure to speak on the Transport (Alcohol and Drug Controls) Bill. Previous speakers have outlined the purpose of the bill and many issues have been canvassed. I was impressed by the National Party's presentation, which canvassed issues with the transport companies and received appropriate and necessary responses from the minister, which is pleasing to have on the record.

The Honourable Sang Nguyen raised the matter of education programs for non-English-speaking migrants. The second-reading speech states:

> … because of the high proportion of non-English-speaking workers in the industry, the material will be available in several languages.

It sounds as though only printed material will be supplied. Alcohol abuse in the workplace, particularly in transport companies, is an extremely serious matter because of the safety requirements for users of the transport system. Comprehensive education programs should be implemented. The government should not rely only on the handing out of printed material because there is no guarantee that it will be read.

I suggest to the transport companies and the government that hands-on, classroom and experiential-type programs be conducted so that non-English speakers will appreciate why they must comply with the provisions of the bill. Ultimately the community benefits.

I turn to the much broader area of alcohol and drug abuse, particularly the use of licit and illicit drugs in the workplace. During the mid-1980s — it may be news to many government members that I was a Trades Hall Council delegate, although I am from this side of the chamber — I attended several good occupational health and safety programs. Even in the 1980s I was surprised at the number of fatalities and serious injuries that occurred in the workplace as a result of the excessive use of alcohol and drugs. It did not matter whether it occurred on factory floors or in mechanics or panel beating shops. Certainly building sites came in for much mention, as did farms, where many farm workers seemed to imbibe inappropriately, and as a result accidents occurred.

It behoves the government to extend the safety programs implied in the bill into the wider work community. I urge the government to ensure that occupational health and safety programs are enforced much more stringently than they are in an effort to reduce the number of accidents, particularly in transport companies, the subject of the bill.

All honourable members who have contributed to the debate have said that the reforms are the result of recommendations of inquiries into rail accidents which occurred in Footscray, Ararat and Holmesglen. Although I do not have the minute details of those accidents, suffice it to say they should not have occurred. I trust that with the implementation of the legislation such accidents will not occur again.

The opposition does not oppose the legislation. We consulted widely with the transport community, including over 480 interested parties. Organisations consulted include Transurban Ltd, the Royal Automobile Club of Victoria and the Public Transport Users Association. Specific advice was sought from the Australian Industry Group and the Victorian Employers Chamber of Commerce and Industry. Issues raised by those organisations have been canvassed, and there is generally wide support for the legislation.

Hon. R. H. BOWDEN (South Eastern) — It is with pleasure that I rise to lend my support to and concur with this legislation, which I think is timely and important. The use of rail in our public transport system is long established. The large numbers of people who use vital rail and tram services each day for work and recreation expect and require the highest safety standards, and indeed understand that they have the perfect right to ask the legislature and all those who are professionally involved to ensure the highest possible safety standards. The bill is part of a raft of legislation that is being constantly looked at by responsible governments to ensure to the best of their ability that transportation — in this case trams and trains — is the best that can be provided.

The intention of the bill is to ensure that the performance of people providing those services is not compromised by the unwise intake of alcohol or drugs, which includes prescription drugs. Essentially the bill makes certain that it is the responsibility of the companies who are given this privilege and responsibility by the community to ensure that operators at all times understand that they are not to have their faculties impaired or their performance affected by the improper use of drugs and alcohol.

I will mention a few aspects of the bill in passing, and I will be brief because of the time. It will be an offence for a rail safety worker to perform safety work while impaired by the consequences of partaking of a drug or alcohol. The bill makes this very clear. For an employee to say they are acting on medical advice is not — I repeat, not — a defence. The whole test of this is whether the community may expect there will be no impairment of a safety worker while they are doing this important work.

It is important for industrial relations and for the workplace environment that a test can only be conducted if there is a reasonable belief that a worker may be impaired or that an employer's behaviour suggests impairment. It is not intended that a company or a supervisor can at random and for no real reason demand a test. There has to be reasonable grounds to believe that a test would be a wise course of events.

A police officer will be able to require a drug assessment after an accident or if a rail operator requests a police officer to carry out a test after an incident. That is not unreasonable and would be a perfectly acceptable course of events.

It is a condition of accreditation that an operator ensure that employees comply with drug and alcohol safety management systems. The accredited operator is required to have management plans for drug and alcohol procedures. While it is the responsibility of a safety worker to ensure that he or she is not impaired by the intake of substances there is also a corresponding and a serious onus on an accredited operator to make sure that they have viable and sensible operating plans in place and educational programs available to safety workers so it is clearly understood as an attitude, as a requirement and as an expectation, and there is no basis for misunderstanding.

The legislation is intended to come into effect on 1 July next year, which will give adequate time for many of the details to be further refined. Educational literature and other means of communication will need to be developed because many of the safety workers will not have English as their first language. It is essential for their safety that workers are given the opportunity to understand the importance that is attached to the legislation, so quality and informative literature will need to be developed, and 1 July 2002 seems to be a sensible date.

I conclude by saying that tram and train infrastructure is widely used, the potential for community disaster is there and the consequences of lapses in safety are severe. Therefore this legislation will make a sensible

contribution to further enhancing the safety standards that this state requires.

Hon. KAYE DARVENIZA (Melbourne West) — I am pleased to support the Transport (Alcohol and Drug Controls) Bill, which also has the support of the Liberal and National parties. The bill will make train and tram travel safer than it already is by introducing new provisions to tighten drug and alcohol consumption in the industry.

The purpose of the bill is outlined in clause 1, which is to amend the Transport Act 1983 to:

(a) prohibit the carrying out of safety work while impaired by a drug; and

(b) make further provision for a condition of accreditation under Division 3 of Part 6 of that Act that requires persons accredited under that Division to take reasonable steps to ensure that workers employed or engaged by them do not carry out safety work after consuming alcohol or while by any other drug; and

(c) create a new offence for a failure to comply with the condition of accreditation referred to in paragraph (b).

I stress that the government's chief purpose in introducing the legislation is to prevent accidents and to make the public transport system safer than it already is — not to persecute or punish workers.

By way of background, rail safety workers are people who work on or near the operation of tram or train lines or on tram or train infrastructure. They are required to have a zero blood alcohol reading and may be subjected to breath tests. These provisions have been in force in the Transport Act since 1996 and have been instrumental in changing the culture of work in this industry, which is overwhelmingly free of alcohol.

Rail safety accreditation already requires operators to have a system in place for managing illicit drugs or alcohol in the workplace, but the system deals only with illicit drugs and alcohol, not with the use of prescription medication and the effects that may have on the ability of workers to carry out their jobs. The system does not cover over-the-counter preparations that do not require prescriptions but may have side effects or impair the consumer of the medication in doing their job.

The bill specifically deals with prescription medication and over-the-counter preparations. As with other bills introduced in this place, the government has taken into account the recommendations of independent reports into train collisions at Ararat and Holmesglen. During the past year extensive consultation has been undertaken with tram and train operators, unions, the medical and pharmaceutical professions, Victoria Police and Vicroads. The procedural drug-testing provisions of the bill are generally based on those already implemented for motor car drivers under road safety legislation. Proposed section 94 of the Transport Act inserted by clause 8 creates new offences for the carrying out of safety work while impaired by a drug. It extends the legislative requirements to cover both over-the-counter and prescription medication.

As I said earlier, the bill does not introduce a zero drug requirement, but it ensures both the operator and the safety worker take the necessary steps to ensure a person who is performing rail or safety work is not impaired by drugs or medication.

Clause 6, the definitions clause, inserts definitions of drug and substance. It provides for the minister to declare a substance a drug, and the list of such drugs will be published in the *Government Gazette*. The list will initially be based on those drugs to which the drug-testing powers in the Road Safety Act already apply. This approach is taken because the road safety list was developed after extensive consultation. It is widely recognised by the medical profession and should provide consistency for rail safety workers and employers who must comply with these provisions. Consistency is important in dealing with these matters.

The government has made it clear that the provisions apply only where a person is impaired while undertaking safety work. If a drug on the list of drugs is taken in a way that does not impair a safety worker's performance, the listing of that particular drug does not mean the safety worker cannot continue to work. So the legislation is not about saying that you are unable to carry out your work if you are taking one of these drugs. It is about the effect of the drug and whether it impairs your ability to do your job. The provisions are not meant to discourage workers from taking appropriate medication when they need it — far from it! When people need to take particular medication for an ailment or illness, we want them to be able to take that medication. However, if that medication is impairing their ability to do their jobs, then we need to take steps to make sure that safety is not compromised.

Although existing legislation requires safety workers to have a zero blood alcohol level, the drug provisions do not refer to a particular level of drug in the body, and the drug control regime will only be activated if the listed drug level is such that the workers' ability to perform their safety work is impaired. Safety workers will need to ensure that, if their performance is going to be impaired by a prescription or an over-the-counter drug, they report the matter to their supervisors.

However, there will not be any requirement that a worker inform the employer in regard to every drug that is listed on the gazette that they are taking that medication. The legislation is about ensuring that, when performance may be impaired by medication, workers inform their supervisors.

The bill introduces two new offences. Firstly, it will be an offence for a safety worker to perform safety work while impaired by a drug, and the penalty will be the same as that for the existing offence of breaching the zero blood alcohol requirement, which is a maximum fine of $1200 for the first offence and a maximum fine of $2500 or up to three months jail for any subsequent offences.

The second new offence, which is set out in proposed section 118(3) inserted by clause 20, is for a breach of the rail safety accreditation conditions imposed by this bill that require an accredited operator to take reasonable steps to ensure that safety workers are not above the zero blood alcohol level and are not impaired by drugs. A breach of this new condition of accreditation has a maximum fine of $200 000.

These new offences and the penalties that are introduced by this bill indicate very clearly the seriousness with which the offences are regarded. An operator will need to take reasonable steps to have in place appropriate systems that will ensure that its workers are not impaired by any type of drug, whether illegal drugs or over-the-counter or prescription medication, and they will have to have a zero blood alcohol level.

The government is keen to ensure through the drug-testing procedures that will be implemented under the act that safety workers are not discriminated against in the workplace because they are taking particular medication for an illness or a condition from which they suffer.

Education and training will play a very important role in this legislation to ensure that safety workers in the tram and train industry are well prepared for the implementation of this legislation. To ensure that the procedures to be implemented are appropriate and supported by all of those involved it is intended that there will be extensive consultation. This consultation will be with tram and train operators, unions, Victoria Police and Vicroads, and with bodies that represent health professionals, including the Australian Medical Association, which will be consulted about the protocols, education and training that will be required to support the introduction of the legislation before it comes into effect.

Under these new provisions drug tests may be undertaken where there is a reasonable belief that a tram or train safety worker's ability to carry out and perform their duties and undertake their responsibilities is impaired. Those in safety positions can be tested before starting work, during the time they are undertaking their work or up to 3 hours after they have completed their work. It will be an offence to refuse to undergo a drug test.

The government believes the new drug reforms will provide a significant change within the rail industry, particularly with respect to prescription drugs and over-the-counter medication. Victoria will lead the way for the rest of Australia in these sorts of safety precautions.

One of the most important purposes of the bill is to encourage a culture in public transport that recognises that many substances, both legal and illegal, can affect a person's ability to perform their work. This is an important safety issue for both train and tram operators. The government believes these provisions will foster a greater understanding of the needs of workers in the public transport area and will have a very direct effect on public safety. The legislation will ensure that workers will be aware of the effects that taking certain drugs or having certain drugs in their systems could have on their ability to do their jobs, and a knowledge and understanding that even though a doctor has prescribed medication for them or even if it is simply a preparation bought over the counter, these are medications and drugs that can affect them and their ability to perform and carry out their work and responsibilities effectively.

In conclusion, the bill is important because it will assist in ensuring the safety of our rail and tram services, and I believe it will increase the public's confidence in using those services. We all want to see our train and tram systems made safer, and the bill sets out new laws which will tighten drug and alcohol controls in this industry, making what are already very safe services even safer. It is a good bill and it deserves the support of this chamber. 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. As there is not an absolute majority of members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

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

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Third reading

Hon. C. C. BROAD (Minister for Energy and Resources) — By leave, I move:

That this bill be now read a third time.

In doing so I thank all honourable members for their contributions to the debate.

The DEPUTY PRESIDENT — Order! I am of the opinion that the third reading of the bill requires to be passed by an absolute majority. So that I may be satisfied that an absolute majority exists, I again ask honourable members in favour of the question 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.

MARINE (HIRE AND DRIVE VESSELS) BILL

Second reading

Debate resumed from 28 November; motion of Hon. C. C. BROAD (Minister for Ports).

Hon. PHILIP DAVIS (Gippsland) — I am pleased to have the opportunity to speak on the Marine (Hire and Drive Vessels) Bill. I will make a number of comments on the bill and refer to its purpose, which is to provide for improved marine safety in Victoria by requiring operators of some hire-and-drive vessels to hold an operator licence, and by providing specific regulation-making powers to improve safety for all operators of hire-and-drive vessels.

The principal purpose of the bill is to extend the licensing regime established by the Marine (Amendment) Act 2000 to the operators of hire-and-drive vessels that are able to attain a speed of 10 knots or more or that are personal watercraft. The bill refers to those vessels as 'regulated hire-and-drive vessels'. In future, in order to operate a regulated hire-and-drive vessel a person will have to hold an operator licence that authorises him or her to operate an equivalent recreational vessel. The bill does not create a separate licensing system for regulated hire-and-drive vessels — instead, it is designed to supplement the recreational vessel licensing regime. That is possible because although recreational vessels and hire-and-drive vessels are legally distinct under the act, in practice they are usually identical vessels. They are treated differently under the act only because of the nature of their ownership and use.

The bill also requires that people aged between 12 and 16 years hold a licence to operate a hire-and-drive vessel that has an engine that is used for propulsion. Section 17 of the act already forbids people under the age of 12 from operating vessels with engines used for propulsion. The bill also inserts into the act regulation-making powers that specifically relate to the operation of hire-and-drive vessels.

Although the Liberal Party will not be opposing the bill, a number of points need to be made during the course of the debate. It is noteworthy that although we have consulted widely on the bill and there is general support for it, particularly from hire-and-drive operators, some groups have reservations — which I will set out.

The reason for not opposing the bill is that the purpose is meritorious in extending the operator safety regime implemented by the government, but as is the case now and was the case when we debated the initial boat operator licensing bill in November last year, the legislation is deficient and has some anomalies, which I will come to.

One of the significant anomalies in the bill is that it creates significant inconsistency between owner-operators and hirers of vessels capable of less than 10 knots. In other words, the operator of a vessel that is identical in every respect except for its ownership — —

The ACTING PRESIDENT (Hon. D. G. Hadden) — Order! There is too much noise in the house.

Hon. PHILIP DAVIS — Well done! Thank you very much; I needed your support, Madam Acting President.

The operators of vessels that are identical in every respect except for their ownership are treated

differently. There is a difference between a vessel being owned and operated and one that is operated under hire. The simple example I would give is if you decided to hire a yacht for the weekend from Riviera Nautic at Metung, managed by Fred and Jenny Herbert, without holding a boat operators licence you would be able to take out that yacht, which has motorised propulsion, and cruise the Gippsland Lakes.

However, if you walked 300 metres or 400 metres to the south of that establishment to the Metung marina and took out your own yacht with power of any description but identical in every respect to the yacht from Riviera Nautic, you could operate that yacht only if you held a boat operators licence.

This conundrum will cause real resentment among the boating fraternity. I stress that the inconsistent approach of the government to boat operator licensing is causing great anxiety among some groups.

It should also be noted that the hirer of a vessel capable of a speed of less than 10 knots will not be required to hold a boat operators licence unless they are aged between 12 and 16 years of age — a point I will have delight in coming back to shortly because I will explain the difficulties that will create for some small business operators whose businesses depend upon young people hiring their boats for recreation. I am sure the minister will be well able to tell the house what a small business might do if it faces a predicament because it has a high dependency on people aged between 12 and 16.

I will summarise the representations made to the Liberal Party about boat operator licensing. A number of points were made during the debate in November last year and have been recited to the opposition over the past 12 months about the difficulties involved. For example, some yachties who are very enthusiastic about sailing but inevitably have small, low-powered motors for manoeuvring in and out of marinas are concerned that there should have been an exemption for yachts operating under sail alone.

Real concerns have been expressed by pensioners about the cost of test and licence fees. I recall that recently on ABC radio an interstate transport operator said it costs less to have a road traffic licence to drive an interstate heavy transport rig than it costs to have and hold a boat operators licence.

There is no provision for learner boat operators. To operate a boat of any description under power one must hold a boat operators licence, irrespective of one's age and experience, even though one might be under supervision from an experienced and licensed operator.

Another factor is the cost imposed on volunteers who operate search and rescue craft, even as part of a recreational boating organisation involved in the supervision of a boating event. A rowing coach operating a power boat while following a racing eight up the Yarra River would still need to have a boat operators licence, even though his power boat would not be travelling at excessive speed nor would it be a navigational hazard. It is self-evident from those examples that there are concerns among the community about certain provisions of the bill.

I have received and, I daresay I will continue to receive, many representations on the issue. I hope the minister is equally sharing this burden of responding to the community in a way that reflects that the minister is aware and concerned about the impact of her legislation on the community at large.

I refer to one letter I have taken at random, which I believe expresses the sentiments of many. I certainly did not choose it for its detailed arguments, but it reflects the views of a family. It states:

> We wish to add our concerns over the proposed new marine act. We operate a small (18-foot long) trailer-sailer as a family activity. We use a small outboard motor to get in and out of harbour and to get home when the wind fails. We sail most of the time. We have been sailing for over 40 years without serious accident. The impost of expensive fees on such craft and activities seems excessive. Our boat can't physically exceed 6 knots under power, and even at full speed (which it never is) it poses no danger to the public. Please try to have the act amended to exempt auxiliary engines and slow craft such as displacement type fishing boats.

It goes on in a similar vein. It is from the Martin family of Toorak. They are not known to me but I have pulled out their letter as a general example of what people are saying about boat operator licensing regulations.

Concerns were expressed in the *Altona–Laverton Mail* of 24 October. Under the headings 'Owners slam boat licence testing plan' and 'Making waves' an article headed 'They're killing the fishing industry' states:

> Altona Boating and Angling Club secretary John Ross said the introduction of licence tests, to be administered by Vicroads, was nothing but a 'revenue-raising exercise'.
>
> 'We are not happy about it … They're killing the fishing industry,' he said.

The article goes on in a similar tone. So there is a great deal of concern in the community about the impact of the boat operator licensing laws and regulations. But to demonstrate that there is not an absolutely consistent view about all of this, VRFish wrote to me on 16 November and said:

> If boat licensing is being introduced for safety reasons then yachts should also be licensed.

I ask the minister whether yachts should be licensed. Is that the next stage?

Hon. R. F. Smith interjected.

Hon. PHILIP DAVIS — No, I am asking the minister, Mr Smith. It is the minister's legislation. She has designed the framework and created anomalies which are causing consternation in the community at large. Indeed, I have correspondence from Lindsay Grenfell, the chief executive officer of the Boating Industry Association (BIA) in respect to this matter. Under the subheading 'Should all persons be licensed?' he states, in part:

> The BIA believes that everyone should obtain a licence — it is the fairest method and guarantees that anyone operating a powerboat should understand the 'rules of the road'. However, this is inconsistent with New South Wales, which has a requirement to obtain a licence if travelling greater than 10 knots.
>
> It is understood that there is substantial discussion regarding the operation of charter boats and a possible exemption being considered for operators of these vessels because they will travel at less than 10 knots. While the Boating Industry Association represents all the industry, including charter boats, the creation of an exemption for one section of the boating industry will create a precedent for other boat operators — for example, sailing boats with auxiliary motors — getting in and out of marinas. Then why not exempt little 'tinnies', fishing punts, et cetera that trawl at less than 5 knots et cetera.

Clearly there is a spread of views about the licensing laws that the government has implemented. Although I say that as a preamble, we are here to deal specifically with the effects of the proposals contained in the bill which are to change the basis upon which hire-and-drive boats are regulated from a boat operator licensing perspective. As I have already pointed out, the purpose of the bill is to establish an extension to the operation of the boat operator licensing scheme so that hire-and-drive vessels which have a capacity to travel at greater than 10 knots will be required to be licensed and there will be an exemption for vessels which travel at a lesser speed.

As I alluded to earlier, this position is widely supported by the hire-and-drive industry. The opposition has been in touch with quite a number of stakeholders in the industry who have reiterated their concern. I acknowledge that the government embarked on a consultation process and from my discussions with industry representatives I know there is a generally agreed consensus about how to manage this. I recognise that the government has tried to implement a mechanism which will have the least impact on the hire-and-drive industry. But in so doing it has created this extraordinary anomaly between those who own a boat and those who hire a boat. The government should be working to provide some consistency and should also recognise those other classes of exemptions, which I flagged earlier, if it is going to provide the exemption for this class of boating enthusiast. It is all very well to try to have a regime which is perceived to be fair, but in this case it is only being fair to a particular group.

There are always unintended consequences and a couple of groups specifically made remarks. Peter Horman is the operator of an Eildon boat hire business. He operates a fleet using 50 outboard motors — houseboats providing 200 beds on the water and 13 speedboats, which are capable of more than 10 knots. He believes the impact of boat operator licensing would be adverse to his business and was therefore supportive of there being an exemption for hire boats. Riviera Nautic, which operates out of Metung on the Gippsland Lakes, has consulted with other local hire-and-drive firms and reflected a general and consistent approach which was that the bill would probably have the least impact in implementing hire-and-drive regulations for boat operator licensing in this industry.

However, it is useful to reflect on the additional comment the firm made that the provisions relating to safety checks for hire-and-drive customers will give some additional accountability in regard to negligence matters. From a business perspective, it is probably an advantage to ensure that a protocol is clearly set out that satisfies any test of negligence on the part of boat operators. As I have said, there is a diverse range of opinion about how this will impact.

I refer to an example that was cited by the parliamentary leader of the Liberal Party, the honourable member for Portland in the other place. I am sure the minister will be surprised to hear about this. The honourable member for Portland took up the issue about the impact of this imposition on behalf of a local constituent, Mr Trevor Stephens, who operates boats on Lake Pertobe at Warrnambool, which is a man-made lake of a very shallow depth. He has operated a business, Warrnambool Hire Motor Fun Boats, for 24 years. I am advised this business operates all year — on weekends and public holidays throughout the year — and that more than 50 per cent of the clients of the business are people younger than 16 years of age. As honourable members will recall, I said earlier that because of the imposition of the new licensing arrangements there were no circumstances in which a person under 16 years of age would be able to operate a

mechanically powered boat without a licence. The honourable member for Portland made strong representations on behalf of his constituent, because his constituent determined that his business would not be financially viable in the event that that class of hirer were effectively excluded. I note the honourable member for Portland wrote to the minister and also to the marine board on this subject. I am sure that the minister will be able to confirm that under section 67 of the principal act there is a provision for exemption. It reads in part:

> The Board may, by notice in writing to any person affected, exempt any person or vessel or any class of person or vessel from any requirement of this Act if the Board decides …

The point is that representations have been made for an exemption, and I understand an exemption will be granted for this particular business. I am sure that is a very sensible outcome for this particular case, and I congratulate both the marine board and the minister on that exemption. However, it raises the question to the minister: having created this particular exemption, this precedent, where does that leave us? Is it reasonable for boat operators on the Gippsland Lakes, Lake Mallacoota, Lake Eildon or any of the lakes in Victoria to make representations based on the particular and unique circumstances that apply to their businesses? If that is the case, could we not see the minister acquiescing to pleas from individual constituents who make a strong case for special exemptions on the basis of need?

I can imagine a case being made for an aged pensioner whose only joy in life is taking his or her little 12-foot tinnie out on a sunny weekend, dropping a line in the water and enjoying that recreation that so many Victorians enjoy — fishing, although probably not catching a great deal.

Hon. B. W. Bishop interjected.

Hon. PHILIP DAVIS — If you are talking about me, Mr Bishop, it is absolutely true — I do not catch very much at all. Perhaps I have a softer heart than this minister, but if a case were put to me in those terms, on the basis of the exemption that has already been granted because of the economic viability of the business, my social conscience would get to me. Clearly one would have to consider strong representations made along those lines. As the minister has created this precedent, the question arises as to where this will end. How long before the whole boat operator licensing scheme in Victoria becomes a shambles because there are repeated representations pleading special cases for exemptions? I do not criticise the minister for providing an exemption — as I have said, I congratulate the marine board and the minister on making a sensible decision on what in reality is a nonsense. But that is what I mean, this whole business is a nonsense — either we have a regime of consistency or we do not. I will leave the matter at that as there is no point in pressing on with that case — it is clear the minister has a cold heart and is not prepared to exempt pensioners.

Hon. B. W. Bishop interjected.

Hon. PHILIP DAVIS — We could wait and see. I will be pleased to assist any pensioners who would like to make out a special case, because the minister has already created the precedent.

I understand that an issue was raised in the consideration of this bill in the other place and that I should not conclude my remarks without referring to it. I do not think I am allowed to anticipate debate in this chamber so perhaps I will reflect on the debate that occurred in the other place. The honourable member for Swan Hill in the other place — —

Hon. B. W. Bishop — Good man!

Hon. PHILIP DAVIS — Sometimes he is a very good man; sometimes he is misguided. The honourable member moved a reasoned amendment in relation to this bill along the lines that the bill should be withdrawn and rewritten to bring about consistency in relation to border anomalies with New South Wales concerning mechanically propelled powerboats. I will not quote the reasoned amendment because I do not think it is my role to do that.

I might say that I understand the concern raised by the honourable member for Swan Hill. However, it is but one more anomaly. I have made the case that there are a number of anomalous situations in boat operator licensing in Victoria, and I see this inconsistency between Victoria and New South Wales as but another element of that. I think the Liberal Party would say that clearly there is a great and significant need for a consistent regime. I flag that in the future the Liberal Party will support attempts by the government to introduce legislation to correct these anomalies.

However, in relation to the reasoned amendment moved by the honourable member for Swan Hill in the other place, I would like to indicate that just as my colleagues in the Liberal Party in the other place did not support that reasoned amendment I think it is most unlikely that the members of the Liberal Party in the upper house would be persuaded to support such a reasoned amendment were it to be moved in this place, although I will not anticipate the debate and presume that it will be moved.

I think it is useful for us to acknowledge that it is a point well made not just by the honourable member for Swan Hill but also by the honourable member for Benambra in his contribution to the debate in the other place. As the opening batsman for the opposition parties the honourable member for Benambra made a strong case. He spoke strongly for resolving border anomalies, as he would being a member representing a border electorate. However, the issue is that this is but one more anomaly and the Liberal Party takes the view that boating safety is an important and evolving matter that requires ongoing scrutiny and updating of regulations. The government has made a disappointing effort in sorting out these operator licensing arrangements.

I conclude by saying that for us to consider three amending bills to the Marine Act in one parliamentary sitting is a sad reflection on the way the government is managing its legislative program. It seems to me that the matters that have been dealt with in the three amending bills we have considered so far this spring could have been dealt with in one bill. It surprises me that the government does not have a better coordinated legislative program. Given that the government's policy agenda is devoid of legislative and policy reform one can only presume that this is a deliberate policy on the part of the government to create work for the Parliament.

Hon. B. W. BISHOP (North Western) — I am pleased to rise on behalf of the National Party and speak on the Marine (Hire and Drive Vessels) Bill. We in the National Party found this a particularly difficult bill, but not in the context of not supporting safety. I believe without question that the National Party could never be accused of not supporting boating safety. While the National Party is not really opposing some of the issues in the legislation, by the sheer weight of this bill we will end up with two classes of boat operator in Victoria. We will have one class who are owners and must be licensed by law and one class who are hirers and do not have to be licensed by law. We in the National Party think that that is an intolerable situation and something that must be addressed before it goes any further.

My colleague the Honourable Philip Davis said it was just one more anomaly, but we are sick of anomalies along the border and the National Party will give the government and this house the opportunity to do something about this one at this stage rather than let it go on and on like a stone gathering moss. This bill widens the gap in logic in our vessel licensing for operators and cements in place anomalies between New South Wales and Victoria that could easily be resolved. Therefore, the National Party believes it has no option but to move a reasoned amendment and I would like to do so now. I move:

> That all the words after 'That' be omitted with a view of inserting in place thereof 'this bill be withdrawn and redrafted to provide for a boat operators licence to only be required when operating a vessel propelled by mechanical power at a speed greater than 10 knots, except in the case of a personal watercraft where any person who drives a personal watercraft must have a boat operators licence with a personal watercraft endorsement.

Before I go on I urge honourable members to give serious consideration to the National Party's reasoned amendment and to give the government the opportunity to fix the increasing number of silly anomalies that apply across boat licensing regimes in Victoria and New South Wales.

Put quite simply, if the bill goes back to the drawing board and the drafting of it starts from square one, it could solve the border anomalies between Victoria and New South Wales. If this bill is passed as it is, several things will happen. Firstly, operators in Victoria of tinnies capable of travelling under 10 knots will be forced to be licensed whereas operators in New South Wales will not. The National Party has been advised that New South Wales will not move on those tinnies that do not exceed 10 knots. Secondly, Victoria will have two classes of tinnie operators. Owners and operators of motor-driven tinnies — whether they can attain speeds under or over 10 knots does not matter — will have to be licensed, whereas those who hire tinnies and stay under 10 knots will not need to be licensed, even though in all probability they would not be as experienced as the owners or operators of the tinnies.

Honourable members should keep in mind that the National Party is giving the government a chance to stop imposing licence fees on tinnie operators who are mainly the families and pensioners about whom the Honourable Philip Davis spoke. The National Party also understands that pensioners will receive no licence concessions whatsoever.

National Party members have consulted widely on this bill because once people got their minds around the subject there was a reasonable amount of interest in it. We have a very good relationship with the Boating Industry Association and have had a very good discussion with its chief executive officer, Lindsay Grenfell, who was mentioned by the Honourable Philip Davis.

The purpose of the bill is quite simple: it requires the operators of some hire-and-drive vessels to hold an operators licence and it provides for specific regulated

powers in the operation and use of hire-and-drive vessels. This has all come about because in 2000 legislation was passed that introduced a recreational vessel licensing regime to Victoria and hire-and-drive vessels — although they are largely used for recreational purposes — were classified as commercial vessels and therefore were not covered by the new licensing arrangement.

The bill extends the licensing regime established by the Marine Act to cover operators of hire-and-drive personal watercraft, or jet skis; operators of mechanically powered hire-and-drive vessels capable of travelling at 10 knots or more; operators of prescribed classes of hire-and-drive vessels; and young persons aged between 12 and 16 years who hire mechanically powered vessels. By way of example, a tourist or holiday-maker who wishes to hire a jet ski or a vessel capable of 10 knots or more will now be required to have a licence. The National Party has no problem with that.

The bill also seeks to build on existing regulations for the giving of instructions to operators of hire-and-drive vessels by requiring vessel owners to provide them with a more comprehensive pre-trip safety briefing and safety check list. The National Party strongly supports that initiative. It is an excellent idea and a practical and sensible way of increasing boating safety.

The biggest problem National Party members have with this bill is that it creates another class of boat user by exempting the operator using a hire-and-drive vessel from having to be licensed provided the motor-powered vessel does not exceed 10 knots. In November 2000, during the initial debate, the National Party wrote to the minister on this issue asking for the insertion in the original bill of provisions relating to recreational users. That request was subsequently rejected, much to our — —

Hon. R. M. Hallam — Chagrin!

Hon. B. W. BISHOP — Much to our chagrin. That is a very good word. Thank you, Mr Hallam, for your assistance.

National Party members are absolutely determined to continue to use everything in our power to remove the anomaly between Victoria and New South Wales and to provide some sensible and practical systems of improving boating safety that do not victimise our communities, in particular Victoria's families and pensioners, who I repeat will be given no concessions under this bill.

When the Marine Act was amended on the previous occasion, the National Party wrote to the minister about these issues. My colleague and friend the Honourable Peter Hall was of great assistance to me at that stage and we made a team effort. I will not go through the letter now, but we said to the minister, 'A fair amount of funds will be collected in licence fees, and we want that to go into a trust fund set aside and dedicated to boating facilities'.

That request was rejected as well. We thought that was a grand idea that would ensure that licence fees paid by anyone at all would go into the right bucket of money and be protected. We then found out that almost $16 million would be collected from those licence fees, which no doubt encouraged people such as the Boating Industry Association to support the imposition of those fees. As I said, we have had some good discussions with Lindsay Grenfell from the Boating Industry Association. He readily agrees that the BIA supported recreational boat operator licensing on the basis of the funds being returned to the recreational industry for the development of powerboat facilities.

That association's view is that there has been no indication from the State Boating Council or the government as to where the allocation of the $15.9 million appropriation will be spent. It was also said to us that boaters have long memories and that it is fair to say that the BIA is concerned that licence funds may not be used for the purpose intended. Honourable members will remember that in the late 1980s and the 1990s governments introduced a boating facilities and education fee on powerboat registrations which almost doubled the funds collected from registration fees from approximately $2.5 million to $5 million.

The money went into consolidated revenue with a statement that all moneys appropriated would be returned to recreational boating. However, if you look at the numbers you see that the appropriation appeared to never change from $1 million. The boating public still only receives $1 million for the upgrading of boating facilities. It has been reported to us that in 1999–2000 there were $16 million worth of applications for funding for boating access facilities, but that only $1 million was available for the purpose.

So I believe the questions brought up by the boating fraternity of how much of the $15.9 million allocated over the next five years under the scheme will be allocated to facilities, and what happens in year 6, are fair and reasonable, and have certainly been well represented by the Boating Industry Association.

In our letter to the minister at that time we also suggested that the registered owner of a tinnie that travels at under 10 knots would have a responsibility for anyone operating that boat, and that they could go through a program of quality assurance, safety recognition, and all those sorts of things. We thought that was a fairly innovative idea. That was rejected as well. We asked for the same rules as those that apply in New South Wales. Guess what? That was rejected as well.

In the debate the last time around, which I will not read out because I am not allowed to, the National Party strongly raised the impact the charges would have on families and pensioners, particularly when they may only use their boats from time to time. The example we gave was that it would cost a family of four people $100 a year to operate their boat.

Hon. Philip Davis — Outrageous!

Hon. B. W. BISHOP — Outrageous, Mr Davis; I agree. It might be a reasonably poor family who enjoys peaceful fishing on a river or waterway in some parts of Victoria. We went through all that, and that was rejected as well. In that debate we pressed quite hard on the anomalies with New South Wales. We in the National Party clearly understand those, representing stretches right along the river and state borders. We brought up the issues of New South Wales and of South Australia. We are quite concerned about the anomalies on this issue between the states.

Hon. R. M. Hallam — We were told that New South Wales was going to follow suit.

Hon. B. W. BISHOP — Indeed we were, Mr Hallam.

Hon. R. M. Hallam — We were misled.

Hon. B. W. BISHOP — Let us cut to the chase in the whole exercise. The National Party believes this legislation is inconsistent, and that there is inconsistent legislation right across the whole field. We moved the amendment to go back to square one to fix up the whole mess, to get some consistency back between the states, to remove the anomalies, and to get some compassion.

Mr Philip Davis spoke about compassion. He said he had a warm heart, and I think he even indicated that the minister might have a cold heart on this issue. He sought some compassion and commonsense for small boat users who are mainly families and pensioners.

Hon. R. M. Hallam — And others.

Hon. B. W. BISHOP — And others; they are bay fishermen and inland fisherman — in fact, I think probably 130 000 boat operators in Victoria are likely to be touched by the rules that are coming into place. The previous bill imposed these licence fees on them.

I refer again to the Boating Industry Association. As I said, Lindsay Grenfell has been really good and easy to talk to; he is extraordinarily well researched, and has a good understanding of the industry he represents. Under the heading 'Should all persons be licensed?' — and let me make this quite clear — he states:

> The BIA believes that everyone should obtain a licence —

that is its very clear policy —

> it is the fairest method and guarantees that anyone operating a powerboat should understand the 'rules of the road'. However, this is inconsistent with New South Wales, which has a requirement to obtain a licence if travelling greater than 10 knots.

The Boating Industry Association then says:

> It is understood there is substantial discussion regarding the operation of charter boats —

this was prior to this bill coming in —

> and a possible exemption being considered for operators of these vessels because they will travel at less than 10 knots. While the Boating Industry Association represents all the industry, including charter boats, the creation of an exemption for one section of the boating industry will create a precedent for other boat operators — for example, sailing boats with auxiliary motors — getting in and out of marinas. Then why not exempt little 'tinnies', fishing punts … that trawl at less than 5 knots —

or less than 10 knots? It says less than 5 knots. It then says:

> Further, residents from New South Wales who currently do not require a licence … who own a boat but travel less than 10 knots will be required to purchase a Victorian licence if boating in Victoria — another anomaly!

It concludes by saying:

> For ease of operation, administration and regularity throughout the industry and states, it is recommended that a powerboat licence only be required when operating a vessel at more than 10 knots. This would alleviate all the above problems — that is, charter boats, yachts with auxiliary motors, little tinnies and children operating their first small boat under close supervision.

Hon. P. R. Hall — This is the industry view?

Hon. B. W. BISHOP — This is the industry view. It started off with the view of saying that its stance is that everyone should obtain a licence. But due to the

inconsistencies that have been imposed on the industry across the wider field it now says:

> … it is recommended that a powerboat licence only be required when operating a vessel at more than 10 knots —

which is consistent with New South Wales. Late last year, when members of the National Party went through the process of addressing the previous bill, we were told very clearly by anyone who talked to us, briefed us or discussed matters with us that New South Wales was going to move down exactly the same path as Victoria. The honourable member for Coburg in the other place talked about it but it has changed a bit now. Mr Carli indicated that now Victoria is leading Australia and, although New South Wales was not necessarily going to move quickly, the pressure would be there and it was hoped that New South Wales would be forced into putting into place what Victoria was proposing.

However, given that we were advised that New South Wales will not do that, we believe we have been misled. That made us pretty cranky — and that is why we are taking our stand in this house today. We understand that New South Wales will do the same as Victoria is doing with hire-and-drive vessels but it will not touch the stuff that goes under 10 knots. I have spoken with the President and with Hansard and will have included the first pages of a document prepared by the Waterways Authority of New South Wales, headed, 'When is a Boating Licence Required?'. It is a great document — simple and straightforward. In part it states:

> It is important to know that it is neither the size of a vessel nor the power of an engine which determines whether a person needs to be licensed — it is the speed at which a boat is driven.

It is very simple stuff and I ask that it be included in *Hansard* so that the record shows what a great system New South Wales has — one that we ought to be eager to follow.

Leave granted; see page 1674.

Hon. B. W. BISHOP — Further to that, the National Party took the opportunity of writing to the minister. I thank her for her response and the cooperation we have received. I will not read the whole letter written on 22 November, but in part we stated:

> During debate on the Marine Amendment Act 2000, the National Party advocated strongly for uniformity between Victorian and New South Wales boating licences. In particular we were concerned that NSW legislation does not require the person in charge of a vessel to be licensed if that powered vessel is capable of travelling at a speed less than 10 knots …

We then outlined the advice we had and said to the minister:

> This advice appears to have now been wrong. There is no indication that NSW is about to change its boating laws relative to powered vessels under 10 knots. The only legislative changes they are considering are those to implement a regime for hire-and-drive vessels.

In the letter of 22 November we stated also:

> Consequently the National Party seeks an assurance from you that the Marine Act will be amended to bring boating licence conditions in line with those applying in NSW. We seek a further assurance that the current requirement for obtaining a licence will be immediately suspended for those wishing to operate a vessel at less than 10 knots.

Hon. P. R. Hall — That's a fair request!

Hon. B. W. BISHOP — A fair request, Mr Hall — straight out in the open, quite clear and unequivocal, using the good rules established in New South Wales. The minister's response to us was:

> The Victorian licensing scheme adopts the 'Principles for a Common National Standard for Recreational Boat Operator Licences' developed and published by the National Marine Safety Committee.

That is good stuff! She said also:

> Victoria is the first jurisdiction to fully adopt these principles.

So we are way out in front — and perhaps the others may never come with us. When we asked whether Queensland, South Australia and Tasmania have different schemes from New South Wales or Victoria the answer was — and I think it is fair to read just a few of the words we received in the minister's response:

> … it would be a reasonable expectation that they will progressively move towards consistency with Victoria.

Well, goodness me! That could be 20 years — it could be any time.

Hon. P. R. Hall — Twelve months ago they were!

Hon. B. W. BISHOP — Twelve months ago they were and now it is a 'reasonable expectation' — so the goal posts have shifted again. It is pretty hard to kick a goal under those sorts of circumstances. That is why the National Party is cranky about this whole matter and why we are raising it as strongly as we possibly can in this house this afternoon. The letter from the minister states also:

> There has been overwhelming support for operator licensing from the general public …

The minister should wait. When I talk to my Vicroads licensing people they say people are lining up outside going crook about it because they did not know it was coming! So that is the public and the boating community as well as the State Boating Council — we have not heard anything from that council, which represents all types of recreational boating in Victoria or Victoria Police. The Boating Industry Association, as I have said, has had discussion with us and has been excellent to work with.

Again, the Boating Industry Association of Victoria has been absolutely consistent. It has said that everyone should be licensed but when the rules changed and the anomalies in this bill were proposed which would result in two classes for people operating small boats in Victoria, it said, 'Well, let's go to the New South Wales rules'. That is fair enough. I repeat: I respect its position because it has been quite consistent. The association believes everyone should be licensed but when you get such a ridiculous situation it said what I read out earlier from its contribution about the environment statement that was requested by the government.

I will not proceed further along that line. We have raised issues with the minister through questions without notice about the process that has been used, which we believe is a sham. Only two weeks before the closing of the regulatory impact statements the pamphlet and booklet came out with the prices on it. Therefore one cannot expect that consultative process to carry much weight. We have also raised the issue on the adjournment and got much the same answer from the minister.

The National Party did not have a lot of support last year because people were not aware of the bill, and it was hard to drum up interest. We have had discussions with the major industry representatives, but when people have had time to assess what will happen in Victoria things will change, and the issue will be felt across the whole of the recreational boating area.

In my electorate office it has been raised considerably. The Vicroads people have raised it, but we believe the government ignored the regulatory impact statement process and did not even use a fair consultative process. It might not be much of an issue in some parts of metropolitan Melbourne, but I suspect that a large number of tinnie owners in the metropolitan area will be savage when they understand what this is all about.

When I mention the word 'savage' it reminds me of the Independent member for Mildura in the other place, who voted against the National Party's reasoned amendment in the other place. I do not know why he voted against it, but as a so-called Independent, representing a fair stretch of the Murray in his electorate — and soon to have Robinvale added to it — he and his Independent party mates ignored the border anomalies issue, and ignored the imposition of licensing fees across all owners of motor-powered boats that do not go more than 10 knots per hour. They voted against the National Party's quite innovative proposal.

It was a reasonable reasoned amendment, and I cannot provide a reason why the Independent member for Mildura would take this action, but he did. I am extremely disappointed with his stance of again going with the government on this one. As an Independent he could easily have crossed the floor and stood up for his people, but he did not even conduct a survey on this matter. He has conducted surveys in the past such as when we were debating the barley legislation, but I suppose there is not much point because in that survey he received 85 per cent support for what the National Party wanted to do and then he voted against that legislation. I am very disappointed in his performance on this issue of border anomalies and the imposition of licensed operator fees on tinnies, which we will soon have in Victoria.

We have a real mess on our hands here. I believe the minister is understanding. The National Party has given her an opportunity to work through these anomalies and unfair licensing provisions for small boats that go at less than 10 knots per hour. I ask the house to seriously consider the reasoned amendment the National Party has moved. I again put forward the reasons for the reasoned amendment. I urge honourable members to support it to give the government the opportunity to think about it. Surely the government will welcome it as a matter of fairness, to solve the border anomalies with New South Wales and to stop another anomaly being created within Victoria. If this bill goes through we will have two classes of tinnie operators — and we have talked about that before. Anyone who owns and operates a tinnie that is motor driven — whether it is under or over 10 knots — will have to be licensed. Whereas if you go and hire a boat — even if you have never driven one before — you do you not have to be licensed. It is ridiculous.

The National Party will give the government another chance to stop imposing licence fees on our tinnie operators — mostly families and pensioners with no concessions. As Mr Hallam has pointed out, many fishermen, shooters, bay fishermen, inland fishermen and a huge number of ordinary people enjoy the pleasures of boating throughout Victoria. I advise the house of the last absolute classic anomaly. In Mildura there is a weir just down from the main part of the city.

The water in the weir is held to a particular level for irrigation purposes. Part of the river then runs into Victoria and creates Lock Island, and Lock 11 is where the vessels go through.

It will be pretty interesting when New South Wales people travel along the river and get to the weir and want to go through the lock, because I will bet that is Victorian country then, and they will have to be registered as Victorians just to travel along their own river. If that is not an anomaly I do not know what is. The Independent member for Mildura should have recognised that at least.

Hon. R. F. Smith — I thought the river was in New South Wales!

Hon. B. W. BISHOP — It is, but in this instance, Mr Smith, I am happy to tell you about, or take you and show you, this situation because the diversion around the weir is in Victorian country. I have yet to be advised about this, but I suggest that the New South Wales people who use the river, if they want to go through that lock, will probably have to be registered as Victorians — and won't they be pleased! If that is not a good shot against tourism, I do not know what is!

The National Party is prepared to work with the minister to resolve this difficult and unfair situation in which we all find ourselves.

Hon. R. F. SMITH (Chelsea) — I support the Marine (Hire and Drive Vessels) Bill and oppose the reasoned amendment moved by the Honourable Barry Bishop.

I had the pleasure of speaking on the act in November last year, and during the course of my contribution I referred to not only the importance of boat safety but to researched statistics on boat accidents and boat safety. I do not intend to go over that again; suffice it to say that the bill finetunes and complements the Marine Act of 1988.

Some honourable members are waiting with bated breath for a contribution on my navy experience, particularly in the area of boats. One of the many skills I learned in the navy was that of seamanship instructor, where I taught young men the finer arts of not only driving boats but in the safe handling of and the safety aspects related to those boats. The bill allows for new licensing arrangements for the operators of registered recreational vehicles and for them to apply to other operators.

Hon. K. M. Smith — You are not reading that, Bob, are you?

Hon. R. F. SMITH — I am reading from notes, actually, like everyone else. Thank you for the contribution, Mr Smith.

The purpose of the bill is to improve marine and recreational boat safety. For honourable members in this place who may not understand, boats are vessels that are carried on ships. Many people make the mistake of talking about ships and referring to them as boats. I assure them that boats are not ships — boats are carried on ships. When talking about personal watercraft — waterskis, canoes or whatever — I assure the house they are not ships, they are boats, or in some cases fun boats, which I shall refer to later.

Records show that only 522 vessels make up the entire hire-and-drive fleet, excluding fun boats. There are 120 hire businesses in Victoria, of which only 16 offer personal watercraft for hire. Of those only 6 are boat hire businesses. The rest provide holiday accommodation and personal watercraft add-on attractions for holiday-makers. Of those 6 boat hire businesses, 2 claim that 100 per cent of their income is related to or comes from the hiring of personal watercraft and only 1 claims that 30 per cent of its income is dependent on personal watercraft hire. Only 2 businesses own more than 5 personal watercraft, and a total of 40 personal watercraft are owned by 16 businesses.

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

Hon. R. F. SMITH — As I said before the dinner break, a total of 40 personal watercraft are run by 16 businesses; a total of 10 hire vessels are designed to exceed the speed of 10 knots. For those who do not know, 10 knots is approximately 12 miles per hour or 18.5 kilometres per hour. The other difference in a nautical sense is that at sea a mile is 2000 yards as opposed to onshore where a mile is 1760 yards.

While we are talking about speed it needs to be understood that jet skis can travel at speeds of up to 60 miles per hour or 100 kilometres per hour, and that is frightening for a lot of people who enjoy the beach or waterways. I recall in the early days of this government the Minister for Ports coming to Chelsea Province, where the mouth of the Patterson River and the beach was regularly frequented by jet skiers, some of whom could only be described as hoons, who appeared to be threatening and intimidating to many people. Hence we were the first in this state to bring in restrictions to ban the use of jet skis in that area, which sent a clear warning to those who used the jet skis that their conduct would not be tolerated. We seem to have quietened them down significantly.

A great deal of consultation has taken place over this bill. I refer to May 2001 when the Marine Board of Victoria forwarded options papers to all 120 hire businesses in Victoria. Consultants then conducted by way of telephone some 80 interviews to solicit their views. You may ask what was the result. Let me tell you: contrary to the complaints earlier, particularly from the National Party, about the lack of consultation, there was a great deal of support from the industry. In fact the industry was saying that it does not support the blanket approach that currently exists. Generally speaking, industry supports licences for vessels capable of speeds in excess of 10 knots.

There was also good support for matters covered in this bill, including pre-trip briefings of intended operators, safety stickers on vessels, management plans for safety of vessels, et cetera. So I would argue that, typical of this government, a significant degree of consultation has taken place and hence the opposition supports this bill. The National Party is making attempts to amend it, but at the end of the day I am sure it will cop what will be a good bill.

The public and boat operators have shown strong support for the bill. Currently hire-and-drive vessels are regulated to the extent that they are classified as commercial vessels and therefore require a certificate of survey issued by the marine board on the initial registration or annual inspection.

The certificate confirms that the vessel meets approved standards, such as design and construction equipment standards, and loading capacity and also sets geographical limits — for example, hire-and-drive vessels cannot sail in coastal waters but are restricted to inland waters, bays, inlets and sheltered waters.

The Honourable Barry Bishop referred to inconsistencies between the New South Wales legislation and the bill. New South Wales, Queensland, Tasmania and South Australian legislation is consistent with what is proposed in Victoria — a nationally agreed system. The New South Wales government will conform to that system in due course. I do not understand the National Party's opposition. It is barking up the wrong tree again. In New South Wales, Queensland, Tasmania and South Australia operators of hired personal watercraft hold a licence, so Victoria is being absolutely consistent in applying that standard. Some argue it is leading the country in this regard.

Tourists will be able to hire vessels other than personal watercraft or high-speed vessels. It is a major issue for many businesses, particularly considering that some tourists do not have licences. Obviously the requirement for tourists to have licences would have an impact on some businesses, and the government has ensured that the bill does not impact on those businesses. Of the 522 hire vessels in Victoria, 90 per cent will be available for persons who do not hold a licence. The equivalent overseas or interstate licence held by tourists will be recognised in Victoria. I stress that the arrangements have been developed in accordance with national competition standards and for recreational boaters. That in itself is sufficient justification to support the bill.

Prior to the suspension of the sitting I indicated that I did have some knowledge about boat safety and had significant instructing experience. To ensure that I do not let down my colleagues, I refer to my experience on this matter. I had the great pleasure of being instructed by Bindi Burr, an experienced, three-badge leading seaman.

Hon. E. G. Stoney — An old salt!

Hon. R. F. SMITH — Indeed, an old salt, even an old tar. He was quite a character and given his obvious experience he must have been sailing for some time. I asked him about this and he said, 'Son, I started doing this when the Red Sea was pink and the Dead Sea was on the critical list. I was doing this in Baghdad before you were in Dad's bag'. I thought that was very humorous. It is going back some time, but I have never forgotten it.

The bill does not permit young persons aged 12 years or more but less than 16 years to drive a motorised vehicle unless they hold the appropriate licence. That comes into effect in 2002. The Leader of the Opposition in another place referred to concerns about the bill impacting on one of his constituents, Mr Trevor Stephens, who operates a hire boat business on a small area of private land. The boats operate at walking pace — less than 5 knots — around a short circuit in very shallow water. Access to the lake is restricted. The business operator can assist boat operators by walking amongst them. That being the case, it is clear that it is a unique business and the Marine Board of Victoria granted it an exemption. That was a sensible thing to do. The majority of businesses in the hire-and-drive industry do not hire vessels to anyone under the age of 18 years, which is commonsense. I am sure I would not hire a powered vessel to a youth under 18 years. Public liability insurance does not permit the hire of a powered vehicle to any person under 18 years. Imagine the insurance premium to cover those young people!

In summary, the bill amends the Marine Act 1988 to enable the new licensing arrangements for operators of

registered recreational vessels to also apply to operators of hire-and-drive personal watercraft, jet skis, mechanically powered hire-and-drive vessels capable of 10 knots or more, prescribed classes of hire-and-drive vessels, and young persons aged 12 years or more but less than 16 years who hire mechanically powered vessels. Given that all those amendments have been made and that they are designed to complement the Marine Act 1988, I commend the bill to the house.

Hon. R. H. BOWDEN (South Eastern) — I rise to contribute to the debate on the Marine (Hire and Drive Vessels) Bill. Having studied the bill and the second-reading speech and considered the issues involved, I am of the opinion that there is heavy emphasis on safety in the consideration and development of the bill — and that is a good thing.

The interests of small business are also taken care of in the bill, and I will comment on some aspects of small business and note specifically the operation of small businesses within Victoria that hire out boats and other vessels for recreational use. There is a considerable number of hirings each calendar year and the approach, information and coverage given in the bill will contribute towards safety and predictability in some aspects of the responsible hiring and use of boats.

Probably like other honourable members in this chamber, I enjoy boating. I have been associated with boats of between 14 and 20 feet in length for more than 30 years, and my principal recreation is operating a small powerboat for fishing and other purposes. With some modesty, I like to think that I know a little bit about small recreational vessels.

In the treatment of this bill there is an opportunity to address an anomaly. Certainly in the province I have the privilege to represent, which contains Western Port and abuts a large part of the southern part of Port Phillip Bay, there is a considerable number of yachts and a great deal of recreational boating. Whilst I do not have a fundamental problem with licensing and the considered reasons for it, I suggest to the government that it is worth while addressing the anomaly that arises because yachts need to have a small outboard or inboard motors to drive or manoeuvre safely amongst other vessels, particularly in marinas where nearby vessels could be extremely expensive, difficult to maintain and so forth.

The manoeuvring of yachts in and out of marinas is a safety issue, but it could be said it can be done safely whether you have a licence or not. I think in the case of yacht owners, who may only need their motors for literally a couple of minutes to safely get their vessels out of their berths and under weigh and again at the end of their journeys to transit back to the mooring berth, it is doubtful that a licence is necessary for that legitimate safety manoeuvring situation and propulsion system. In my opinion licensing is not warranted if yachts are privately owned and there is a very low-powered motor purely for manoeuvring safely into confined areas. I suggest constructively to the government that this could be productively reconsidered.

However, there are many occasions when yachts are hired and an anomaly exists when the operator of a yacht which is hired and which has a small motor does not need a licence but the operator of an identical vessel that is privately owned for recreational purposes — the same use and the same conditions — does need a licence. It would be appreciated in the yachting and boating fraternity if it were changed, and the government should consider doing so.

Having studied the bill, I also note that a licence is required in situations where a vessel is capable of attaining speeds of 10 knots or more. I have no quarrel with that because, as the Honourable Bob Smith has correctly said, it is about 12 miles an hour. It may not sound like a high speed, but distances are often deceptive on water, so 12 miles an hour can be pretty quick and a lot of damage can be done at what is considered to be a relatively low speed.

In recognition of the impact of licensing on small business, I understand that a licence will not be needed under this legislation if a vessel is operated at speeds of less than 10 knots and if the vessel is not capable of being operated at more than 10 knots. That would assist many people who depend on their incomes as small business operators and have made considerable investments. That part of the bill is understandable, and is a constructive recognition of the dilemma many small businesses have faced prior to the arrival of the bill.

From time to time over the last few years I have listened when personal watercraft or jet skis have been mentioned in several bills. I do not entirely subscribe to the view that people who operate their own jet skis are irresponsible.

Some people act irresponsibly, but not everyone does so. I know several people who own personal watercraft who in no way, shape or form use their craft or jet skis irresponsibly. It is the visible minority that the public sees and is concerned about.

For the record I want to say that not everyone who owns a personal watercraft or jet ski is automatically irresponsible in the way they use it. On several occasions I have rented and used personal watercraft and jet skis and, with modesty, I would not describe myself as irresponsible in the way I used them. I have a New South Wales licence that I have had for many years. I think it is a good idea that if people between the ages of 12 and 16 are to be allowed to hire a vessel, they must have undergone the training required to obtain a licence. That is sensible and supportable.

The bill requires adequate safety briefings to be provided. I have hired boats in Queensland and New South Wales on many occasions over many years, and usually the owners of vessels will provide an adequate briefing on the characteristics and driveability of that vessel, and they have pointed out where the safety equipment is kept. It is not unknown by practice in other states, and I am certain the same thing happens here. I am sure the bill formalises what is in the main a practice of long standing in Victoria, although I have no personal knowledge of that situation because I have never hired a vessel in Victoria. In other states the situation is handled well, and it is good that the situation in Victoria will now be formalised.

The bill provides for check lists and instructions as to both usage areas and geographical limitations of the boat, and there are also safety notations as to loading levels and so on. They are good regulations and it is an excellent idea that the information is recorded not only in the business that is operating the hire boat but also recorded on the vessel for the operator to see; that is wise and sensible.

It is important to make certain that when a vessel leaves a dock the operator has had a quality briefing. I have the honour and privilege of being the patron for the Australian Volunteer Coast Guard Association in Victoria, and I believe contributions to safety will be made by the proper and regular use of these requirements. Many people in the coastguard go out and help people for whom a better understanding of the operation of the vessel and safety considerations would have been a big help, and a lot of effort by a lot of people would have been spared.

I am very supportive of aspects of the bill, and I believe it is interesting legislation. However, I suggest that the New South Wales regulation, where a licence is not needed unless the vessel is capable of more than 10 knots, is a good idea. The situation in Victoria is different and I would like to see more consideration given to the New South Wales situation. In Victoria operators of small aluminium boats with small motors, commonly referred to as tinnies, are required to have a licence. Usually the overwhelming number of those vessels are small, perhaps 3 to 3.5 metres in length, and they are used in sheltered waters, rivers, creeks or small lakes. They do not have rough water capability. Usually the craft has a small outboard and a small mechanical engine, and is not capable of speeds of 10 knots or more.

In New South Wales a system was set up many years ago — and it is still current — where a licence is not needed for a vessel of that type. I think that situation should be looked at in Victoria. The Victorian approach is, we are told, based on considerations of safety. Therefore everyone who operates a boat with mechanical propulsion should be trained, should have a licence and should understand their responsibilities. There is a strong argument in favour of that, but there are classifications of vessels that do not require that regulation because of their low power and their long-established safe operating record.

I am satisfied with and supportive of the emphasis on safety in the bill. I would like to see the anomaly addressed where a vessel may need a licence if it is for recreational purposes, but exactly the same vessel does not need a licence in a hire situation — and I am not advocating a licence for the hire situation. I suggest it is timely to review the situation where yachts, for reasons of safe manoeuvring, have a small motor fitted. The situation could constructively be reconsidered with a view to removing the need to have a licence for craft that require small motors to manoeuvre them in and out of a marina berthing pen.

The 2002–03 boating season is one that as a community we will have to approach with a great deal of care and attention because the licensing regime will have become quite advanced by that date and some of the earlier requirements under the legislation previously passed by the Parliament will start to become effective as of this summer.

I think licensing is good and the emphasis on safety is certainly supported. We can never have too much respect for the water and the sea. The concerns I have mentioned are to do with a yacht's low power.

Another aspect of the bill is the information that people who hire boats are required to understand. I am told the boating industry in Victoria is so large that it contributes more than $1 billion of activity to the Victorian economy and many people are involved in it. I am one of the hundreds of thousands who enjoy the waterways and their recreation. The vast majority are responsible and are concerned for their welfare and that

of others. There are exceptions and sadly things do happen, but when one considers the large number of people and vessels involved, the huge pleasure that is given to many families and the economic activity, one concludes that Victoria has a very positive story and an important boating community. This bill will further enhance the safety aspects of boating, and for that reason I am pleased to support it.

Hon. P. R. HALL (Gippsland) — I welcome the opportunity to speak in favour of and to try to urge other honourable members to support the reasoned amendment moved by my colleague the Honourable Barry Bishop, because I believe it has a lot of logic. Having listened to the contributions of some of the other speakers in this debate, I think they agree at least in part, if not entirely, with the reasoned amendment moved by the Honourable Barry Bishop.

Let us go back to just over 12 months ago in November 2000 when this house debated the Marine (Amendment) Bill. At that time the National Party argued strongly that Victoria and New South Wales should have uniform boating laws. Why? Because it makes sense that we have uniformity between two contiguous states, particularly given the fact that New South Wales and Victoria share some common waterways. The mighty Murray River, for example, is largely the shared border between Victoria and New South Wales. The actual border between Victoria and New South Wales could theoretically be in the middle of the Murray River, so both New South Wales and Victorian boating operators share that expanse of water.

We also have contiguous oceans between New South Wales and Victoria just off the far East Gippsland coast. Victorian and New South Wales boating operators share that contiguous expanse of water. One would think, therefore, that it makes good commonsense to have uniformity between Victorian and New South Wales boating laws.

The National Party was most uncomfortable with the proposal put forward in the Marine (Amendment) Bill in November last year that Victorian boat operators would require a licence on all occasions when not all New South Wales-based boat operators require one. As explained by my colleague the Honourable Barry Bishop many times this evening and also in the previous debate 12 months ago, if you live in New South Wales and you have a boat that is only capable of travelling at less than 10 knots you are not required to have a boat operators licence.

That is not the case in Victoria. As of November last year all boat operators, regardless of the speed at which their boats are capable of travelling, require a licence. Therefore, we have inconsistency between Victorian and New South Wales boat operators. At the end of the day the National Party reluctantly did not oppose the Marine (Amendment) Bill in November last year because it was assured that New South Wales was moving in the same direction as that proposed for Victoria. We were told that New South Wales was going to follow suit. So, because of the need to have some uniformity and consistency across state borders, the National Party reluctantly agreed to the passage of the Marine (Amendment) Bill last year. But 12 months on we are now starting to realise the folly of this Parliament supporting legislation in exactly that form.

Recently the house debated one problem caused by the difference between those licence conditions. I refer to the debate on the Marine Safety Legislation (Lakes Hume and Mulwala) Bill that was passed recently in this house. Why did we need special legislation for boating on Lake Hume and Lake Mulwala? The special legislation was necessary because it was agreed by all honourable members in this house that Lake Hume and Lake Mulwala were virtually shared between Victorian and New South Wales boat operators, so it made sense that we should have uniform laws — that is, that we should not have one law for Victorian-based operators and a separate law for New South Wales-based operators. It was agreed that we should have a common law for all boat operators who use those expanses of water. What did we do? We accepted the New South Wales model, which meant that boat operators on those two expanses of water follow the New South Wales rules — that is, if they are driving on either of those two waterways a vessel that is capable of travelling at less than 10 knots they do not require to have a boat operators licence.

It is stupid that we had to come back to this Parliament and pass special legislation just because of an inconsistency between Victorian and New South Wales boating laws. Consistency in boating laws between Victoria and New South Wales is exactly what the National Party argued strenuously for in November last year . We had to pass special legislation in this house just weeks ago because of that difference. Had the government accepted the National Party's views 12 months ago, the house would not have been required to pass legislation governing boat operators on the two lakes some weeks ago. That was an anomaly. The National Party warned this house and this Parliament that that would happen because of the inconsistency between state laws.

Now we have another inconsistency, but this time it is between two categories of Victorian boat operators. We

now have one rule for boat owners and another rule for boat hirers. If you own a boat in Victoria that is only capable of travelling at 10 knots per hour or less, you still have to have a licence, but if you hire a boat that is only capable of doing less than 10 knots you do not have to have a licence. How stupid is that!

Hon. N. B. Lucas — That's ridiculous!

Hon. P. R. HALL — One would think that boat owners, who use their boats consistently throughout the year, would be far more experienced in the operation of boats than boat hirers. Why is there one rule for boat owners and another for boat hirers? National Party members say that once again, because of the government's decision not to adopt uniformity with New South Wales, we are left with a situation which actively discriminates against boat owners in this state. We have moved the reasoned amendment to eliminate that discrimination against boat owners.

National Party members are left in an invidious position because we believe that the Marine (Hire and Drive Vessels) Bill that is being debated tonight is not a bad piece of legislation and we will not be voting against the legislation itself. We believe it is probably a reasonable position for hire-and-drive vessels, but we would argue strenuously that we must remove the discrimination against boat owners in the state before we proceed with people who use boats on a hire-and-drive basis, and that is why we have moved the reasoned amendment.

The government has discriminated against owners of vessels that are not capable of travelling at more than 10 knots an hour. They include all the people who own little tinnies and who might use them to go duck shooting, as the Honourable Barry Bishop clearly enunciated in his contribution. The government has actively discriminated against the people the Honourable Ron Bowden spoke about: the yacht owners who have motors to manoeuvre their yachts in and out of various moorings. None of those is capable of travelling at more than 10 knots. The government has actively discriminated against people in the yachting fraternity and owners of boats with motors that are not capable of travelling at 10 knots per hour. The government has actively discriminated against those people, and the National Party says it is time that the issue was addressed. The National Party gives the government and the house the opportunity to vote for the reasoned amendment moved by the Honourable Barry Bishop and so address the anomaly that exists between the classes of boat operators in this state.

While I am on my feet I want to raise one point made by a constituent of mine just yesterday when he contacted me in my office. He is a pensioner from Port Albert, and he raised the matter of there being no pensioner concession for the boating licence. It means — and it was a telling point for me, Mr President — that it is cheaper for him to obtain a motor vehicle drivers licence than it is to obtain a boat licence. He would probably use his motor vehicle every day of the week, which is far more use than he would make of a boat licence, but it is dearer to obtain a boat licence with no pensioner concession. He made a good point, and I hope the government will consider it.

Hon. C. C. Broad — You are talking about a boat registration!

Hon. P. R. HALL — The minister frowns. I understand that you get a drivers licence for a period of 10 years at a cost much less than having a boat licence for a period of two years.

Hon. C. C. Broad — That's not right.

Hon. P. R. HALL — Check the figures out and see if I am wrong. If I am wrong, refute my argument. He claims it is cheaper to obtain a motor vehicle licence than it is to obtain a boat licence, and I am sure he is correct.

Hon. C. C. Broad interjected.

Hon. P. R. HALL — I welcome the minister's contribution in rebuttal of that argument. You get a car licence for a period of 10 years, and while I do not know the exact cost, it is cheaper than obtaining the boat licences that have emanated from the process the government has gone through with the regulatory impact statement to come up with a figure for boat licences.

Hon. B. W. Bishop — It's a sham!

Hon. P. R. HALL — It is a sham, as the Honourable Barry Bishop has clearly enunciated. Nevertheless, my central point and the reason I am on my feet tonight is to urge the house to support the reasoned amendment moved by the Honourable Barry Bishop on behalf of the National Party. It is absolutely ludicrous that we have a situation in Victoria where if you own a boat that is capable of travelling at 10 knots or less, you are required to obtain a boat operators licence, while if you go down and hire one — and you might do it once a year or once every two or three years — you are not required to have a licence. I do not believe any good government or any good legislation should mean that there is one rule for one group of

people and a different rule for another. That is why the National Party has moved the reasoned amendment.

I urge all honourable members, both government and opposition members, to stand behind the National Party to support the owners of tinnies and yachts with motor-driven components to assist in mooring to stop discriminating against those groups of people by supporting the reasoned amendment and taking the first step towards consistency between New South Wales and Victorian boating laws.

Hon. J. W. G. ROSS (Higinbotham) — I am pleased to speak on the Marine (Hire and Drive Vessels) Bill and to indicate that the opposition will not be opposing it. I acknowledge the reasoned amendment put by the Honourable Barry Bishop and so passionately supported by the Honourable Peter Hall, and I foreshadow that the Liberal Party will not be supporting that reasoned amendment.

However, it should not be taken that the opposition does not have considerable sympathy for the arguments that have been advanced by the National Party, and this will become clear as I proceed with my contribution. There are many anomalies in the Marine Act, and the opposition believes this bill will add to them. Opposition members believe if the National Party has its way the legislation will need to be pulled and extensively redrafted. That is not in the best interests of boating safety at this late stage. On balance we take the view that not delaying the passage of the legislation for another year would be in the public interest and in the longer term interest of boating safety.

On this fourth day of summer the opposition believes it is constructive to pass the bill but urges the government to address the problems that have been raised by the National and Liberal parties, and to address those inconsistencies in time for the next boating season and to bring further amendments to the Marine Act before this Parliament next year.

The object of the bill is to amend the Marine Act by extending the current boating licensing requirements to operators of hire-and-drive vessels that are capable of attaining a speed of 10 knots or more, and of personal watercraft. This bill is one of three introduced by the government during its time in office that have had a very significant impact on yachting, recreational boating, boat hire industries and other activities, especially in my electorate. I make the point that the opposition has consistently supported the government in its endeavours to improve boating safety, but the community has been frustrated by the ad hoc way the reforms have been introduced. We also have a number of concerns about many innocuous boating activities being caught up in the government's net, and that is clearly the nub of the argument advanced by the National Party.

The truth of the matter is that this government has never had a practical and comprehensive policy on improving boating safety. The successive amendments to the Marine Act have merely confirmed the view that the government has not had a policy that covers totally the issue of boating safety and its impact on small businesses and the community generally. It has not been able to address the issues with the community to get it right once and for all.

Last year the opposition supported the government in introducing a recreational vessel licensing system in Victoria, but that regime did not require recreational hire-and-drive vessels to be registered. That is because they are considered to be commercial vessels and are subject to regular inspections by the Marine Board of Victoria. In other words, hire-and-drive vessels did not come within the scope of the new recreational boat operator licensing system. It was, of course, a major inconsistency that registered boat owners had to abide by one set of requirements while less experienced operators who might occasionally rent a vessel were not covered at all. This bill reveals yet another inconsistency in the government's boating policy that needs to be fixed by another amendment. As I have already said, we on this side of the house would welcome further amendments in a future sitting of Parliament hopefully in time for the next boating season.

The opposition has been disappointed by the assurances given in this house and the reports of a comprehensive and meaningful national strategy. That has proved to be misleading. The house was given a clear understanding by the government that it was beholden to Victoria to ensure that it would not be the one jurisdiction out of step with the rest of Australia. The truth of the matter is that this has not proved to be the case. Victoria has in fact moved significantly in advance of other jurisdictions in the country, particularly New South Wales, where boating licences are not required for vehicles incapable of exceeding 10 knots.

The opposition has considerable sympathy for the views put forward by the National Party. I acknowledge the inconsistencies that occur in far-eastern Victoria, which were raised by the Honourable Peter Hall, and also the anomalies along the Murray River, which were so clearly illustrated by the Honourable Barry Bishop. Nevertheless, I will not pursue any in-depth discussion of that, because so far as my constituents are concerned

that inconvenience, although confusing, occurs only on a fairly occasional basis, and the arguments have been well put by the National Party. Nevertheless, it has been a very frustrating experience for me to try to justify the succession of amendments in legislation on boating safety to individual boat owners, members of yacht clubs, motorboat clubs and boat hire operators in my electorate.

I will turn briefly to the provisions of the bill. This bill extends the current licensing provisions for recreational boat owners to operators of hire-and-drive personal watercraft, operators of powered hire-and-drive vessels that are capable of 10 knots or more, operators of certain other prescribed classes of vessels, and young persons aged between 12 and 16 years who hire a powered vessel. In a sense I welcome the consistency of those requirements being introduced into the boating industry but, as I have already indicated, it is another example of a piecemeal approach that has done nothing but generate confusion in the minds of people in the boating community.

The bill will also tighten up requirements for boat hire operators to more effectively screen persons who intend hiring a boat and to provide specific information relating to boating safety. There will be an increase in the documentation required and new forms of documentation will be prepared to meet that objective. There are also a number of new requirements for information to be given to powerboat hirers. All in all, we on this side of the house welcome the tightening up of requirements for hirers of powerboats and we acknowledge the practicality of the exemption for slower moving vessels.

While I am on my feet I would like to pick up on an issue I have raised in previous debates — that is, pensioner concessions. I agree with the National Party that it would have been propitious to provide pensioner discounts to individuals for both fishing and boat licences. I have pursued that argument on previous occasions. Nevertheless, this area of pensioner concessions is one where the government has maintained its intransigence and refused to recognise the special circumstances of pensioners and holders of Senior Cards. I feel bound to put those arguments because my electorate has a larger proportion of people over 65 years of age than most other areas of the state. Many of them are asset rich and income poor and the simple pleasures of boating and fishing should be facilitated for people in their retirement.

The other point I would like to make is again one that has been brought to my attention as a result of practical consequences — that is, the prospect of hypothecation of fees and ploughing them back into the industry itself. I know that treasurers in general tend not to warm to the suggestion of hypothecated fees — they like to maintain the flexibility of licensing and registration fees being paid into consolidated revenue. However, it is high time more of an effort was made to give a transparent allocation of these fees for the benefit of the boating community. It has only been a matter of weeks since I advocated for a regular dredging program in the Mordialloc Creek by the Department of Natural Resources and Environment. I have been consistently rebuffed with the argument that it is a fairly expensive operation and one that can only be undertaken with what local boat owners believe to be insufficient frequency.

Only last week the Kingston City Council indicated that mooring fees for boats accommodated in the Mordialloc Creek will be raised. Mordialloc Creek is a very important focus of boating activities in my electorate. There are a number of boat hire-and-drive companies, the most famous of which is Pompei's of Mordialloc. It is also the home of the Mordialloc motor yacht squadron. On this question of fees and charges I urge the government to take account of the need of boat owners to have their financial burden eased rather than vice versa. In particular I say it is time that the government got fair dinkum and returned some benefits to the boating community in my electorate and elsewhere in the state.

Another recurring theme — and I believe the government will need to address this at a future date — is the provision of an exemption for yachts under sail. One of the real problems with this bill is that the government is creating yet another class of boat user with its exemption for hire-and-drive operators provided the vessel cannot exceed 10 knots. I understand and agree with the practicality of that provision and it is in the interests of the boat hiring industry which is very significant in my electorate, especially along the Mordialloc Creek. My problem is that my electorate is also the home of a number of very significant yacht clubs and lifesaving clubs which make an enormous contribution to the economy of the state in recreational boating and water safety around the bay. In particular, large numbers of young people who participate in junior yacht races and lifesaving drills depend for their safe operation on small rubber duckies that have no real capacity to travel at speeds likely to cause a public hazard. I certainly believe it is absurd to require a volunteer operator of a small rubber duckie of the type used as a tender boat for junior yachting events to be required to have a licence when operating at official club activities. These small vessels are involved

in activities such as laying race boundary markers and providing safety backup in the event of capsizes.

The introduction of this bill would have provided an ideal opportunity for the government to address some of these anomalies and it is a matter of regret that it has failed to do so. In particular, I emphasise the disincentive for volunteers to get involved in supporting junior yachties and lifesaving club nippers. I urge the government to give further consideration to existing anomalies.

Given that it is inevitable that the issue of boating licences will be revisited, I again raise the point that these motorboat licensing requirements should not apply to yachts under sail and small emergency and tender vessels. As I have said, these vessels and their volunteer operators provide support to our young seaside community in particular and should not be subjected to the rules and regulations that are more appropriately directed towards high-powered and potentially dangerous vessels.

The main point I emphasise is that if you own and operate a motor-powered vessel in this state you need a licence irrespective of the purpose of the vessel or the speed at which it operates, with the exception that if you hire a vessel that travels at less than 10 knots you do not need a licence. That is one of the major anomalies with which I take issue, and I urge the government to have another look at that problem.

It is true that this bill at least acknowledges part of the inconsistency of the 10-knot limit and has made suitable provision for it for hire-and-drive vessels. My major concern is obviously related to the need for a similar approach to non-hire-and-drive vessels, and accordingly I call on the government to acknowledge the need for some consistency of approach. However, my concern does not extend to pulling the bill and supporting the reasoned amendment put by Mr Bishop. As I have already said, I believe that course of action would be counterproductive to the short and medium-term boating safety of the community, but that is not to suggest that the issue should not be addressed in the longer term.

To require supplementary legislation and to delay a boating safety initiative on the fourth day of summer would simply add to public confusion, detract from safety and certainly not reflect well on this place. Therefore, the Liberal Party will maintain its support of the government in pursuit of improved motorboat safety, and for that reason it will not oppose the government's bill. Although the Liberal Party has sympathy for the arguments advanced by Mr Bishop and agrees that the government's program is flawed, it will not be supporting the National Party's reasoned amendment. Accordingly, I wish the bill a speedy passage through the house.

Hon. C. C. BROAD (Minister for Energy and Resources) — I rise to oppose the National Party's reasoned amendment. It has been indicated to the house that the reason for the reasoned amendment is to ensure that legislation for recreational boat operator licensing in Victoria is consistent with the requirements in New South Wales. I remind the house that this bill does not introduce anomalies with New South Wales, and nor did the earlier legislation that passed through this place to establish boat operator licensing in Victoria in the interests of increasing marine safety in Victoria.

Those anomalies exist now because Victorians who go boating on the Murray River, for example, and who are travelling at speeds over 10 knots are required to have a New South Wales boat operators licence. It is also the case that there are anomalies between a number of other states because in this country we do not have a uniform approach to boat operator licensing. Indeed, in this state there has been no requirement for boat operator licensing whatsoever.

That is why the government, in passing earlier legislation through this Parliament, opted to adopt national standards which have been agreed to and supported by all jurisdictions. The government indicated at the time that it is reasonable to expect, given that the other jurisdictions — —

Hon. R. M. Hallam — That is not what you said, Minister. You said they would come with us!

Hon. C. C. BROAD — Mr Hallam, can I point out to you that you have had a pretty damn good go in this place, and I would appreciate it if you would give me a go!

The PRESIDENT — Order! The minister has a reasonable point. The minister is making her response, and any member who has not spoken on the reasoned amendment subsequent to its being moved can speak on it. However, this is the first opportunity the minister has had and I invite her to continue.

Hon. C. C. BROAD — Thank you very much, Mr President; I appreciate your intervention.

As I was saying, the government indicated when it brought legislation before this Parliament on an earlier occasion — legislation which was supported by the Labor Party and the National Party in this house — that it was adopting national standards which have been

supported and adopted by all jurisdictions through the Australian transport ministerial council, including Victoria.

Hon. R. M. Hallam — You should be embarrassed — that is not true!

Hon. C. C. BROAD — You are the one who is embarrassing yourself, Mr Hallam, through your behaviour!

The PRESIDENT — Order! Ignore the interjections.

Hon. C. C. BROAD — At that time the government said it not only endorsed the national standards which it put forward in that legislation, but also that it believed they were appropriate because the government has a great deal of evidence that unfortunately boating accidents and fatalities are not confined to high-powered vessels travelling at high speeds. I said at the time — and I have stated in correspondence to the National Party — that over 50 per cent of recreational boating fatalities have occurred on inland waters, many of them on relatively small lakes and rivers and involving low-powered vessels. Recently the government received a report from the coroner on a tragic incident involving a number of fatalities in a very small and very low-powered vessel, which is an indication to everyone of why the national standards which were adopted in the government's earlier legislation should be supported.

In national forums I will certainly be calling for other jurisdictions to similarly adopt the national standards which Victoria has in its earlier legislation.

The fact is that this legislation is in place. On Monday I was very pleased when attending at a Vicroads office for the commencement of testing under the legislation, which proceeded very smoothly, to again see widespread public support for this very important measure to improve boating safety in this state.

On the specific matter of the bill before the house in relation to hire-and-drive vessels the government has again clearly outlined in correspondence to the National Party why it does not believe that such vessels should be equated with privately owned recreational vessels. There are very important differences with hire-and-drive vessels, which I have outlined in that correspondence and which go to matters like the fact that because they are treated as commercial vessels they are required to be under survey on an annual basis, and that that ensures among other things that they have the appropriate safety equipment. There is a whole range of measures which put hire-and-drive vessels into a different category to privately operated vessels, which do not need to meet those requirements and which can be taken into areas outside of those to which hire vessels are confined. The level of safety which can therefore be ensured is much less with privately operated recreational vessels.

Those matters were all clearly set out in the government's response to the National Party prior to the reasoned amendment being moved today. I believe that response comprehensively sets out the reasons for the government's position. For the reasons that have been stated in the second-reading debate and in that correspondence the government continues to be committed to the introduction of this important and long overdue safety initiative. This area was left outside the earlier legislation to meet a commitment to closely consult with the hire-and-drive industry. The government has done that, and I was pleased to note that the opposition at least has acknowledged the very extensive efforts the government has made to come up with an arrangement which meets the government's safety objectives as well as the needs and the sustainability of the hire-and-drive boating industry in this state.

The government's view is that there is no basis for supporting this reasoned amendment, and it calls on members opposite to support the bill before the house.

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

Ayes, 36

Ashman, Mr	Katsambanis, Mr
Atkinson, Mr	Lucas, Mr
Boardman, Mr	Luckins, Ms (*Teller*)
Bowden, Mr	McQuilten, Mr (*Teller*)
Brideson, Mr	Madden, Mr
Broad, Ms	Mikakos, Ms
Carbines, Mrs	Nguyen, Mr
Coote, Mrs	Olexander, Mr
Cover, Mr	Rich-Phillips, Mr
Craige, Mr	Romanes, Ms
Darveniza, Ms	Ross, Dr
Davis, Mr D. McL.	Smith, Mr K. M.
Davis, Mr P. R.	Smith, Mr R. F.
Forwood, Mr	Smith, Ms
Furletti, Mr	Stoney, Mr
Gould, Ms	Strong, Mr
Hadden, Ms	Theophanous, Mr
Jennings, Mr	Thomson, Ms

Noes, 6

Baxter, Mr	Hall, Mr
Best, Mr (*Teller*)	Hallam, Mr
Bishop, Mr	Powell, Mrs (*Teller*)

Amendment negatived.

Motion agreed to.

Read second time.

Third reading

Hon. C. C. BROAD (Minister for Ports) — By leave, I move:

That this bill be now read a third time.

In doing so, I thank all honourable members for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

FAIR TRADING (UNCONSCIONABLE CONDUCT) BILL

Second reading

Debate resumed from 29 November; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. C. A. FURLETTI (Templestowe) — I am pleased to contribute to debate on the Fair Trading (Unconscionable Conduct) Bill on behalf of the Liberal opposition. At the outset I indicate that the Liberal Party will support the bill, which substantially replicates a significant section of the Trade Practices Act 1974 — namely, section 51AC — which relates to unconscionable conduct in trade and commerce.

The bill is an application of the unconscionable conduct provisions of the commonwealth Trade Practices Act as state law under the Fair Trading Act, and it amends the Fair Trading Act principally by the insertion of proposed sections 8A and 8B to which I intend to refer in some greater detail.

Debate interrupted.

DISTINGUISHED VISITOR

The PRESIDENT — Order! I interrupt the debate to acknowledge a former Premier, the Honourable Joan Kirner, and welcome her on behalf of honourable members.

Debate resumed.

Hon. C. A. FURLETTI (Templestowe) — As I was saying, the second-reading speech strenuously promotes this bill as a fillip for small business, but the reality is that the bill applies across the board to any transactions — and I need to detail this — and is different in nature to the Trade Practices Act, which relates only to dealings by corporations. The Fair Trading Act applies across the board to any transactions in trade and commerce, whether between business and business, corporation and corporation, individual and individual, corporation and individual or individual and corporation, provided that the transaction engaged in in the course of trade and commerce for the supply of goods and services is of the value of $3 million or less. That is the telling factor, because the vast majority of small businesses would not have a turnover of $3 million let alone be involved in single transactions of that magnitude. So while we appreciate that, yes, small business will benefit from the amendment to the Fair Trading Act it is certainly not something which should be strenuously promoted as a small business issue.

The commonwealth Trade Practices Act 1974 contains a number of provisions that address unconscionable conduct, many of which have already been replicated in the Fair Trading Act. Indeed section 51AA of the commonwealth Trade Practices Act, which encompasses effectively the common-law or general law definition of the term ‘unconscionable conduct’, is the provision from which section 7 of the principal act was derived, and section 51AC of the Trade Practices Act is now replicated in proposed section 8A, which is inserted by clause 4 of the bill.

Currently conduct can be attested to be unconscionable in a number of ways. There is the common-law or general or equitable basis of unconscionability, which has been around for probably four or five decades and which has been incorporated in statute — that is, the equitable base for unconscionable conduct in section 7 of the Fair Trading Act, to which I referred earlier, and section 51AA of the commonwealth Trade Practices Act. Therefore we have the common law and the common law recognised in statute as bases upon which citizens can rely. However, that provision is relatively tight, and is one to which only those who have a special disability or other incapacitating condition which is taken advantage of by a person in a superior position can rely. Therefore today with the introduction and passage of the bill we have a substantial extension of those equitable principles or bases for people seeking relief from alleged unconscionable conduct.

Section 51AB of the Trade Practices Act should be referred to in that it contains possibly the first instance of consumer protection for all Australians, but it relates specifically to domestic transactions and includes

traders involved in and transactions involving the resale of goods and services.

I refer to section 51AC because proposed section 8A of the principal act is replicated almost word for word from it. The proposed provision extends to encompass all transactions, which include business-to-business transactions whether the businesses be corporations or individuals, and that is a feature of the Fair Trading Act. Whilst the Trade Practices Act relates to corporations in Victoria the Fair Trading Act applies to corporations and individuals and affords a great deal of protection to individuals who happen to consider themselves as having been taken advantage of, whether by larger corporations or anybody who is in a superior position of bargaining. There is a fine line between a superior position of bargaining and using that position unconscionably, and I will detail some of the positions shortly.

The other major amendment to the Fair Trading Act is the introduction as an alternative jurisdiction of the Victorian Civil and Administrative Tribunal. It is introduced as an additional avenue for resolution, and on some views it is appropriate that that be the case because there may be many instances where alleged unconscionable conduct is relatively clear and can be relatively easily resolved either through definition and identification or through mediation, which is one of the great aspects of making an application to VCAT.

People accept that the Victorian Civil and Administrative Tribunal is an appropriate jurisdiction in most circumstances. The opposition understands the government's intentions and objectives in seeking to use VCAT to limit the cost of these sorts of proceedings, to facilitate mediation opportunities and to expedite the resolution of these types of matters in terms of time. However, it is not without concern that the opposition accepts the government's proposition. Our concern is that VCAT already has an enormous workload. There are already enormous delays in various areas and there is a shortage of members and a shortage of funding. We cannot afford the extension of its jurisdiction, as this bill intends, to be in effect the straw that broke the camel's back. We hope the government has taken all this into account in its consideration of this understandable and supportable proposition — one that needs to be adequately budgeted for to ensure that it works.

As an aside it is worth putting on record that last year VCAT handled more than 92 000 matters and the vast majority of them were resolved. It is interesting to note that more than 70 000 of those matters were residential tenancy matters, so it handled an enormous workload. Retail tenancy disputes is an increasing area of work for VCAT, and the opposition is concerned about that.

The opposition is also concerned because of the ongoing definitional problems of what constitutes unconscionable conduct. There is no definition of it in the Trade Practices Act and the Fair Trading Act, nor has there been any effort to define it — although, as I will refer to subsequently, some indicators are provided. These areas are often technical and complex and therefore it would be inappropriate to have people go to VCAT on very difficult or possibly complex and legally fine determinations unless the personnel at VCAT are able to adequately, appropriately and correctly make the determinations that people deserve.

I will refer to one of the submissions the opposition received which indicates that it should be a matter of horses for courses and there should be appropriately qualified members of VCAT to deal with these types of problems. The most obvious examples that have arisen in terms of unconscionable conduct — and, as I said, there is no formal definition — have been in retail tenancies and franchising, but they are by no means limited to those areas. An early High Court decision which probably set the pace for this type of issue was the case of Amadio, which was a finance case in which some elderly parents who could not speak English guaranteed a loan for their son. It was held that the bank had acted unconscionably by accepting, by not properly explaining and by using its superior position.

Accordingly the remedy sought — namely, that the Amadios were not liable was sustained. This type of defence is increasingly being used in the areas of finance and securities, often in the presentation of loan documents by one spouse to another with the 'sign here' demand and without proper and adequate explanation. Those decisions have revolutionised the way banks now do business, and anybody involved in that area would be aware that all types of certificates are now required from third parties assuring and certifying that the borrowers and the guarantors are aware of what the documents contain, the legal obligations they accept and the rest of it.

That whole area is developing reasonably rapidly in finance, retail tenancies and franchising. Since the passage of the unconscionable conduct legislation at the commonwealth level in 1998, there have been four prosecutions by the Australian Competition and Consumer Commission. The two matters in franchising and retail tenancies were settled, and two were fully litigated, with the ACCC successfully having prosecuted the matter administratively on behalf of

corporations and individuals who had pleaded unconscionability.

In each instance some fairly heavy words were used in the judgments to give an indication of what unconscionability consists of. I went to the *Macquarie Dictionary* on the table and found three meanings attributed to the definition of 'unconscionable'. The first is 'unreasonably excessive'; the second, with respect to unconscionable behaviour is 'not in accordance with what is just or reasonable'; and a third, which is also indicative of what we are dealing with, is 'not guided by conscience', and the word 'unscrupulous' is used.

As I said, in the judgments handed down in the federal court words such as 'unreasonable', 'harsh', 'unfair', 'oppressive', and 'not conducted in good faith' were used. 'Good faith' is becoming a major element in determining whether conduct is unconscionable. Other words such as 'bullying' and 'thuggish' were used — and we all know what 'thuggish' means. When a person takes advantage of his or her position in a given set of circumstances to damage or otherwise diminish the position of another person with whom the relationship exists unconscionable conduct can be found.

Clearly large companies with strength and buying power, which comes from their size or economies of scale, can destroy competition in many circumstances, including, for example, with predatory pricing. Some companies that act as suppliers can adversely affect their purchasers and the bottom line of their purchasers. Landlords of prime space can go beyond demanding top rentals and conditions and can impose unfair demands on prospective or existing tenants in certain circumstances. It is in those areas where things become excessive or end up being detrimental to one of the parties involved in the transaction that some form of relief is appropriate, and it is for that reason that we support the bill.

I will briefly address the terms of the bill before quickly commenting on the second-reading speech and on a couple of press releases of the minister. The bill is not lengthy. In the first instance it clarifies that those cases of unconscionable conduct which fall within proposed section 8A will not be deemed to be equitable cases where equity demands relief under section 7 of the act. For the record and just to clarify the difference between the two, section 7 of the Fair Trading Act provides that:

> A person must not, in trade or commerce, engage in conduct which is unconscionable, within the meaning of the unwritten law, from time to time.

As I said, the unwritten or common or general law — call it what you will — is that which has been developed over the past 40 or 50 years. Section 7(2) provides that the unwritten law section:

> … does not apply to conduct that is prohibited by section 8.

Section 8 of the Fair Trading Act is a replica of the reciprocal section in the Trade Practices Act, which relates to unconscionable conduct in trade or commerce relating to domestic products, so that is to cover the ultimate consumer. We now have a situation where to maintain that conformity of application there is a provision in clause 3 of the bill which states that section 7 does not apply to conduct caught by proposed section 8A, which is inserted by clause 4.

Proposed section 8A, as I indicated earlier, extends the unconscionable conduct from that relating to domestic and consumer situations to business to business situations. I will not go through all the provisions; suffice it to say that the new section relates to the supply or the possible supply of goods and services and that the acquisition or possible acquisition of goods and services between two parties in the course of trade or commerce applies to all corporations other than those listed as public companies, and it applies to those goods and services which have a value of $3 million or less. I referred to that earlier in my contribution and indicated that that is hardly restricted to small business.

The significant subsections are (3) and (4) where some 12 — depending on how they are counted — indicators are given for the purposes of assisting a court or tribunal in considering whether the conduct which has been engaged in is unconscionable. Without going through each of those, I will identify some indicators in proposed section 8A(3):

> (a) the relative strengths of the bargaining positions of the supplier and the business consumer;
>
> …
>
> (c) whether the business consumer was able to understand documents …

As I said, that was one of the early instances of resolution that conduct was unconscionable. The proposed new section also provides that instances of undue influence or pressure or unfair tactics are to be taken into account.

In proposed section 8A(3)(d) that conduct on the part of the supplier is deemed to be unconscionable even if the supplier was not aware that an employee or a person acting on his or her behalf or its behalf in relation to that supply of goods and services was acting

inappropriately, so it is a strict liability pursuant to the provisions of the bill.

Although proposed section 8A(3) refers to a supplier and a business consumer, meaning the business-to-business nexus, proposed section 8A(4) relates to an acquirer and a small business supplier. There is a change of definition, which I am told is for the purpose of identifying the goodie and the baddie, and also relates to business-to-business and business-to-individual situations, assuming the acquirer is an individual. Proposed subsection (7) limits the price of the goods to $3 million, pursuant to which the protection under the act applies, which is the same as the level set out in the Trade Practices Act.

Proposed section 8B is a lengthy provision which outlines in considerable detail how the price for the supplier acquisition is to be calculated if it is not obvious. As I said, it is important to do that from the perspective of a complainant, because it could be relatively easy to load the price of an acquisition so that it falls outside the limit. The provision is intended to be clear on what is and what is not to be included. Proposed section 8B(5) includes, for example, the capital value of any loan or loan facility as part of the pricing determining what the total amount is for the purpose of the bill.

It is a complex piece of legislation, notwithstanding that it has been in existence at the federal level for a couple of years. It is appropriate for me to direct the attention of the house to the fact that the government is in the course of conducting its retail rent review, and a number of issue papers, option papers and discussion papers have been prepared. The government is pondering submissions to a discussion paper that has been released. A number of recommendations in the discussion paper related specifically to this area of unconscionability between the landlord and the tenant. Indeed, the New South Wales and Queensland retail tenancies legislation enacted in July and August of this year introduced the unconscionability provisions as part of the retail tenancies legislation.

I received submissions from people involved in the retail tenancy sector, and I am sure the minister has received the same submissions, which indicate that retail tenancies have specific problems and that the unconscionability provisions should have been included in the retail tenancies legislation. I am sure the minister is aware that people in the retail tenancy sector were surprised by this bill to the extent that the Property Council of Australia issued a media release saying that it was caught off guard by this surprising piece of legislation because it had put in a very lengthy submission on this whole area as a result of the government's call for submissions under the retail tenancies review.

There seems to be some element of confusion within the government as to how this is working. In his contribution in the other place the Parliamentary Secretary for Justice indicated that the commonwealth legislation was now mirrored in Victoria, New South Wales and Queensland. I see the minister is shaking her head. She may be aware of how it works, but obviously the honourable member for Richmond is not. I am sure the minister knows that the commonwealth legislation in this area is now reflected in Victoria, but not in Queensland and New South Wales. In Queensland and New South Wales these provisions are contained in the retail tenancies legislation, and the minister would also be aware that the position on unconscionability applying to all contracts in New South Wales is in its Contracts Review Act 1980, where section 9 contains similar provisions for the purposes of determining whether a contract is unjust.

I hope the minister takes on board the recommendations that have been made. It would be somewhat confusing and possibly difficult to administer if we ended up having unconscionability provisions in the Fair Trading Act as well as in the Retail Tenancies Act. I do not know if the minister would care to comment in her third-reading contribution on whether there is any intention to add unconscionability provisions to the proposed new legislation, which is expected to be introduced in the next sittings, but I would be grateful for some indication if that is the case.

I very much acknowledge, and it has been brought home to me, that retail tenancies have their own peculiar problems. There are areas where landlords need as much protection as tenants. I am happy to put on record the comments I received from the executive director of the Shopping Centre Council of Australia, Milton Cockburn. I hope the minister has received this letter, because it was sent to her on 22 November. It says, in part:

> … the draw-down must be accompanied by appropriate legal safeguards.

The Shopping Centre Council of Australia considered appropriate legal safeguards, and the letter says:

> The legislative regime for unconscionable conduct matters should:
>
> > be dealt with only by a judge of Federal or Supreme Court status and not by members of lower level bodies with less expertise. VCAT has the capacity to satisfy this standard of judicial administration.

What it is saying is that the president of the Victorian Civil and Administrative Tribunal — the Supreme Court judge — should be the appropriate arbiter and tribunal to hear matters of this nature and complexity.

In the second dot point Mr Cockburn says that the legislative regime for unconscionable conduct matters should be subject to appeal in the Supreme Court by right on matters of law and by leave of the court on matters of fact. He points out that Queensland allows a right of appeal on matters of fact in cases involving more than $50 000. The minister would be more than aware of some of the complexities occurring at the moment with regard to the Victorian Civil and Administrative Tribunal with the difficulties of appeal to the Supreme Court and the associated costs. It is an area I hope the government will investigate.

The third dot point states that legal representation should be permitted by both parties. At the fourth dot point he suggests that remedies be limited to monetary compensation. A further dot point refers to filing fees being increased to deter frivolous or vexatious claims and to enable them to be dismissed with costs awarded. Finally, as is generally accepted in legal cases, such a legislative regime should provide for costs to follow the event. Mr Cockburn goes on to say, and this is significant:

> These safeguards are covered in the New South Wales and Queensland retail lease legislation.

I should also put on the record that the view of the shopping centre council is that the great majority of tenancy disputes will be successfully resolved through mediation and the proposed low-level grievance settling body. It is an encouraging statement from the council, and I hope the minister and the government will pay heed to what I believe is very good advice.

I consulted widely, and the honourable member for Bentleigh in the other place has listed all the groups with which the opposition consulted. The general consensus was that this would be good and sustainable legislation. The Law Institute of Victoria was very favourable and considered that it will be very important because currently tenants are loath to take on disputes with landlords because they need to have their leases renewed some time down the track.

We support the government in this initiative and look forward to seeing how the bill is implemented. However, I conclude by drawing attention to the minister's media release of 1 November, where the legislation that is before the house was announced. In the media release the minister states:

> The changes will result in less legal red tape and costs for Victoria's small business.

It is a fairly bland statement that has no support anywhere. I take issue with it because I am not sure that it will reduce red tape and reduce costs. Nevertheless, the statement was made. The release continues:

> This change will mean small business owners in Victoria, including retail tenants, could take their grievances to the Victorian Civil and Administrative Tribunal …

The minister is aware that retail tenants are already there, and it will allow other people who feel aggrieved on unconscionability to go to VCAT. I am not sure who is writing the minister's press releases. It further states:

> Importantly, the changes … will go further than the provisions of the Trade Practices Act … so that they now apply fully to unincorporated traders as well as incorporated traders.

As the minister is aware, there is a distinct difference between the state and federal legislation. However, the point I want and am obliged to make for the record is that the minister in typical style uses the press release as a chance to have a whack at the opposition. It states:

> The Bracks government has been pushing for this protection for small business for two years, but has been held back by a tardy federal government who delayed introducing amendments to the Trade Practices Act which would have enabled the states to utilise this provision.

The statement was released on 1 November just before the federal election. The reality is, as the minister is well aware, that that legislation was passed by the federal government in June.

The states of New South Wales and Queensland had their retail tenancies legislation ready to go and introduced it in July. We are now in November. If it was so important why was the minister not ready like New South Wales and Queensland? I commend the bill to the house.

Hon. R. A. BEST (North Western) — I congratulate the Honourable Carlo Furletti on his contribution. He was very succinct in his explanation and coverage of the bill and all its sections, therefore I will not be canvassing the bill as widely as my colleague did or repeating many of the points he made. However, I will be providing some examples that are important to put on the record.

The bill before us is the Fair Trading (Unconscionable Conduct) Bill. The explanatory memorandum states that the purposes of the bill are:

> … to amend the Fair Trading Act 1999 to prohibit persons from engaging in unconscionable conduct in business

> transactions, and therefore to enable persons to litigate disputes of this nature in the Victorian Civil and Administrative Tribunal under that Tribunal's fair trading dispute jurisdiction under the Fair Trading Act 1999.

As I said, I do not intend to make a long contribution. The National Party has considered this bill and we certainly will not be opposing it because we are also of the opinion that trading circumstances for small business are very difficult. The expenses and overheads incurred by small business often mean that a very small profit is made, and the outlays and the cost of doing business are expensive. We appreciate that it is sometimes very difficult to take on legal disputes because of the potential costs involved. Instead of pursuing an issue based on principle, many small businesses take the pragmatic view and say, 'Well, what's the use? I don't have the power to take on one of the big companies or the big franchise outlets', and invariably they do not continue through with the action.

Having operated a number of small businesses in the past, I believe that anything put before Parliament which assists the operation of small business and provides access to fair play and a level playing field is an important measure to support. As I said, the National Party will not be opposing this bill. We believe that stimulation of the small business sector is one of the most important decisions and one of the important initiatives that governments of any persuasion must pursue.

The reason we have supported this bill is that it is an acknowledgment that the Labor government went to the previous election with a policy that said it would introduce unfair and unconscionable trading clauses in the state Fair Trading Act of 1999. This bill effectively replicates section 51AC of the federal Trade Practices Act 1974, which prohibits unconscionable conduct in business transactions of less than $3 million.

Under the proposed changes, small traders, including the retail tenants Mr Furletti has referred to, will be able to take their disputes to the Victorian Civil and Administrative Tribunal (VCAT). That will hopefully mean that many of those small businesses will not be confronted by the very daunting costs associated with representation in legal disputes. Anybody who has ever undertaken a case to seek retribution within the legal system knows that while the principles may be absolutely appropriate the costs unfortunately can be quite prohibitive. Any opportunity to reduce the costs of small business being able to achieve a fair outcome needs to be supported. Small business operators need to have access to a cheaper and more affordable course of action. I include franchises when I refer to big business.

Unfortunately if there is a dispute people who are franchisees can be unfairly affected and their profitability reduced. As Mr Furletti said, the federal government passed its legislation in July this year. Mr Hockey, the Minister for Financial Services and Regulation, in the debate in the federal Parliament said:

> We are putting through this bill with one particular issue in mind — that is, to provide protection against unconscionable conduct, as well as the range of other sanctions in place. This bill will allow the states to draw down section 51AC of the Trade Practices Act dealing with unconscionable conduct. It will possibly overcome a constitutional inconsistency which invalidates state legislation. It will provide greater access to remedies for small business under state retail tenancy legislation. The limit on damages with regard to unconscionable conduct and business transactions will also be increased to $3 million, providing greater compensation for small businesses that have experienced such conduct.

Like the Liberal Party, the National Party consulted widely and in particular with the Victorian Employers Chamber of Commerce and Industry. In its response to me VECCI states:

> Thank you for your letter of 1 November 2001 concerning the new provisions introduced into the Victorian Parliament relating to unconscionable conduct …

It goes on to say:

> VECCI welcomes these provisions on the basis that they should increase protection for a broader range of small businesses and lower costs for business in the event of a dispute.

That summarises many of the things that I want to say. I am pleased with the briefing we had from the department and I would particularly like to acknowledge the briefing provided by Patrick L'Estrange. The supporting information he provided assisted the National Party, not so much in reaching the position that it has reached but in providing information that outlined the cases of unconscionable conduct where the Australian Competition and Consumer Commission has taken to court franchisors and other people who have been litigated against.

I thank the department for its help and assistance in providing that information. I do not need to read it into *Hansard* but it was an opportunity to clarify some of the practices that occur between franchisees and franchisors, landlords and retail tenants. It was an opportunity to highlight some of the practices that unfortunately occur throughout the business community.

I have seen in my business pursuits in the past the opportunities for purchasing either through semitrailer loads or bulk buying — the opportunities that are afforded to people who can purchase in quantity — as

well as the disadvantage that is sometimes associated with being a smaller player and not having the critical mass that enables all business to compete on a level playing field.

The last thing I would like to put on the record is a quote from an article in the *Herald Sun* of 5 November which is the basis of the minister's press release. It is by Matthew Charles and states:

> Small business reform advanced last week with new laws aimed at stopping big business treating small business poorly.
>
> …
>
> Similar moves have already been made in Queensland and New South Wales.
>
> …
>
> As part of the change aggrieved small business, including retail tenants who have long pressured for such laws, will take their grievances to the Victorian Civil and Administrative Tribunal.
>
> In the past it was a matter for federal and state courts.
>
> 'This is a much better option,' Ms Thomson said.

The article states that the executive director of the Australian Retailers Association Victoria, Timothy Piper, also welcomed the bill. So the major players in small business in Victoria — the Victorian Employers Chamber of Commerce and Industry and the retail traders — are welcoming this bill.

The only thing I would like to address relates to the circumstance that is arising in Victoria of everything being referred to the Victorian Civil and Administrative Tribunal for resolution. I accept the point made by Mr Furletti that holders of retail tenancies have already had the opportunity of gaining access to VCAT, but again we find that another form of dispute will be resolved by application to that tribunal. I want a commitment from the government that appropriate and adequate resources will be provided to VCAT so that the intention of this bill to allow for a cheaper alternative to the legal process for resolving disputes will ensure that people can get through the system.

I am looking for assurances from the minister that VCAT will be properly resourced and that there will be reasonable access to the dispute resolution process. I cannot say I want an assurance of reasonable results because that would be pre-emptive. It is getting to the stage where everything is being lumped on VCAT for it to be the arbiter. That requires resources, and the government needs to provide a commitment that VCAT will have the appropriate expertise to handle all these issues.

The National Party will not be opposing this bill, because it will be of assistance to small business operators. With those few words I wish the bill a speedy passage through the Legislative Council.

Hon. S. M. NGUYEN (Melbourne West) — I would like to make a contribution on the Fair Trading (Unconscionable Conduct) Bill. The government welcomes the support of this bill by the National and Liberal parties. The reason the bill is before the house is to honour the 1999 election promise given by the Bracks government to take care of small business. The government wants to provide protection to the community through fair trading. More needs to be done to provide good service while at the same time protecting businesses. The government plays an important role in enacting legislation to provide a safety net to safeguard against predatory trading practices.

People want to do business smoothly and efficiently, otherwise they will get into trouble. That happens every day when people take the wrong action, do bad things when doing business with others, end up fighting and sometimes go to court. But that is not always the answer because at the end of the day they have to pay more money in legal fees than they make in business.

The bill amends the Fair Trading Act 1999 by inserting proposed sections 8A and 8B. They are based on section 51AC of the commonwealth Trade Practices Act 1974, which prohibits unconscionable conduct in business transactions where the price of the goods or services is $3 million or less. Section 51AC is broader than the general law. It is more useful for traders than the general law of unconscionable conduct because it takes into account the capacity of the weaker party and the conduct of the stronger party. The weaker party has more say and their fight with a stronger party is fairer.

Two benefits are achieved by drawing down section 51AC into the Fair Trading Act. Firstly, it will extend protection to unconscionable conduct committed by an unincorporated trader against another unincorporated trader. There are people in the community who do business but they are not incorporated traders. Section 51AC does not extend to that conduct because the commonwealth can only regulate conduct involving an incorporated trader.

Secondly and more importantly, the draw-down will give all traders, including retail tenants, access to the Victorian Civil and Administrative Tribunal with its less formal procedures, cheaper application fees and strong emphasis on mediation. Under the current system small traders can only access section 51AC through the Federal Court of Australia and the state

courts because the Trade Practices Act does not confer jurisdiction on tribunals such as VCAT.

Protection of small business from unconscionable conduct in the Trade Practices Act was originally recommended in 1990 by the House of Representatives Standing Committee on Industry, Science and Technology report entitled *Small Business in Australia: Challenges, Problems and Opportunities*. The Keating government drafted legislation for this in 1995.

There have been several cases under section 51AC, and some significant victories for small traders. Two cases have been settled before trial and the Federal Court has entered consent orders. The first was against a Cheap As Chips franchisor who terminated or suspended dissenting franchisees' franchise agreements rather than negotiate their disputes about the money owed to them. The other case involved a food court landlord who attempted to destroy the business of a tenant by authorising other stallholders to sell food of the same kind as that exclusively reserved to the tenant and at prices lower than their leases permitted while insisting that the tenant adhere to the lease prices. The government wants to prevent that sort of thing happening again.

Other honourable members have mentioned that the bill will create more work for the Victorian Civil and Administrative Tribunal. That is true, because the government would prefer parties involved in fair trading disputes to go to VCAT to get things sorted out. It is an easier way of resolving such disputes than going to a formal court, which costs a lot of money, takes a lot of time and ends in neither side winning. The Victorian Civil and Administrative Tribunal is more flexible and informal than a court and the application fees are lower.

I am sure the minister will take the responsibility to ensure that VCAT can satisfy the needs of the community and in particular the people to whom this legislation applies. I would not be surprised if people with fair trading disputes use VCAT more than they did before, because that is the only way for them to resolve their problems.

Other honourable members have mentioned that people from non-English-speaking backgrounds who have to sign leases as tenants of shops are sometimes disadvantaged by their lack of English and their lack of understanding about what has to be done. Also, when disputes arise it is harder for them to discuss them with other people. I am sure the Victorian Civil and Administrative Tribunal will take into account the difficulties experienced by people with non-English-speaking backgrounds or disabilities and ensure that they are not misled by other people and do not lose their fight because the opposing party is stronger. The fair trading legislation will make sure that both parties play a fair game on a level playing field. The VCAT system will ensure that a disadvantaged party will have a fair say in a dispute.

The government is making a commitment to the Victorian community to take care of small business, which is a very important part of our community. Small business helps many families in the community by providing jobs, and the bill will help ensure that people in small business will not face hardship or bankruptcy because they have misunderstood or been used by other parties. The government is committed to working with and listening to the small business community, because it creates jobs for the community.

I very much enjoy the relationship I have with small business in my electorate. Sometimes business people tell me how hard they are working from day to day while at the same time raising their families.

The government is working out schemes so that everyone has a better and fairer system. I support the bill before the house.

Hon. G. B. ASHMAN (Koonung) — I rise to make a contribution to the Fair Trading (Unconscionable Conduct) Bill, noting there is no opposition to these amendments. Indeed, they are welcomed by all parties.

The broad purpose of the legislation is to prohibit persons or corporations from engaging in unconscionable conduct. It is an issue that has been on the agenda for many years. I can recall from my time with the State Chamber of Commerce and Industry and as the executive director of the Small Business Association of Victoria that this was an issue probably as early as 1983. It is an issue that has progressively been dealt with by governments. What we are seeing with this bill is the culmination of the coverage right across the small business sector. To date business has been protected through the federal Trade Practices Act and to some extent through the Fair Trading Act. This bill extends that to all those people who are unincorporated, who are in partnerships, or who are sole traders. That is most welcome.

The legislation replicates the provisions of the Trade Practices Act in almost all areas. It allows for matters to the value of $3 million per transaction to be dealt with under the new jurisdiction, with a reference to the Victorian Civil and Administrative Tribunal (VCAT). That action simplifies the process for small business and, most importantly, reduces the costs of taking

action by small business. It provides an opportunity for small business to be on an equal footing with the major corporations.

The opposition has been advised through our briefings that the actions taken through VCAT are intended to be relatively low cost, although both parties will have legal representation if they so desire. One of the key features that I find attractive is the mediation process that is envisaged. Many disputes arise because there has been a breakdown of communication between the trading parties, quite often at an early stage. Once it starts to break down, it is almost impossible to recover the situation and get the parties to talk.

I can comment from my experience with the chamber of commerce that on more than a number of occasions the tribunal would bring parties together to negotiate disputes. Frequently a dispute involved a small retailer trying to negotiate their tenancy agreement with a landlord who was a significant property holder and obviously in a dominant position, and the bargaining positions were quite uneven. Invariably the negotiation occurred near the end of a lease when a tenant was conscious of the need to get a new lease to continue a business and the tenant had run out of time to trade out of the business if the lease was not renewed.

In many cases we were successful in bringing the parties together and negotiating, so I understand the real value of a mediation process. The legislation picks up the trader-to-trader disputes, the franchisee-to-franchisor disputes and other trading disputes that arise from time to time. It is important that the legislation picks up the franchising sectors because it is one of those sectors that over the years has presented some difficulties. Quite clearly there are numerous occasions when a franchisee has been significantly disadvantaged and is in a position of not being able to negotiate with the franchisor. It invariably happens when the franchisor not only owns the site on which the franchisee operates but is also the supplier of the goods and services to that business. In those circumstances the franchisee is not in a strong position to negotiate and it is obvious that the franchisor holds all the aces.

The definition of unconscionable conduct, however, is still quite unclear and case law will determine what is seen to be unconscionable conduct. If we were to ask all honourable members to define it we would have 44 different definitions of what constitutes unconscionable conduct. There is already some case law in place, and that has been developed through actions that have taken place in the Federal Court, but as honourable members understand, using the Federal Court is an extraordinarily expensive way to settle a dispute.

If I have some concern here it is that Victorian Civil and Administrative Tribunal will now start to develop this case law, and I question whether it has the skills to carry out this function adequately. I urge the minister to look long and hard at the resources available within VCAT that can be directed towards developing this definition of unconscionable conduct, because it is one that will evolve rather than be presented to us. We know there are about 12 areas which are reasonably clearly defined, and they relate to the strength of the supplier–purchaser positions where one party is in a dominant position. We are aware that under the act action can be taken in all circumstances where unconscionable conduct is suggested to occur, but that is somewhat vague.

In a number of notable cases unreasonable conditions have been imposed by suppliers, particularly in the retail sector and to a lesser extent in the manufacturing sector, and they are matters that will come within the ambit of the legislation. The conditions imposed can vary. It can be a requirement to take three months stock as opposed to what might be required for the next couple of weeks, a requirement to take out excessive advertising, a requirement to participate in other promotional activities or a requirement to take part in discount programs.

Of course, if you are running a small business your costs are known, your margins frequently are tight, and the imposition of additional conditions can destroy your profitability for that month or for the year.

Another provision addresses whether the purchaser could have found a better deal than from the original supplier. This is open for interpretation and, as we know, with most suppliers volume discounts come into play and prices will vary dependent on the volume. That is a difficult area to adjudicate on, but it nevertheless ought be dealt with and can be dealt with under this provision.

As I said at the outset, franchisee and franchisor disputes are common. I allude to a couple of sectors where we know there are significant problems. One that comes out of the automotive sector is the franchise agreements of some of the new car dealers. Over the past 18 months we have noted a move by some of the manufacturers or the importer/distributor groups to look at master dealerships. In the process of moving to these master dealerships they have sought to terminate the franchise agreements of some of the smaller franchisees, and these are people who in many

instances have been selling that product for 20 to 30 years.

Hon. K. M. Smith — Loyal dealers.

Hon. G. B. ASHMAN — Very loyal dealers who have built up a good clientele but are not achieving the mass volumes that some importers believe they should be. Nevertheless, they are serving a local community and doing it well. Subaru is establishing a master dealership program and in the process removing some of the people who have been very loyal to it, which is a bit rough on its part.

Hon. K. M. Smith — That is unconscionable conduct.

Hon. G. B. ASHMAN — I would deem it to be unconscionable conduct, and under this legislation there may be an opportunity for some of those dealers to take action because their franchise agreement would fall below the $3 million threshold. While their turnover would not, I think their goodwill would be well below that figure. In a number of instances franchisees of some of the major convenience store groups have had similar problems when renewing their franchise agreements, and goodwill payments have been sought. It is questionable whether the goodwill is owned by the franchisor or the franchisee.

Another hotly contested area is that of the service station sector, where oil companies have argued that the goodwill generated from a particular site is owned by the brand and has not been generated by the retailer. Once again, people go to some of those sites because they get good service: they like the appearance of the attached shop and the service they get from the staff. In my view that constitutes a significant component of goodwill and ought to be protected.

The legislation has support from all business groups, certainly the Victorian Automobile Chamber of Commerce; the Australian Retailers Association; the Master Builders Association of Victoria; the Victorian Employers Chamber of Commerce and Industry, the successor to my old firm; and the Property Council of Australia.

The legislation provides a number of options for small business to resolve disputes and makes it possible for those unincorporated businesses, partnerships and individuals to take action to redress the inequities that occur from time to time. The legislation is a step forward, and we welcome it.

Motion agreed to.

Read second time.

Third reading

Hon. M. R. THOMSON (Minister for Consumer Affairs) — By leave, I move:

That this bill be now read a third time.

In so doing, I thank the Honourables Carlo Furletti, Ron Best, Sang Nguyen and Gerald Ashman for their contributions. The Honourable Carlo Furletti raised two issues on which he sought a response, one in relation to unconscionable conduct specifically relating to the retail tenancy legislation and the review that is currently being undertaken. We have not finalised whether there is any requirement for it to be repeated in the retail tenancy legislation. Discussions have been entered into with the parties, and at this point it has not been finalised.

The Honourable Ron Best referred to the resourcing of the Victorian Civil and Administrative Tribunal. The government will be keeping a close monitoring eye on VCAT's capacity to deal with unconscionable conduct. VCAT was consulted on the bill and its ability to meet cases that may come before it. From advice received from VCAT we believe that that will be the case. I reiterate the importance of mediation in the process, because one of the strengths is that the unconscionable conduct provisions in the Trade Practices Act are replicated in Victoria in the Fair Trading Act.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That the house do now adjourn.

Knox hospital

Hon. W. I. SMITH (Silvan) — The matter I raise with the Minister for Industrial Relations for the attention of the Minister for Health in another place regards the outer east health service planning review that was held last year to look at a range of hospital services available to people. The local council made a submission to that review process because it is concerned that there is no comprehensive, accessible

and equitable health service available to Knox residents in the form of a tertiary health service.

The impact of the Bracks government turning its back on the outer east and not building a tertiary hospital in Knox means the residents have to travel long distances for health care and have reduced health care services locally. The submission made by the council expressed disappointment that the government will not build the tertiary hospital at Knox. It has written to the government asking why it is not building the hospital and whether it will provide a clear explanation for the reasons the proposed Knox hospital is not proceeding. I call on the Minister for Health to review his decision not to build a Knox tertiary hospital and ask why the Bracks government continues to ignore the outer east. I ask that the Labor government build the much-needed tertiary hospital for the people of the outer east.

Police: Bethanga station

Hon. W. R. BAXTER (North Eastern) — I desire to raise with the Minister for Sport and Recreation for referral to his colleague the Minister for Police and Emergency Services in the other place the issue of a replacement for the one-man police station at Bethanga in north-eastern Victoria in the Shire of Towong. About three or four months ago the resident police officer at Bethanga was transferred to Jamieson, to Jamieson's good luck and Bethanga's sorrow. Nevertheless the community was prepared to accept that transfer in the full expectation that a replacement would soon be taking up residence in the police house.

Disappointment is beginning to set in because no replacement has as yet appeared on the scene. The house, garden and police station yard are now overgrown with grass and the place is beginning to detract from the ambience of the village. With the summer coming on and the influx of tourists that Lake Hume attracts it is essential that a police officer be appointed and take up the position at Bethanga as early as possible. I invite the minister to give the matter his attention.

Walking: depression strategy

Hon. G. D. ROMANES (Melbourne) — I raise a matter with the Minister for Sport and Recreation. Last week I was at a celebration of volunteers who work with the Kensington Community Centre and the Doutta Galla Community Health Service. The volunteers undertake tasks such as working in a homework centre, driving a community bus and administering community organisations, but a couple of groups have established walking against depression or WAD groups. The WAD volunteers team up with a person suffering from depression to provide companionship and to encourage people who are often withdrawn and isolated out of their homes to do some physical exercise.

The minister was involved in a government forum a couple of weeks ago to develop a walking strategy with a whole-of-government approach, and on various occasions the minister has talked about walking school buses, walk and talk programs and the importance of the metropolitan strategy that is being developed to influence planning decisions and to encourage walking in our community.

Given the minister's comments and actions which emphasise the importance of walking, I ask him to consider a role for programs such as the walking against depression program within the development of the government's walking strategy.

Casey: maternal and child health funding

Hon. N. B. LUCAS (Eumemmerring) — I direct my request to the Minister for Small Business, representing the Minister for Community Services in the other place. The City of Casey has a population of 186 000 and after Brisbane and the Gold Coast is the third fastest growing municipality in Australia. In the past 13 weeks it has approved an average of 80 house permits per week.

The City of Casey has the highest birth statistics in Victoria, but funding for maternal and child health, which is the issue I raise tonight, is unfortunately based on retrospective figures — that is, figures for births in the past. Over the past three years the number of clients in Casey has risen from 17 820 to 18 081 and 18 145. From 1998–99 to the current year the contribution by council has risen from $1.671 million to $1.79 million. Casey council is now meeting 64 per cent of the maternal and child health costs. The calendar year birth notices have risen from 2996 in 1998–99 to an estimated 3200 for the current year.

The funding basis adopted by the government states there is no anticipation for growth, no recompense for coordination or management, no capital funding for new centres and no funding for information technology communications. The council made a request to the minister for a meeting on 2 October. On 8 October the minister issued a press release saying there was sufficient funding for the Casey council. On 25 October the minister indicated she was too busy to meet with the council, so it made a submission to her requesting $35 000 for the shortfall in funding and $30 000 to undertake a service review. Then yesterday, 3 December, the council received an email from the

minister's office saying, 'Sorry for the delay but a formal response will be received next week by the council'.

That is not good enough. I ask the minister to give serious consideration to the concerns documented in the City of Casey's submission with a view to providing sufficient funding for the current inadequate maternal and child health services in that city. The government should examine its funding program, particularly in light of the significant growth of that municipality.

Workcover: premiums

Hon. B. W. BISHOP (North Western) — I direct to the attention of the Minister for Industrial Relations, as the representative in this place of the Minister for Workcover, Workcover costs for the Mallee Track Health and Community Service, which have increased 59 per cent in 12 months. I understand the government claims that its Workcover changes have increased premium rates by an average of 15 per cent, but this is clearly not the case for the Mallee Track Health and Community Service. The *Sunraysia Daily* has reported on this issue.

All rural health services work to strict budgets and cannot afford to be forking out more money due to the enormous increases in Workcover premiums. This is not the fault of the community service or country health service providers. This is the responsibility of the Labor government, which changed the rules for Workcover with the full knowledge that this sort of cost increase would occur. I ask the minister what he plans to do to alleviate the unexpected increase in costs for an expenditure that cannot be avoided by our well-run and hardworking health providers in country Victoria.

Marine and Freshwater Resources Institute: relocation

Hon. E. C. CARBINES (Geelong) — I raise a matter for the attention of the Minister for Energy and Resources. The Geelong Province which I represent contains the Marine and Freshwater Resources Institute, a national and international institute of renown. MAFRI is located in the Borough of Queenscliffe on the harbour and is a very dilapidated facility. It shares its site with the Marine Discovery Centre, the educational arm of MAFRI.

Having visited MAFRI and the Marine Discovery Centre many times, I can attest to the inadequate nature of the facility, which basically consists of a collection of portable buildings. Nevertheless, the people of Queenscliff and Point Lonsdale are very proud to have MAFRI located in their municipality. Indeed, MAFRI, its scientists and their work are overwhelmingly supported by the Borough of Queenscliffe and its ratepayers.

The Bracks government has decided to provide a state-of-the-art facility for MAFRI and plans to build this facility at the Narrows on the shore of Swan Bay. I would appreciate the minister's advice regarding any progress being made on the relocation of MAFRI to the Narrows in Queenscliff.

Chernobyl fundraising event

Hon. C. A. FURLETTI (Templestowe) — I refer to the Minister for Industrial Relations, as the representative in this place of the Premier and Minister for Multicultural Affairs, a recent fundraising event organised under the auspices of the Australian Federation of Ukrainian Organisations by its chairman, Mr Stefan Romaniw, who honourable members will recall is the immediate past chairman of the Victorian Multicultural Commission.

The charity cocktail party conducted last Monday evening, 3 December, was the major fundraising event of the public campaign to raise funds and medical equipment to assist the thousands of adults and children, many very young, who are still suffering from the dreadful aftermath of the Chernobyl nuclear disaster, which occurred more than 15 years ago.

In partnership with the Herald and Weekly Times, and the commitment of Lauda Air to deliver the in-kind donations, a well-attended and successful function was held. I am informed by the shadow parliamentary secretary for multicultural affairs that considerable funds were raised. The campaign represents another example of the great generosity and sense of responsibility which Victoria's culturally and linguistically diverse community continues to display to those less fortunate in other parts of the world.

I acknowledge the time constraints to which all members of Parliament are subject, in particular the difficulty that the Premier and the Minister assisting the Premier on Multicultural Affairs and the Parliamentary Secretary to the Premier have with attending those functions. Nevertheless, I seek an assurance from the Premier that meritorious initiatives such as that shown last Monday be afforded appropriate recognition by ensuring that the government is represented at those types of functions by at least one of its 58 members.

I also congratulate all those who were involved with the campaign for this very worthy cause.

Bendigo: Queen Elizabeth Oval

Hon. R. A. BEST (North Western) — I raise an issue for the attention of the Minister for Sport and Recreation that relates to the Queen Elizabeth Oval in Bendigo and the 1999 election promise made by the Labor government to provide $150 000 for lighting. I am pleased to say that an agreement has been reached between the City of Greater Bendigo and the government for some $400 000 worth of works to occur at the QEO. However, in the last couple of years it has been identified that if money were to be provided then a complete upgrade of the facility will need to be undertaken.

There is a very old heritage grandstand, which is a fantastic building, but there are inadequate facilities in the changing rooms. I have raised this matter on a number of occasions with the minister and at a local level.

I have had the pleasure of playing football at the QEO for 20 years. It is a fantastic facility, but now that Bendigo has two teams, one in the Victorian Football League and another, the Pioneers, represented in the Australian Football League, it is embarrassing when competing teams from other areas of the state are faced with the very cramped and inadequate changing facilities and spectator areas.

Over the last 12 months, the City of Greater Bendigo has undertaken a review and has identified that a project of $1.6 million to $2 million is required for an adequate upgrade at the Queen Elizabeth Oval.

Will the minister give an assurance that money will be allocated in the 2002–03 budget to ensure that the urgent upgrade of the QEO will proceed immediately?

Sandringham and District Memorial Hospital

Hon. J. W. G. ROSS (Higinbotham) — I direct a matter to the Minister for Energy and Resources representing the Minister for Environment and Conservation in the other place. I refer to an agreement for a portion of land on the Sandringham hospital reserve that is intended to be used to extend the capacity of the Fairway Hostel for the delivery of aged care services.

Apparently an agreement was reached between the board of Sandringham and District Memorial Hospital, the Sandringham Aged Care Association and the council of the former City of Sandringham. However, the process appears to have become hopelessly bogged down in getting the necessary departmental and ministerial approvals to lease or otherwise excise the required land from the hospital reserve.

On behalf of the Fairway Hostel I have had representations from Mrs Lesley Falloon, who has become frustrated at the process that needs to be gone through to obtain this land so that extensions can be made to the hostel.

I understand the Minister for Environment and Conservation needs to consent to the proposed use of the hospital reserve and the hostel also needs the approval of the Department of Human Services to do the work proposed.

Obviously, someone in government has to accept personal responsibility to get all the stakeholders together and ratify a decision that has apparently been agreed to in principle. Accordingly, I ask if the Minister for Environment and Conservation could take the initiative and inquire into the matter and if necessary consult with her colleague the Minister for Health with a view to obtaining a speedy resolution of the issue.

State Revenue Office: Shepparton agent

Hon. E. J. POWELL (North Eastern) — I raise an issue with the Minister for Energy and Resources as the representative in this place of the Minister for State and Regional Development. I have just received a letter from Mr Peter Johnson, who is a partner of Camerons Lawyers in Shepparton. The firm has a major concern about a termination of one of its appointments. Since 1 November 1996 it has had an appointment as an authorised person pursuant to the Stamp Duties Act and the Duties Act for the purposes of assessing and endorsing various documents for stamp duty. This has enabled the firm to undertake the stamping of documents as an agent for the State Revenue Office and also to offer that service to other legal firms and members of the public.

The firm has received a letter from the State Revenue Office which states:

> The State Revenue Office … is currently undertaking a review of the document return system regime under which 'authorised persons' are appointed by the Commissioner of State Revenue …

The letter continues:

> An examination of SRO records containing information received from the firm reveals that, during the period 1 July 2000–30 June 2001, it only endorsed stamp duty to a total of $747 027.00 on 429 instruments in its capacity as an 'authorised person'.

The State Revenue Office further states:

> Accordingly, it does not appear to the commissioner that the firm's status as an 'authorised person' is appropriate.
>
> Please note that the firm's status as an 'authorised person' will be terminated unless it shows cause, in writing … why the firm should retain its status as an 'authorised person'.

Mr Johnson telephoned and wrote to the SRO and expressed his disappointment at being told the status could be terminated.

The issue is that in all the years since 1996 the firm has never been told that it was under-represented, and it has never had any complaints or comments from the SRO. It is the only agency for the stamping of documents in the Shepparton region, and it believes the opportunity to offer a service within a regional area is really important for the SRO. I support its comments.

The PRESIDENT — Order! Will the honourable member now put her question.

Hon. E. J. POWELL — I ask the minister to step in and overturn any moves to terminate this firm's status as an authorised person on the basis that Camerons Lawyers was never informed that it had to reach a certain criterion or expectation of throughput, otherwise it would have marketed its service more proactively and perhaps increase the numbers. It is also important for the Shepparton region to retain the service.

Delatite: boundary review

Hon. E. G. STONEY (Central Highlands) — I raise a matter for the attention of the Minister for Energy and Resources as the representative in this place of the Minister for Local Government. Last Thursday night I attended a public meeting in Mansfield that was attended by an estimated 700 people. The issue was the devolution of the Shire of Delatite and the lack of a firm decision by the minister to allow this to happen. The meeting was convened by the Mansfield Ratepayers Association, and the 700 ratepayers who attended were presented with some very compelling figures that showed it was financially possible, even desirable, for the shire to split. As one can imagine, the meeting was deadly serious, and the community called for an immediate decision to be made by the minister. It was disappointing that the honourable member for Benalla in the other place chose not to attend.

Hon. M. M. Gould — Parliament was sitting last Thursday evening at that time, you goose!

Hon. E. G. STONEY — The upper house was also sitting, but I managed to get to the meeting — and I even observed the Wipe Off 5 function! If the honourable member for Benalla had attended she would have seen some interesting figures that I believe were very compelling, and she would have seen how a quietly determined Mansfield goes about standing up for its beliefs.

I congratulate the Mansfield community, and I ask the minister to make a decision. It is important that a decision is made so the townships of Benalla and Mansfield can get on with their lives.

Wurruk Primary School

Hon. P. R. HALL (Gippsland) — I wish to raise a matter with the Minister for Sport and Recreation, representing the Minister for Education in the other place. It concerns Wurruk Primary School, particularly the physical facilities at that school.

Wurruk is a small community on the outskirts of Sale. Wurruk Primary School is a wonderful school that takes an active interest in the affairs of the state. Recently grade 5 and 6 students from that primary school visited Parliament House. As Parliament was not sitting, I could not show them around. I visited the school and spoke to the students and indeed can verify that they are a very knowledgeable group of students who take a keen interest in their educational opportunities.

The issue with Wurruk Primary School is that recently people at the school have been alerted by the regional office of the Department of Employment, Education and Training to the possibility of losing one of their three portable classrooms due to the current decline in their enrolments. That would have a devastating impact on the education program run by the school and the community in general.

The three portable classrooms are currently in use. One is a state-of-the-art information technology classroom, running all sorts of programs, including the access@schools community computer technology program that has had 105 participants this year. Another one is used for an art/craft classroom and recently was fitted with updated furniture. The third one is a library resource centre housing a large collection of student and staff resources and is fitted out with extensive shelving built and paid for by local fundraising.

The people at the school are concerned that if they lose one of those portable classrooms the education programs at the school will suffer and the community also will suffer as a result of that.

I seek an assurance from the minister that, whatever decisions are made about those portable classrooms,

there will be no need for a reduction in the education programs at the school. I urge the minister to make a decision to keep those classrooms for the excellent use that is currently being made of them, both by the school and the local Wurruk community.

Alpine parks: grazing licences

Hon. PHILIP DAVIS (Gippsland) — I raise a matter for the attention of the Minister for Energy and Resources to refer to the Minister for Environment and Conservation. It relates to the transfer of an alpine park grazing licence in the name of Spaull to the Friends of Wongungarra Trust. The Friends of Wongungarra Trust consists of 10 families who formed the trust to purchase the freehold along the Wongungarra River owned by Mr Graeme Spaull. The trust was then issued with a bush grazing licence in the name of Spaull and sought to transfer the remaining section of land, which was a grazing licence within the Alpine National Park.

Andrew Kee, who is the spokesman for the trust, is a member of the Mountain Cattlemen's Association of Victoria. In October 1999, with the assistance of the association, the trust applied to the minister to transfer the licence from Spaull to the trust. Now, almost 12 months since the alpine advisory committee meeting at which it was recommended that the transfer go ahead, the trust is still awaiting the minister's decision.

The Friends of Wongungarra Trust has just been approved by the Department of Natural Resources and Environment for funding under the Natural Heritage Trust of a grant of $12 000 for river stabilisation works on the Wongungarra River. Clearly the trust is serious in its dedication to conservation and the environment and would have to qualify as approved under the agreement on the provision of grazing licences in the Alpine National Park. I therefore ask: will the minister expedite the transfer of this licence and, if not, will she advise why not?

Snowy River

Hon. R. M. HALLAM (Western) — I wish to raise an issue with the Minister for Energy and Resources in her capacity as minister responsible for the Snowy River. Against the background of the Bracks government's reliance on the return of environmental flows to the Snowy River to establish its green credentials and all the rhetoric and platitudes we hear about this government's openness and accountability, I ask the minister will she tonight give the house a commitment that henceforth from this date each financial report and mid-year report as required under sections 24 and 25 respectively of the Financial Management Act shall contain an updated report on the Snowy River project, specifically including: firstly, the progressive environmental flow increases and how those have been determined and measured; secondly, all Victorian budgetary costs incurred and investments made, detailing the particular programs and amounts involved; thirdly, any off-budget or secondary costs incurred which impact upon the ultimate bottom line; and, fourthly, an assessment of whether the New South Wales and commonwealth governments have met their matching commitments.

National Theatre Ballet School

Hon. ANDREA COOTE (Monash) — My question is to the Minister for Sport and Recreation for the Minister for Post Compulsory Education, Training and Employment in another place. Last Friday night I attended with great pleasure the final ceremony of the year for the National Theatre Ballet School students. The students, aged between 4 and 18 years, gave an excellent performance, and I encourage other people to go and see it.

Hon. I. J. Cover interjected.

Hon. ANDREA COOTE — No-one from the government was there, Mr Cover. But it has come to my attention that the State Revenue Office is forcing the Australian Memorial Theatre Ltd, the National Theatre, into a Supreme Court hearing to settle basic education principles. The State Revenue Office has not discussed this with the education department but apparently it has defined classical ballet as mechanical art to be taught in technical schools. I ask the minister: what is her definition of technical education and can she confirm that the National Theatre is not a technical school under state legislation?

Ecorecycle Victoria: appointment

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise a matter with the Minister for Energy and Resources, for the Minister for Environment and Conservation in the other place. It relates to the appointment of the Honourable Rob Jolly to the board of Ecorecycle Victoria under section 49D of the Environment Protection Act.

Mr Jolly's interest in matters environmental is well known. However his record in public administration is also very well known. Mr Jolly was the Treasurer of Victoria who presided over a massive blow-out in state debt, an explosion in the budget deficit and the collapse of Victoria's credit rating. Mr Jolly was the Treasurer during the period when the Victorian Economic

Development Corporation and Tricontinental scandals started to develop. He was the Treasurer who gave the guarantee on the Pyramid Building Society which cost the Victorian people so much. It was Mr Jolly's stewardship of the Victorian economy and the Victorian budget sector that lead to the fire sale of the State Bank of Victoria.

I seek from the Minister for Environment and Conservation an explanation as to the consideration she gave to Mr Jolly's dubious record in public administration when she appointed him to a paid position on the board of a statutory authority.

Roads: speed limits

Hon. K. M. SMITH (South Eastern) — I address my question to the Minister for Energy and Resources, who represents the Minister for Transport in another place. I would like to raise with the minister my concerns regarding speed limits near schools, particularly schools that are on main roads.

Hon. T. C. Theophanous interjected.

Hon. K. M. SMITH — Why don't you shut up, Theo!

A number of schools in my electorate have roads with speed limits ranging from 60 to 100 kilometres an hour adjacent to them, which is of great concern to me. A lot of schools in my electorate have this problem, including Tyabb Primary School, Flinders College at Tyabb and schools at Drouin, Drouin West, Drouin South, Somerville, Lang Lang, Bass Valley, Cowes, Rosebud, Baxter, Pearcedale, Mount Eliza — and I could go on and on with the number of schools — —

Honourable members interjecting.

Hon. K. M. SMITH — You want me to go on and on?

An honourable member interjected.

Hon. K. M. SMITH — Mount Eliza will soon be in my electorate!

This really is a serious problem for all members of Parliament and has been raised with the minister before. It is not fair that school kids or parents who are dropping their kids off at schools should be put in a position when they are on a major road where cars are sometimes going past at speeds of 100 kilometres an hour. I suggest to the minister that speed limits near schools be dropped to 50 kilometres an hour, as they are in residential streets. It should be done both during school hours and for an hour before and after school. It is an important issue. I raise it on behalf of not only schools in my electorate but all schools across Victoria, because the last thing any of us would like to see — including the minister, I am sure — is kids killed or parents involved in serious accidents as a result of cars being driven at high speed. I am asking the minister to address the problem.

Natural Resources and Environment: call centre

Hon. I. J. COVER (Geelong) — I raise a matter with the Minister for Energy and Resources for referral to the Minister for Environment and Conservation concerning direct phone access for members of the public to Department of Natural Resources and Environment (DNRE) offices. This matter has been brought to my attention by the chairman of the Bellarine Landcare Group in my electorate of Geelong — —

Honourable members interjecting.

Hon. I. J. COVER — I take the opportunity to claim it back if I can at this point, Mr President. The Bellarine Landcare Group is part of the larger Geelong Landcare Network representing all 25 Landcare groups and 8 friends groups in the Geelong area which, of course, is in my electorate. Members of the Bellarine Landcare Group are becoming increasingly frustrated by the DNRE call centre in that they feel it is inefficient and does not meet customers' needs. I understand other Landcare groups and land-holders at Colac and Ballarat are also expressing frustration with the call centre. The current system cannot connect the general public to DNRE offices directly, and in a letter to me the Bellarine Landcare Group's chairman, Bernie Malone, says:

> It is farcical that we have to ring one number to get another number and then often the call centre staff have no idea of the role or training of the DNRE staff.
>
> … The system is ineffective and generates poor public relations and public perception of the role of DNRE.

I should point out that DNRE in Geelong is an excellent service with staff whose knowledge goes far beyond their normal roles and duties. It is important that local people have the opportunity to gain direct access to those staff members for that outstanding service and knowledge. It is understood by the Bellarine Landcare Group that the call centre is under trial, and there are hopes, therefore, that the government will reconsider its decision and ask for community input. The community simply wants and needs direct access to the DNRE

office reception desk rather than having to go through the call centre.

Frankston: volunteer coastguard

Hon. B. C. BOARDMAN (Chelsea) — I refer the Minister for Ports to a press release she issued on 8 November 2000 relating to the boating safety grants program, which she established primarily to fund boat replacements for volunteer organisations, particularly the Australian Volunteer Coast Guard Association over five years. Although I consider this to be a positive program and one that should be encouraged, I understand the first allocation of funds, being an investment of up to $40 000 for the purchase of two former police boats for Lake Hume and Lake Eppalock, has been committed. The boat at Lake Hume is in operation and the second vessel is currently being refurbished to meet coastguard specifications.

I have had a query posed to me by members of the volunteer coastguard, particularly the one at Frankston in my electorate, which is quite admirably represented by enthusiastic, committed and dedicated volunteers. They understand that as part of this program they were identified by the Victorian coastguard hierarchy as the next in line to get a boat under the boats program. They have informed me that there has been no such allocation of the funds to ensure that a boat would be delivered in time for this summer season, which is obviously the peak season for the volunteer coastguard. As such, they are concerned that the allocation of funds might not be forthcoming.

In raising this query I give the minister the benefit of the doubt. I ask her to advise me and reassure the Frankston volunteer coastguard that funds will be provided to enable an upgrade of the facilities so it can provide that valuable and dedicated community service, as it has done in the past and should continue to do so.

Taxis: multipurpose

Hon. C. A. STRONG (Higinbotham) — The issue I would like to raise this evening is for the Minister for Energy and Resources, representing the Minister for Transport in the other place. It concerns a letter I received from several constituents of mine and of my honourable colleague Dr Ross who use the multipurpose taxi program. In their letter they say:

> Since the inception of this program in 1984, many Victorians with disabilities have benefited from this worthwhile scheme, which offers subsidised taxi travel at a rate of 50 per cent, up to a limit of $25.

Unfortunately several factors have contributed to a decrease in the value of this subsidy in real terms. They include that the subsidy limit has remained static since 1986 despite many fare increases over that period.

In essence these people are asking that a review of the maximum amount take place urgently and perhaps the ceiling of $25 be lifted to $100. They would also like some mechanism to increase the cap on a regular basis in line with inflation or taxi fares or something like that so that the value remains constant.

Adult Multicultural Education Services: brochure

Hon. P. A. KATSAMBANIS (Monash) — I would like to raise an issue with the Minister for Industrial Relations, representing the Premier in his capacity as Minister for Multicultural Affairs. I recently received a letter from Adult Multicultural Education Services that reads, in part:

> At the suggestion of the office of Mr John Pandazopoulos, MP, minister assisting Premier Bracks on multicultural affairs, please find enclosed 20 brochures entitled 'Understanding Islam and Muslim Australians'.

In this difficult time in which we live anything that promotes tolerance and harmony within our multicultural state and nation is a good thing, so I read this brochure with great interest, hoping that it would do that. I came to the subheading 'What is jihad?'. Under this subheading it said:

> Jihad is an Arabic word meaning 'struggle' on the path to goodness. It can be struggle with one's lower self to submit to God or struggle against injustice. It does not mean 'holy war' and it does not mean harming innocent people.

That was interesting. It sounded well and good, but it is not the general understanding of jihad among the public at large. I did a bit of research, and I first looked at the Webster's dictionary, which defined jihad as 'a religious war against infidels or Mohammedan heretics'.

I then thought that rather than sticking just to Western culture I would go to Islamic culture. I found an interesting book written by Ayatullah Morteza Mutahhari in Iran titled *Jihad — The Holy War of Islam and its Legitimacy in the Quran*. I looked at the words of the scholars at Egypt's Al-Azhar University; they are very learned in the Islamic world. Dr Abd Al-Sabour Shahin wrote in part that:

> Jihad is a general term that includes jihad by means of words, jihad by means of leadership, and jihad by means of war.

I then got closer to Australia and a magazine titled *Nida'ul — The Call of Islam*, which is produced by the Islamic Youth Movement of Australia. In an article entitled 'Greater and lesser jihad' in its April–May 1999 issue the movement wrote:

> A man asked the Prophet —

the Prophet being Mohammed —

> What is jihad? He … replied: 'To fight against the disbelievers when you meet them (on the battlefield)'. The man asked: 'What kind of jihad is the highest?'. He … replied: 'The person who is killed whilst spilling the last of his blood'.

The PRESIDENT — Order! Ask your question, please.

Hon. P. A. KATSAMBANIS — That does not equate to what is in this pamphlet. I ask the Premier in his capacity as Minister for Multicultural Affairs to, firstly, indicate what government funding has gone into the production of this brochure which was put out effectively in his name; and, secondly, whether he stands by the statement about and description of jihad in this pamphlet.

Skate parks: Maroondah

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of and a commitment from the Minister for Youth Affairs in relation to an issue which is a long way from jihad and which goes back to recreational facilities for young people in the outer eastern suburbs of Melbourne. The Maroondah City Council is investigating plans, which the minister may be aware of, to build skating facilities in Ringwood, Bayswater North and the Croydon Hills. It is also reviewing replacement options for the damaged half-pipe ramp at Croydon skate park in Norton Road. The council's community and organisational development director, Nick Foa, is reported in the *Maroondah Journal* of Tuesday, 20 November, as saying there was a need for skating facilities effectively right across the City of Maroondah. He states:

> We are looking at everyone's needs. It is important to look at the bigger picture and ensure the needs of all the youth in our community are met …

Mr Foa is also reported in that article as saying the needed funds would come internally from the council and from community fundraising but that there would also be a need for external funds.

Given the growing perception in the outer east that that region as a whole has become a black spot or a blind spot for funding by the Bracks government, in particular among young people, will the minister prove that perception wrong by offering the Maroondah council a dollar-for-dollar funding formula for all the funds raised for these three skate parks by the council and the community?

Roads: speed cameras

Hon. G. B. ASHMAN (Koonung) — I refer to the Minister for Energy and Resources, representing the Minister for Transport in the other place, a matter that might also require the attention of the Minister for Police and Emergency Services in the other place. I note that the government and in particular Commander Ray Shuey have introduced a policy of no tolerance as part of a crackdown on speeding motorists. My concern is not that there is a crackdown on speeding motorists, because we all have concerns about speeding, but that the crackdown with no tolerance is not a practical or commonsense approach to the problem.

I point out that speed cameras and radar, as I understand it, have a known error factor of about 2 kilometres per hour and also that speedometers that are fitted to new cars have an Australian design rules accuracy tolerance of 10 per cent. Modern speedometers would certainly be more accurate than 90 per cent, but speedometers fitted to older vehicles would have a 10 per cent tolerance.

Another factor that comes into play in determining the speed of a vehicle is wear on its tyres. Obviously a speedometer would be accurate with new tyres, but as they wear down the speed that is registered on the speedometer will vary.

I seek from the minister a commonsense approach in which motorists will not be pursued for slight misdemeanours in relation to speed limits. I also ask that those in charge of enforcement take into account the fact that the Australian design rules standard allows for a 10 per cent accuracy variation; that not all vehicles registered in Victoria comply with that Australian design rules standard; and also that there is an error factor for the detection equipment. I ask that the minister pursue those issues and that the police take action bearing those factors in mind.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Wendy Smith raised a matter for the Minister for Health in the other place. I will raise that with him and ask him to respond in the usual manner.

The Honourable Barry Bishop raised a matter for the Minister for Workcover in the other place about the Mallee Track Health and Community Service, and I will ask the minister to respond to the honourable member in the usual manner.

The Honourable Carlo Furletti raised a matter for the Premier, and I will ask him to respond.

The Honourable Peter Katsambanis referred a matter to the Minister for Multicultural Affairs, and I will pass that on to him.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response to the Honourable Elaine Carbines and her request for progress on the construction of the Marine and Freshwater Resources Institute development, I am very pleased to advise the honourable member that at a meeting this morning the Environment Protection Authority (EPA) issued the works approval and the pollution abatement notice for the MAFRI project. As a result of the authority's issuing of those documents the Department of Natural Resources and Environment is provided with the necessary permissions to now commence construction on the site at the Narrows.

At all stages of this project the government has worked constructively with all the stakeholders to progress this redevelopment. That has involved by necessity extensive community consultation, extensive environmental assessments — including an environmental audit statement, a baseline monitoring program with a commitment to ongoing monitoring, and a review of the monitoring programs by an EPA-convened expert panel. This result is a terrific win-win for everyone who has been involved in this long-running process, including not only the state government but the Borough of Queenscliffe and the local community.

The Honourable John Ross requested the Minister for Environment and Conservation to intervene to obtain a speedy resolution on a matter concerning the Fairway Hostel in Sandringham. I will refer that request to the minister.

The Honourable Jeanette Powell requested the Treasurer and Minister for State and Regional Development to intervene to overturn an action by the State Revenue Office relating to the definition of the status of a firm as an authorised person. I will refer that request to the minister.

The Honourable Graeme Stoney requested that the Minister for Local Government determine the local government jurisdiction for the towns of Benalla and Mansfield. I will refer that request to the minister.

The Honourable Philip Davis requested that the Minister for Environment and Conservation expedite the transfer of grazing licences, as requested by Friends of Wongungarra Trust. I will refer that request to the minister.

In relation to the request by the Honourable Roger Hallam, I indicate that this government has demonstrated its commitment to open and transparent reporting, and that this will apply to all actions in relation to the government's implementation of its policy of restoring environmental flows to the Snowy River.

The Honourable Gordon Rich-Phillips requested that the Minister for Environment and Conservation examine appointments to the board of Ecorecycle. I will refer that request to the minister.

The Honourable Ken Smith requested that the Minister for Transport reduce speed limits near schools. I will refer that request to the minister.

The Honourable Ian Cover requested that the Minister for Environment and Conservation examine concerns of the Bellarine Landcare Group about the operation of a call centre and its preference for direct access to the department. I will refer that request to the minister.

The Honourable Cameron Boardman raised the matter of funding for the volunteer coastguard at Frankston. He referred to the support this government has provided to the coastguard in increasing funding for the boating safety search and rescue grants program, which has been increased from $100 000 to $250 000 for the purchase of rescue boats in 2000–01. As part of that reorganisation of the ongoing funding assistance the Marine Board of Victoria has now put in place a process for assessing the needs of search and rescue groups across the state in order to prioritise those requests. I will seek the information the honourable member has requested on Frankston specifically and respond to him directly. I do not have those details to hand.

The Honourable Chris Strong requested that the Minister for Transport take action to maintain the value of the multipurpose taxi program. I will refer that request to the minister.

The Honourable Gerald Ashman requested that the Minister for Transport and the Minister for Police and Emergency Services examine the application of

Australian design rule standards in relation to speedometers. I will refer that request to the ministers.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Neil Lucas raised the matter of a submission by the City of Casey to the Minister for Community Services in regard to funding for maternal and child health services. I will pass that on to the minister for her direct response.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the question by the Honourable Bill Baxter regarding the one-man police station at Bethanga and the transfer of that policeman to Jamieson, I will refer that issue to the Minister for Police and Emergency Services in the other place.

In relation to the question by the Honourable Glenyys Romanes regarding the walk against depression groups, the significance of physical activity and the benefits it brings to the community are appreciated — and they are not only the physical benefits but the emotional health and wellbeing benefits. Honourable members, especially those who have served on the Vichealth board, will appreciate those benefits. I look forward to the walking strategy that will be developed by the government to combine the benefits of initiatives like the walking against depression program.

In relation to the question by the Honourable Ron Best on the application for funding for an upgrade of the Queen Elizabeth Oval facilities, I recently visited the oval and participated in a meeting with the city council. The meeting was facilitated by the local member of Parliament in the other place, Jacinta Allan, the honourable member for Bendigo East. I viewed schematic drawings and discussed with the council the issue of the upgrade and the nature of the support it was looking for from government.

I appreciate that the site was used by a legendary full-forward who kicked goals on the oval and was a dynamic spearhead who was not likely to give a handball in range of the goals, but unfortunately his name eludes me this evening. During that recent visit I met with representatives of the Diggers and was made aware of the significance of the facility, its scale and the strategic nature of future plans. I am very supportive of the project, but I am also conscious of the need to address the statutory planning issues in the context of the historic surrounds and the neighbouring swimming facility. I look forward to the resolution of these issues as part of the application for funding.

In relation to the question by the Honourable Peter Hall regarding the Wurruk Primary School and the portable classroom allocation, I will refer this to the Minister for Education.

In relation to the question by the Honourable Andrea Coote regarding the National Theatre ballet school and the definition of the terms ‘technical school’ and ‘a technical school subject’, I will refer this to the Minister for Post Compulsory Education, Training and Employment in the other place.

In relation to the question by the Honourable Andrew Olexander regarding recreational facilities for young people in the outer east and applications for skating facilities in the City of Maroondah, as I have mentioned on a number of occasions in this house, I am very supportive of funding skate parks wherever the opportunity arises, and I have mentioned the number of facilities funded across the state through the community facilities funding program.

I encourage local government to develop a strategic plan addressing the often difficult planning issues and look forward to the application for respective funding under the sport and recreation community facilities program.

Motion agreed to.

House adjourned 11.41 p.m.

Minister for Transport

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Dear Mr Bishop,

TRANSPORT (ALCOHOL AND DRUG CONTROLS) BILL 2001

In response to your queries regarding the Transport (Alcohol and Drug Controls) Bill 2001, 1 am pleased to provide the following information.

Authorised officers

You asked about the use of authorised officers to conduct drug tests. First, let me state that it is intended to rely primarily on authorised persons employed by the rail operators to conduct any necessary drug tests. This is consistent with current arrangements whereby the prime day to day responsibility for implementation of drug and alcohol controls rests with rail operators. The Bill provides for the authorisation of officers employed by the Department of Infrastructure to conduct tests. It is anticipated that Departmental officers would only be conducting tests in exceptional circumstances.

You raise an important point about the potential for a number of authorised officers to attend an accident location, and the need to minimise any potential clash of roles. That issue will be borne in mind when the drug testing procedures are designed. The procedures are determined by the Secretary and gazetted under the new section 96A(7) and will be developed in the period prior to the Act coming into force on the 1 July 2002. Consultation will take place with all the relevant parties including unions represented in the industry, accredited operators, Victoria Police, Vic Roads and health professionals when preparing the testing procedures.

Rail operators to take reasonable steps to ensure compliance with drug & alcohol systems The chief aim of this Bill is the prevention of accidents — not the prosecution of workers or rail operators. It would only be in extreme circumstances that a rail operators would face prosecution.

The Bill imposes a statutory duty on rail operators to take reasonable steps to ensure that their safety workers comply with the drug and alcohol provisions of the Transport Act. This is to ensure that responsibility for compliance with drug and alcohol controls is shared between safety workers and rail operators and reflects the public safety importance of these provisions.

You correctly point out that under the existing conditions of safety accreditation, rail operators must provide a safety system which controls use of alcohol and illegal drugs. However, the Bill extends these requirements to cover over the counter drugs and prescription drugs. Prosecutions would only become relevant where a rail operator had not taken reasonable steps to enforce its accredited system for drug and alcohol management.

Section 118 of the Transport Act already makes it an offence to fail to comply with a condition of accreditation and imposes a maximum penalty of $20,000. The new offence has a substantially higher maximum penalty of $200,000, which is commensurate with the bonus/penalty regime for on-time running under which public transport train and tram services are provided.

Use of evidence regarding successful prosecution of safety worker in prosecution of rail operator

The Bill allows evidence that a safety worker has been found guilty of a drug or alcohol offence to be provided to a court hearing a charge against a rail operator. This is an evidentiary provision designed to avoid obstacles normally associated with bringing evidence of another's conviction before a court. It will save court time by allowing a prosecutor to present evidence of a worker's conviction without the need to argue whether or not the evidence is admissible in every case. This provision will not alter the usual onus of proof and will not prevent the defendant from calling evidence as to its policy and usual practices to show that it has taken steps that a reasonable rail operator would take in all the particular circumstances.

Yours sincerely,

Peter Batchelor MP
Minister for Transport

New South Wales
Boat Driver Licensing

WHEN IS A BOATING LICENCE REQUIRED?

It is important to know that it is neither the size of a vessel nor the power of an engine which determines whether a person needs to be licensed — it is the speed at which a boat is driven.

Except in the case of a PWC any person who drives a mechanically propelled vessel on NSW waters at 10 knots or more must have a boat drivers licence.

Note: 10 knots is the speed at which an accelerating boat will start to plane — that is rise up and skim along on top of the water instead of ploughing through it.

Anyone who drives a PWC at ANY speed (even below 10 knots) must have a PWC license.

TYPES OF LICENSE

a. GENERAL LICENCE

A licence for people aged 16 years and over to drive any vessel except a PWC at 10 knots or more.

b. GENERAL YOUNG ADULT LICENCE

This is a restricted licence for those aged from 12 to under 16 years. A Young Adult Licensee must:

- be accompanied by the holder of a General Licence when travelling at 10 knots or more;
- never exceed 20 knots;
- never travel at 10 knots or more after sunset and before sunrise;
- never travel at 10 knots or more when towing an aquaplaner;
- never tow a water skier;
- not drive in any race, display, regatta or exhibition without prior consent from the Waterways Authority; and
- never operate a PWC unless the holder of a Young Adult PWC Licence.

c. PERSONAL WATER CRAFT (PWC) LICENCE

A special licence is required to ride a PWC regardless of what speed it is driven. To obtain a PWC licence, the test for a General Licence must be passed first. Additional test questions must then be passed to upgrade to a PWC licence. Persons who hold a general licence can upgrade to a PWC licence at any time by passing these additional questions.

Click here for essential information on PWC operations.

d. YOUNG ADULT PWC LICENCE

For those aged from 12 to under 16 years who wish to drive a PWC. The same conditions which apply to the General Young Adult licence apply for this licence.

e. COMMERCIAL QUALIFICATIONS

Special certificates of competency are required to take charge of vessels used for commercial purposes. To obtain these qualifications you will need to have good records of your boating experience, complete approved training courses and meet minimum medical and eyesight standards. Further details can be obtained by contacting the Waterways marine certification section on (02) 9563 8767.

Drivers of commercial vessels operating at 10 knots or more must have their certificate of competency endorsed with either a General or PWC Licence.

f. RESCUE ORGANISATIONS

Persons who are members of approved rescue organisations trained to drive vessels belonging to that organisation may be exempted from holding a boating licence while on official duties. Examples are the NSW SES Flood Rescue Boat Operators Qualification, and the SLSNSW Inflatable Rescue Boat Drivers Certificates.

Source: http://www.waterways.nsw.gov.au/licence.html

Wednesday, 5 December 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.03 a.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

Electricity: supply

Hon. PHILIP DAVIS (Gippsland) — I direct my question to the Minister for Energy and Resources. Twice last year the government took no action until after electricity blackouts occurred. This summer will the minister proclaim the emergency provisions of the Electricity Industry Act if it appears an event is about to occur which may cause blackouts?

Hon. C. C. BROAD (Minister for Energy and Resources) — The honourable member asked essentially the same question yesterday. I explained in my answer that if he cares to examine the legislation he will find that it very clearly specifies that emergency powers can be enacted in relation to a threat to electricity supplies. There is no such threat. There was no threat yesterday. There is no threat today. The government is very pleased that the discussions yesterday have not led to any threat to Victoria's — —

Honourable members interjecting.

The PRESIDENT — Order! The Honourable Philip Davis has asked the minister a question and the minister is responding. I ask both sides of the house to settle down and allow the minister to complete her reply. Just keep quiet!

Hon. C. C. BROAD — I appreciate that the opposition is very disappointed that there is no threat to Victoria's supply and that it would like to see a threat to Victoria's supply. The fact is there is no threat to Victoria's supply, and as a result there is no call to enact any emergency powers.

Industrial Relations Victoria: business development unit

Hon. E. C. CARBINES (Geelong) — The Minister for Industrial Relations has previously advised the house of the business development unit within Industrial Relations Victoria. Will the minister inform the house today whether the activities of this part of her department are consistent with those of the federal government as outlined in its recent report *India: New Economy, Old Economy*?

The PRESIDENT — Order! I am just wondering how that relates to state government administration.

Hon. M. M. GOULD (Minister for Industrial Relations) — Mr President, it is to do with my department, which is involved in business development in this state.

As I have indicated to the house, the business development unit of Industrial Relations Victoria (IRV) was established to promote the positive aspects of industrial relations to Victoria's potential and existing investors. As I have said many times, one of the sad failures of the previous government was its complete neglect of information provision for employers about industrial relations. My guess is that the former Kennett government's view on industrial relations when investors came into this state would have been to say to them, 'Unions are not an issue in this state. We do not worry about unions. Do not worry about them, we will just avoid them'. I am sure that is the attitude of the opposition. I am sure it would have said, 'Unions are bad, just avoid them'. That is not exactly the case. It is not the appropriate positive step that is needed to encourage a cooperative workplace in the large investment sector.

The business development unit of the IRV has been set up, and its task is to promote the Bracks government's commitment to a progressive industrial relations climate. The unit provides critical assistance to new investors and makes it easy for them to get advice about — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the Leader of the Opposition and Mr Bob Smith to keep quiet, keep out of it and allow the minister to answer.

Hon. M. M. GOULD — The unit enables those investors to get the critical advice they require about industrial relations and the framework that operates in this state. This obviously helps to ensure we continue to grow the whole of the state and provide high-quality jobs in Victoria.

I am pleased to advise the house that this approach bears absolutely no resemblance to the attitude taken by the Howard government in its new report *India: New Economy, Old Economy*. That report, released this week, suggests that a good reason for investing in India is low wages and increasing labour market flexibility. That is what the opposition is all about; that is what its federal colleagues are all about.

In contrast to that this government believes a good reason to invest in this state is that we have a commitment to the partnership in industrial relations, because research shows that where you have a cooperative workplace it increases productivity and increases the profitability of the company. IRV, unlike the federal government, is committed to attracting high-quality jobs to this state. We are committed to a positive approach, in stark contrast to what the federal government is doing.

Minister for Industrial Relations: performance

Hon. M. T. LUCKINS (Waverley) — I refer the Minister for Industrial Relations to comments by Electrical Trades Union state secretary, Dean Mighell, stating that he had no confidence in the Minister for Industrial Relations and that state government projects, including the Commonwealth Games — —

Honourable members interjecting.

The PRESIDENT — Order! The house wants to hear the question from the Honourable Maree Luckins, and I ask everyone to hold their tongues until she has finished.

Hon. M. T. LUCKINS — I refer the Minister for Industrial Relations to comments by Electrical Trades Union state secretary, Dean Mighell, stating that he had no confidence in the Minister for Industrial Relations and that state government projects, including the Commonwealth Games, and power supplies are at risk because of her failures. Given the minister's untenable position, will she put an end to the sham and formally hand full control of negotiations with unions to the de facto minister, Tim Pallas, in the Premier's office?

Hon. M. M. GOULD (Minister for Industrial Relations) — That is an outrageous question, and the answer is no.

Consumer affairs: payday lending

Hon. JENNY MIKAKOS (Jika Jika) — Given the Bracks government's commitment to protecting the rights of Victorian consumers, can the Minister for Consumer Affairs update the house on payday lending?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the honourable member for her question. Honourable members will be aware that last year the issue of payday lending was publicised quite widely throughout Victoria. Payday lending, for honourable members who have forgotten, involved consumers going into what looked like a bank — it might even have been a bank which has been vacated — where they were offered loans for short periods. They had to sign a contract without knowing what interest rate was being charged or what fees would be charged on top of that, and in many instances people were paying exorbitant interest rates. The Bracks government was very concerned about the development of payday lending in this state, and I took this issue to a ministerial council meeting of consumer affairs ministers.

The uniform credit code operates out of Queensland, and in August amendments to the credit code were made by the Queensland Parliament to crack down on payday lending. The regulations have now been developed around those amendments, and they will come into effect on 10 December. Under the uniform credit code this will automatically mean that the regulations apply in Victoria through our own Consumer Credit Code Victoria Act 1995. What we will now see is that loans from $50 upwards will be covered under the code, whereas before only $200 or more was covered by the code. Now loans of $50 or more will either be covered under the amendments or the regulations that have been made. This will mean that Victorian payday lenders will be subject to extensive disclosure obligations and will be required to register as credit providers. They will also be required to give consumers information on the total cost to be charged before they enter into any loan contracts.

Victorian consumers have the added protection of the 48 per cent annual interest rate cap under consumer credit requirements. The Bracks government believes it is important to protect its consumers, particularly the most vulnerable, and it is committed to doing so. We will continue to monitor payday lending and to ensure that the regulations require people to comply with the credit code and with its spirit and that any unscrupulous payday lenders out there are drummed out of business.

Mining: open cut

Hon. P. R. HALL (Gippsland) — My question is directed to the Minister for Energy and Resources. During the debate on the Mineral Resources Development (Amendment) Bill in November last year, at the National Party's insistence the minister committed to a review into the rehabilitation of agricultural land after open-cut mining. I ask the minister to inform the house whether that review has been undertaken, and if so what are the outcomes?

Hon. C. C. BROAD (Minister for Energy and Resources) — The honourable member is correct; I did commit to that review, and that work has been undertaken by the department. I will be very pleased to

seek that information and provide it to the honourable member. I do not have it to hand, but the commitment entered into at that time has certainly been pursued.

Hon. P. R. Hall — So it has been completed?

Hon. C. C. BROAD — I am not saying it has been completed, but I will be very pleased to provide information as soon as possible to the honourable member on progress on that commitment, which is certainly being honoured.

Young Australian of the Year awards

Hon. D. G. HADDEN (Ballarat) — I ask the Minister for Youth Affairs to advise the house how outstanding young Victorians are being recognised for their participation and contribution within their communities.

Hon. J. M. MADDEN (Minister for Youth Affairs) — Recently I had the good fortune and privilege to attend the National Australia Day Council Victorian chapter's Young Australian of the Year awards ceremony, which included the Victorian Young Achiever of the Year award. It is part of a set of national awards that take place around the country in each state to highlight the significant contributions of young people in our community. The awards are very important for a number of reasons. Not only do they provide role models for young people to aspire to and align themselves with but they also allow the media to focus on the positive achievements of young people.

I often speak about the fact that the media sometimes portrays young people as problematic, and they were the perceptions of the former government, but these awards are particularly significant because they celebrate the contribution of young Victorians.

The seven finalists have succeeded in categories that include the arts, sports, regional initiatives, the environment, community service, science and technology, and career achievement. I want to name those winners so we recognise their contributions. Liwei Qin of Carnegie won in the arts category; Tamsyn Lewis of Kew won the sports award; Lucas Drew of Lilydale won the community service award; Ian Moore of Gisborne won the career achievement award; Kara Britt of Malvern won the science and technology award; in the environment area Sheree Marris of Elwood won the award; and Tanya Bruty of Snake Valley won the regional initiative award.

The most impressive thing about these young people was their level of commitment, their dedication and the hard work they put into each of their respective areas. The overall title of Victorian Young Achiever of the Year for 2002 was Sheree Marris, who was a deserving winner, particularly in the way in which she committed herself to educating people about the marine environment.

On behalf of the Victorian government and the Parliament, I congratulate those young people, their parents, their teachers, their colleagues and their supporters for their outstanding contributions within their respective fields. I wish all the winners well in representing Victoria in the national awards to be announced in January.

Employment: youth

Hon. I. J. COVER (Geelong) — I am very pleased to hear that the Minister for Youth Affairs is so interested in the affairs of young people, and I direct my question to him. Recent Australian Bureau of Statistics figures show an alarming increase in teenage unemployment, from 15.9 per cent in October 2000 to 23 per cent in October 2001. What programs has the minister implemented to address this crucial issue for young Victorians?

Hon. J. M. MADDEN (Minister for Youth Affairs) — The government is making an outstanding contribution to young people in this state in committing an enormous amount of funds across a number of portfolio areas, particularly in relation to apprenticeships and training, education and post-compulsory education.

It should be appreciated that the government has made a significant commitment to young people through education so they will have a future and so they can train and make sure they are engaged in areas of the new economy. These education needs were ignored not just by the federal government but the former Kennett government.

It should also be appreciated that the government has an absolute and continuing commitment to young people and endorses future opportunities, not like the previous government, which saw young people as problematic and located all its youth issues in the Department of Human Services.

Hon. Bill Forwood — Problematic!

Hon. J. M. MADDEN — Problematic perceptions that the media likes to reinforce and which the previous government reinforced. The government is committed to growing the whole of the state for all age groups and will continue with that commitment.

Electricity: energy efficiency

Hon. R. F. SMITH (Chelsea) — I address my question to the Minister for Energy and Resources. In light of the increased use of airconditioning, will the minister advise the house what action the Bracks government is taking to contain the growth in electricity demand for airconditioning?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am pleased to advise the house that the Bracks government recently amended the Electricity Safety (Equipment Efficiency) Regulations under the Electricity Safety Act to introduce minimum energy performance standards for three-phase airconditioners, which are commonly used in commercial and large residential buildings.

As much as 30 per cent of electricity use in Australia is consumed by the motors which power these types of airconditioners. The standards will also apply to three-phase motors that are commonly used for conveyor belts and elevators. The new regulations will result in significant benefits not just for reduced energy use, but reduced greenhouse gases and, importantly, reduced energy costs to consumers. Estimates provided through the national regulatory process suggest that Victorians could save as much as $100 million over the next 15 years under these new standards.

I take this opportunity to acknowledge the contribution of industry regulators, including the Office of Chief Electrical Inspector and energy stakeholders, who worked together to ensure these regulations could be introduced across different jurisdictions at the same time. Victoria's major manufacturers and suppliers of three-phase motors, including companies such as Brook Crompton and Invensys, have supported this initiative and they see the benefits that are being provided through reduced energy use and the cost of their products.

The implementation of these standards has gone very smoothly and several large suppliers in Victoria are very satisfied with the systems that have been put in place to administer the approval of appliances under these new standards. The Bracks government will continue to promote the efficient use of energy in order to reduce energy demand, reduce energy costs and address our environmental responsibilities. This contrasts with the previous Kennett government, which slashed the budget of Energy Efficiency Victoria. It has taken the Bracks government to set up the Sustainable Energy Authority with a budget commensurate with its important responsibilities in this area.

Australian Football League: grand final tickets

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I refer my question to the Minister for Consumer Affairs. On 25 September this year, in response to a question about ticket scalping, the minister said:

> If we discover that tickets are being sold well beyond their recommended retail price, action will be and is taken on those matters.

The very week the minister made that statement the newspapers carried pages and pages of grand final tickets at inflated prices. How many of those cases have been investigated and what action has the minister taken?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — In relation to ticket scalping, the Minister for Sport and Recreation and I have discussed possible legislative requirements that we will need to bring into Parliament — —

Honourable members interjecting.

The PRESIDENT — Order! Both sides of the house are drowning out the minister. I ask the minister to continue.

Hon. M. R. THOMSON — In the past the opposition has failed to support these legislative requirements in this Parliament. Opposition members will be given another opportunity to support the government on the issue of scalping and it will look forward to their support.

Hon. G. K. Rich-Phillips — On a point of order, Mr President, my question to the minister did not relate to future legislative action that the government may or may not take. It related to the minister's statement that if she became aware of ticket scalping she would take action. Given that she is aware of ticket scalping, what action has she taken?

The PRESIDENT — Order! I understood the statement made by the minister on 25 September to mean that she was contemplating some enforcement action in respect of any proven cases of scalping. The minister has indicated to the house that there is some contemplation of future legislation. This does not answer the question. I give the minister the opportunity to directly answer that question.

Hon. M. R. THOMSON — In relation to the answer I gave, I indicated that legislative action would be required. We are investigating scalping. We have talked about investigating scalping and legislative action that will be required.

Torquay Primary School

Hon. KAYE DARVENIZA (Melbourne West) — I refer my question to the Minister for Sport and Recreation. In order to boost participation in sport and recreation, what steps has the Bracks government taken to ensure that community facilities are more accessible to all Victorians?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Last Friday I had the pleasant duty to participate in the official opening of the indoor multipurpose stadium at Torquay Primary School. I congratulate the local member for the area, the Honourable Elaine Carbines, for her commitment to ensuring that that facility was supported by this government. It is a tremendous outcome. We encourage the strategic location of sporting facilities so that they can be used to optimum levels in respective communities to facilitate grassroots participation.

It is a tremendous development because the facility can be used continually by the school. After being open for only a few weeks it has already been used by the Surf Coast Shire for basketball, netball and mixed volleyball competitions.

One of the great things about the facility is that it also doubles as a much-needed performance space for drama groups and schools in the Torquay area. The stadium is a great meeting place and it will develop the community links to which sport and recreation so profoundly contribute.

The cost of the project was more than $1 million with commitments from not only the Torquay Primary School and the Surf Coast Shire, but from Sport and Recreation Victoria. The families in this growing region in Victoria no doubt appreciate the significance of the government's contribution to building infrastructure in those developing suburbs and in the outer urban fringe areas.

In conclusion I congratulate all the people who have been involved in the funding, planning and delivery of the project, in particular Sport and Recreation Victoria; the Department of Education, Employment and Training; the Surf Coast Shire and the Torquay Primary School. Again, the project represents the Bracks government's commitment to growing the whole of the state.

ECONOMIC DEVELOPMENT COMMITTEE

Export opportunities for rural industries

Hon. N. B. LUCAS (Eumemmerring) presented report.

Laid on table.

Ordered to be printed.

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

Fisheries management

Hon. E. G. STONEY (Central Highlands) presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Annual report

Hon. R. M. HALLAM (Western) presented report for 2000–01, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Alexandra and District Ambulance Service — Minister for Health's report of receipt of the 2000–2001 report.

Colac Community Health Service — Report, 2000–2001.

Djerriwarrh Health Service — Report, 2000–2001.

O'Connell Family Centre — Minister for Health's report of 3 December 2001 of receipt of the 2000–2001 report.

Pharmacy Board of Victoria — Report, 2000–2001.

Statutory Rules under the following Acts of Parliament:

County Court Act 1958 — Nos. 122, 123 and 124.

Lotteries Gaming and Betting Act 1966 — No. 126.

Marine Act 1988 — No. 127.

Victorian Qualifications Authority Act 2000 — No. 128.

Water Industry Act 1994 — No. 125.

Subordinate Legislation Act 1994 — Minister's exception certificates under section 8(4) in respect of Statutory Rules Nos 122 to 124.

SELECT COMMITTEE ON THE URBAN AND REGIONAL LAND CORPORATION MANAGING DIRECTOR

Establishment

Hon. BILL FORWOOD (Templestowe) — I move:

(a) That a select committee of five members be appointed to inquire into and report upon any matters relating to the selection, appointment and resignation of Mr Jim Reeves as managing director of the Urban and Regional Land Corporation, together with any involvement of external agencies and consultants.

(b) That the committee shall consist of two members nominated by the Leader of the Government, two members nominated by the Leader of the Opposition and one member nominated by the Leader of the National Party.

(c) That the members shall be appointed by lodgment of the names with the President by the leaders no later than 4.00 p.m. on Thursday, 6 December 2001.

(d) That the first meeting of the committee shall be held at 10.30 a.m. on Friday, 7 December 2001.

(e) That the committee may proceed to the dispatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy.

(f) That the committee shall elect a deputy chairman to act as chairman at any time when the chairman is not present at a meeting of the committee.

(g) That three members of the committee shall constitute a quorum.

(h) That the committee may send for persons, papers and records.

(i) That the committee may authorise the publication of any evidence taken by it in public and any documents presented to it.

(j) That reports of the committee may be presented to the Council from time to time and that the committee present its final report to the Council on or before 31 May 2002.

(k) That the presentation of a report or an interim report of the committee shall not be deemed to terminate the committee's appointment, powers or functions.

(l) That the committee shall, unless it otherwise resolves, take all evidence in public and may otherwise sit in public at any time if it so decides.

(m) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders and practice of the Council, shall have effect notwithstanding anything contained in the standing orders.

The effect of the motion is to establish a select committee of the Council to inquire into all matters relating to the selection, appointment and resignation of the Premier's mate, Mr Jim Reeves, as the managing director of the Urban and Regional Land Corporation (URLC).

The motion before the house today is here for two reasons: first, the people of Victoria are entitled to know the truth behind this sorry saga. The people of Victoria are entitled to know the sequence of events, the causes of the events and the people behind the events that led to a very strange affair. The people of Victoria are entitled to know how come the Urban and Regional Land Corporation proposed to appoint a South Australian planning expert, Mark Henesy-Smith, to the position of managing director. They are entitled to know the real reasons why the government did not accept the board's choice. After all, the board had undertaken a proper process to find the best person for the job. The people of Victoria are entitled to know why the government effectively — —

Hon. J. M. Madden interjected.

Hon. BILL FORWOOD — Dear, oh, dear. We will get to the issue of consultation soon enough. The minister obviously does not understand how the act works. He is the Minister assisting the Minister for — —

Honourable members interjecting.

Hon. BILL FORWOOD — I can see, Mr President, that we are going to have a lively time today. What has become apparent very quickly is that the Minister assisting the Minister for Planning has no understanding of the Urban and Regional Land Corporation Act and is just displaying as usual his ignorance to the house.

The PRESIDENT — Order! Interjections are always disorderly, but when they are totally unrelated to the motion they are not allowed, so I ask the honourable member not to persist on that line.

Hon. BILL FORWOOD — The people of Victoria are entitled to know why this government effectively relieved the board of its statutory responsibilities in relation to filling the chief executive officer's position by establishing its own panel of departmental heads, which led inevitably to the government forcing

Mr Reeves on the URLC and ultimately led to the resignation of the deputy chairman of that organisation. The people of Victoria are entitled to know why these events occurred and who ultimately was responsible for them.

The second reason this motion is being debated today is that this government did not act to clear the air, did not itself set up a mechanism — for example, an independent judicial inquiry which would have enabled the truth to come out — which would have enabled the people of Victoria to judge for themselves the appropriateness or otherwise of the actions of the Premier, the actions of the Deputy Premier, the actions of the Treasurer, the actions of Professor Neilson, the head of the Department of Infrastructure, the actions of Terry Moran, the head of the Department of Premier and Cabinet, the actions of Grant Hehir, the acting head of the Department of Treasury and Finance, and of course the board of the URLC.

The second reason this is being established is so that the people of Victoria have an opportunity to judge for themselves whether or not the process of filling the job for which the Urban and Regional Land Corporation in its submission to the government of 4 July, said the total remuneration package (TRP) was in the range of $225 000–$295 000 plus a maximum bonus opportunity of 20 per cent of TRP, which calculates out to $354 000 a year. Victorians are entitled to know whether this has been an appropriate process.

Hon. G. W. Jennings interjected.

Hon. BILL FORWOOD — Absolutely! We will hear your contribution but absolutely it is. Make no mistake — the motion is before the house today because the government refused to establish its own judicial inquiry. An offer was made by the Leader of the Opposition in the other place, an offer was made by me by way of interjection when giving notice of this motion last Thursday and an offer was also given by me in a letter to the Premier yesterday. If the government had called an independent judicial inquiry this motion would not have proceeded today.

I wish to make clear another point. This select committee is not about Jim Reeves. He is as entitled to apply for a job and move to Melbourne if he so wishes as anybody. This select committee is about process, integrity and the credibility of a government which claims to be open, honest and accountable but which in fact is crook. It is a government that is sneaky and deceitful. It says one thing in public but does something completely different in private.

I will give honourable members one minor example in this sordid tale. The government is the master of the press release; it announces everything. Anyone can go to the media releases in the Department of Premier and Cabinet and see them on the web site. They are all there.

Hon. I. J. Cover — Not this one!

Hon. BILL FORWOOD — Not this one, Mr Cover. There is something about this appointment. Why was it not on the web site? What has the government got to hide? Ewin Hannan in his very sensible article entitled ‘No longer lilywhite’ states:

> Until nine days ago, the government had not spoken a word of these events. The appointment of Reeves was announced via a press release from the corporation that was sent to a group of property writers, avoiding mainstream political reporters.
>
> Despite Thwaites being so excited about the potential of Reeves for Melbourne’s urban redevelopment, the publicity-keen minister did not announce it, publicly acknowledge the appointment or issue a press release through his office.

Nor has one yet been listed by him.

There is nothing open, honest or accountable about this announcement. This dead-of-night announcement is designed to disguise and avoid notice rather than to applaud a top decision or a top appointment. Why is that the case? Because they knew it was a sham, but they thought they just might get away with it. It was a sham, and they knew it. So much for open, honest and accountable government. What hollow words!

Under paragraph (h) of this motion the select committee will have the capacity to send for persons, papers and records — it has the capacity to follow rabbits down burrows. For example, the select committee has the capacity to inquire into the part played by Professor Neilson. The few public documents that have been released by the government raise more questions than they answer, but they indicate that Professor Neilson had a big hand in what happened.

If you look at the documents released by the government you will find that the briefing to the Minister for Planning in the other place by Professor Neilson, dated 18 September, states under point 5:

> Six candidates were originally selected following an executive search process. Following discussions with the chairman URLC I was invited to join the interview panel for these candidates.

This is in code to say that Professor Neilson got himself invited onto the panel. If you look at the response from the URLC you will see it has a very different interpretation of that event. The chairman of the URLC, Marek Petrovs, wrote to the minister on 17 August. His letter states, in part:

> (As you will be aware —

in brackets, mind you —

> by invitation, Lyndsay Neilson was present at all interviews conducted by the subcommittee of the board.)

He makes the point, quite rightly, that under clause 6 of schedule 1 of the act the responsibility is with the board. But Professor Neilson decided he wanted to ride shotgun; he wanted to be there, so he got himself invited as an observer, and he later tries to parlay his position into being a member of the panel.

On 4 July the deputy chair, Angie Dickschen, who later resigned, wrote to the minister seeking the appointment of, as we know, Mark Henesy-Smith. By 17 August there had been no reply, and it is important to put on the record that in a letter of 17 August to the Minister for Planning Mr Petrovs said:

> I refer to our letter of 4 July and note we have not yet received a response.
>
> The board of the URLC considers that it has gone through the proper process in relation to selecting the proposed chief executive of the URLC. A copy of the paper to the board which was considered at its meeting of 27 June 2001 is enclosed which describes the process.
>
> At its meeting of 27 June the board resolved:
>
> 1. to accept the recommendation of the subcommittee of the board that subject to satisfactory reference checks and consultation with the minister that —

the name is blanked out, but we now know it is Mr Henesy-Smith —

> be the board's approved candidate for the position of chief executive officer on terms and conditions to be finalised; and
>
> 2. that the deputy chairman be authorised to write to the minister and the Treasurer informing each of the proposal to appoint … under clause 6 of schedule 1 to the Urban and Regional Land Corporation Act.

That clause is very specific. It states:

> The board of URLC, after consultation with the Minister and the Treasurer, may appoint a person as the chief executive officer of URLC.

That makes it very clear that the responsibility belongs to the URLC. It is also very clear in section 14(5) of the act where under the heading 'Duties of directors' it says:

> This section has effect in addition to, and not in derogation of, any Act or law relating to the criminal or civil liability of a member of the governing body of a corporation and does not prevent the institution of any criminal or civil proceedings in respect of such a liability.

That section says that the board of this corporation needs to act according to the Corporations Law. It needs to act in a proper manner and it did but its process was subverted by the government. The select committee will have the capacity to get to the bottom of how and why this occurred. Mr Petrovs goes on:

> I have been informed by Lyndsay Neilson that it is proposed to reinterview a select number of candidates previously interviewed by the board subcommittee. The board has no knowledge of the basis upon which those candidates were chosen for reinterview. I understand that you have nominated an interview panel consisting of Lyndsay Neilson, Department of Infrastructure, Terry Moran, Department of Premier and Cabinet, and Grant Hehir from the Department of Treasury and Finance. (As you will be aware, by invitation, Lyndsay Neilson was present at all interviews conducted by the subcommittee of the board.)
>
> I also understand that these interviews have been arranged directly with each candidate without the involvement or knowledge of the board's executive search consultants which I consider given the confidential nature of an executive search process is highly inappropriate.
>
> The board does not consider the proposed reinterview process is consultation and is not in accordance with the act. Accordingly, the board does not endorse this process and my presence at the interviews will be solely as an observer and is not to be taken as an endorsement of the process.

I make the point that the copy we have been given is very difficult to read. He concludes:

> The board awaits your response before making any further decisions in relation to this matter.

We know Professor Neilson got himself into the original interviews. Professor Neilson wrote the memo of 3 August to the Minister for Planning recommending reinterviews and nominating the three people who should be on the interview panel — himself, Terry Moran and Grant Hehir. It is only that the minister then adds to bottom of that document in handwriting:

> Please include chair of ULRC —

he probably means URLC —

> on interview panel.

That note is signed by John Thwaites. What happened? The government decided to forget about the statutory responsibility of the board of the URLC and set up its own panel to put its own candidate in this position. It is

an absolute sham! The point about this is Professor Neilson played a leading role in this sorry affair and the select committee will have the capacity to inquire into whether anybody instructed, perhaps guided, Professor Neilson in his actions and, if so, who was that person or who were those persons and to reveal that to the people of Victoria.

The previous chief executive officer, Desmond Glynn, is referred to in an article on page 5 of the *Herald Sun* of 24 November. It states:

> … he did not bother reapplying for his job when his four-year term expired in June because the government had already appointed one of their own.
>
> 'I did not seek re-election because it was already known way back in May that the government wanted to put in their own man', he said.
>
> 'Everybody knew — it was a done deal — and the whole recruitment process was a sham'.

Way back in May — before the process started and before, as we now know, the Premier and the Deputy Premier started to discuss this issue — this was a done deal. No matter how much the Premier protests, this was a done deal and a sham. Due process was not followed and the independence and integrity of a government business enterprise was compromised so much that a leading Victorian lawyer resigned from the board.

This was a done deal. Even the Brisbane journos knew it was a done deal! The first edition of the *Courier Mail* of Saturday, 14 April 2001 ran a feature article by Matthew Franklin under the headline 'Electorate sorely tested by mayoral speculation'. It is an article about Jim Soorley and about the future of the mayoralty of the City of Brisbane. The article says:

> Whatever happens, Soorley will go sooner or later. Someone will have to take his place. With Tim Quinn and David Hinchcliffe already declared candidates, another possible contender is Jim Reeves — Soorley's right-hand man in city hall and a former mayor of Ballarat.
>
> Reeves is widely respected in city hall circles as an A-grade fix-it man —

not a property developer; just an A-grade fix-it man —

> whose skills are a significant reason for Soorley's political and administrative success.

Hon. G. W. Jennings — It is the B-grade team assessing an A-grade candidate.

Hon. BILL FORWOOD — Thank you for your interjection, Mr Jennings. The select committee will be able to establish this.

Hon. G. W. Jennings — Exactly.

Hon. BILL FORWOOD — Absolutely! The article continues:

> Reeves refused to discuss his plans with the *Courier Mail* or to comment on claims that he has ruled himself out of the race —

that is, ruled himself out of the race for mayor —

> by accepting a new job with the Victorian government of his close friend Steve Bracks.

On 14 April 2001 — before the process started and before anybody in Victoria knew anything about this — what do we have? We have the journos in Brisbane saying that Reeves refused to discuss his plans with the *Courier Mail* or to comment — 'No comment', he said — on claims that he has ruled himself out of the mayoralty race in Brisbane by accepting a new job with the Victorian government of his close mate Steve Bracks. I trust that the select committee will have the capacity to get to the bottom of this sordid affair and that the air will be cleared.

Hon. T. C. Theophanous interjected.

The PRESIDENT — Order! The Honourable Theo Theophanous will have the opportunity to contribute to this debate. I ask him to desist and allow the Leader of the Opposition to complete his remarks.

Hon. BILL FORWOOD — I trust that the select committee will get to the bottom of this sordid affair and that the air will be cleared. I trust that the damage caused to the independent Urban and Regional Land Corporation will somehow also be repaired.

But some damage cannot be repaired. The people of Victoria will never forget that in a desperate attempt to distance himself from this fiasco, the Premier betrayed his friend of 30 years. 'Past' or 'historic' — no matter what spin the Premier puts on it now, Victorians know that this man denied his friend to save his own skin.

Hon. G. W. JENNINGS (Melbourne) — This motion has brought in a trumped-up charge of jobs for the mates. Let us look at what has happened in the past two years under the Bracks government. We have seen 2500 nurses added to the Victorian hospital system, we have seen 2000 teachers added to the education system, we have seen 500 police officers put on Victorian streets to protect the community's safety.

Hon. B. C. Boardman interjected.

Hon. G. W. JENNINGS — These are not jobs for mates, but I can assure you that for every Victorian

citizen who wants better education for their kids, who wants better health care when they go into hospitals, who wants to feel safe on Victorian streets — every single one of those appointments is a friend of the Victorian community. We have delivered what matters to Victorians — that is, a turnaround in the quality of care that is provided by public institutions to the people of Victoria. That is a significant issue, and that is what the Victorian community worries about. It is not about jobs for the mates; it is about friends of the Victorian community in times of need, and that is what this government has delivered.

The first two years of this government has seen time and again the magnanimity of this government in providing ongoing job opportunities for former members of the Liberal and National parties to provide an ongoing role for their contribution to public life in this state.

Only yesterday in Queensland the former Premier of this state referred to being amazed at the generosity of spirit shown by my colleague the Minister for Health — a minister who is in the firing line of this current inquiry — in endorsing the former Premier's appointment to the mental health depression institute in this state. In fact, the former Premier said he often asks himself whether he would have been able to apply this generosity of spirit himself. He left it as a rhetorical question; he was unable to answer the question.

I suggest to the opposition that it should look at a number of other appointments this government has made in the last two years of former members of this place and other political activists within the Liberal and National parties to ongoing roles in public life in this state. They include: Tom Reynolds, who has been appointed a trustee of the Caulfield Racecourse by my colleague the Minister for Racing; Alan Brown, the former Liberal minister who has been appointed by my colleague the Minister for Environment and Conservation to the Central Gippsland Water Authority; James Forbes, the Liberal candidate for the federal seat of McMillan in the most recent federal election, who has been appointed by the same minister to the West Gippsland Catchment Management Authority; Don Chambers, the National Party's recent candidate for the federal seat of Indi, who has been appointed to the board of Ecorecycle; Geoffrey Connard, a former state Liberal member of this place, who has been appointed by the Minister for Health to the board of the Peter MacCallum Cancer Institute; John McGrath, a former National Party member, who has been appointed as chair of the Consumers' and Carers' Ministerial Committee on Mental Health — —

Honourable members interjecting.

Hon. G. W. JENNINGS — The opposition does not want to hear this. I have a list of your mates — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the honourable member to direct his question through the Chair. Before he resumes, I would like to acknowledge some visitors who have come into the gallery.

Debate interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! I would like to welcome to the gallery from our sister state in the People's Republic of China, Jiangsu Province, the Jiangsu Economic and Goodwill Delegation led by Mr Wang Rongbing, Vice-Governor of Jiangsu, and the members of his delegation. Welcome, gentlemen!

Debate resumed.

Hon. G. W. JENNINGS (Melbourne) — As a recent visitor to Jiangsu Province I have absolute respect for the delegation from Jiangsu Province, so my enthusiasm for this ongoing debate should not be misinterpreted as disrespect to the delegation. However, I must say that I have a healthy disrespect for the hypocrisy of the opposition in pursuing this motion.

I go on with my list of appointments made by this government in the past two years of prominent members of both the Liberal Party and the National Party, demonstrating that this government is prepared to provide an ongoing role for former members of the coalition who have a capacity to make a contribution to public life in this state. The government has not shied away from providing a number of job opportunities for these mates of the Liberal Party and the National Party.

Stuart McDonald, a former National Party member of Parliament, has been maintained in an ongoing role and recently reappointed as head of the Rural Finance Corporation. Ted Tanner, former Liberal Party whip in the other house, has been appointed to the Keep Australia Beautiful committee by the Minister for Environment and Conservation. Lance Netherway, a senior Liberal Party administrative figure, has been appointed by the same minister as chair of the Wimmera Mallee Water Board. Michael Murphy, who in 1992 was preselected as a state Liberal Party candidate, has been appointed by the same minister as chair of the Glenelg Hopkins Catchment Authority.

James Coghlan, a prominent member of the Liberal Party, has been appointed to the Central Highlands Water Board. Rob Knowles, the former Minister for Health who played a prominent role in this chamber and in the public life of Victoria in the past two decades, has been appointed with the blessing of the Minister for Workcover and the commission to an ongoing role as a consultant to the Transport Accident Commission.

That is a substantial list of appointments of former premiers and former ministers, and it indicates the contributions prominent members of the Liberal Party and National Party have made to the public life of Victorians, which this government has been prepared to acknowledge. We have not shirked from making appointments. The list indicates what the Bracks government has done in its first two years on public life. There has been nothing wrong with making appointments of people who have political affiliations — —

Honourable members interjecting.

Hon. Bill Forwood — It's the process.

Hon. G. W. JENNINGS — There is nothing wrong at all if they have made a contribution to public life, and as the Leader of the Opposition has said, a proper process has been gone through. The evidence in the public domain and put on the public record this morning does not indicate any undue process. There are alternative views about the way the process worked under clause 6 of the schedule to the act, but there is ample evidence in the public domain to indicate that the process has been followed.

We contrast the record of the government in its first two years of public administration with a number of appointments made by the previous government within its first two years: Ron Walker, a prominent figure and federal Treasurer of the Liberal Party, was given a number of appointments including membership of the Melbourne major events committee and Melbourne grand prix promotions. What a surprise that the Bracks government has maintained that appointment! Hardly the act of a vindictive and vexatious government — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the members on the front benches on both sides to keep out of the debate while the honourable member is developing his argument.

Hon. G. W. JENNINGS — I thank you, Mr President, for your assistance, and I assure you that regardless of the contributions of opposition members I will maintain my vigour in prosecuting this case because it makes clear the rampant hypocrisy of the opposition in pursuing a motion to have this house establish a Star Chamber.

Former Kennett government staffer Saul Eslake is making a valuable contribution in a range of economic analyses. In many ways I support the economic analysis he offered during the federal election campaign. During the first two years of the Kennett government he was appointed head of the Victorian Audit Commission. Peter Bennett, the former head of DDB Needham who did the Liberal Party election ads, was appointed head of communications of the Department of Premier and Cabinet. Paul Leeds, also formerly with DDB Needham, was appointed government advertising purchaser. Ken Crompton, former head of the Australian Chamber of Manufactures and prominent Liberal Party supporter, was appointed Agent-General in London. The daughter of former Kennett government minister, Robin Cooper, directly benefited from the massive contract to her company, Troughton Swier, to privatise the electricity industry. Leonie Burke, who subsequently became the member for Prahran in the other place, was appointed head of the Local Government Board. Karen Synon, the Liberal Party candidate who stood against the now Premier Steve Bracks, was awarded the position of first assistant secretary in the Department of Business and Employment and went on to become a Liberal Party senator.

My comparison of the appointments made by the Bracks administration during the first two years of its term in office is a stark contrast with the sorry history of the Kennett government. The Bracks government's appointments have involved proper process and recognition of the contribution of our political opponents and their capacity to play a role in Victorian public life. We have been prepared to expose ourselves to scrutiny in any appointments we make, including the appointment in question today. I have referred to appointments of only prominent Liberal Party and National Party figures within the first two years of the Kennett regime, a regime that lasted seven years. At no stage during that time did this place apply scrutiny to the appropriateness of the process or of the quality of the candidates or make an acknowledgment that any of those appointments may have been due to political affiliation. This place stayed silent for seven years and did nothing.

Hon. Bill Forwood — You were not here; you know nothing!

Hon. G. W. JENNINGS — I was a member of the Victorian community that knew. I witnessed that this place laid down for seven years and did nothing about appropriate scrutiny. Not once did this house establish a select committee; not once did it expose the practices of executive government to scrutiny; not once did this place accept amendments moved by the opposition in terms of scrutiny of the Kennett government's legislative program; not once did this house justify its existence by imposing any scrutiny on the public administration of the Kennett regime.

It is extraordinary hypocrisy for opposition members to come into this place today and suggest that this case warrants the establishment of a select committee. On average this mechanism is only used once a decade and in the last two months we have seen it trotted out — —

Hon. Bill Forwood — Twice, because you're a crook!

Hon. G. W. JENNINGS — It is a tawdry political exercise and vexatious in that it is overkill. During the federal election this chamber was used to do a hatchet job on the Labor Party's candidate in Frankston and today it has been used to do a hatchet job on the Premier, the Deputy Premier and prominent public servants in this state. It is a complete hatchet job that has been prejudged and predetermined. It was disingenuous of the Leader of the Opposition in this place to suggest that the people will decide, when his leader in the other place has claimed ownership. Not only has he prejudged the case, but he has claimed ownership of the select committee process.

In his interview with Neil Mitchell on 29 November the Leader of the Opposition in the other place in one instance pathetically tried to indicate that this select committee would be established in a bipartisan manner. He suggested a bipartisan approach would be taken, and that was his ostensible reason for saying that the motion before the house is an appropriate mechanism for establishing a select committee. He knows that under the rule of 30–14 that applies in this place — that is, the numbers here being 30 members of the opposition and 14 members of the government — the motion will be rammed through and will be adopted by this place. He has prejudged the outcome and is paying lip-service to the supposedly bipartisan nature of the select committee.

In the radio interview of 29 November the Leader of the Opposition in the other house, Dr Napthine, said that Mr Reeves was:

> … clearly not qualified for the job.

Neil Mitchell went on to ask:

> Would you have the power to require Jim Reeves to give evidence?

Dr Napthine responded:

> We would have the power under … this inquiry to call, subpoena witnesses …

Neil Mitchell asked:

> Would you be able to subpoena the Premier?

Dr Napthine replied:

> Well, we'd be able to subpoena the Premier …

Hon. T. C. Theophanous — He's coming to the upper house!

Hon. G. W. JENNINGS — I see. After Mr Mitchell asked Dr Napthine about the capacity to establish the nature of the relationship between the Premier and Mr Reeves, Dr Napthine laughed and said:

> Our inquiry is a minnow compared to the ambulance royal commission.

The recurring issue is that the Leader of the Opposition prejudged the case by making pronouncements in the public domain to the effect that Mr Reeves was neither the best candidate nor qualified for the job. He went on to claim ownership of the select committee and prejudged the determination of this chamber to establish its select committee under its auspices in the way it sees fit. From the other place he has the audacity to claim ownership of the select committee that is to be established if this motion is agreed to by this chamber.

He has no right in the public domain, the private domain or in Parliament to claim ownership over a select committee which is subject to consideration by this chamber. In that appalling radio interview the Leader of the Opposition went on to equate Mr Reeves's candidacy for the position with a bank robber who returns money and said:

> … you shouldn't have an inquiry to find out who it was or that they shouldn't go to jail.

The Leader of the Opposition in the other place has on the public record, outside Parliament, equated the candidacy of Mr Reeves with a bank robber who has

returned money and is trying to hide from scrutiny his guilt at being a bank robber.

Today the Leader of the Opposition in this place said the motion is not an exercise to hang, draw and quarter Mr Reeves, as that has already been achieved by his leader in the other place who claims ownership of a select committee of this place. He has prejudged the outcome by publicly telling this house how it should conduct its affairs and how it should operate to confirm the guilt that he has already predetermined.

It is an outrageous slight on this chamber and an outrageous act of political opportunism. The people of Victoria will not be fooled by this, regardless of whether the select committee is established. The people of Victoria will not accept the bona fides of this select committee.

In my contribution up until this point, and for the remainder of it, I indicate that the government has every reason to oppose the motion. I propose to move amendments to the motion to ensure there is an appropriate bipartisan approach to the inquiry. I will labour to have the Legislative Council demonstrate some bona fides in this matter about the scope of the inquiry and the way in which it would be constituted. That goes to the heart of the amendments for which I seek the support of the chamber. Therefore, I move:

1. That the expression 'and the circumstances surrounding contracts entered into between the Urban Land Authority (now known as the URLC) and KNF Advertising Pty Ltd since 1992.' be inserted at the end of paragraph (a).

2. That the expression 'two' —

which relates to the number of government members —

(where first occurring) be omitted in paragraph (b) with the view of inserting in place thereof 'three'.

3. That the expression 'three' in paragraph (g), be omitted with the view of inserting in place thereof 'four'.

4. That the expression '31 May 2002' in paragraph (j) be omitted with the view of inserting in place thereof '31 January 2002'.

Hon. Bill Forwood — On a point of order, Mr President, I seek your ruling on whether these are appropriate amendments to the motion before the house.

Hon. T. C. Theophanous interjected.

Hon. Bill Forwood — Absolutely nothing. Have a royal commission! If you want to have an inquiry into KNF, set one up yourself, Dodo! Get Lex Lasry back for $80 million!

The PRESIDENT — Order! The question is whether the proposed amendments are appropriate for this motion. I ask the honourable member to address that argument to assist my consideration.

Hon. Bill Forwood — Mr President, *May* is very clear that in amendments to motions such as this certain things cannot be added. If it is not capable of being debated as part of the original motion, you cannot move an amendment that will introduce extraneous material.

The motion before the house today is absolutely specific. It is about the selection, appointment and resignation of Mr Jim Reeves as managing director of the Urban and Regional Land Corporation, together with any involvement of external agencies and consultants in that appointment. It has absolutely nothing whatsoever to do with the witch-hunt that the Labor Party has run against Felicity Kennett for a very long time. I invite you, Mr President, to rule it out of order.

Hon. G. W. JENNINGS — On the point of order, Mr President, in your deliberations on this matter and in providing some guidance to honourable members, I may call upon you to indicate to the house that if I moved a substantive motion which included the reference that appeals to the opposition and also this reference which relates to KNF Advertising and its connection with the Urban and Regional Land Corporation, I believe it would be quite within the scope of the opposition to call upon you to support their capacity to delete the reference to KNF Advertising.

So in terms of the judgment you will be asked to make, I think the house and indeed the Victorian community could well reflect on the question: how can it be that if the government had sought an inquiry into this matter and into KNF Advertising it would be quite within the scope and proceedings of this house for the opposition to delete reference to KNF Advertising? However, the reverse situation of adding to the reference is going to be denied to the Parliament and to the people of Victoria.

Hon. T. C. Theophanous — On the point of order, Mr President, I ask that in considering your response to this point of order you consider the following points. The motion moved by Mr Forwood seeks to establish a select committee to inquire into and report on matters which directly relate to the process of appointment by the Urban and Regional Land Corporation, together with any involvement of external agencies and

consultants, so it is about how the corporation dealt with and deals with such appointments and its own internal processes. That is part of it.

I put to you, Mr President, that the KNF affair was indeed about and centred on a $180 000 contract which was funded partly by a government agency — which was in fact the Urban Land Authority, the predecessor of the corporation — and which was awarded to KNF and as a consequence put in question the managerial processes that were involved in awarding that contract. If there are problems with the managerial processes and if the board of management is subject to direction, as the opposition has tried to say, we want to know whether it was subject to direction during the KNF affair and if that is how Jeff Kennett got his contract.

Hon. M. A. Birrell — On the point of order, Mr President, the issue before the house is not whether a certain matter should be inquired into, but whether the house today, with no notice, can amend a motion to create an inquiry for a different matter to the one for which notice was given yesterday.

The rules of the house have always been that you give notice of a substantive matter, which gives 24 hours notice to your opponents so they can prepare for it, and that amendments made to it cannot be so substantive as to surprise the opponents, which is why every side gives 24 hours notice of them. That is the nature of the rules of the house. It is not an issue of whether there should be an inquiry into X or Y; it is whether substantive notice has been given, as is the norm from the Labor Party, the Liberal Party or the National Party. These are substantive amendments.

I might say to reinforce that point that if the government had wanted to put this motion on notice at any time in the past two years it could have done so. Indeed, if it had wanted to appoint a royal commission into that matter in the past two years it could have done so — presumably Mr Lasry was available — but it did not seek to do anything of that type. Instead it is moving amendments to a motion today which are clearly substantive amendments as part of a diversion tactic.

I submit to you, Mr President, that the issue is not whether topic X should be looked into, but whether you can amend a motion in a substantive manner which makes it so different to the original motion that it should be moved in its own right. If the government wants to move that and debate it on a subsequent day it can do so, but it would be improper to effectively ambush the house through this substantive amendment.

The PRESIDENT — Order! The fundamental rule as spelt out by Erskine May in relation to amendments — and I quote from page 346 of his 22nd edition, which is in fact incorporated in my ruling which has circulated and operated in this house since 8 March 1995 — is as follows:

> The fundamental rule that debate must be relevant to a question … also means that every amendment must be relevant to the question to which it is proposed.
>
> Stated generally, no matter ought to be raised in debate on a question which would be irrelevant if moved as an amendment, and no amendment should be used for importing arguments which would be irrelevant to the main question.

The rest of it does not need to worry us here. The question in this case is: what is the motion before the house? The motion is that a select committee be appointed to inquire into and report upon any matters relating to the selection, appointment and resignation of Mr Jim Reeves as managing director of the Urban and Regional Land Corporation (URLC), together with any involvement of external agencies and consultants. It is a very limited proposition.

If we look at the Urban and Regional Land Corporation Act — its most recent reprint is dated 13 September this year — we find that the question of appointments comes under either of two areas. One is the appointment of directors which, under clause 3 of schedule 1 to the act, is in the hands of the Governor in Council. The second is the appointment of a chief executive officer under clause 6(1) of the schedule which states:

> The board of URLC, after consultation with the Minister and the Treasurer, may appoint a person as the chief executive officer of URLC.

So the motion before the house is specifically in relation to the appointment of a person to a particular executive position in the corporation. Looking at amendment 1, the question is whether it is capable of amending this motion in such a way as to expand it on an issue which is completely different — not the employment of a person to an executive position, but to the entering into a contract for the supply of services. In relation to the suggestion by the Deputy Leader of the Government that if this amendment were a motion it would be quite capable of being moved, clearly it would be. But that is not the question before the house. The question is whether it is an appropriate amendment in this case.

There are two answers to the question. One is that it is a very limited motion and I do not believe, and I rule, that it is not capable of being extended in the way that is

being suggested. It follows, from *May*, that nor should there be any development of that argument on those issues. I also point out that on 20 October 1993 this house debated and dealt with a similar motion as in the honourable member's amendment, where it was proposed to set up an independent board of inquiry in relation to KNF and its relationship with the then Urban Land Authority. That motion was debated in the house and negatived.

An Honourable Member — Plagiarised.

The PRESIDENT — I am just reinforcing what I said before. Such a motion is obviously possible because the same question rule does not apply. That is really irrelevant to the fact that this amendment is much wider than the motion contemplates and therefore I rule that amendment 1 may not be proceeded with.

Hon. G. W. JENNINGS — Mr President, I am not uncomfortable with your ruling as I certainly have a clear understanding of the ways and means of this place and the nature of your rulings, and indeed the nature of *May*. But I suggest to the chamber that the Victorian community may not be so alive to the technical nature of the way in which this house operates. The residual message to the Victorian community may contain a degree of hypocrisy as to how the terms of reference of this committee, particularly to the appropriate scrutiny which this chamber failed, in my opinion, to provide to Victorians from 1992 to 1999 and continues to do so.

In relation to the remaining three amendments which have not been so dealt with by the Chair — amendments 2, 3 and 4 — I believe they are not subject to your ruling as they deal with different matters. The first item is designed to have a balance. Responding to the Leader of the Opposition who says this is a bipartisan committee, I say let us take up the challenge. If we had three-all, opposition and government members, there might be an opportunity for it to operate in a bipartisan fashion. So the challenge is issued to the Legislative Council: is it prepared to establish a bipartisan committee where the numbers are equal?

The next challenge, which runs off that, is to ensure that it is not within the domain of the committee to meet without government members attending. Further, to make sure that the quorum is increased from three to four, and, because the government has a high degree of confidence in the public disclosure of these issues already, the government is happy to bring forward the inquiry from May to January.

I believe the government has indicated its willingness to comply with evidence, as has been demonstrated by the vast array of public documents it has circulated already. I believe there is nothing the government is concerned about which should be hidden from public view. The net effect of this is that Mr Reeves has already declined to take up the appointment so will not be appointed to this position. The government wants to proceed as quickly as possible with the ongoing full-time appointment to this position.

The Leader of the Opposition — surprise, surprise! — read selectively from the material that the minister made available. My selective reading of it may emphasise slightly different things, particularly the incisive and appropriate role played by the Secretary of the Department of Infrastructure, Lyndsay Nielson, a public servant of the highest calibre who has worked with distinction in both the commonwealth and state jurisdictions and under both conservative and Labor governments. I believe the other members of the second interview panel, Terry Moran and Grant Hehir, both longstanding public servants who have worked in both commonwealth and state jurisdictions for governments of different persuasions, also have impeccable track records as senior public servants in both Victoria and the nation.

For anybody to suggest that they would expose their credentials as longstanding public servants to the slur they have received, particularly from the Leader of the Opposition in the other place, is a disgrace, and it undermines the integrity of the mindset that this select committee may be established to investigate. I have great confidence in the actions of those officers. I also have great confidence in the advice they provided to the Minister for Planning and the Treasurer on this matter. I believe their interpretation of the act is totally appropriate and consistent with the act's requirements.

Interestingly enough one of the public documents that the Leader of the Opposition did not refer to was a sign-off by the chairman of the board to the Minister for Planning to indicate that the board considered the views of the residual of the process and accepted the appointment.

Hon. Bill Forwood — Read the letter into *Hansard*!

Hon. G. W. JENNINGS — I am happy to read it into *Hansard*, because it reasserts my point. This is an issue that Mr Forwood did not put on the public record and that I would be happy to add to the public record. The letter is dated 26 September. It is from the chairman of the board of the Urban and Regional Land

Corporation, Marek Petrovs, to the Minister for Planning, and it states:

> The board noted your letter to the chairman dated 20 September 2001.
>
> On the basis that the Treasurer and yourself, being the shareholders of the corporation, expressed in the letter the firm view that the board should now consider the appointment of Mr Jim Reeves as managing director, the board resolved that:
>
> (a) Mr Jim Reeves be appointed as managing director.
>
> (b) Our letter is to be taken as evidence that the board has consulted with you and the Treasurer regarding the appointment.

So who made the appointment as required under the act? The board did, after consultation with the minister! The chairman of the board signed off to that effect. What a surprise! What a surprise that the Leader of the Opposition did not in his lengthy exposé of the public documents that were released by the government refer to that item.

It is my belief that the combination of that communiqué from the board to the minister and the reality that Mr Reeves for whatever reason chose not to take up his appointment indicates that it will be vexatious for the Council to pursue the establishment of a select committee. The challenge to the chamber this morning is to accept the amendments that have not been ruled out, to establish this committee on bipartisan terms and to review the length of inquiry in accordance with the amendments that I have put on the table this morning. I will be very surprised if the chamber is mature enough to accept that challenge. Time and again amendments that have been so moved have not been accepted — that has been the track record of the opposition parties for the past two years. It also has the sorry history of its seven-year silence over scrutiny of executive government during the Kennett era.

It is a challenge that I hope the Council will stand up to. I hope it supports the amendments. Certainly if it does not the government will have no option but to totally oppose the establishment of the committee.

The PRESIDENT — Order! To make it clear I advise the house that it will be debating as well as the motion the amendments listed as 2, 3 and 4 in the name of Mr Jennings.

Hon. W. I. SMITH (Silvan) — This motion before the upper house is about conducting a parliamentary inquiry into how the government appointed Jim Reeves to the position of managing director of the Urban and Regional Land Corporation (URLC).

The motion is not about the individual. It is about the apparent lack of due process, proper standards and integrity that has been revealed through the government's inconsistent and often incoherent answers to questions on the process of the appointment. In refusing to set up an inquiry the government has left the upper house, the house of review, with no alternative but to ensure that an inquiry proceeds and that it examines whether due process or political interference has occurred.

When both Victorian major daily newspapers use editorials to demand a parliamentary inquiry into the government's actions — newspapers which inform and often form the community's opinion — it is even more important that the upper house respond and examine the due process and the integrity of the government to see whether misconduct has taken place.

The *Herald Sun* of 30 November describes the actions of the government as a very messy affair. It states:

> The Bracks government's credibility has been seriously damaged by the Premier's shifting accounts of his involvement in the Reeves affair.

This independent article from a daily newspaper is critical of the government for not following due process. The article further states:

> The furore surrounding the appointment of Mr Bracks' Labor mate Jim Reeves to a … government job against the wishes of the Urban and Regional Land Corporation is out of control …
>
> Unfortunately, a parliamentary inquiry is now necessary to arrive at the whole truth of the Reeves affair.
>
> The events of this week suggest this may not be easy.
>
> The government must learn from this debacle and abide by the promises of openness, honesty and fairness which helped its secure power.

The *Age* editorial of 30 November describes the appointment of Mr Reeves as a sad advertisement for open government. It states:

> Inept answers about the 'job for a friend' call both competence and integrity into question.
>
> Few perceptions hurt a government more than public suspicion that it secretly looks after its own. Such suspicion is doubly damaging for the Bracks government, which came to power on a platform of open and accountable government. That is what makes its inept handling of the appointment of Jim Reeves as managing director of the Urban and Regional Land Corporation all the more serious …

> This week when the questions came, the answers were alarming in their inconsistency and, in some cases, incoherence. If Mr Reeves was simply 'the best person for the job', why was the Premier not up front about their relationship …
>
> The circumstances demand a parliamentary inquiry …

It states that Dr Napthine:

> … is on firm ground in demanding that Mr Bracks and Mr Thwaites answer to an inquiry. The maintenance of open and accountable government requires no less.

The Saturday *Age* article of 1 December, referred to by the Leader of the Opposition, should not be ignored. The article entitled 'No longer lilywhite' states:

> Steve Bracks promised to do things differently, but the appointment of his mate Jim Reeves to a top government job has changed all that …
>
> The government's performance has shredded Labor's pre-election pledge to be open and accountable and exposed the dismal judgment of cabinet ministers and senior advisers.

These comments are by independent journalists. They are not comments by the opposition but by journalists who often criticise the opposition. They have examined whether due process has taken place and are critical of the process and the government. The Saturday *Age* article continues:

> After attacking Jeff Kennett for allegedly favouring his mates, Bracks came to office promising to be different. Openness and transparency were to be the hallmarks of his government.

The Bracks government came into power with a policy of proper standards. It said it would not interfere in the employment of public servants. Many unanswered questions remain from the government's handling of this issue, which is why it is important that a select committee be appointed to inquire into it.

The questions to be answered are as follows. Did the Premier know that at the time the head of his own department was involved in conducting a second interview for managing director of the URLC, even though the board had already decided to appoint a candidate other than Jim Reeves as managing director? When did Mr Reeves first apply to be a candidate for the position of managing director of the URLC? Who referred Mr Reeves to the URLC as a possible candidate? Did Mr Reeves put his name forward for the position of managing director of the URLC or was he advanced by someone else?

Following the decision of the board in favour of Mr Mark Henesy-Smith, who determined that a new interview or selection procedure should be undertaken by departmental heads? Is it a fact that the only reason the head of the Premier's own department was added to the panel of department heads conducting a second selection procedure for the position of managing director of the corporation was because the Treasurer actually supported the board's selected candidate and did not want Mr Reeves? Does the Premier now agree with the former managing director of the URLC, Mr Des Glynn, who is reported in the *Herald Sun* of 24 November describing the recruitment process for a new managing director for the URLC as a sham. Now that the government has admitted it overturned the decision of the corporation regarding the appointment of the new managing director does the Premier stand by his statement that he did not seek to influence the selection?

The upper house select committee inquiry will scrutinise whether due process occurred and whether there was political interference in the appointment of the managing director of the corporation. Transparency, proper standards and integrity are essential for community confidence in the government. The Bracks government promised openness and accountability and even had a policy on it. The select committee will ensure the policy is maintained.

Hon. P. R. HALL (Gippsland) — We saw an extraordinary defence by the Honourable Gavin Jennings on behalf of the government to the notice of motion moved by the Honourable Bill Forwood. In fact, it was clear from the honourable member's performance that his acting ability came to the fore ahead of his ability to use reason and logic. During the first half of his contribution he reeled off a list of names. One wondered what the purpose of that was. I can only gather that the list of names was put forward as evidence that in the past few years the government has appointed to positions people with political leanings to the conservative side of politics. If that was the point I say, 'Good on them!'. We agree that people should be appointed to positions on boards or positions of power on the basis of merit rather than because of their political leanings. If people from conservative backgrounds or political leanings have the ability to fulfil those roles on boards they should be so appointed. What was the point of raising the list of names?

The National Party says clearly that the Honourable Gavin Jennings has totally got the intent of the motion wrong. The issue is about the process for filling the appointment. It is not about the person. It is not about Jim Reeves but about the process of filling that position, which is now vacant. If the chamber were to follow the argument of the Honourable Gavin Jennings

it would look at the history of the previous conservative government. In my electorate people such as Robert Fordham, a great guy with extraordinary ability and a former Labor government minister, fill positions in East Gippsland. His is a great appointment, and he continues to work and make a great contribution to that community.

When the Honourable Roger Hallam was Minister for Local Government he appointed such people as the Honourable Frank Wilkes and the Honourable Ian Cathie, both former ministers in Labor governments, to positions as commissioners in local government. They are good people who did a terrific job. A person's political background does not matter; if they have the ability and win positions on merit, that is a good thing. What is the point of the Honourable Gavin Jennings reading out lists of names? It added nothing to the argument.

Very early in the debate honourable members heard the Minister assisting the Minister for Planning. He is not here to defend this motion this morning, but all he could say by way of interjection was, 'What about the Kennett government?' Are we to imply from that interjection that he is saying, 'You did it, so we are allowed to do it too.'? Does that make it right? It is a tit-for-tat argument and a ridiculous defence offered by the minister.

When the mover of this motion, the Honourable Bill Forwood, was on his feet the constant interjection was, 'How do you know?'. We heard it all the time. That is exactly the point of debating this motion. How do we know? We do not know. There are clouds of uncertainty hanging over this issue, and honourable members need to know what happened. A select committee needs to be established so the people of Victoria can find out the real truth behind this issue.

The establishment of a committee of inquiry is not something that the National Party would agree to lightly. We would prefer that this course of action was not necessary. We would have preferred that the government take up the challenges of the opposition to establish its own independent inquiry into this matter so that this motion would not have to be debated in the chamber today.

The Leader of the Opposition in another place put that offer on the table. Last week the Honourable Bill Forwood put this motion forward and, once again, an offer was on the table by way of interjection at that time: 'Establish your own independent inquiry and we will not proceed'. That offer was formalised by the Honourable Bill Forwood in a letter to the Premier yesterday. Once again, it stated in black and white: 'We won't have to go through this motion if you are prepared to establish your own inquiry into this matter'. There was no response from the Premier of the state, so we are forced to take this position today where, to clear the air, we have to go down this path of forming a select committee to inquire into the matter.

There is a need to clear the air on this issue. Questions on the matter — whether they have been asked in the chamber or by journalists outside — have only elicited a range of inconsistent, confusing, contradictory and at times coy answers. We clamour for the truth. We have been confused by those contradictory and coy answers. The people of Victoria expect the truth from this government, which came into office heralding that it was going to be open, honest and accountable. Now there are doubts in people's minds. The air needs to be cleared. That unpleasant odour of not understanding, not knowing and not being certain hangs around the government and needs to be cleared.

Politically, we would be better off not having this inquiry and letting the stench hang over the government, so that each time we can throw back at its members, 'You were the people who went down the path of this phoney process. You were the government that appointed somebody in very dubious circumstances'. It would probably be politically better for those on the opposition benches always to have that cloud of uncertainty and doubt hanging over the government. However, in the interests of the people of Victoria we clamour for the truth. We need to know what happened during the process behind this matter.

I was finally convinced of the need to set up a select committee to inquire into this matter and to determine the truth when I read the weekend's papers. Honourable members have already referred to an excellent article in the 'News Extra' section of the *Age* last Saturday, 1 December. Ewin Hannan wrote a terrific article. Well done! It sets out and substantiates why the air needs to be cleared. The article states:

> The government's performance has shredded Labor's pre-election pledge to be open and accountable and exposed the dismal judgment of cabinet ministers and senior advisers.

It goes on to say:

> If the government's version of events is to be believed …

Isn't that the whole question — if the government is to be believed? Nobody quite believes the circumstances now because the Premier and the Deputy Premier have given contradictory and coy answers to any questions.

The *Herald Sun* editorial of Saturday, 1 December also had it right when, under the heading 'A very messy affair', it stated:

> The Bracks government's credibility has been seriously damaged by the Premier's shifting accounts of his involvement in the Reeves affair.
>
> Things have reached the unacceptable point where nothing said about the affair can be accepted at face value.

It goes on to say:

> Another inquiry is hardly what the state needs after millions were spent on the ambulance royal commission.
>
> Unfortunately, a parliamentary inquiry is now necessary to arrive at the whole truth of the Reeves affair.

That sums it up fairly well. It is not only the National Party but also the people of Victoria who are clamouring for the truth on this matter. They deserve an independent judgment on matters surrounding the appointment of Jim Reeves and need some independent assessment of the government's refusal to appoint any form of inquiry to clear the air on the matter. Despite the National Party's preference for the government to conduct its own inquiry, it leaves us with absolutely no choice but to seek to have the air cleared by agreeing to the appointment of a select committee.

Hon. T. C. THEOPHANOUS (Jika Jika) — By moving this motion the opposition seeks to establish Star Chamber no. 2. It can be seen in no other way than as a misuse of the opposition's numbers in this house to try to gain some cheap political points.

It is a witch-hunt, and the hypocrisy of the opposition is absolutely staggering. It is breathtaking when one looks at the record of members opposite in terms of having inquiries into appointments or into actions taken by the previous government. My colleague the Honourable Gavin Jennings has already indicated how the Leader of the Opposition in the other place has treated this house with absolute contempt by, firstly, prejudging the outcome of this debate and saying that an inquiry would be established in this house, and secondly, by calling that inquiry 'our' inquiry rather than the inquiry of the Parliament. Not only has the decision of this house been prejudged and preordained by the Leader of the Opposition in the other place, but the outcome has also been preordained — —

Hon. Bill Forwood interjected.

Hon. T. C. THEOPHANOUS — The outcome has been preordained, and you know that to be the case, Mr Forwood. One thing that should be pointed out is that the Leader of the Opposition in this house presented nothing new, nothing that has not been out there in the public arena and read from a series of newspaper articles. Those articles were used as the basis — —

Hon. Bill Forwood — Where were you on 14 April?

Hon. T. C. THEOPHANOUS — Mr Forwood, you do not have any credibility on these matters because you were the central person who complied with the request of the former Premier in trying to ensure that the Auditor-General was nobbled — and you paid the political price for that! That is the kind of record you have.

My colleague Mr Jennings read out a list of appointments made by this government of people associated with the Liberal and National parties. We have heard the response from members opposite, which was, 'So what?'. I will tell the house what it means. It means this government is balanced and appoints on merit. I want to go through the list of some of the appointments made by the Kennett government in its first two years of being in government. Let us look at the names of some of the mates — —

Hon. P. R. Hall interjected.

Hon. T. C. THEOPHANOUS — You agreed to them, Mr Hall, because you were part of it all. Let us look at some of the mates appointed by the Kennett government in its first two years. Karen Synon, the unsuccessful Liberal candidate from Williamstown, was appointed as first assistant secretary in the department of business and employment. She got a job for the girls! Russell Broadbent, a former federal Liberal member for Corinella, was appointed as a local government board member. Robin Cooper's daughter directly benefited from a massive contract to her company, Troughton Swier, for privatising the electricity industry. The list includes Don Cooper, a prominent Liberal appointed by Jan Wade to review the Legal Aid Commission; Ron Walker, federal treasurer of the Liberal Party, appointed chairman of the Melbourne Major Events Company and Melbourne Grand Prix Promotions; Peter Ross-Edwards, former National Party leader, was appointed local government commissioner for Bendigo; Digby Crozier, a former Liberal Party leader, was appointed Western region local government commissioner; Saul Eslake, a former Kennett staffer, was appointed head of the Victorian Audit Commission; Peter Bennett, a former DDB Needham executive who did the Liberal election

ads, was appointed head of communications in the Department of Premier and Cabinet; Paul Leeds, formerly with DDB Needham, was appointed government advertising purchaser; Peter Hargraves, former press secretary for the National Party, was given contracts for Workcover advertisements; Ken Crompton, former head of the Australian Chamber of Manufactures and prominent Liberal Party supporter, was appointed Agent-General in London; Greg Johns, former deputy head of the Victorian Employers Chamber of Commerce and Industry, a prominent Liberal Party supporter, was appointed as deputy secretary of the department of business and employment; Leonie Burke, a member of the Liberal Party and now a member of Parliament, was appointed head of the Local Government Board. Members opposite are trying to claim that all these people were appointed on merit.

I conclude my remarks by making a comment about not only the record of the former government in terms of the appointments made but about the fact that on every occasion under the previous government when the opposition tried to have inquiries — and there were a number of them — it failed because the previous government was not prepared to have any inquiries. The list is staggering. When the former opposition tried to hold an inquiry into KNF, the answer was no. When it tried to have an inquiry into the former Premier using his credit card on seven separate occasions to purchase personal items, such as crates of wine, bed sheets, flowers, a bed lamp, and so on, what was the answer? The answer was no. When the former Attorney-General, Jan Wade, used her credit card to buy hundreds of dollars of expensive cushions in London, what happened when the then opposition tried to get an inquiry off the ground? The answer was no. When the former Minister for Finance, the Honourable Roger Hallam, used his credit card to catch a Las Vegas show and the opposition called for an inquiry, the answer was no.

When the former minister for police spent hundreds of dollars on South African jewellery in duty-free stores for his wife, the answer was no. When the former Treasurer, Alan Stockdale, used his card, the answer was no. So what credibility does this opposition have for coming in here and seeking an inquiry in this case? The answer is none!

The PRESIDENT — Order! The question is that the words proposed by amendment 2 to be omitted stand part of the motion.

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

Ayes, 27

Ashman, Mr (*Teller*)	Hall, Mr
Baxter, Mr	Hallam, Mr
Best, Mr	Katsambanis, Mr
Birrell, Mr	Lucas, Mr
Bishop, Mr	Luckins, Ms
Boardman, Mr	Olexander, Mr
Bowden, Mr	Powell, Mrs
Brideson, Mr	Rich-Phillips, Mr
Coote, Mrs (*Teller*)	Ross, Dr
Cover, Mr	Smith, Mr K. M.
Craige, Mr	Smith, Ms
Davis, Mr P. R.	Stoney, Mr
Forwood, Mr	Strong, Mr
Furletti, Mr	

Noes, 14

Broad, Ms	Madden, Mr
Carbines, Mrs (*Teller*)	Mikakos, Ms
Darveniza, Ms	Nguyen, Mr
Gould, Ms	Romanes, Ms
Hadden, Ms	Smith, Mr R. F. (*Teller*)
Jennings, Mr	Theophanous, Mr
McQuilten, Mr	Thomson, Ms

Amendment negatived.

Amendment 3 negatived.

The PRESIDENT — Order! The question is that the words proposed by amendment 4 to be omitted stand part of the question.

Amendment negatived.

House divided on motion:

Ayes, 28

Ashman, Mr	Furletti, Mr
Baxter, Mr	Hall, Mr
Best, Mr	Hallam, Mr
Birrell, Mr	Katsambanis, Mr
Bishop, Mr	Lucas, Mr
Boardman, Mr	Luckins, Ms
Bowden, Mr	Olexander, Mr
Brideson, Mr	Powell, Mrs
Coote, Mrs	Rich-Phillips, Mr
Cover, Mr	Ross, Dr
Craige, Mr	Smith, Mr K. M.
Davis, Mr D. McL. (*Teller*)	Smith, Ms (*Teller*)
Davis, Mr P. R.	Stoney, Mr
Forwood, Mr	Strong, Mr

Noes, 14

Broad, Ms	Madden, Mr
Carbines, Mrs	Mikakos, Ms (*Teller*)
Darveniza, Ms (*Teller*)	Nguyen, Mr
Gould, Ms	Romanes, Ms
Hadden, Ms	Smith, Mr R. F.
Jennings, Mr	Theophanous, Mr

McQuilten, Mr Thomson, Ms

Motion agreed to.

SCOTCH COLLEGE COMMON FUNDS BILL

Second reading

Hon. ANDREA COOTE (Monash) — I move:

That this bill be now read a second time.

This is a private members bill under which Scotch College will be authorised to establish one or more common investment funds for the collective investment of trust moneys held by or for the benefit of the school.

Scotch College, its students and various causes connected with the school are the beneficiaries of a large number of trust and benefit funds. These trust and benefit funds may be established in a variety of ways, including:

the bequest of money by will to the school, or for a purpose connected with the school in the will of a former student or friend of the school; or

gifts or subscriptions for a particular purpose, such as a new building, sporting facilities or other specific educational facilities; or

the setting aside of moneys by the school council for a particular purpose.

These trust and benefit funds are currently held on trust by various bodies, including:

(a) Gardiner Hill Pty Ltd, a company established by the school for the purpose of holding investments. In 1999 Gardiner Hill was appointed as trustee of approximately 115 individual trusts, most of which were created by the wills of former students for the purpose of providing bursaries, scholarships and prizes;

(b) the Scotch College Foundation, an unincorporated association through which subscriptions, gifts and bequests are used to fund a variety of building and developmental projects and to assist students; and

(c) private individuals, the executors of estates or other trustees of funds for the benefit of the school.

The school wishes to be able to pool moneys from various trust funds and invest them collectively to obtain economies of scale in investments and to minimise administrative costs.

Equitable principles governing the operation of trusts, however, would not permit the trustee of the various trust funds to invest them collectively unless they were pooled in a type of investment permitted by law or there was a specific authority permitting pooling in each of these wills and trusts deeds under which each trust fund was established.

One type of investment permitted by law for the collective investment of trust funds is a common fund, operated by an authorised trustee company under the Trustee Companies Act 1984.

Many trustee companies operate common funds established under the Trustees Companies Act 1984, in which the various trustees holding trust funds for the benefit of the school could invest moneys.

The school would prefer, however, to establish its own common fund, so that the strong personal links between the donors and beneficiaries of the trusts and the school are maintained.

In order for a company to establish a common fund under the Trustees Company Act, it must first be approved by the Attorney-General to carry on business as a trustee company. Guidelines adopted by the Attorney-General in relation to authorising companies as trustee companies include minimum paid-up capital requirements and the ability to provide a range of services in the trustee companies industry. These criteria could not be met by Scotch College or any of its associated bodies.

The preferred course is to seek to establish the Scotch College Common Fund. This will provide the following benefits:

the school may maintain close links with the trust funds and the use of the trust moneys;

administrative costs will be considerably less than maintaining each trust fund on an individual basis or using the services of a professional trustee or custodian;

economies of scale will be available in investing the various trust funds. Investments will be available through a common fund which would be impossible for many of the small trust funds, some of which have less than $500 capital.

Private members bills have been used previously to enable the establishment of common funds for other non-government schools, educational institutions and other bodies for educational or charitable purposes.

Provision for the establishment of trust funds also exists in the enabling legislation of large educational institutions, as, for example, in section 43 of the Swinburne University of Technology Act 1992. The provisions of this bill are based on the trust fund provisions of the Swinburne University act, and this bill is also similar in scope and intent to the Roman Catholic Trusts Act 2001, and the Anglican Trusts Corporations Act 2000.

I commend the bill to the house.

The DEPUTY PRESIDENT — Order! I have had the opportunity of examining this bill and is of the opinion it is a private bill.

Hon. ANDREA COOTE (Monash) — I move:

That this bill be dealt with as a public bill except in relation to the payment of fees.

Motion agreed to.

Hon. ANDREA COOTE — I produce a receipt showing that in accordance with standing order 315 the sum of $1000 has been paid to the Department of the Legislative Council as a deposit to meet the expenses of the bill.

Hon. W. R. BAXTER (North Eastern) — I am pleased to support the Scotch College Common Funds Bill, and I commend the Honourable Andrea Coote for bringing it before the house.

Hon. K. M. Smith interjected.

Hon. W. R. BAXTER — Before Mr Smith gets too excited, I put on the record that I have some interest in the matter as a former student of Scotch College, as a life member of the Old Scotch Collegians Association and as a regular contributor to the fundraising programs that the school seems to run fairly persistently, I might say.

Of course the annual giving program, to which I am a contributor, has nothing to do with this bill. The bill deals specifically with trusts that have been created over many years, mainly by former students who have appreciated the great advantage in life they were given by an education at Scotch College and have seen fit to recognise that benefit and advantage by making provision in their wills to assist the school either directly through funding and the improvement of its facilities or, for a lot of old boys to enable boys, who would not otherwise have the opportunity to attend Scotch College because of the financial barrier imposed by the relatively high fees that are necessarily charged by the college to do so by way of scholarships.

It is commendable that so many men who have been educated at Scotch College over 150 years — and I acknowledge this is the 150th anniversary of the foundation of Scotch College; its early edifice was in Spring Street, not too far from this site — have appreciated the opportunity they have been given and have formed trusts in their wills. Many of the trusts that are now up to 100 years old were created with the best intention and within the law of the time, but circumstances have changed and a literal operation of those testamentary trusts that have been established would be very difficult to execute now and would not meet with the intention of the testators in any event. Other trusts have been established over time by grateful parents whose sons have been educated at the college. Perhaps their sons have met an untoward and untimely death by accident, through war service or whatever and they have established trusts in memory of them. Again, as the world has moved on some of the provisions of those trusts are now hard to comply with.

I think it makes a lot of sense indeed to enable the college to pool its various trusts. Not only will it be administratively much simpler and therefore much cheaper — surely the purpose should be to allocate as much as possible to the actual benefit of the school rather than chewing it up in bookkeeping fees — but it also enables an economy of scale to be entered into. I would have thought that if you could get a quantum of funds that is significantly large rather than a host of small sums you would be able to command a much better return wherever the investment is made; whether it is directly as a term deposit in a banking institution or in some other form of investment.

It seems to me that it is appropriate that the college do this. It is appropriate that the Parliament allow the college to do it. It is in no way derogating from the goodwill of former students, parents and other contributors who have acted in good faith in establishing trust funds: it simply enables modern money management to be applied. I wish the school well in the future. It is a huge undertaking. Scotch College educates a lot of boys from Victoria and further afield and it has a very high reputation.

If I can go off somewhat on a tangent for a moment, I am a little disturbed that court action is taking place at the moment concerning the membership of the school council and that the Presbyterian Church seems to be

exercising a degree of control over the college that is perhaps a little unnecessary, but we will await the outcome of those proceedings with some interest. I think Scotch College is one of the great institutions in Victoria. If the Parliament can assist the college in its future financial operations to the benefit of not only existing students but those in the future, I think the Parliament is serving the college well.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

SELECT COMMITTEE ON MEMBERS REGISTER OF INTERESTS

Establishment

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

(a) That a select committee of six members be appointed to inquire into and report upon any matters related to the failure of the Honourable W. R. Baxter, MLC, the Honourable P. A. Katsambanis, MLC, the Honourable K. M. Smith, MLC, and the Honourable Graeme Stoney, MLC to fully declare their pecuniary interests as required by the Members of Parliament (Register of Interests) Act 1978.

(b) That the committee shall consist of three members nominated by the Leader of the Government, two members nominated by the Leader of the Opposition and one member nominated by the Leader of the National Party.

(c) That the members shall be appointed by lodgment of the names with the President by the leaders no later than 4.00 p.m. on Thursday, 6 December 2001.

(d) That the first meeting of the committee shall be held at 10.30 a.m. on Friday, 7 December 2001.

(e) That the committee may proceed to the dispatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy.

(f) That the committee shall elect a deputy chairman to act as chairman at any time when the chairman is not present at a meeting of the committee.

(g) That four members of the committee shall constitute a quorum.

(h) That the committee may send for persons, papers and records.

(i) That the committee may authorise the publication of any evidence taken by it in public and any documents presented to it.

(j) That reports of the committee may be presented to the Council from time to time and that the committee present its final report to the Council on or before 31 May 2002.

(k) That the presentation of a report or an interim report of the committee shall not be deemed to terminate the committee's appointment, powers or functions.

(l) That the committee shall, unless it otherwise resolves, take all evidence in public and may otherwise sit in public at any time if it so decides.

(m) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders and practice of the Council, shall have effect notwithstanding anything contained in the standing orders.

This motion seeks to establish a select committee of six members to inquire into and report on any matters relating to the failure of the Honourables Bill Baxter, Peter Katsambanis, Ken Smith and Graeme Stoney to fully declare their pecuniary interests as required by the Members of Parliament (Register of Interests) Act 1978.

One of the most important obligations of members of Parliament is to adhere to the Members of Parliament (Register of Interests) Act because it is important for Victorians and the Parliament to be aware of what personal interests, directorships or associations members have when they vote on legislation or undertake various other activities as members of Parliament. That is the purpose of having such a piece of legislation and placing such a responsibility and onus on members of Parliament to adhere to that legislation and report on a regular basis to the Parliament.

It is also important that those members' obligations in this respect are met in a timely manner. The act allows members to make amendments to their pecuniary interests a couple of times a year and ensure that they are kept up to date with their pecuniary interests. There have been examples of failures of members in another place to do this. The honourable member for Warrandyte did not declare his interest in a Melbourne information technology company at the time he acquired it, and that prevented the public and the Parliament from raising legitimate questions relating to his shareholdings when he had a role as a minister in the previous government. It is unfortunate that, as with another matter we will be dealing with later today, this shows that members on the other side have repeatedly demonstrated disregard for the obligations they have as members.

The motion before the house says that the committee should consist of three members nominated by the Leader of the Government, two members nominated by the Leader of the Opposition and one member nominated by the Leader of the National Party. That is an appropriate composition of a committee to inquire into a number of members of this house who have not fulfilled their obligations under the Members of Parliament (Register of Interests) Act in a timely and appropriate manner. For example, the Honourable Bill Baxter, who acquired some Telstra shares on or around October 1999, failed to declare those shares until June 2001 — a couple of years later. As I understand it, that occurred only after he had been contacted by the *Age*, which prompted him.

I have declared my pecuniary interests, and it is on the public record that I purchased Telstra shares, which I declared at the time. I fulfilled my obligations under the act as a member of Parliament. The Honourable Peter Katsambanis acquired a couple of parcels of Telstra shares on or about 25 November 1997. He also did not declare those shares until he was contacted by journalist, Mr Ewin Hannan on 29 August 2000. I note that during debate on a motion moved earlier this morning Mr Ewin Hannan was praised by the opposition as being a very good journalist and somebody who sets out his concerns in a very articulate manner. When Mr Ewin Hannan contacted Mr Katsambanis about this issue, some changes were made. In the period from 1997 to 2000 the honourable member had a number of opportunities to fulfil his obligations as a member of Parliament under the act, but he did not adhere to those requirements. It is appropriate that this house inquire into and investigate this lack of compliance by the honourable member.

The Honourable Graeme Stoney acquired an interest in National Mutual as a policyholder following the demutualisation of that organisation, and that interest was not declared either until some time later. The Honourable Ken Smith failed to declare on his register of pecuniary interests one company secretary position and two directorships relating to the Independent News Group.

The concern of the government is that a number of members of this house have not fulfilled their obligations under the appropriate legislation by filling in the members register of interests. If the law-makers of this land cannot follow the law, there is a problem, and the Parliament should investigate it in an appropriate manner by having a select committee of three members from the government, two members from the Liberal opposition and one member from the National Party.

It is important to ensure that members who ignore their obligations under the act are brought to account. The motion before the house will ensure that the people of Victoria can be assured that when members are required to adhere to their obligations under acts of this state they do so in a timely and appropriate manner and not — as in some cases — years after the event and only after they have been called up about it by a journo.

It is appropriate to have a select committee looking at why these members have not fulfilled their obligations under the act by registering their interests when they were supposed to. They have been given numerous opportunities to do so: they have received letters from the Clerks advising them of what they are supposed to do; they have received letters indicating their current registered interests and inviting them to make the appropriate amendments; and they have also been reminded of the requirements under the act to do so. These members have obviously disregarded the legislation and disregarded what is appropriate behaviour by members of this house. There have also been instances of members in another place not fulfilling their obligations under the act.

It is appropriate for this house to look into these matters, and I urge honourable members to support the motion before the house.

Hon. BILL FORWOOD (Templestowe) — I rise to speak on behalf of the Liberal Party and on behalf of my colleagues Mr Ken Smith, Mr Katsambanis and Mr Stoney in relation to this motion moved by the Leader of the Government today. What an absolute disgrace. In the debate on the motion I moved earlier today the Deputy Leader of the Government said that select committees of this house are established rarely. That is right; they are established for matters of great importance and moment. Two select committees have been established this year, both of which have met those criteria.

The rubbish that has been brought in here today is old news that is without merit and totally unfounded. No case has been made by the Leader of the Government for this house to take the important step of establishing a select committee to investigate any matters in relation to my three colleagues Mr Katsambanis, Mr Ken Smith and Mr Stoney.

I understand that Mr Hall will speak on behalf of the National Party and defend his colleague as well, and so he should, because it is a disgrace that the Leader of the Government would bring a motion like this before the house. She has not made a case to establish that any single member of this chamber has intentionally done

anything wrong at all. Not one attempt was made by the Leader of the Government to say that these matters were deliberate, because she knows they were not. She knows that inadvertently sometimes some things are missed.

Let me deal with the three cases the Leader of the Government brings to us today, for which she would ask us to establish a select committee.

I am advised by the Honourable Ken Smith that the matters raised by the Leader of the Government today are not new, having been raised by Mr Tim Holding, the honourable member for Springvale, 12 months ago. At that time Mr Smith advised that the companies named were wholly owned subsidiaries of the Independent News group, which he had declared. Mr Smith made the further point that he has been advised by his lawyers that he is not required to declare those interests on the Register of Members Interests because the holding company having been listed covers subsidiary companies in any case.

Hon. T. C. Theophanous — What have you got to hide?

Hon. BILL FORWOOD — He has nothing to hide at all; absolutely nothing to hide at all. The government is saying that an inquiry should be held into something that has no substance and no merit.

Let me turn to the issue of Mr Stoney. Mr Stoney has told me that as a young married man — and that is quite some years ago — he took out a National Mutual insurance policy to protect his family. I am happy to say that on the birth of my son I did exactly the same thing. On demutualisation Mr Stoney was given 437 shares in National Mutual. I think I got 200; my policy must have been smaller than his. Some years ago AXA took over the shares, but because he did not actually purchase the shares — they came as a result of the demutualisation — he completely overlooked the fact that he should have declared the shares in his register. Is that a hanging offence? How can that be a hanging offence? Why do we need an inquiry into that? What nonsense. He has 437 shares in AXA, and the last time I looked they were worth about $2.15. Dear, oh dear. We need to know, do we not, that among the assets of the member representing Howqua Valley are 400 shares. What nonsense.

When an *Age* journalist pointed this out 15 months ago Mr Stoney, would you believe, admitted the oversight and immediately corrected his register of pecuniary interests. At the time Mr Stoney also commented to the *Age* journalist, 'Well, Mr Holding got me, but he can't have much to do. Why isn't he out in his electorate working for the people who elected him instead of trying to damage my good reputation for such a minor issue?'. This was not an intentional attempt by a multi-zillionaire to hide the fact that he had huge share portfolios or to dupe the Parliament. What we know is that Mr Stoney had 437 shares in AXA, and the moment he realised they were not on his pecuniary interests register, he put them there.

Let me now turn to the issue of Mr Katsambanis. Mr Katsambanis acquired shares in Telstra on privatisation as part of the entitlement that many Australians took up. He had no other shareholdings ever listed since 1996. Again inadvertently this minor — can I say, minor, minor, minor — shareholder in Telstra forgot to list them. But, would you believe, he discovered the error and put them on the pecuniary interests register himself — before Mr Holding made his grubby attack; before that happened.

So here we are, a year later, and the Leader of the Government has moved a motion to establish a select committee to look into those three people. Now let me deal with the issue. In her contribution the minister said that we all have a responsibility to look after our personal interests and to declare them in our pecuniary interests register — and we agree; we all should.

Let me turn to the Labor Party.

Honourable members interjecting.

Hon. BILL FORWOOD — Why don't we look at them? The Register of Members Interests summary of returns dated 15 December 1999 states that section 5(2) of the act states:

> Every member who was not a member of … the … Assembly or the … Council in the Parliament then last past shall, upon taking and subscribing the oath or affirmation as a member, within 30 days thereafter submit to the —

Clerks, and it continues. This document was published on 15 December 1999. It points out that members were sworn in on 3 November. When I add 30 days to 3 November I get to early December — well before 15 December. This document, signed by the Clerk of the Parliaments, states:

> As at 15 December 1999 no primary returns had been lodged by the Honourable C. C. Broad —

a Minister of the Crown —

> the Honourable G. W. Jennings —

the deputy leader of the Labor Party in this place and the secretary of the cabinet — no show.

According to the information provided to this chamber, two members of the Labor Party did not even bother to put theirs in! This is not a matter of a trifling amount with the odd share here or there inadvertently overlooked; a member of the cabinet and the cabinet secretary did not even put in their returns.

Let me make the point that to his credit, the moment the Honourable Gavin Jennings realised that he had inadvertently made a mistake, he corrected it, because the next return of 31 May shows that Gavin Wayne Jennings provided his advice on 17 December, immediately he discovered that he had not abided by the rules, just as other honourable members do when they find they have not — —

Hon. C. A. Furletti — It was the honourable thing to do.

Hon. BILL FORWOOD — It was the honourable thing to do; thank you, Mr Furletti. He corrected the mistake immediately. But what do we get from Ms Broad, the minister? Oh no, she was not going to act like that. Why should she? She waited until 11 January before she bothered.

It is the height of hypocrisy for the government to bring this motion in here today, trying to besmirch the names of honourable members of Parliament on a minor, trifling issue like this. All honourable members know that the register is an important part of the way they behave. We all correct inadvertent mistakes straight away. I absolutely reject the need for any inquiry into this matter.

Hon. P. R. HALL (Gippsland) — This is a frivolous motion — that is the only way I can think to describe it. It is an absolutely frivolous motion that has been brought before the house. Moreover I find the implication that my colleague the Honourable Bill Baxter would seek to deliberately deceive anybody in any way extremely offensive. Mr Baxter is a person of the highest integrity — more integrity than any other honourable member, including myself. To suggest that he would deliberately try to deceive anybody on this sort of issue is totally and utterly offensive. The National Party condemns the government for the implication of that sentiment in the motion moved today.

We are angry about it and we have reason to be. I will tell you why it is frivolous in the case of Mr Baxter, as Mr Forwood did for the other three honourable members named in the motion. I put on the record and state clearly that it is true that Mr Baxter bought Telstra shares on 22 October 1999 and failed to immediately declare them on his register of pecuniary interests. Mr Baxter has publicly said that he was at fault. It was an inadvertent mistake and as soon as the matter was brought to his attention it was rectified. The Leader of the Government was correct in saying that a newspaper journalist contacted Mr Baxter to inquire about why the matter had been overlooked. Mr Baxter immediately rectified it, and in fact had it rectified before the article concerning the matter appeared in the newspaper on 15 June. He had it rectified before the article was published. Why would he make a mistake like that? We all make mistakes, but in the case of Mr Baxter he had first purchased Telstra shares on 7 January 1998 and put them on the register of interests of members of Parliament — he did the right thing. When he sold those shares on 30 October 1998, once again, he alerted the members of Parliament register to ensure that the record against his name was correct. Why would he want to hide the purchase of further shares when he had already declared that he had some shares, purchased some more and sold them? He had already completed the transaction of those shares and has nothing to hide. It was simply that Mr Baxter overlooked the fact that he had purchased new shares and, as has been said for everybody else named in this motion, as soon as the oversight was brought to his attention the matter was rectified. There is no case to answer. We all make mistakes like that. The motion is a frivolous action on the part of the government.

Hon. T. C. Theophanous — So you give him the benefit of the doubt!

Hon. P. R. HALL — I will come to you, Mr Theophanous, right now. The other reason I am angry about this is that the Leader of the Government seeks to set up a select committee to inquire into these matters when they should appropriately be dealt with by the house itself. In her conclusion the Leader of the Government said that it is appropriate for this house to look into these matters. The National Party does not mind these matters being raised in the house. We do not mind them being brought up as issues for the house to consider, but why do we need to establish a select committee to look into them? I refer the house to general business notice of motion 9 on today's notice paper in the name of Mr Theophanous. He has made an allegation about a member of the house and has chosen to do it by a substantive motion. There is no need to set up a select committee in this instance nor should there be. The honourable member is in the house and is able to defend himself and we can have a robust debate on those points.

What about the notice of motion given by Mr Theophanous earlier this day where he made

accusations about another member of the house? Why not have a select committee in that instance? I say that when these matters involve members of the chamber who are here to represent themselves it is a matter for the house as a whole to discuss, and there is no need to set up some form of select committee to inquire beyond the reaches of the house. It is a frivolous motion. It is the pot calling the kettle black. As the Honourable Bill Forwood said, there have been mistakes on the side of the Labor Party and they have been rectified — some immediately, some in due course. In every instance the honourable members named in this motion have committed an oversight they have attended to the matter straight away. They have done the right and honourable thing and had it rectified at the earliest possible moment. This is a frivolous motion that does not deserve the support of anybody in the chamber.

Motion negatived.

SELECT COMMITTEE ON FAILURE OF MEMBER TO VOTE IN ACCORDANCE WITH THE CONSTITUTION ACT AMENDMENT ACT

Establishment

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

(a) That a select committee of six members be appointed to inquire into any matters related to the failure of the member for Chelsea Province, the Honourable B. C. Boardman, MLC to vote in accordance with The Constitution Act Amendment Act 1958.

(b) That the committee shall consist of three members nominated by the Leader of the Government, two members nominated by the Leader of the Opposition and one member nominated by the Leader of the National Party.

(c) That the members shall be appointed by lodgment of the names with the President by the leaders no later than 4.00 p.m. on Thursday, 6 December 2001.

(d) That the first meeting of the committee shall be held at 10.30 a.m. on Friday, 7 December 2001.

(e) That the committee may proceed to the dispatch of business not withstanding that all members have not been appointed and notwithstanding any vacancy.

(f) That the committee shall elect a deputy chairman to act as chairman at any time when the chairman is not present at a meeting of the committee.

(g) That four members of the committee shall constitute a quorum.

(h) That the committee may send for persons, papers and records.

(i) That the committee may authorise the publication of any evidence taken by it in public and any documents presented to it.

(j) That reports of the committee may be presented to the Council from time to time and that the committee present its final report to the Council on or before 31 May 2002.

(k) That the presentation of a report or an interim report of the committee shall not be deemed to terminate the committee's appointment, powers or functions.

(l) That the committee shall, unless it otherwise resolves, take all evidence in public and may otherwise sit in public at any time if it so decides.

(m) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders and practice of the Council, shall have effect notwithstanding anything contained in the standing orders.

The motion is to establish a select committee of six members to be appointed to inquire into any matters related to the failure of an honourable member for Chelsea Province, the Honourable B. C. Boardman to vote in accordance with The Constitution Act Amendment Act 1958.

The seriousness of the matter is underscored by a similar matter that recently occurred in Queensland concerning an honourable member in the Queensland Parliament, Mike Kaiser, who had to resign from the Parliament for being incorrectly enrolled 15 years earlier for the purpose of a preselection process that took place in the 1980s — a battle that took place when he was a 22-year-old student.

Unfortunately, the conduct of an honourable member in this place is in question in regard to two matters. One is whether he has breached The Constitution Act Amendment Act; the other is where the honourable member actually lived at the time he voted in the two elections.

At the last state election in 1999 the honourable member in this place voted in the seat of Carrum and was registered as living at Heslop Street in Parkdale. In 1999 when the honourable member voted on the republic referendum he was listed as living at the same address. Mr Boardman's electoral commission enrolment shows that he lived at an address in Parkdale on 13 December 1998, yet the summary of variations to the honourable member's register of interests shows that his Parkdale residence was deleted in January 1999. Yet on 18 September — —

Hon. C. A. Furletti — On a point of order, Mr Deputy President, we are dealing with a specific allegation that relates to the honourable member voting in his appropriate electorate. Generalities as to suburbs are inappropriate, and if the minister has specific addresses she should be referring to them.

The DEPUTY PRESIDENT — Order! I do not support the point of order. I believe the Leader of the Government's comments have been relevant to the debate to this time. I invite her to continue.

Hon. M. M. GOULD — Thank you, Mr Deputy President. The honourable member has stated publicly that he cannot remember whom he voted for — which is extraordinary for someone who was a sworn police officer in his previous occupation before entering this house — and that he is not sure where he lived. His register of members interests deleted the Parkdale address in January 1999. He no longer lives there yet he is still registered by the electoral commission at that address.

Hon. Bill Forwood — What address?

Hon. M. M. GOULD — The address in Parkdale was Unit 3, 25 Heslop Street, Parkdale.

Sitting suspended 1.00 p.m. until 2.01 p.m.

Hon. M. M. GOULD — The motion before the house is to appoint a committee to inquire into matters relating to the failure by an honourable member for Chelsea Province, the Honourable Cameron Boardman, to vote in accordance with The Constitution Act Amendment Act.

At the last state election on 18 September 1999 Mr Boardman voted in the electorate of Carrum. The electoral roll shows him as residing on election day at an address in Parkdale. Variations to Mr Boardman's pecuniary interests as registered in the parliamentary members register of interests show that he deleted that address in January 1999, eight months before the state election, as a property at which he no longer resided. He was quoted in the media as saying about the amendments to the members register of interests that he did not live at the address at which he was registered as living at the last state election — that is, in Parkdale.

He is also reported as saying that he lives in St Kilda and spends a couple of nights a week at home in Frankston. Neither St Kilda nor Frankston is in the state seat of Carrum — but Parkdale is. The register shows that he no longer resided at that property in January but he used that address to vote in the 1999 general state election.

Mr Boardman is reported on 5 December 1999 as saying that he could not remember who he voted for at the last state election. I am sure all honourable members can remember who they voted for — it is extraordinary that Mr Boardman is unable to remember. He is registered on the electoral commission roll at an address in Parkdale; the members pecuniary interests register shows that eight months before the last state election he was no longer at that address; he said he lives in St Kilda a couple of days a week and might spend some time in Frankston. The honourable member does not know where he lives or who he voted for and is breaching one of the most important acts in this state that provides for the democratic election of members in this place and the other place.

He has breached The Constitution Act Amendment Act. He also claims that he forgot to inform the electoral commission of his change of address. He remembered to show his address in the pecuniary interests register but he failed to comply with the provision in the act requiring him within 21 days of changing his address to notify the electoral commission.

It is clear that the honourable member has not complied with The Constitution Act Amendment Act. As members of Parliament and makers of the law it is appropriate that members of this house investigate such breaches. Mr Boardman was unable to remove the Parkdale address from the pecuniary interests register and was not able to advise the electoral commission that he had changed his address.

The electoral commission had the matter referred to it, and it found that Mr Boardman had not complied with the electoral law of the state. The commission indicated that it would refer the matter to the Victoria Police because a number of other residents in the state do not change their addresses in line with the commission's regulations. However, there has to be a different set of obligations on members of Parliament to comply with the law because we make the law, and ignorance of the law is no excuse to enable someone to get away with it.

The honourable member broke the law with respect to The Constitution Act Amendment Act. As I indicated earlier, in Queensland an honourable member who was found to be enrolled in one place and who voted in another resigned from the Parliament. It is a matter for the Victorian Parliament, as the Victorian Electoral Commission has indicated, to deal with the matter

appropriately. The appropriate way to deal with this, as Mr Boardman has failed to comply with the act, is that it should be investigated by a committee of the house. The commission has shown that he breached the law, and the establishment of a committee to fully investigate the issues surrounding this matter as set out in the motion is the appropriate method to deal with it.

An honourable member of this place breaking the law governing how we vote and how people are elected and someone who was once a sworn member of the police force having broken the law and being unable to remember who he voted for on election day must be properly investigated, and the motion is the way to achieve it.

Hon. BILL FORWOOD (Templestowe) — I rise with pleasure to respond to the limp-lettuce attack of the Leader of the Government. The alleged incident which she brings to the house today took place in 1999. I ask the Leader of the Government why, if this is a matter of such importance, we have waited two years for the government to do this. Why has it taken such a long time for a matter of such grave importance to be investigated? The answer is that it has absolutely no merit. The Leader of the Government has moved a motion that is nonsense, and we know it is nonsense — it is a furphy again.

On 24 November 1999 the honourable member for Springvale in the other place, Tim Holding, raised an issue for possible investigation by the Attorney-General. It was two years ago that he took to the Attorney-General the matter of Mr Boardman's electoral enrolment. He claimed that Mr Boardman said to a journalist that 'he lived in St Kilda, but stayed a couple of nights a week in Frankston'. Mr Holding further stated that Mr Boardman was on the electoral roll at an address in Parkdale. If a motion such as this is to be moved, it would be useful to lay the facts on the table, and a few addresses may have been useful.

Hon. T. C. Theophanous interjected.

Hon. BILL FORWOOD — Mr Theophanous, if you want to do this stuff, you could have moved it by substantive motion any time you liked in the last two years, and you never did. It is a cooked-up job and is pointless. The speech given by the Leader of the Government was dreadful.

Mr Boardman owned a property in Parkdale that was sold in January 1999, when he moved to Frankston. He also had an address in St Kilda which he shared with friends as a base for when Parliament was sitting. Members throughout the state have arrangements for where they spend their time when Parliament is sitting. Even government members of the house — most of their seats are close to town — do that. Ms Hadden probably does not go back to Ballarat every night. It is entirely appropriate that members make arrangements to spend time where they need to.

Although Frankston was Mr Boardman's primary residence, he did not change his enrolment details. This was first discovered in the 1999 state election. It was brought to his attention that he was not enrolled at his current address, so he voted where he was enrolled, which was in the seat of Carrum, and filled in a change of address form on that day. He voted in his seat of Chelsea, which he holds. He admits that he should have changed his details earlier and acknowledges that it was a simple mistake.

We are back to the simple mistake stuff. This is not a case of someone trying to deliberately rort the system. This is another simple mistake. I am happy to have the Leader of the Government say to this house that she is perfect and that she has never made a mistake in her life. We are looking forward to the next few years because we will have a good quick look at her, too — don't you worry about that!

However, when Mr Holding raised the issue he suggested an illegal act had been committed. This was not an accusation of an inadvertent mistake of someone not changing their address when they moved house — he suggested Mr Boardman was acting illegally and asked the Attorney-General to investigate — so on 16 March he raised it again with the Attorney-General. On this occasion Mr Holding referred to newspaper articles, quoting Mr Boardman as stating he forgot where he voted and whom he voted for. The quotes in the newspaper were misused by Mr Holding — why am I not surprised at that? — as they referred to the place of voting — that is, the polling booth — not the electorate. The quotes were totally misused, totally tricky and totally wrong.

The Attorney-General then requested the Victorian Electoral Commissioner, Colin Barry, to investigate the issue, and he did. Would you believe that eventually there was a report back to the Parliament? This is an extract from the *Hansard* report of the Legislative Assembly of 16 March. It says:

> … as chief law officer —

this is the Attorney-General, Mr Hulls.

Hon. J. M. McQuilten — Good man!

Hon. BILL FORWOOD — You have your opinion, we have ours. And I won't talk about his matrimonial arrangements. The report says:

> … as chief law officer I agreed with the view of the Victorian Electoral Commissioner on this matter, which is: —

and there is a quote from a letter from Colin Barry, the Victorian Electoral Commissioner —

> … no further action ought be taken against Mr Boardman in relation to this matter.

This is 18 months ago in March 2000 and today the government brings back a half-baked motion to establish an inquiry into something that an independent officer has already investigated.

Hon. T. C. Theophanous — Tell us what else he said.

Hon. BILL FORWOOD — Give us the letter! I am quoting from *Hansard*:

> … no further action ought be taken against Mr Boardman in relation to this matter.

That was 18 months ago; and that is the case, that is what has happened.

The Attorney-General further stated that Mr Barry identified that this is a common issue and that he was going to recommend legislative change to address it. The Attorney-General said that was a matter of some importance and that the amendment would be called the Boardman amendment, because that is the sort of sense of humour the Attorney-General has. That was almost two years ago. We ask: where is the amendment?

I should also place on the record that at the time of this incident in November 1999 Mr Boardman rang the Electoral Commissioner and explained the circumstances. I am told he was advised by the Electoral Commissioner that this was a very minor matter, it happens a lot, it is not a priority and they would probably take no action. Mr Barry's response to the Attorney-General confirms this.

Hon. T. C. Theophanous — You are defending the indefensible.

Hon. BILL FORWOOD — No, we are not. Mr Theophanous says by interjection that we are defending the indefensible. I say to the chamber that the government has today brought in the most trivial example of a motion to establish a select committee that this house has seen in its 150 years of existence. We have seen some rubbish dished up by the government in the past year also but nothing to compete with the motions it is moving today in this place!

I take absolute delight, in fact I have absolute pleasure in saying that we on this side of the house reject absolutely the imputations and assertions made by the Leader of the Government, and with delight we will vote against this motion.

House divided on motion:

Ayes, 14

Broad, Ms	Madden, Mr
Carbines, Mrs	Mikakos, Ms
Darveniza, Ms (*Teller*)	Nguyen, Mr
Gould, Ms	Romanes, Ms
Hadden, Ms	Smith, Mr R. F.
Jennings, Mr	Theophanous, Mr (*Teller*)
McQuilten, Mr	Thomson, Ms

Noes, 29

Ashman, Mr	Furletti, Mr
Atkinson, Mr	Hall, Mr
Baxter, Mr	Hallam, Mr
Best, Mr	Katsambanis, Mr
Birrell, Mr	Lucas, Mr
Bishop, Mr	Luckins, Ms
Boardman, Mr	Olexander, Mr
Bowden, Mr	Powell, Mrs
Brideson, Mr	Rich-Phillips, Mr
Coote, Mrs	Ross, Dr (*Teller*)
Cover, Mr (*Teller*)	Smith, Mr K. M.
Craige, Mr	Smith, Ms
Davis, Mr D. McL.	Stoney, Mr
Davis, Mr P. R.	Strong, Mr
Forwood, Mr	

Motion negatived.

LIVESTOCK DISEASE CONTROL (AMENDMENT) BILL

Second reading

Debate resumed from 29 November; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. PHILIP DAVIS (Gippsland) — I rise to speak on the Livestock Disease Control (Amendment) Bill, and in so doing I have pleasure in advising the house that the Liberal Party supports this bill. As this makes two in two days, it is quite important to note that the government is enacting some legislation which in its intent and discharge achieves significant benefits for Victorians.

I will qualify that comment by saying that the government was reluctant to proceed with the bill this sitting, and it was only after the urging of the shadow Minister for Agriculture in the other place, who was

able to encourage the Minister for Agriculture, that the bill was proceeded with.

The bill is important because of what it sets out to do. It intends to achieve a national livestock recording scheme which will provide for the permanent identification of cattle initially, but inevitably other livestock, so they can be traced from the property of birth through all stock movements until slaughter, and therefore over the lifetime of that livestock any appropriate disease or other protocol can be met by identifying where those stock have been.

The bill provides for the adaptation of technology implemented to identify cattle and to identify other livestock species as required in the future. The policy to identify cattle has the support of the Agriculture and Resource Management Council of Australia and New Zealand. It is important to recognise that the cattle producers, through the Cattle Council of Australia, are strongly behind a long-term permanent identifier system. The policy of the CCA is to continue to push for mandatory tags, and some relevant conditions are attached to that — that is, to ensure that adequate technology is in place, which involves removing existing bugs as perceived by some handlers of stock; to establish satisfactory phase-in periods; to obtain government funding to establish a sustainable system; and to establish an appropriate level of feedback to producers resulting from the identification scheme.

This is important. I give as the primary reason that long-term permanent mechanisms are needed for the trace-back of cattle, and that includes the present much-promulgated concern about foot-and-mouth disease (FMD), which has received great coverage as a consequence of the recent outbreak of the disease, commencing in the United Kingdom in February of this year. It is relevant to note that this has imposed an extraordinarily high cost on the British government, but more particularly on Britain's livestock industries which have been denied market access as a result of the UK becoming a declared FMD country.

The other issue which has attracted a fair degree of comment over recent years has been the bovine spongiform encephalopathy (BSE) outbreak, which again has created an enormous challenge for the UK cattle industry. We therefore see that as posing a disease risk in Australia, and I congratulate the Minister for Agriculture on arranging a briefing of all members last week on Victoria's preparedness to deal with outbreaks of such diseases in Victoria. I put on the record my real concern that a great deal of work is yet to be done to ensure that we are able to competently handle an incidence of FMD in Victoria, and I will come back to that in a moment.

Other opportunities exist to improve identification of animal health issues — for example, bovine Johne's, which is another disease of significant cost to the cattle industry. The disease is prevalent, particularly in Victoria, and proper trace-back mechanisms are needed to provide the necessary identification and quarantine protocols to manage and, in the long term, hopefully eradicate that disease. However, given that it has been prevalent in Australia since the 1920s I suppose many people would have given up that hope.

It is important to recognise that in the 1980s Victorian beef cattle markets were exposed to risk as a result of cattle grazing on pastures which had been used for potato production and therefore treated with the chemical dieldrin. As a consequence market access was restricted and we had to deal with a range of matters which impacted adversely on the very activity of marketing Victorian beef cattle. In particular there were difficulties for farmers who were involved in that issue. More recently there has been the problem of chemical residues in feedlots using cotton trash.

It is important for the purpose of disease control, chemical residue testing and identification to have appropriate trace-back mechanisms. In talking about diseases we need to recognise that they are threats so what is the objective of providing a form of identification for livestock? The framework of the bill establishes a scheme to implement the national livestock identification system (NLIS) to allow for the permanent identification of cattle and other livestock species and the monitoring and control of livestock diseases by amending the Livestock Disease Control Act 1994.

This reflects changing consumer expectations in relation to food safety and is part of national initiatives supported by the industry and the government. It is important to recognise, given the dependence the Australian beef cattle industry has on export markets, the need to maintain market access. There is no doubt that the efforts to achieve a nationally uniform agreed and implemented protocol will be critical to the long-term viability of the industry.

Other amendments to the principal act go to enhancing controls on the grazing of cattle on sewage farms and addressing minor deficiencies in the act, and allow penalty infringement notices to be issued for some minor offences.

A feature of the bill is that the framework of the NLIS is to include a unique identification number for each animal associated with a device containing a microchip attached permanently to each animal. The bill is trying to achieve a basis of permanent identification for each animal that is a discreet number identification which identifies the property of origin and has a low loss factor — that is, that the identifier is not shed by the animal and needs to be electronically readable, tamper proof and indestructible. It sounds like Superman to me!

In this case the identifier is the ear tag with a microchip. I have had some experience of it in my own cattle herd, and I found it was easily able to be fixed. Most beef cattle producers would have had experience attaching ear tags of other descriptions in the past. This is no more difficult to attach, and my experience was that we did not lose any of the permanently fixed NLIS tags. However, this perspective is being challenged by Northern Australian cattlemen, and Queenslanders in particular, who seem to be opposing or resisting the rollout of the national scheme, which is regrettable because we need to recognise animal diseases and market access has to be managed on a national basis.

In relation to the management of disease control, particularly foot-and-mouth disease, there have been discussions about segmenting Australia and running protocols according to regions so that if there is an incidence in one area or another the totality of the Australian market access will not necessarily be denied. Many challenging protocols have to be worked through before there is agreement on this matter.

I am keen to talk about the benefits of an identifier. Although the focus is on disease control, residue control, chemical residue control and trace back, it is the fact that there are other benefits arising from the use of a permanent identifier that will be recognised nationally. In recent years there has been an increasing incidence of stock theft. Many country members will recall the days of the livestock squad, which seems to have dissipated to a group that now focuses only on the thoroughbred horse racing industry. There is virtually no specialist focus in the Victoria Police dealing with the theft of livestock. It is now left to the criminal investigation branch officers to deal with, which is regrettable. A steady increase in livestock theft is occurring. That is directly proportional to the price, and given that in the last year or so we have experienced very high prices for sheep and cattle there has been a commensurate increase in the number of livestock thefts. At least in the future it will be simpler to identify stolen stock and to relocate cattle, providing they still have their permanent identifier.

Hon. B. W. Bishop — I recall Mr Evans used to be a contributor to this particular debate.

Hon. PHILIP DAVIS — Mr Evans and Mr Stoney, as I recall, and it had something to do with their grandparents having particular expertise with cattleduffing.

Hon. E. G. Stoney interjected.

Hon. PHILIP DAVIS — The Honourable Graeme Stoney interjects that it was the Honourable David Evans's grandfather who allegedly duffed Mr Stoney's grandfather's cattle. As the Honourable Barry Bishop has just said, there might have been a counterclaim in that respect, and maybe the matter will never be resolved, but at least there is evidence that the matter has previously been discussed in this house. The issue of security of ownership is important, and there is no doubt that the permanent identification of cattle will become an aid in tracing stolen stock.

Given the available technology and the microchipping of cattle, another significant issue is the opportunity it provides for improving farm management practice. We have seen an increased use of technology in all industries, including agriculture — and livestock industries are no different from any other industry. As technology evolves there are those who adapt to it early on, while others are slower, but those people I am familiar with in the livestock industries who need to record the performance of individual animals are seeking to use the latest technology. This is particularly so in the dairy industry, where individual cow records can be seen from birth to death, and all production indices and supplementary feed and performance output values are recorded and used for relevant breeding programs.

The dairy industry probably is leading the large animal industry in adopting that technology. However, it is also important for beef cattle breeding herds. Performance recording of dams, sires and progeny has been in vogue in leading breeding establishments since the 1960s and is important, as has been the analysis of feed conversion values and the inevitable analysis of what factors and parameters make up the most viable stock units. These are being used and applied according to performance measurements, which are being provided in a much more sensible way rather than the way we used to do it. For example, when a calf was born we used to rush out to the paddock and try to catch the newborn calf and whack in an ear tag so we could relate the calf to the cow. Then we would make a manual record in the keeper's notebook. That was the basis of the required records. We thought we had done pretty well. Even

though we did not quite know what we were recording, we were recording that there was — —

Hon. B. W. Bishop — A major risk to the cow.

Hon. PHILIP DAVIS — Yes, a major risk. There is no doubt that there was a strong desire to make sure we started collecting records, but we were not quite sure what we were going to do with them.

Over time experience was gained in using livestock-weighing scales, monitoring growth rates and establishing the right weight and age to turn cattle off grass and put them into lot feeding — or even to send them straight to slaughter. Eventually values were determined as to which sire strains should be used for breeding programs. This is being made much more effective and efficient as a result of the adaptation of technology. As I say, this technology provides more than one form of assistance.

Instead of having to have a national scheme which identifies livestock simply for the purpose of traceback, farmers will be able to use this permanent recording system for their own on-farm husbandry and farm management practices. They will be able to purchase tags at $2.50 for each animal and a handheld scanner to read those tags will cost about $800, which will suffice for many commercial breeding enterprises in recording the number of transactions that are required each time stock are handled.

However, in establishments where there is a commercial scale of throughput in the numbers of stock and with a continuing throughput of stock on a daily basis, whether it is for dairy, saleyard or abattoir purposes, the cost of fitting a permanent reader for those tags to a race through which cattle are driven could be $10 000. On the face of it, that seems a lot, but given the number of transactions that would occur over time, the cost would be amortised out and would not be too high.

The implementation of these arrangements is important. The bill requires that all calves born after 1 January next year will need to be fitted with tags that are approved by the national livestock identification scheme (NLIS). There will be full implementation by 1 January 2005. An exception is provided for in the bill in relation to a couple of categories: bobby calves less than six weeks of age and sold for immediate slaughter will be exempt, as will cattle born after 1 January 2002 but which are sent directly to abattoirs by breeders. I believe this transitional implementation will be helpful.

There has been some criticism by northern cattlemen about the performance of electronic ear tags. The cattlemen assert that there have been some serious errors in terms of the number of ear tags that go missing, and there have been claims of up to 4 per 100. In fact Mr John Wild, a well-known, long-serving and long-suffering angry politician who has had many leadership roles in the meat and livestock industry and who has made a significant contribution to the development of the industry over a long time, maintains that there is only one no-read tag per 1000 or less. Interestingly, the Meat and Livestock Australia production research manager has indicated in relation to the database, which has developed on the basis of the voluntary implementation of the national livestock identification scheme, that to date 7.5 million transactions have been recorded and there has been only one claim of an error in those 7.5 million transactions. That is a remarkable testimony to the efficacy of the NLIS tagging scheme.

I turn to the issue of alternative mechanisms. There is a tradition, I suppose one could call it, of livestock identification within Victoria using tail tags. Many of my colleagues in the house will be familiar with this tradition, and I am sure Mr Baxter, Mr Stoney and Mr Bishop have stood in a yard full of cattle on a wet, muddy day with a lot of Cape weed in the paddock. It is a delight to grab hold of a very messy tail and try to wrap a plastic tag around that tail! I can testify to the challenge of that process because it seems that whoever designed those tags — and they have been around for at least 20 years — had one sort of glue, and it is not the sort of glue that works when there is any grit or moisture about. As you wrap the tag around the tail inevitably the tag slides off, so you end up putting two or three tags on to try to get them to grip.

What happens in practice is that stock get in the truck and they rub against each other. They get dirty and messy and the tags often slip off. At the end of the journey the cattle come off the truck into the saleyard, or the point of destination, and the next thing the truck driver notices is that there are insufficient tags on tails — they have lost them! Coincidentally, by good fortune, the truck driver usually finds a roll of tail tags somewhere — inevitably there is a glove box full of them — and between the truck driver and the stock agent, who has probably got a few rolls of tags in the boot of his car as well, mysteriously the cattle who have lost their tags have new ones applied.

This process may be bemusing to city members, but I can say to the house that the importance of it should not be lost because the tail tags represent an identifier of the property of origin of the stock that were consigned. So if you end up with a tail tag of unknown origin attached to an animal that is presumably of known origin and

consigned to a saleyard, and there are various vendor declarations and the like to be committed to, it is very hard to be confident about the veracity of the system of identification that we currently have and the ability therefore to trace back to the property of origin those stock which have thus been affected.

I have worked in the agriculture industry for most of my adult life and I have had the opportunity in the days when Newmarket operated to work there. I have been around saleyards most of my life. My family have been stock and station agents, so I have seen a lot of these things happen. There is absolutely no doubt that if you take stock through a saleyard you are doing very well if you get all of them out the other end with exactly the same identifier on them as they went in with. Therefore the permanent identifiers that the bill proposes to introduce, mandate and require will provide a great and useful addition to the process.

I would like to make a few concluding remarks about the importance of these measures from an animal disease point of view. In July of this year — perhaps honourable members will know about it because they have read about it in the newspaper a couple of days ago — I was in the United Kingdom. I look forward to reporting on my observations of that visit shortly when Parliament rises and the opportunity is afforded to me to sit down and complete the report. In the draft report I have prepared I make remarks about one of the issues that I investigated while I was in the United Kingdom, and that was the matter I referred to earlier — the outbreak of foot-and-mouth disease, which is punishing British farmers.

I must say that it is a very sad state of affairs, not just the impact on the national economy but the impact on individual farms. When I was in the United Kingdom at the end of July I was advised that there were 1900 farms where foot-and-mouth disease had been confirmed, more than 4 million livestock — sheep, cattle and pigs — had been slaughtered, and more than £3.8 billion had been expended thus far in trying to control this disease in the UK. I looked at it from a national, regional and individual perspective, and I have to say that anyone who is naive enough to think it is never going to happen to us is in for a rude awakening.

Without going to the detailed epidemiology in relation to how that disease developed and moved, I indicate that I went to the Cumbria district, which was the epicentre of the outbreak, and visited the disease control centre. I had a look at the operations there and observed the quarantine arrangements that had been introduced and the restrictions on movement. Over dinner during the last week of July I met some people who had come off their farm for the first time since the outbreak of FMD on 23 February. One can understand the sense of isolation felt by those individuals over those months when they could not leave their farm because of the restriction on movement. The only contact had literally been across a physical barrier where people would bring the groceries, for example, or other supplies and pass them over so that there was no risk of disease movement.

The social isolation and pressure on those families are enormous. Many families have had herds of livestock slaughtered. Notwithstanding that currently in the United Kingdom the compensation arrangements are regarded by the National Farmers Union to be adequate and there have been no complaints about the compensation levels, there are clearly issues far beyond the financial impact. We have seen it in Victoria. We have seen in microcosm the social impact as a result of the ovine Johne's disease which in a very small way has created incredible social distress. I say in a small way, but it is not a small way for the individual families involved. However, it is in terms of the scale of the problem relative to livestock industries in Australia.

The other issue in the United Kingdom is that much of agriculture and agriculture policy is sponsored by government, not for the benefit of the farming community per se but for the tourism industry because the real money in agriculture is the visual amenity that is provided for and to attract tourists to rural England so that they can stay on a farm or at a bed and breakfast in a village and can go walking in the countryside. Of course, all the walking tracks were closed because of the fear of transmission of disease. Therefore the tourism industry had ground to a complete halt.

I stayed in a little village called Appleby. It was a place where ordinarily at the time of year I was there the town would have been brimming with tourists. From what I could see, I was the only visitor to the town. From Appleby I was able to investigate the impact of FMD on that farming community. As I say, the impact on the tourism industry I thought was clearly the most damaging.

I said earlier that we should not think we could not get FMD here. I would have to say that when I returned to Australia in August I was alarmed by the then less than adequate, in my view, management of quarantine arrangements at Melbourne Airport. When I went through customs I was disappointed with the level of conscientiousness, I think that is the way I would describe it, about quarantine arrangements and concern about the fact that I had been in a locale where I had

been exposed to some FMD risk and was a possible carrier.

Subsequently I had the opportunity of dealing with that on another visit to Tullamarine and other places in association with parliamentary colleagues from the Liberal Party. We visited the animal health laboratory at Geelong, Melbourne Airport and elsewhere, and spoke to Australian Quarantine and Inspection Service officers. I have to say I am much more confident now than I was in August about the increasing level of border and barrier control in relation to those quarantine matters. However, I still perceive a serious risk for us and seek increased investment by the commonwealth in those protocols. There is a need for upskilling, increased manning levels and compliance efforts in relation to those quarantine and customs controls. I believe that should be endorsed and encouraged by all honourable members. We should be very supportive of the commonwealth government's efforts in that regard.

We should not be afraid to point out deficiencies when we see them in a broad policy sense or even — as I had the opportunity of doing and did — as an individual traveller who had some knowledge of the area.

That brings my contribution to an end other than to say that I think this is sensible legislation. It has my support and honourable members should ensure that it has a speedy passage.

Hon. D. G. HADDEN (Ballarat) — It is my pleasure to speak in support of the Livestock Disease Control (Amendment) Bill. I do not have the experiences of cattle and saleyards as those of Mr Philip Davis, the previous speaker, but I am always interested to sit in the house and listen to the experiences of honourable members on the other side.

The bill was introduced into the other house on 10 October and was passed on 29 November. The opposition spokesperson on agriculture, the honourable member for Monbulk, had written to the Minister for Agriculture on 15 November urging him to act quickly to protect our important livestock industry and have the bill passed as quickly as possible. The honourable member for Monbulk made it clear that a strong industry view was that a national livestock identification scheme would benefit the industry as a whole and that it was absolutely crucial that the scheme be implemented as quickly as possible.

On 21 November the Minister for Agriculture responded and welcomed the opposition spokesperson's support for the Livestock Disease Control (Amendment) Bill. But the minister also noted that the Auction Sales (Repeal) Bill was referred to in this bill and therefore sought advice on whether the opposition would support the Auction Sales (Repeal) Bill. I am pleased that the opposition Liberal Party is supporting this bill.

Currently something like 80 per cent of cattle have wraparound tail tags as a form of identification at saleyards and abattoirs. As we have heard from the previous speaker, and I know from my very limited experience, they fall off. Then there is the difficult, if not impossible, job of tracing cattle — if, indeed, they are ever traced accurately. It is absolutely crucial that we have a framework for the national livestock identification scheme (NLIS) and support for the bill before the house.

There is widespread acceptance across the community for the absolute need to protect our important livestock and beef industry to ensure that it is disease free and that we continue to be recognised interstate and internationally as having a clean and healthy beef industry. It is crucial that the cattle industry has maximum protection from future disease and food safety incidents. As has been mentioned by the previous speaker, foot-and-mouth disease is still a risk in Great Britain, and we certainly need to ensure that we have a permanent identification scheme nationally. I am happy to see Victoria take the lead in this area so that cattle are permanently identified under the scheme both from birth and before they leave the property of origin on their way to the abattoirs or the markets.

We know from media reporting over the past 12 months about the devastation that has been caused to the communities in Great Britain as a result of foot-and-mouth disease and bovine spongiform encephalopathy disease. Certainly we do not want that to happen in Victoria.

The purpose of the bill is set out in clause 1. It is to provide for the permanent identification of livestock, which will assist in the full implementation of a NLIS. It will also enable proper and responsible monitoring and control of livestock diseases.

Clause 15, which deals with notification of livestock slaughter and disposal, has an expected commencement date of 1 January 2005, if it is not proclaimed earlier. That will assist the industry in adapting to and implementing the NLIS. It also reflects the lifecycle of the livestock.

Clause 4 provides for exemptions to be made by way of regulation or by order in council. It also enables the framework of the national livestock identification

scheme to be established, which is more particularly set out under clause 6 in proposed new section 9A, which provides for permanent identification of livestock by way of tagging, marking, branding or identification and goes through the requirements of the secretary for that identification process. Compliance will not be required at the time of commencement if the cattle or prescribed livestock were validly identified under current practices at the time the owner acquired them or if the current methods of identification remain intact on the animal.

Clause 5 amends section 9 of the principal act, the Livestock Disease Control Act 1994, which deals with the compliance regime for the entry of livestock into Victoria. It is important to note that clause 9 sets out proposed new section 10(1) to provide very heavy penalties if a person does not comply with the provisions dealing with the entry of livestock into Victoria. Those penalties are $12 000 or 12 months imprisonment, or both, in the case of an exotic disease; and $6000 in the case of any other disease. Clause 10 provides that a declaration of a control area has effect for a period not exceeding 12 months and there is provision for the minister to specify a continued control period not exceeding a further 12 months.

Clause 6 introduces an identification scheme based on two categories: bobby calves less than six weeks of age and sold for immediate slaughter and cattle born after 1 January 2002 and sent direct to an abattoir by the breeder. The explanatory memorandum notes that cattle born before that date will continue to be identified by current practices and methods.

Clause 7 inserts proposed new section 9B into the principal act. It concerns the identification of livestock, which, of course, is an essential component of the NLIS. Clause 8 amends the requirements for manufacturers of tags to be authorised by the secretary in writing and prohibits the reuse of tags for identification without the secretary's written permission. Clause 9 requires that before diseased livestock may be brought into the state of Victoria an authority or licence must be granted by the secretary and the licence may have conditions imposed on it. The licence may be issued for a maximum of three years. Again, the penalties are heavy and similar to the penalties I have previously referred to.

Clause 11 deals with the secretary's approval for pigs or cattle to graze on land where sewage has been deposited, which may also be subject to conditions. The clause sets out a set of criteria which enables the secretary to exercise his or her discretion in relation to certain conditions, and it is important to note those criteria. They are: the purpose or intended use of the cattle or pigs to feed on the pasture or crop; whether the cattle or pigs will be tagged, marked, branded or identified appropriately under the legislation; the measures taken to limit the movement of the livestock; and the measures taken to limit the exposure of the livestock to infection and disease.

Clause 12 amends section 44(1)(c) of the principal act to ensure that when a sewerage authority allows cattle to be situated on particular land the cattle cannot be removed for slaughter without the secretary's approval. As with clause 11, there is a set of criteria for the secretary to exercise his or her discretion in relation to conditions and other relevant matters.

Clause 17 inserts new section 115A to provide for identification notices in relation to diseased livestock to be issued by an inspector. That is important to ensure the proper control and containment of disease outbreaks.

Clause 19 amends the regulation-making power in section 139 of the principal act. It will allow for the very important NLIS to be implemented for the monitoring and control of livestock movement throughout the state. It also allows for regulation of the destruction and disposal of the means of identification of livestock.

It is important to note that this bill will achieve a major step in protecting Victoria's very high reputation of supplying clean, wholesome, disease-free beef and dairy products. By providing for the identification of all cattle in the state the bill will achieve the maximum protection possible from any further food safety disease incidents. The bill will also ensure that we have better control of endemic diseases. It will assist in the reduction of stock theft through the identification of livestock. Further, it will provide for significant improvements in the efficiency of this industry, which is very important to the state.

The national livestock identification scheme identification tags will continued to be subsidised by the Bracks government and Meat and Livestock Australia. The government has announced that the tagging will remain at $2.50 for each identification tag for the current financial year. Meat and Livestock Australia has committed itself to $10 000 per saleyard on a dollar-for-dollar basis, and it should be commended for that commitment. The Bracks government has allocated more than $1 million to the installation of tag reading infrastructure at saleyards and abattoirs and the administration of the tag distribution.

Victoria's implementation of this very important national livestock identification scheme framework will ensure that this state continues to have healthy and reputable competition both interstate and internationally. It is important that this government protects the very important and large livestock industry. The dairy industry is worth $1.37 billion to Victoria and the beef export industry is worth something like $420 million to this state, so it is very important that we implement the national livestock identification scheme through this bill.

In relation to the other states and their positions, it is correct, as the previous speaker noted, that Queensland, Western Australia and South Australia have not been as proactive as Victoria in relation to the identification of livestock. However, New South Wales supports the introduction of a mandatory identification scheme and tracking arrangements for cattle and sheep. I understand that New South Wales has prepared a position paper which was to be put to the primary industry standing committee meeting scheduled for the end of last month. That paper recommended that the states and territories endorse the implementation of a mandatory identification scheme for cattle and sheep in Australia commencing next year. I commend the bill to the house.

Hon. B. W. BISHOP (North Western) — It is with pleasure that I rise on behalf of the National Party to speak to the Livestock Disease Control (Amendment) Bill. The purpose of this bill is to protect public health and livestock exports by controlling and minimising livestock disease, and preventing, monitoring and eradicating exotic disease outbreaks.

The National Party has consulted widely on this bill, generally with the Victorian Farmers Federation but also with many other people. One of the major concerns the National Party has with this bill — and I guess it is the reason it has not gone the whole hog in full support but will be not opposing the bill — is that this is a national scheme and it must be a national scheme to work properly, so we need a commitment from the Victorian government that the other states will join this national scheme to make it a workable program in the fullness of time. I did not hear anything in the contribution of the Honourable Dianne Hadden to give me any comfort that the government has that full commitment.

I move now to some of the issues in relation to this bill, and I suppose snippets of information as we go along. There is no doubt that red meat is the state's second-largest food export — it constitutes about 20 per cent of Victoria's food exports. Public health has received a lot of media coverage overseas and in the most practical sense it has been quite devastating where the industry has been jeopardised by serious outbreaks of stock disease. The National Party has a very strong view that good disease prevention and control depend on accurate identification and accessible records. It feels that that is most important. This bill establishes a framework to enable the permanent identification of cattle through the national livestock identification scheme (NLIS) — I again make the point that it is national — and the use of permanent electronic devices.

The approach taken in the bill is that the scheme will be phased in and will be a collaborative effort across all sectors of the industry, but there is the option of compulsion in the future. The benefits will include quality assurance; genetic improvement; prevention of stock theft, which is unfortunately becoming much more prevalent; better herd management; improved control of endemic disease; and much more efficient information exchange across all levels of the industry.

As the bill says, the scheme will take five years to implement. The National Party is advised that by early 2002, 80 per cent of Victorian abattoirs will be able to scan cattle processed for slaughter, which is quite a good effort when you think about it. The information will ultimately be recorded on a very comprehensive database, which I will talk about a little later.

It is important to note that cattle born after 1 January 2002 will be required to have an NLIS device fitted before they can leave the property on which they were born. The unit cost of the device, as has been mentioned by other speakers, will be $2.50 per animal. The National Party notes that financial assistance will be available from the government to the industry through the abattoir and saleyard systems. It also notes that exemptions will be available, although I suspect that the ultimate goal is for full implementation. Bobby calves, for example, will be exempt.

The National Party notes that 1 January 2002 is the nominated date for the mandatory requirement for all cattle leaving the property of their birth to have ear tags or boluses; 1 January 2003 is the date from which all abattoirs and knackeries will be required to notify details of all cattle slaughtered; and 1 January 2005 is the mandated date for full operation of the bill. It is to be a phased-in process.

The National Party has also been advised that the bill will empower prosecution of those who may introduce diseased livestock into the market. Other measures to prevent disease in livestock should be taken as well, such as ensuring that truck washes are available and

that trucks are clean. The bill allows the freeing-up of trade where disease risk can be managed and enhances the control of the grazing of cattle and pigs on sewage farms. It also allows for penalty infringement notices to be issued for some offences.

We in the National Party see this as an important bill which will lead us forward into the future, despite having those nagging doubts about the full national implementation of what we believe is a very good process.

I will talk for a few short moments about the devastating effects of diseases in cattle and other animals which my colleague the Honourable Philip Davis saw first hand in the United Kingdom. The spread of foot-and-mouth disease in the United Kingdom started with half a dozen infected sheep from the Lakes District being sent to the Longtown market earlier this year. These sheep had been running on a property next to a piggery, which is now recognised as the original source of the disease. The disease at that piggery and the sale of those sick sheep have now resulted in 3.5 million animals being slaughtered on 8400 farms in the UK at an estimated cost of $5 billion. which is rising steadily. The potential for the spread of exotic disease through animals in any country in the world is enormous.

In Victoria tail tags and vendor declarations have been quite useful in the past, but most farmers believe they are now outdated. The Honourable Philip Davis talked about the usefulness of tail tags in wet and sloppy market conditions where you can hardly stand up, and the trace-back in those areas is certainly not as good as the industry would like.

Further to that, the United Kingdom experience has clearly shown that the paper trail there is slow and inefficient, and that in a real disaster it is quite cumbersome and ineffective. The bovine spongiform encephalopathy (BSE) disaster began with a single cow in the south-west of England in the 1970s, and by the time BSE was identified 50 000 cows were infected. Feeding protein recovered from cattle carcases turned a single sick cow into an epidemic that spread like a chain letter throughout the British herds. How would a national livestock identification system have been useful there? Possibly from the following point of view: in the beginning only single cows presented with the symptoms, and had they been recorded on a national database the significance and severity of the outbreak may well have been recognised much earlier.

The costs of an outbreak such as the one in Britain are absolutely enormous. It has been reported that British officials estimate that the taxpayers' bill for foot-and-mouth disease will probably reach $6.17 billion. The United Kingdom BSE experience, which showed a lack of transparency and openness, provided many valuable lessons to countries like Australia. There is no doubt that a national livestock identification system will go a long way towards providing that openness and transparency as well as responsiveness, which the National Party believes is most important.

It is reasonable to report that Australia's feedlots will move to mandatory electronic identification under the national livestock identification scheme next year. About 25 per cent of all cattle for slaughter in Australia pass through licensed feedlots, so the move will speed take-up of this new scheme.

The latest NLIS integrated data and interface system for abattoirs is already in place in four European Union-licensed abattoirs in eastern Australia. We are under way, which we in the National Party believe is a good thing.

I come back to the point that nags away at National Party members in relation to this bill — that is, that national implementation is essential. The *Weekly Times* of 28 November reported on the Meat and Livestock Australia industry forum held at Mount Gambier, at which Queensland producers:

> … questioned the ability of the technology to read electronic ear tags and the logic of a mandatory scheme.

The article makes the point that:

> The north Australian attitude is in stark contrast to Victoria where legislation for mandatory electronic ID system is before state Parliament.
>
> Queensland cattlemen who spoke at the meeting said the ear tags were expensive and easy to lose. Some reported ear-tag losses as high as 4 in 100.
>
> They said that tail tags were sufficient in providing trace back.
>
> John Cox, the managing director of the Stradbroke Pastoral, which is one of Australia's largest cattle producers, said he was strongly in favour of electronic ID but opposed to it being mandatory.
>
> 'I would prefer that the scheme be market driven', Mr Cox said.

Further it states:

> The strong opposition to a mandatory scheme came despite a warning from outgoing Cattle Council of Australia president Peter Milne.

> He said that a mandatory ID scheme would be critical for Australian livestock producers in their attempts to control an exotic disease outbreak such as foot-and-mouth.
>
> But defending the push for a mandatory scheme was Harrow cattle producer John Wyld.

He was mentioned by the Honourable Philip Davis previously and is well known to all of us in agriculture:

> Mr Wyld said lost tags were usually the result of poor application.
>
> He said that 'no reads' were often due to a damaged microchip, also from careless application.
>
> Mr Wyld said reports of a loss of tags or 'no reads' were running at 1 in a 1000 …

Further on the report, in which there was support for mandatory identification, talks about conditions. Unfortunately by no means do Australians have total agreement about a mandatory system. We in the National Party believe the database that will be created out of this national scheme is absolutely essential, not only for marketing but for quality assurance programs, follow-up identification and trace back, and I again come to the point that it must be a national scheme. We also believe, as the scheme bites and more data becomes available, individual cattle producers will use the database — we are quite sure they will — to get accurate, complete information about their herds to see how they are going. An estimated 120 000 dairy cows are already tagged with the identification process. I am quite sure that the development of the national livestock identification scheme system will see a lot of those dairy farmers utilise that database.

We are advised that the development of the NLIS scheme cost about $5 million, and that that has been funded by levies paid to Meat and Livestock Australia. The NLIS business plan suggests that annual operation costs will be about $500 000, and that that will be covered by users, producers and processors by special levies on devices and database usage. While most industry people want NLIS in place, there are still questions about the process rather than the concept itself.

A number of people contacted the National Party after the bill was introduced into the lower house — where, of course, it was guillotined, which did not allow a lot of discussion on it. That was unfortunate. The people who contacted the National Party were those who use the system — producers, industry people, and industry journalists and commentators, such as Athol Economou. So there has been substantial interest since the bill has been introduced into Parliament. The questions to the National Party have been many and varied. I suspect they fall into three main categories. The first one is mandatory application, which seems to be quite a concern if it is taken on a national level. As an example I give the view of the Queensland producers, perhaps the New South Wales producers, and no doubt some of our producers in Victoria. Again I make the point that it is absolutely crucial that this be a national scheme to allow it to work properly, so we need the commitment from the other states. We are concerned that without that Victoria will again be out the front on its own, which is not a bad thing, as long as it is absolutely certain the other states will come with us.

We have noted that the bill provides some powers of exemption. The question for some producers who might have 5 cattle, Mr Stoney, or 10 cattle or 20 cattle — we are not sure about that —

Hon. E. G. Stoney interjected.

Hon. B. W. BISHOP — Some industry commentators suggest that smaller farms with very few cattle may provide the most risk. I think that is possible, as small numbers of cattle may well be viewed as a minimum revenue-earning sideline and may perhaps not get the full attention to detail that a larger producer would have to give due to the fact they are absolutely reliant on maximising their efforts. So a few questions are hanging in the air about the first point I raised.

The second is the cost to the industry, a question which is always raised in agriculture in times of change — and it is a fair question. The question is: who pays? There is no real question about that. As any of us who have been in agriculture know, at the end of the day the producer pays. Those questions are always raised, and quite fairly. But I note, as I think I have referred to, that there will be some government assistance to the industry to assist with the new identification system process.

The costs seem reasonable. It is $2.50 for an ear tag or a bolus, which goes in the gut of the animal. It seems more expensive when you get to the $800 for a hand-held reading machine or, as I understand it, $10 000 for a fixed installation at a saleyard or an abattoir. They are about the costs, which is an issue that has been raised with the National Party.

The third issue in the broader sense is whether the technology is good enough. I suspect from the work we did that on balance most people think it is. However, the bigger question is whether the database will be fully kept up to the mark — which it must be — and whether it will be fully utilised. Only time will tell as the use of

the project gets under way. The honourable member for Swan Hill in the other place, Barry Steggall, is the National Party spokesperson on agriculture. He did a lot of work on this issue, put the questions in a line attack and wrote to the Minister for Agriculture. On behalf of Mr Steggall and the National Party I thank the minister for his prompt reply.

Before I put on the record some of the questions raised and the minister's responses, one example of the responses we have had was that of a Mr Vanne Trompf, a cattle farmer from Dunkeld, who contacted us. He raised the point that we need a full package in place with good identification. If a disease outbreak occurs we need good back up of skilled vets and others on the ground to handle the issue. This is a practical and sensible view, and something that no doubt will be considered as the package comes on stream.

I come to the letter that my colleague the National Party spokesperson on agriculture wrote to the Minister for Agriculture. The minister responded highlighting the questions sent to him by my colleague, and his letter states:

> Thank you for your questions in relation to the operation of the national livestock identification scheme (NLIS).
>
> Following are answers to your questions.
>
> 1. Can tags and readers provide the information flow to the national data base from Victorian farmers and abattoirs?
>
>   Currently 957 producers, 18 abattoirs, 30 saleyards and 7 feedlots throughout Australia have accounts with the NLIS database for the purpose of electronically uploading and downloading information. Industry participants with access to the Internet can easily interact with the database.
>
>   Producers who buy and sell cattle through the saleyards system, or who consign cattle directly to abattoirs will not need to interact electronically with the database unless they choose to use the database to access carcase feedback information in relation to the cattle they have bred or sold.
>
> 2. Who will have access to the national database? Will our industry have confidence in a fully controlled national database?
>
>   The drafting of business rules in relation to the operation of the NLIS database commenced in late 2000 during the preparation of the NLIS business plan by Meat and Livestock Australia (MLA). The business plan, which was endorsed by the board of MLA, by cattle industry peak councils and by Safemeat in early 2001, summarises the main categories of data stored on the database, and who is entitled to create, read, update and delete this data. The business rules within the business plan define who can access the data that is stored within the NLIS database, and are complemented by access agreements and passwords for database users.
>
>   Further work on the business rules, focusing in particular on additional functionality that is being added to the NLIS database, is currently under way and will be progressed through the national NLIS steering committee. This additional functionality includes commercially sensitive information, such as carcase feedback data. There is already an agreement between the National Meat Association and the Victorian Farmers Federation pastoral group in place in Victoria in relation to producer access to carcase feedback data. Processors have agreed to allow the consignor and producers registered on the NLIS database as having owned a particular animal to gain access to carcase feedback data in relation to that animal.
>
> 3. What is the cost of managing the database?
>
>   The NLIS business plan predicts that the ongoing running costs associated with the operation of the NLIS database on behalf of the Australian cattle industry will be $556 000 per annum.
>
>   Approximately 3.2 million cattle — 12 per cent of the Australian herd — are currently identified with NLIS endorsed ear tags or boluses which are registered on the NLIS database. Because the NLIS is an electronic system, one Meat and Livestock Australia employee is currently able to manage the NLIS database because approximately 98 per cent of the data is captured and transmitted in electronic form.
>
> 4. Does the Australian industry want a mandatory system?
>
>   My understanding is that the Cattle Council of Australia and the Australian Dairy Farmers Federation support, in principle, the introduction of mandatory NLIS identification of cattle. The key condition associated with this support is that there be sufficient commonwealth and state government funding to ensure the successful implementation of mandatory arrangements.
>
>   The Australian Lot Feeders Association (ALFA) has recently decided to recommend to members that from 1 July 2002 cattle not be accepted into feedlots unless they are NLIS identified. ALFA is concerned that without NLIS identification, it will not be possible to identify and isolate cattle that may be diseased or residue affected.
>
> 5. Do other states agree with our approach?
>
>   New South Wales supports the introduction of mandatory identification and tracking arrangements for cattle and sheep, and has prepared a paper on this topic for the Primary Industries Standing Committee (PISC) meeting, scheduled for 30 November. The paper recommends that states/territories endorse the implementation of a mandatory identification scheme for sheep and cattle in Australia commencing in 2002.
>
>   Queensland, Western Australia and South Australia have not been as proactive as Victoria in relation to livestock identification. The position of these states in relation to mandatory NLIS identification will become clearer at the PISC meeting.
>
>   There are strategic advantages to Victoria associated with implementing mandatory NLIS identification of

cattle in advance of other states. The Japanese market, for example, may demand 'whole of life' traceability in the near future in response to fears arising from the recent diagnosis of 'mad cow disease'. The Victorian cattle industry recognises that Japan and other key markets for beef and dairy products are demanding full traceability because of concerns about food safety. This is a key reason why all sectors of the Victorian beef and dairy industries support the full implementation of the NLIS.

Other benefits such as better control of endemic diseases, reduction in stock theft and significant improvements in industry efficiency will not be realised until Victoria's cattle herd carries NLIS identification.

6. Which standards of the technology will be used in Australia?

International standards for electronic technology used for the identification of animals, known as ISO 11784 and ISO 11785, have been established. Australian standards for electronic technology used for the identification of animals, known as AS5018-2001 and AS5019-2001, have recently been published. These standards are based on ISO 11784 and ISO 11785.

The five devices currently holding NLIS endorsement all contain ISO compliant half duplex (HDX) transponders.

Devices containing ISO compliant full duplex (FDX-B) transponders and dual HDX/FDX-B panel readers have not been shown to work reliably in Australian conditions. The NLIS standards committee has therefore not endorsed devices containing FDX-B transponders.

Saleyards and abattoirs and many beef producers and dairy farmers throughout Australia have to date purchased fixed half duplex only readers because no suitable fixed dual readers have been available. They are likely to be significantly disadvantaged if either full duplex or non-ISO technology were to be endorsed for use as part of the NLIS as they would need to purchase dual readers or upgrade their half duplex readers at significant cost. The NLIS standards committee will only endorse devices containing full duplex or non-ISO transponders if the technology is shown to work reliably and if a commercial advantage to industry stakeholders can be demonstrated associated with its introduction.

7. What is the cost of implementation?

The government is assisting saleyards and abattoirs by providing approximately $1 million towards the installation of NLIS infrastructure.

Meat and Livestock Australia has agreed to provide funding to saleyards on a dollar-for-dollar basis to a maximum of $10 000 per saleyards for NLIS infrastructure including equipment such as automatic drafting gates and counting and display equipment to assist in the efficient handling of NLIS identified cattle.

Allflex Australia won a competitive tender conducted by NRE in 1998 for the supply of electronic tags for machine readable cattle identification devices. Because of the tendering process and a subsidy co-funded by the government and the cattle industry through the Cattle Compensation Fund, Allflex tag is approximately $1 cheaper in Victoria than in other states.

8. Should the government legislate to mandate industry behaviour and industry implementation?

Legislation requiring that cattle be identified using tail tags or equivalent has been in place in Victoria since the 1970s. Without such legislation, Victoria would not have been able to successfully eradicate tuberculosis and brucellosis from our beef and dairy herds.

Wrap-around tail tags, however, only reliably identify cattle for a few days. After they fall off, it is very difficult to trace cattle quickly and accurately if the need arises.

Customers are demanding proof that our livestock are disease free, and our beef and dairy products are clean and wholesome. In mid-1990, the European Union demanded full traceability for Australian cattle destined for export to Europe. A number of key Australian and overseas beef and dairy product buyers have indicated that they may introduce similar requirements in the future.

Also, there is wide acceptance within the cattle industry that maximum protection from future food safety and disease incidents, such as foot-and-mouth disease (FMD), will not be achieved until all cattle in Victoria are permanently identified with a NLIS device before they leave their property of birth and all movements are recorded on the NLIS database.

FMD has ravaged rural communities throughout the United Kingdom. We cannot afford to let this happen in Victoria. The full implementation of the NLIS will help to ensure a similar catastrophe does not occur here.

9. Should the government legislate to mandate which technology is to be used?

Safemeat, through the NLIS standards committee, has developed a standard which complements the relevant ISO and Australian standards, for the technology used as part of the NLIS. This standard defines the required performance of compliant technology in Australian conditions. If a NLIS technology standard was not in place, then saleyards, feedlots and abattoirs would need to install reading systems and complementary hardware and software for each technology selected by producers for the identification of the cattle. Such an arrangement would be unworkable.

A NLIS technology standard is essential to minimise industry costs and ensure that information about cattle that are moving between properties or to saleyards, feedlots and abattoirs can be captured quickly, cost effectively and accurately. The NLIS standard also ensures that endorsed devices work reliably in Australian conditions.

The letter is signed by the Honourable Keith Hamilton, Minister for Agriculture. We thank the minister for that response, which we believe is important to put on the record in relation to this debate.

In relation to mandatory legislation in other countries, we have noted that Canada has that in place. I refer to a Peace Views newsletter which states:

> The Canadian Cattle Identification Agency, operating since the fall of 1998, is preparing for the implementation of the national identification program. At present, the program is voluntary. Beef producers may use one of the 12 tags that have been approved in their current management strategy. On 31 December 2000 the program will become mandatory and cattle will need a herd of origin ear tag before leaving the farm and trading hands.

The article goes on to talk about the agency's particular process.

I shall not take any more time of the house other than to say that it has been a stepped program. New Zealand has the same view with its program run under the Animal Health Board national register of herds, which covers cattle and deer. That board goes through a process similar to the process Victoria is looking at, as is the case in Canada. That is a snapshot of Canada and New Zealand.

The bill provides a way forward, and we hope our contribution to the debate will be recognised. Questions still remain, but we have tried to manage some of those issues by raising them in the debate. We also understand that as the program gets under way other questions will be asked, which will have to be addressed as the situation develops.

Our greatest concern is that the scheme must be national, given the movement of stock across state borders today. The government must get a commitment from the other states that they will join the program, aptly named the national livestock identification scheme, otherwise Victoria will be out the front on its own. The National Party does not oppose the bill and asks the government to note its concerns. Members of the National Party will monitor the operation of the legislation as it develops over the next few years. The only way the scheme will work is by national compliance.

Hon. E. G. STONEY (Central Highlands) — I shall make a brief contribution to the Livestock Disease Control (Amendment) Bill, given the Honourable Philip Davis's informed and interesting contribution, which demonstrated his wide knowledge of the livestock industry in Victoria. Mr Bishop did likewise. Both Mr Philip Davis and Mr Bishop demonstrated that they understand livestock issues. The government's contribution was, to say the least, disappointing.

The objectives of the bill are to control and minimise livestock disease, and to monitor and eradicate exotic livestock disease. I was especially taken by the second-reading speech, which states in part:

> The bill establishes a framework to enable the permanent identification of cattle, and for related matters concerning monitoring and control of livestock diseases. It can be applied to other livestock where appropriate by regulation.

Currently the legislation is aimed directly at cattle. The second-reading speech goes on to note that:

> Victoria would be the first state to fully implement a mandatory version of the national livestock identification system.

This is an important step in improving the health of livestock and protecting our local and overseas markets, because world standards are rising, particularly in the countries to which we export. There is a growing consciousness of the importance of clean and green food and a growing consciousness of what can happen. The recent outbreak of bovine spongiform encephalopathy (BSE), known as mad cow disease, and the scare in Japan raised world awareness of the problems facing the meat industry throughout the world.

With the recent mad cow disease scare in Japan only one cow was discovered to be affected, but consumer confidence evaporated and Australia immediately felt the flow-on effects.

Hon. M. R. Thomson — It was a Japanese cow!

Hon. E. G. STONEY — Yes, it was a Japanese cow, Minister, but the ripple effect through the Australian export industry was immediate, and orders were downgraded or cancelled. The effects were felt immediately. Just when consumer confidence in Japan was picking up there was another scare. To demonstrate that they meant business and were on top of the problem the authorities ordered the slaughter of thousands of cattle that may have had access to certain feed.

Consumer confidence has to be fostered and nurtured, and supplies of meat and produce must be secure. There is no real downside to identifying animals, be it on the farm, at the saleyards or the abattoirs through to the finished product. The only downside is the cost of about $2.50 per head, which is not much for a beast, but if it were applied to sheep it would be a large cost to the sheep industry. That is an issue that still has to be addressed.

Tracing any contamination, such as pesticides and chemicals that are observed in the meat, back to the farm where the cattle came from is of great value to the

industry and the farmers. The days of poddy-dodging and cattleduffing are numbered. The romance that surrounds poddy-dodging and cattleduffing is not the same in reality, but as Mr Baxter and I were discussing earlier, it is becoming a big issue in Victoria and Australia.

As cattle become more valuable the temptation is there, and with the change of emphasis by Victoria Police away from the livestock squad we certainly have a problem in Victoria with stolen cattle. You would think the electronic tagging of cattle would assist in that regard. I am sure a former member of this place, the Honourable David Evans, a mutual friend of mine and Mr Baxter's, would agree that indeed it would be a good thing if cattleduffing was curtailed or became impossible.

A technique that is still used and has been used very much in the past is earmarking. You can earmark with either a pair of clippers or a punch, or just an ordinary Joseph Rogers pocketknife — a nice, sharp pocketknife. Our family earmark is a slit and a back quarter, quite a well-known earmark in the Mansfield district and up on the high plains. The technique of earmarking is very important when mobs of cattle are run together, as they are up on the high plains. I know at the Pretty Valley muster just out of Falls Creek, where they have literally several thousand head of cattle together — the Pretty Valley muster is quite a sight — it is all done on earmarking. You just ride in, pick your own earmark and work your cattle out into your own mobs. You can do it easily; it is done very quickly on earmarks.

Of course, the old timers had 20/20 vision: they could just ride in and bring three or four of their own cattle out at once. Once they locked their horse onto a particular cow — they used to claim the horse could read the earmark, but I think that is one of the tall tales of the mountains! — they could just bring their cattle out into all the groups, and everyone else could see that all those earmarks were in the one mob. Earmarking is a very necessary thing, and is still a very important technique today.

Another technique which was used in the past and which is still used on stud stock and horses is branding with dry ice. You have a metal brand cooled to very low temperatures on dry ice and then you apply it to the clipped skin of a beast, and in a couple of weeks the hair becomes white and you might have a perfect 9 or a perfect S, if there is such a thing. It is absolutely painless, but it is a very good technique for permanently marking stock.

Plastic and aluminium tags are used widely in the livestock industry, but there again, as was pointed out by Mr Philip Davis and Mr Bishop, there are downsides to this. Tags pull off in trucks and in saleyards and are not as reliable as they should be. Horn branding was a technique used many years ago, but once again the cattleduffers used to dehorn the cows once they pinched them. But stud breeders often use this method as a way of identifying beasts without damaging them.

I would like to record a very famous incident that occurred in my district, where a cow was killed quite near our home property. All the neighbours came because there was an accident in which a car was badly damaged, but nobody was hurt. But here was this cow with a very plain earmark belonging to a well-known Mansfield family. Someone rang the family and night fell. The next morning the cow was still in the table drain, but it carried the earmark of another well-known family in the district! So overnight someone — I do not know who on earth it was — came along and very carefully changed the earmark from one well-known Mansfield family to one that looked very much like the earmark of another well-known family in the district. So there are a few villains around, and there is sometimes a bit of fun in that area.

Hon. R. A. Best interjected.

Hon. E. G. STONEY — Probably not quite as deadly, but certainly these things did go on.

Mention was made today of the requirement that tail tags have to be used whenever beasts are sold — whenever they go to sale or whenever they go to an abattoir. I understand this will continue, but I do not quite understand why, because it is a pretty terrible process. It is just a plastic sticky tape that you wrap around the tail. Generally that works, but sometimes it does not and sometimes they come off. As Mr Davis pointed out, it is a very unpleasant operation, especially when the spring flush is on.

I have to tell the house that putting tail tags on is not nice — chasing cattle around a very muddy yard in ankle-deep mud and grabbing the very slippery tail, and especially in mid-spring trying to put on tail tags is not a pretty task. One might ask why mid-spring is the problem. The grass is lush outside the city and cows' tails are very slippery — I think that is the word I am looking for! Either way, I think the process prepares you for politics, and it especially prepares you for the dirty pool played in this place this morning, which drags us all down in the public's view. I believe what we saw this morning achieved nothing. I have to say I

have totally lost respect for some people in this place, and I think I would rather put on tail tags.

A report entitled *Control of Ovine Johne's Disease in Victoria* was released by the Environment and Natural Resources Committee. It goes into the management and control of OJD in sheep. It says that the management of sheep would be greatly assisted by an improved flock identification system. At the moment the bill refers only to cattle, but I believe in future sheep could be included.

To finish off, I shall just quote from the report. I was a member of that committee and we received a great deal of evidence into OJD management. In fact, we received evidence that the management of OJD is hampered by the lack of assistance to trace back flocks to the original farms. The report states in paragraph 9.12 at page 184:

> An improved flock identification system is one challenge that the committee identified in relation to determining the distribution and prevalence of OJD.

Finding 9.2 on the same page states:

> Identification of the distribution of infected and OJD-free flocks is a necessary precursor to the successful implementation of most technical approaches to control.

Identifying individual sheep is of major importance, but the committee also says it is a major undertaking and that probably in the future it will be very important that this be done. Hopefully the value of sheep will improve to the point where it is economic for farmers to tag each sheep, and if not to find a way of identifying each flock.

Hon. W. R. Baxter — Technology might bring the costs down, though.

Hon. E. G. STONEY — I am hoping that once the system comes in companies will find it attractive because there are a lot of cattle and a lot more sheep in Australia. I am hoping that as this technology improves perhaps on a worldwide basis individual chips will cost very little, making it attractive enough to use the technology.

There we have it. An improved identification scheme will assist farmers manage and protect their stock. It will certainly cement Australia's reputation overseas as a reliable supplier of meat. I have no problems with the bill and wish it a speedy passage.

Motion agreed to.

Read second time.

Third reading

For **Hon. C. C. BROAD** (Minister for Energy and Resources) Hon. M. R. Thomson (Minister for Small Business) — By leave, I move:

> That this bill be now read a third time.

In so doing I thank the members of the opposition and the National Party for their support of the bill. I thank the Honourables Philip Davis, Dianne Hadden, Barry Bishop and Graeme Stoney for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

SECOND-HAND DEALERS AND PAWNBROKERS (AMENDMENT) BILL

Second reading

Debate resumed from 29 November; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. C. A. FURLETTI (Templestowe) — I am pleased to indicate to the house that the Liberal opposition will not oppose the Second-Hand Dealers and Pawnbrokers (Amendment) Bill. While largely being in agreement with the content and thrust of the bill it has very grave concerns about a couple of the provisions and their prospective implementation so that it is not possible to offer the government unconditional support.

The bill arises out of very lengthy investigations, inquiries and reports, some of that work having been done by the Good Shepherd Youth and Family Service. The tabling of the bill in the other place generated a considerable amount of response from those involved in the industry on the one hand and those who are advocates for consumer groups and those who are concerned about community welfare areas on the other hand. As has been the case for many years — indeed I experienced it in 1997 when the previous government introduced the Second-Hand Dealers and Pawnbrokers Act — there is a certain amount of division between those who provide the service and those who seek to protect and care for the less fortunate persons who use the service.

The report generated an issues paper, which sets out a large number of recommendations, many of which are

reflected in the bill. The major elements of the bill can be summarised briefly. In the first instance it should be noted that currently second-hand dealers are required to be registered, and a person who has a second-hand dealers licence is able to act as a pawnbroker. As a result of that fairly loose nexus between second-hand dealers and pawnbrokers there is the difficulty of identifying exactly who of the second-hand dealers are acting as pawnbrokers. My inquiries indicate that some 6900 second-hand dealers are registered and that as a bit of a guesstimate there are some 150 pawnbrokers, but it should be noted that the vast majority of pawnbrokers also act as second-hand dealers.

The bill proposes in its main thrust that second-hand dealers who wish to act as pawnbrokers will be required to have their registration endorsed with the right to act as a pawnbroker. If nothing else, that will identify those who act as pawnbrokers and will be the open door by which Consumer and Business Affairs Victoria may monitor and seek to enforce compliance, which is one of the major complaints at this point and one of the principal reasons for the review and for revisiting this industry.

I had the pleasure of speaking to the social policy and research worker who had a major role in preparing the report for the Good Shepherd Youth and Family Service. I was impressed by the amount of research that was conducted and the amount of work that was done. Part of our discussion indicated to me that pawnbrokers have a high degree of non-compliance with the existing act. I appreciate that that is an easy comment to make, and non-compliance can be minimal or it can be serious. From what I can gather, there are very few instances of serious non-compliance, but numerically the instances are substantial. The important thing is to be able to identify those who are engaged in non-compliance and who should be complying, and of course nobody suggests that non-compliance should be endorsed or allowed to exist without some sort of supervision.

That is what this bill does, because once it identifies the pawnbrokers the next step is to create and institute an inspectorate and a body of personnel with extraordinary powers, to which I will refer subsequently, who will ensure that those who have endorsed their second-hand dealers licences will be monitored and controlled.

One of the aspects to which I draw the attention of the minister — I raised it with the minister's advisers when we were briefed — is the cost of the endorsement. Second-hand dealers pay a fee of some $140 a year and a pawnbroker will pay a $400 fee for the endorsement. In the instance of a corporation, which is a sole entity with directors, shareholders and the rest, it is a one-off fee; but if the pawnbroker happens to be a partnership — for example, of husband and wife — or a family with a number of registered owners all operating under the one licence then they will each have to pay that licensing fee. To my mind that is an area that should be looked at and identified.

Rather than dealing with the inspectorate powers at this point I will go through the act in sequence. What is involved are the very strict rules with respect to the character and identity of the applicant for a pawnbrokers licence.

This provision introduces principles of probity that relate to many licensed operations in that it is essential to know a person's history, criminal record or good character before a licence will be granted. So we have the requirement that the licence can be affected where a person has any record of wrongdoing — whether criminal or fraudulent, or breaches of the provisions of the act. There is nothing wrong with that.

More importantly, some of the concerns that have brought this legislation before the house may be addressed because whoever enters the industry should be a cleanskin — someone who has no previous history of wrongdoing — otherwise they would not be granted a licence. One hopes, as is predominantly the case, they are law-abiding and compliant with the provisions of the act.

As I said earlier, apart from the inspectorate powers that are introduced by this bill, new disciplinary procedures are introduced as a new part 3 in the principal act. Proposed section 18A(2) inserted by clause 28 allows the Chief Commissioner of Police or the Director of Business and Consumer Affairs to make an application to the Victorian Civil and Administrative Tribunal, which is the only avenue for this course of action, to conduct an inquiry to determine whether there are grounds for taking disciplinary action against a pawnbroker. The powers for the tribunal to give effect to disciplinary measures against a pawnbroker and second-hand dealer are new. They are very broad and include, for example, the power to reprimand a person found to have breached the provisions. There is the power — it is not called a fine — to order someone to pay into consolidated revenue a penalty up to $5000.

Proposed section 18B(1)(c) requires a person to comply within, or for a specified time, with the requirements specified by the tribunal; and there is the power to suspend the registration of a person or the endorsement of the person. These provisions clearly apply to second-hand dealers as well as pawnbrokers. Proposed

section 18B(1)(e) requires a person to enter into an undertaking to perform, or not to perform certain tasks to be specified in the undertaking. The disciplinary measures also include the imposing of conditions on the registration or, if it involves people losing money, to pay compensation to those people who have lost up to $5000.

In effect, these provisions are creating a small claims tribunal arising out of disciplinary action initiated not by a complainant but by the Chief Commissioner of Police or the minister's department. The opposition does not entirely disagree with the proposal, because if that were all it were about it is possibly a reasonably expeditious way of dealing with a problem.

The reports and recommendations that I have seen indicate this is not a major problem; that although there may be non-compliance with the regulations, there are no grave problems of fraud or cheating. So while the purpose of the legislation is understood, time will tell whether the implementation will be reasonable.

I refer also to the substitution of section 19(1) of the principal act outlined in clause 29. The provision extends the identification requirements for a person selling or pawning goods, so it again applies to pawnbrokers and second-hand dealers.

Probably the most contentious of the provisions in the bill is the insertion of new section 23A entitled 'Return of residual equity in unredeemed goods that are sold'. In effect, the provision is a return to the 1958 provisions of the Pawnbrokers Act, which was reviewed and repealed in 1997. That section is very similar in effect to the provisions the government is reintroducing.

Section 28 of the Pawnbrokers Act 1958 states:

> In case any such article —

meaning an article that has been pawned —

> has been sold for more than the full amount of the principal money and interest thereon which was due at the time of sale, then the overplus (deducting the necessary charges of such sale) shall if claimed within twelve months next after such sale be paid upon demand to the person by or for whom such article was pawned or his agents or assigns or (in case of death) to his executor or administrator.

Proposed section 23A(2), as outlined in clause 31, states:

> If a pawnbroker sells unredeemed pawned goods after the expiry of the loan period, the person who pawned the goods is entitled, for a period of 12 months after the sale, to claim from the pawnbroker the residual equity, if any, in respect of the goods.

In principle that is a good thing, and it is the right thing to do. It is fair to assume that if there is an amount left in equity after sale of an item that has been pawned, then one would expect that that equity should be returned to the person who pawned the goods and is the rightful owner of that equity. Other Australian states treat that in different ways. In some instances it is an automatic right and in others it is held in trust for the person who has pawned the goods. In yet other cases no notice is given or notice is not required to be given. As I said, it is appropriate to have this type of provision in principle.

However, the parameters set in this bill are difficult and would cause a problem for the government because of the large number of representations about it that the government has received from people in the industry. I am sure the minister has considered a broad range of existing possibilities in handling this matter. To some extent I can sympathise with that, but one of the tasks of government is to find that area of ground which is a reasonable balance between the two competing interests that exist in so much of the legislation that comes before this house. In an instance such as this the arguments that are put at both ends of those two extremes are quite disparate and intense.

Areas of concern arise in certain situations. Sometimes it is easier to use examples. For the sake of argument, when a motor vehicle has a second-hand value of $5000 and is pawned for $3000, which includes the 30-day interest component, and the vehicle is sold the day after it was due to be redeemed — as it legitimately can be — for $4000 and there is a residual equity of $1000, then it is obvious that in those circumstances the $1000 should clearly and unequivocally be returned to the owner of the vehicle or the person who pawned the vehicle. However, in reality most items that are pawned have a value of somewhere between $60 and $70. If those items are sold for $40 or $50, then how far need we go to ensure that equity and fairness is achieved and that the balance we have talked about is reached?

This is the concern that has been expressed to me by quite a large number of people in the industry. I have been approached by Cash Converters, which represents 22 stores, and by the Australian Pawnbrokers Association, which represents about 30 stores. At least I have discussed these matters with representatives of what appears to be about one-third of the industry. The common thread is that, although they agree with the proposal, they have said that the line is drawn in the wrong place. I know the minister has had detailed conversations with these people as well and that she has considered seriously where to draw the line, but when I asked how it had been determined where to draw it I

was not given a satisfactory answer. The line is drawn at a residual value of $10. Of itself that would probably be acceptable if that was all that had occurred. The concern is that pawnbroking appears to be like swings and roundabouts: you win some, you lose some. It is an industry, depending on what products you take in, in which you might get your money back; however, there is a large number of products, for example with items of technological value, that will depreciate far more rapidly than items such as jewellery. Pawnbrokers obviously rely, to some extent at least, on the residual value going into their pockets rather than being returned.

The question is: where should the line be drawn? As I have indicated, in this case the government has drawn it at $10. It may not be such a bad thing if a person who pawned goods were able to return within the 12-month limit, as expressed in proposed section 23A(3), and say, 'Here's the ticket. You've sold my goods. Is there any residual value?'.

What is of concern is the imposition upon the pawnbroker to notify the person who pawned the goods that there is a residual value of more than $10 available for collection. If there is an issue, that seems to be the one that is causing a great deal of concern. I asked a couple of the people who approached me to do an assessment of how much it would cost their business, taking into account time, paper, postage stamps and equipment used, to send out these sorts of letters — that is, to comply with this requirement. One person came back to me with a figure of $25 000 a year, which is in the order of $500 a week, for their business to comply. If you take into account that you are withdrawing without compensation — indeed with further loss — $25 000 from that business, I can understand why these people are concerned that the provision that is being introduced will cause them some angst, and some of the concerns extend to putting some pawnbrokers out of business. The provision will certainly have side effects. The concern expressed with regard to this issue is that it is somewhat of a retrograde step, but if the government is intent on introducing this type of provision what I have been urged to do, and I understand the Victorian Employers Chamber of Commerce and Industry and Cash Converters have urged the minister to do, is to ask the government to revisit the matter.

Other options exist with respect to how this amount should be calculated — for example, there could be a limit on the amount loaned — the amount loaned being the figure taken into account for the purposes of residual equity determination. The suggested figure was $200, and one would expect that if that product were sold relatively quickly there would be a residual equity worthy of expending the funds necessary to notify the person who pawned the goods to come and collect that residual equity.

Others have suggested it should be based on the value of the items pawned, and a figure of $500 was bandied around. Where the line is drawn is the government's responsibility; the government has to find the balance, not the opposition. The government has introduced legislation which from all indications will cause concern, and it should give a commitment to monitor and expeditiously address the situation if the line is proven to be drawn in the wrong place.

The other matters that concern the opposition are the provisions with respect to entry, inspection and seizure, which have been taken, I was advised, largely out of similar provisions contained in the Motor Car Traders Act, the Prostitution Control Act, and brothels legislation. I thought pawnbroking and prostitution was an awkward comparison of different industries. It struck me as being quite extraordinary, given that we are talking about people displaying signage, giving notice, sending letters to others, dealing with transactions of, let us be generous, less than $100 generally speaking, that the minister should give to an inspector the power of entry with or without permission or consent of the owner of the business or the operator — in any event, a person who is licensed — allow them to come in and inspect whatever books and records there are, compelling the pawnbroker or the business operator to retain documents without necessarily identifying which documents. They could very well be documents that they do not have.

Specifically I raised with the minister's advisers the situation where it is stated that the provisions relate to all documents. I said there might be, for example, documents which they do not have which are their documents technically but which are held by the bank. The response I got from the minister's advisers was, 'That's all right, you will have to trust Consumer and Business Affairs Victoria, because we are reasonable people and we would not enforce that sort of anomaly in the legislation'. With respect, I do not think that is what the legislation is about because if the act says that, that is the way it is to be interpreted. For departmental officers to say that CBAV will enforce it differently is, I believe, placing a little too much trust on the minister and her department.

I refer the house to comments of the Scrutiny of Acts and Regulations Committee on the bill. It referred to proposed sections 26B and 28B, both of which limit the traders' privilege against self-incrimination. In other

words, a person is not allowed to say, 'I am not going to tell you that, Inspector, because I might incriminate myself'. They are bound to answer the question. Those enforcement provisions may be appropriate with regard to motor car traders where one is dealing with considerable amounts of money and considerably different areas of transaction.

The provisions may be appropriate in areas where there is a high degree of risk of criminal activity, such as the sex industry. But I wonder whether second-hand dealers and pawnbrokers fit within that category. I leave the minister with that thought.

It has been brought to my attention that there will be serious ramifications arising out of the introduction of this legislation unless the minister monitors it very closely. The opposition suspects that she will, and we hope she does because we will be monitoring her to ensure that she is monitoring the operation of this legislation. On that basis, while not supporting the bill, the Liberal opposition does not oppose it.

Hon. R. A. BEST (North Western) — On behalf of the National Party I rise to speak on the Second-Hand Dealers and Pawnbrokers (Amendment) Bill, and in doing so I would like to set out the National Party's position, which is to not oppose the bill.

One of the things I did about this bill was to visit two of my local pawnbrokers to see how they operate because I have not had reason or cause to use their services in the past. While I have been a member of Parliament for the past 12 or 13 years and there have been changes to the act during that time, I was not quite sure of the ramifications of this bill on this particular small business operation.

The purpose of the bill is to separate regulation of pawnbrokers by means of endorsement on their registration as second-hand dealers and improved enforcement by means of increased penalties, infringement notices and inspectors' powers. It also looks at the payment of residual equity in pawned goods that are subsequently sold by a pawnbroker. That is an issue I wish to spend some time on shortly. It also has miscellaneous amendments to the act which provide access to the Victorian Civil and Administrative Tribunal. Again I put on the record for the minister the issues associated with the workload of VCAT, of the issues associated with speedy resolutions and decision making to ensure that this organisation is not overworked to the extent where it is unable to allow people to get through the processes in a speedy and appropriate manner.

During the consultation period I wrote to Gippsland pawnbrokers, Wellington pawnbrokers, Castlemaine pawnbrokers, Norm's pawnbroker in Mildura, Valley Pawnbrokers in Morwell, Acland Pawnbroker and Second-hand Dealer in St Kilda, Cheap Cheap second-hand pawnbrokers in St Albans and Cash Converters at its state senior office. I visited and spoke to the local Cash Converters and also Instant Cash in Pall Mall in Bendigo. The conversations I had with the two managers at the Bendigo stores gave me a greater understanding of the type of clientele who use these services and the way in which these pawnbrokers operate. The reason the National Party has said it will not oppose the bill is that currently in Victoria all registered second-hand dealers can operate as pawnbrokers so long as on their initial registration they declare their intention to do so. There are approximately 6500 second-hand dealers in Victoria. However, there are no really clear records of how many of these are operating as pawnbrokers. The bill will introduce an endorsement scheme for pawnbrokers with the intention of improving the identification and regulation of the industry. This will mean that a pawnbroker will require a separate endorsement on their registration.

There is an issue of costs associated with this change. Currently a second-hand dealer who can operate as a pawnbroker is incurring costs of around $140, consisting of a $110 application fee plus a $30 annual fee. The new costs for pawnbrokers are to rise to $400. That is to apply pro rata until the end of the first year. It is intended to cover the costs associated with regulating the industry — namely, the new full-time inspectors who will operate from Consumer and Business Affairs Victoria.

As I said, I did consult widely. Alby Vickers from Castlemaine pawnbrokers rang. The only part of the legislation he had concern about was the issue of residual equity. Many people bring things in that are damaged or broken and never come back to collect them, and the pawnbroker has to pay to have them fixed. That is considered to be most unfair. However, as far as the rest of the legislation is concerned, he was quite comfortable.

I provided the same opportunity to Instant Cash and had discussions. I also spoke to Cash Converters. I will quote extensively from the letter of 15 November I received from Cash Converters. The author of the letter is John Brophy, the Victorian state manager, who has been involved in the process quite extensively. It says:

> Cash Converters welcomes many of the changes the amendments bring to the industry in offering consumers a

> higher level of integrity and protection in dealing with second-hand dealers and pawnbrokers.
>
> We welcome the separate registration scheme for pawnbrokers with the annual endorsement of the authority.

The letter goes on to say:

> Improved enforcement and increased penalties will contribute to improved compliance and again the consumers will benefit with the vast majority of businesses being conducted according to legislative requirements.

So what we have is one of the biggest chains that operates as a pawnbroking business welcoming many of the changes in this legislation.

The letter goes on to say:

> It is disappointing however, and of serious concern, that an unreasonable burden has been placed on the industry with the introduction of the entitlement of a person to claim residual equity and the obligation for the pawnbroker to contact the customer regarding residual equity amounts (over $10) after the sale.
>
> In examining the submissions by the stakeholders this entitlement of residual equity after the goods have been sold was never raised as a consumer need. There was never any data or evidence put forward as to consumers requesting the ability to retrieve any residual equity. In fact there was a degree of concern about protecting the privacy requirements of consumers.

That is a very important issue.

> It is claimed that this is a reinstatement of a section of the 1958 act. This may have been appropriate 42 years ago however in 2001 the pawnbroking industry is effectively only three years old under the current legislation. In this time there have been no complaints directly to the CBAV, Consumer Affairs or any other Victorian government body in regard to the residual equity on unredeemed pawns.

I have a couple of the forms that the pawnbroking firms use. I was not particularly impressed with the amount of interest they are able to charge because it gave me an insight into the very desperate need some people find themselves in in having to pawn goods, and the costs associated with pawning those goods. However, the Cash Converters loan form is very good. It sets out the declarations and acceptance of conditions that are required under the 1997 second-hand dealers and pawnbrokers regulations. Schedule 4 is a notice to a person pawning goods. Schedule 5 is a request not to send a notice that pawned goods be sold. On each of these forms there is an opportunity for the person to read the conditions and understand what they are signing.

The basic tenor of the information I was provided with is that in many cases this is a cash flow issue. It is about people getting access to between $50 and $100 and then being asked to pay an agreed interest rate. Cash Converters charges about 30 per cent on a 21-day contract. The private operator down the road operates on a 20 per cent, 21-day contract. The explanation given to me was cleverly done, because it will be easy for the house to understand the implications of what the case is now for people who pawn goods, and the future implications as far as residual equity is concerned. I have some concerns, particularly with the impact on people who are pawning goods, the consumers — the people who are most vulnerable and most exposed.

If a television is brought in with a value of $300, in the current circumstances the pawnbroker would offer a loan of $100. To redeem the goods with a 20 per cent interest rate at the end of the 21-day contract the person would be required to pay $120. With the new provisions being put in place, where residual equity is a component of the loan there may be circumstances where the person is unable to redeem the goods after 21 days and the pawnbroker may agree to extend the contract for a further period, which would incur costs.

If the television is sold for, say, $300, the pawnbroker must offer a warranty and ensure that the television is working appropriately. He must also advertise and the television takes up floor space. There is a range of associated costs together with the residual value of the television. Depending on the type of item sometimes the items are hard to get rid of, particularly in a second-hand market where values are not much different from the prices of new goods.

What will now occur with the issue of residual value is that where the television was valued at $300, $100 was lent on it and $20 interest was paid, a residual value of $180 would be left. That would be $180 less the costs associated with the pawnbroker selling the goods — and that may take anything up to 12 months, as has been acknowledged in the legislation. The pawnbroker will more than likely place a value on those goods that is closer to the market value, which in this case may be $200, so that the value of the warranty and the cost of advertising, display and a whole range of costs associated with the selling of that product may mean the residual value is eroded or minimised. The hardship that that will place on the person who is coming in to pawn the goods is quite transparent. When the person brings in the $300 television and the pawnbroker gives him $200 that is a very attractive amount of money. To redeem the goods the person will have to pay $240, because that amount at 20 per cent over a 21-day contract works out to $240, which means that the residual value is less.

Fewer people will redeem their goods so a whole range of people at the most vulnerable end of our society will be exposed to selling their goods at a reduced cost or at market value. In fact the people we are setting out to protect will not receive the level of protection that is intended to be given to them by the bill. We will have reduced prices for goods, and while they will certainly get cash up front the enthusiasm to redeem those goods will not be there. That area needs to be revisited because it is a major stumbling block in the legislation.

Cash Converters raised 15 concerns with me, so it is not as if it is merely trying to make up excuses as to why it finds the bill difficult. It took part in the review process and agrees with many of the new application and enforcement and penalties provisions. However, it is concerned that it will involve a diminution of consumer benefits in dealings with pawnbrokers. I am fearful that this bill is a double-edged sword. Instead of protecting the most vulnerable in our community, we are potentially providing a mechanism to allow a higher value to be placed on the goods they pawn and creating a greater difficulty for people who pawn goods to service redeeming amounts. The letter goes on to say there will be an:

> Increased cost burden to the industry resulting in higher costs to the consumer.

One of the other issues is how many people can be tracked down. Obviously some pawnbrokers are quite transient — they move quite often — and from the discussions I have had it seems to me that the issue for them is more a cash flow and cash management problem than one of reducing the amount of goods they have.

There is also the potential, as Cash Converters says, for reduced employment in the industry. It is interesting that Cash Converters has increased its employment levels threefold in the last three years. Given its plans for expansion in Victoria, future employment will also be threatened. It suggests that up to 200 jobs may be lost over the next five years.

Cash Converters also refers to the calculation and monitoring of the 'reasonable cost of sale'. It says that some items can take many months to sell and it points out that there is a daily accumulation of the costs of sale. It was interesting for me to walk into a store and see a range of new goods on sale. They were obviously purchased in bulk by either Cash Converters or the people it is associated with in a chain, and it was able to retail them at prices that were competitive, if not under, the prices in major stores.

Cash Converters also talks about the definition of 'prescribed costs'. I would like the minister to explain what 'reasonable costs of sales' means in proposed section 23A to be inserted by clause 31, and whether it includes prescribed costs. One of the things we need to clarify in this whole issue is what are the costs associated with the sale of a pawned item. Do they include the amount of floor space it takes up, a component of the rent that is paid by the person who operates the business, a percentage of the wage and operating expenses associated with the business or the cost of the advertising associated with the business? Is it appropriate to include the cost of a 6-month or 12-month warranty associated with the sale of the particular item? A range of issues needs to be addressed in the explanation of what are reasonable costs.

It is unfair for the government to expect pawnbrokers to be out of pocket and to jeopardise the viability of their businesses in ensuring that the residual equity is paid to people who have pawned their goods.

Another issue Cash Converters raised is how multiple items that have been pawned will be catered for. I will not disclose names, but in one of the stores I visited a range of electrical goods and various items were pawned for a bulk amount of money — it is best to be as vague as that. The value of the goods that were pawned, which included a whole range of electrical goods, was about $6000, but the people who pawned the goods received only $1000 to resolve a cash-flow problem. How do we decipher what component of those electrical goods is associated with the $1000 loan when a number of items had been pawned together? What will happen if the unfortunate circumstance arises and people cannot redeem their goods? How will all that unfold and what provision is made in the legislation for that type of complexity? It is complex, and I do not know the answer. I would be particularly interested to hear an explanation from the minister.

There is also concern about the privacy provisions. At a time when even members of Parliament are being questioned about privacy provisions and the way we handle constituents' inquiries this legislation is going in the opposite direction because it is exposing a whole range of information about one's private life to the marketplace. I would be particularly interested if the Minister for Consumer Affairs could provide some guarantees that the privacy rights of people who pawn goods are protected. Clearly there is a potential for those privacy provisions to be abused. As I said, it may be an unintended consequence of this legislation, but at a time when we are looking to ensure that privacy is protected there are concerns about how residual value and people's individual privacy can be protected.

Cash Converters goes on to say that it offers a 90-day warranty and that that is another benefit that may disappear if residual equity is paid and goods are then found to be faulty. That is a very legitimate and understandable concern. There is also a concern about the impact on cash flow of businesses having to hold residual equity for 12 months. In this legislation we are saying that at any time within 12 months of a person pawning goods and their being offered for sale that person has an opportunity to come back and make a claim for that residual value over $10. Pawnbrokers will face a range of new bookkeeping and cash-flow problems.

The National Party sees a circumstance where there are a range of issues which need clarification. The minister said as an aside before, 'Trust me'. I am prepared to trust the minister but there needs to be clarity. I sometimes become very fearful when we give inspection powers to people who have not had authority before. Some people have the ability to handle authority well. Unfortunately, when people have a little bit of authority there is a potential for them to go absolutely over the top. This bill provides the potential for infringement notices to be issued basically on the spot. It provides for entry powers and a range of very wide and open investigative and inspection powers that need to be controlled.

They are my major concerns. However, I would like to put on the record the work that has been done during the review. While I do not agree with all the outcomes that have been achieved, I know that the people who have been involved in the Good Shepherd review came to the table looking to arrive at a circumstance that provided certainty and protection for those who use this industry. The National Party has consulted widely and the bill generally has wide acceptance in the pawnbroking industry. However, as I said earlier, the bill could have unintended consequences for these consumers who are unfortunately the most vulnerable in our community. I hope that is not the case. The bill also has costs associated with complying with the residual equity provisions and that could cost jobs.

I would be very pleased if the Minister for Consumer Affairs could take on board the questions I have raised and I would be delighted if she could provide me with answers to those issues in her response to the second-reading debate because, particularly in country Victoria, the loss of even one or two jobs out of a small business has a severe impact on the community's viability and robustness. With those few words, the National Party will not be opposing this legislation.

Hon. E. C. CARBINES (Geelong) — I am very pleased to speak in support of the bill which aims to protect some of Victoria's most vulnerable consumers — those people who, for a multitude of reasons, find themselves in a situation where they decide to pawn a possession in order to secure a loan. It is very timely that this legislation has come before the house in the lead-up to Christmas because this is a time when many Victorians go into huge amounts of debt to get through the Christmas season. Buying gifts and other items for friends and family often places Victorians in a very vulnerable situation, especially with the high use of plastic money at this time of the year.

I was interested to read on page 4 of the *Age* today an article by Leon Gettler headed 'Personal bankruptcies soar 30 per cent as household debt reaches $72.5 billion'. I will quote some figures from that article because they pretty much indicate the vulnerable situation in which many Victorians and Australians find themselves if they get into debt and in that situation they may very well end up being the customers we are seeking to protect through the legislation before us today. The article states:

> Household debt has soared to a record level, with personal bankruptcies jumping nearly 30 per cent in the past 12 months.
>
> Figures released by business information and debt collection agency Dun and Bradstreet reveal that consumer debt rose to $72.5 billion at the end of September, up more than 7 per cent on the previous year.
>
> More than a quarter of the debt was attributed to outstanding credit card advances, which totalled $18.9 billion in September. This was more than double the amount recorded in January, 1998, or about $2000 a card.

Those facts tell a story in themselves and, as I said, may very well explain the rise in the second-hand dealing and pawnbroking industry which was noted by the previous speaker.

I have to confess that the pawnbroking industry is not one with which I have had any contact in my life as a consumer. I am very fortunate that I have not, and I hope that remains the case. I looked in the phone book to see how many pawnbrokers are listed in my electorate of Geelong Province and was surprised to see there are only two, although quite a number of second-hand dealers are listed in Geelong. One of the pawnbrokers is located in Belmont and the main one is in Moorabool Street, Geelong.

Since I was elected a couple of years ago I have not had any constituents raise any issues with me in relation to pawnbrokers or second-hand dealers. However, I am

aware through the media, as most honourable members would be, that the actions of some individuals in the industry have led to calls for closer scrutiny of the pawnbroking and second-hand dealing industries.

The Bracks government is committed to improving and enhancing consumer protection in Victoria and, in particular, in these two industries. As a result, a review was undertaken of the principal act, the Second-Hand Dealers and Pawnbrokers Act of 1989, to establish whether it was sufficient to protect the rights of people who wanted to pawn goods to secure loans. The review highlighted the problems associated with the industry concerning compliance with notices and signage requirements, and it also highlighted the need to improve enforcement.

The bill before us reflects the findings of that review and its passage will therefore amend the principal act to require, first of all, the separate registration of pawnbrokers as distinct from second-hand dealers. Through the requirement for pawnbrokers to register separately, the enforcement of regulations to do with the pawnbroking industry will be facilitated.

Powers of inspection will be introduced for pawnbrokers. Inspectors from Consumer and Business Affairs Victoria will be able to impose penalties for non-compliance with the act in relation to signage and such matters as record keeping.

The bill will also provide for the Victorian Civil and Administrative Tribunal to hear matters referred to it by Consumer and Business Affairs Victoria or the Victoria Police relating to disciplinary action against offending pawnbrokers. The police will also be able to refer to VCAT matters involving second-hand dealers who have been dealing in contravention of the act.

The disciplinary action which VCAT will be able to undertake will entail such things as the imposition of fines and the suspension or cancellation of registration. In this way the Bracks government aims to send a very clear and strong message to pawnbrokers and second-hand dealers that they must deal honestly and ethically with their customers.

A controversial part of the act — the house heard the previous two speakers attest to this — deals with the reinstatement of a provision for residual equity into the principal act following its removal in 1997 when the act was amended. Residual equity refers to unredeemed goods that are sold by pawnbrokers. Residual equity is the amount remaining after the sale when all the costs of the pawnbroker have been paid. This bill will ensure that consumers will have 12 months from the date of sale to claim the residual equity on their goods. Further, pawnbrokers will be compelled to notify customers that their items have been sold if the residual equity claimable is more than $10. Pawnbrokers must send this notification within 14 days of the sale of an item. Failure to comply with these provisions will be an offence under the act.

Concerns regarding the reinstatement of residual equity have been raised with the government during the consultation period. However, it must be remembered that residual equity existed in Victoria prior to 1997 and that the passage of the bill will bring Victoria into line with two other states of Australia — that is, New South Wales and Queensland. It is also important to point out that the previous government removed the residual equity provisions which were in existence in Victoria.

The Bracks government is very keen to ensure that consumer rights are protected, and will carefully monitor the application of this residual equity provision. It must make sure that the costs deducted by pawnbrokers are reasonable and that consumers are not disadvantaged in any way.

A further section of this bill relates to the banning of the pawning of motor vehicles. The review undertaken of the principal act identified this issue as being significant, inasmuch as it revealed that pawnbrokers have been advancing relatively small amounts of money in relation to the value of cars offered for security for loans. This issue is of significant concern to the government because for many of the most vulnerable Victorians their car is arguably their most valuable asset. The bill will therefore amend the principal act to protect the interests of such vulnerable Victorians who, in their desperation for cash, are prepared to pawn their cars.

A further provision of the bill will amend the principal act so that any document issued by a statutory authority which includes a photo of the person concerned will serve as proof of identification for a person wishing to pawn goods. In this way the government seeks to increase the range of documents people can use as proof of ID.

The review that was undertaken of the principal act revealed that this issue is important to those consumers who are the most vulnerable of consumers in Victoria who often do not possess the types of ID that perhaps other consumers have, such as passports. They will now be able to produce identification, as long as it contains a photo of themselves. Conversely, it is vital that people are able to appropriately identify themselves for the

purpose of tracking stolen goods, which sometimes arises through this industry.

This bill is all about ensuring the protection of Victorian consumers who choose to pawn goods. Importantly, the government believes that it does not disadvantage the industry but rather promotes honesty and ethical trading. I therefore commend the bill to the house.

Hon. G. B. ASHMAN (Koonung) — This is a difficult piece of legislation which deals with a subject that most of us would be quite unfamiliar with. It sets out to provide some assistance and protection to a group of consumers who are really quite vulnerable.

It provides for the regulation of and changes the licence provisions for pawnbrokers and second-hand dealers. It also provides for an improvement to the enforcement provisions of the existing legislation. The most contentious part of the change is that which relates to residual equity, and there has already been quite considerable discussion on that subject. Importantly, it also now prohibits the pawning of motor vehicles, which in recent times has presented a number of difficulties.

Pawnbroking has gone from being a neighbourhood activity to an activity which involves a number of quite large organisations and franchise groups. It is now a national industry. Originally pawnbroking was very much the local neighbourhood activity. It has changed; pawnbrokers are now found in most suburbs and in most larger country towns.

Pawnbrokers serve the needs of a group of people in our community who do not have access to normal credit facilities. A large number of people who utilise the services of pawnbrokers do not have and would not qualify for credit cards. They are invariably used by people who are looking for money on the short term for a very immediate need.

Increasingly my advice is that now people are more likely to sell their goods rather than pawn them. The advice I have had from the local Cash Converters and a number of other larger groups is that a greater proportion of their business now deals with goods being sold rather than pawned.

One of the concerns I have with this legislation is that while it focuses on pawnbroking, I believe it will encourage existing pawnbrokers to focus more on purchasing goods outright rather than providing short-term loans to people who can then redeem their goods.

In Victoria we have somewhere between 6000 and 7000 second-hand dealers and somewhere between 150 to 200 pawnbrokers. It is fairly difficult to get accurate numbers for both those categories, but clearly the second-hand dealers are the dominant group. Second-hand dealers can be from what might be broadly termed the trash and treasure end of the business right through to antiques and collectables, where they trade in quite high-value antique furniture, paintings and other items. Also included in the second-hand dealer category are all motor vehicle dealers. So the second-hand dealer classification covers quite a wide range of activities.

This change in the legislation provides for a change in the registration system. All pawnbrokers will now be required to be second-hand dealers and hold a second-hand dealer's licence and then have an endorsement to that licence that they are also a licensed pawnbroker. The fees change considerably. From being $150 for a second-hand dealer's fee plus a $30 surcharge for a pawnbroker's licence they now increase to $400 per annum. I question the costs there, notwithstanding that the stated intent of the increase is to provide an inspectorate.

The inspectorate will have wide-ranging functions, and the enforcement provisions within the legislation have been strengthened considerably. In recent times the evidence is that the inspections have not been as rigorous as they could have been. I understand regular inspections have not been the standard practice, and with this change they may become more regular. I have always had concerns that some of the pawnbrokers and second-hand dealers are in a position to receive stolen goods and some of the checks and balances that are supposedly in the system are not being followed to the letter of the law. One would hope that this inspectorate might now be able to address some of those issues, particularly the registers of goods being pawned or purchased and the provisions that relate to the identification of the individuals who are pawning or selling goods.

I find parts of the registration provisions a little curious, in that they require each member of the partnership to be registered. That would mean, if there were half a dozen partners in a business, that the business would have a registration fee of $2400 per annum. However, an incorporated business of the same size in a similar locality and premises would only have one fee. That puts some imbalance into the system. While it is not a significant sum when taken across a year's trading, it may provide a minor competitive advantage for those who operate through an incorporated entity.

The contentious issue relates to the residual equity. The legislation reintroduces a residual equity and provides for that equity to be returned to the client within 12 months of the product having been originally pawned. It presents some difficulty. While it sounds simple, I can see significant problems for the pawnbroker, not the least of them being the ability to find the person who originally pawned the goods. Many of the people who pawn goods are somewhat transient. Generally, they are people who we might call the battlers, and their addresses might not be as permanent as those of honourable members. There is a difficulty in having the pawnbroker find these people. There is also a cost involved in tracking them down.

Further, there is the question of how the pawnbroker deals with the money that is held. It is effectively held in trust, but as I read the legislation there is no provision for trust accounts — I am not convinced there should be, because again that adds to the overheads of running the operation.

The question that will always arise is what is a fair price for the sale of an item that has been pawned. Mr Best gave the example of a television, but you could take an example from a range of goods. What we might see as fair value for those goods might not be what the market says is fair value. Fair value is what someone else might pay for those goods. I can see a set of circumstances where an item might be pawned for, say, $50; the owner might believe it has a value of, say, $200 or $300; but its second-hand value might only be $100 at sale. So there is the potential for significant dispute between the people who have pawned the goods and the pawnbroker about that value.

The other issue that is quite unclear is what are reasonable costs that will be incurred in selling these second-hand goods. All pawnbrokers would have a storage area, and there would be minimal costs in maintaining that storage area. Once the item is moved from storage after the redemption period has expired, the costs change quite dramatically, because the item will then be moved to a retail area where the overheads are quite different and the cost of floor space is very different. The floor space at the front of the shop is of a much higher value than the cost of space in the storage area.

What will be the reasonable advertising costs for an item? What warranty costs will be applied? What will be a reasonable time to allow for the item to be sold?

Hon. K. M. Smith interjected.

Hon. G. B. ASHMAN — A reasonable time for some items may be only a matter of weeks, Mr Smith. However, for other slow-selling items it may be that six months is a reasonable time to wait. Then there will be the trade-offs of costs that can be applied to that item. Do pawnbrokers have a set of costs that they amortise as a percentage of cost or do they try to do it item by item?

Under this legislation the minister will be able to make regulations on reasonable costs. The question we pose is: how will she define what these reasonable costs are? Frankly, I do not know how it can be done on a whole range of items that may vary from bicycles to golf clubs to televisions to a roll of carpet because it could be anything or everything in terms of cost. That will be a challenge for the minister and we will watch with interest as these regulations come through.

The other change I alluded to earlier relates to motor vehicles. It will now be no longer possible to pawn these items. Some fairly sad stories have been told about persons who have pawned motor vehicles. It makes good sense to remove them from these provisions. An owner might put a value of a couple of thousand dollars on a motor vehicle but a pawnbroker would probably put a value of $250 on that car based on the knowledge that it would have a wholesale value of about $400 and that if the car were to be retailed they might recover $2000. A couple of hundred dollars becomes an expensive proposition for a person seeking a short-term loan.

I will conclude with a couple of minor items. My view is that although this legislation has been introduced with good intent the ultimate outcome will be a further diminution in the number of pawnbrokers out there and an increase in the number of second-hand dealers who will purchase goods outright, which will ultimately lead to the removal of this service to those people who, as I said at the start, are unable to obtain a loan from the traditional sources — the banks or the credit unions. Ultimately they will be the ones who are disadvantaged. With those comments, the Liberal Party does not oppose this legislation.

Hon. P. A. KATSAMBANIS (Monash) — I repeat the comments of my colleagues that the Liberal Party opposition will not oppose the passage of this bill which amends the Second-Hand Dealers and Pawnbrokers Act. It makes some fundamental changes to the operation of pawnbroking in this state. The majority of those changes have been well canvassed and well explained by previous speakers, in particular the Deputy Leader of the Liberal Party and the shadow minister for consumer and business affairs, the

Honourable Carlo Furletti, who covered the operation of this act very well in his contribution.

Firstly, I want to put on record the tremendous contribution that the vast majority of pawnbrokers make to our society. It is unfortunate that some people in our society need to pawn their goods to obtain quick and ready finance. Usually those people need assistance because they are unable to obtain finance from the more traditional sources, such as banks, and they may not have ready access to credit card facilities. Such people were described by Mrs Carbines in her contribution as the more unfortunate people in our society who often access pawnbroking services.

I have never had the need to access those services, but I have done some significant research into the operation of pawnbrokers in Victoria. I have found that although statistics are hard to come by, as has been explained by previous speakers, in the *Yellow Pages* for the whole of Victoria there are 140 listings of pawnbrokers under the heading of 'Pawnbrokers' as distinct from second-hand dealers. Of those 140, 120 are listed in the metropolitan area. When I broke the numbers down to those in my electorate I found that 19 of those 120 are in my electorate, which means that one-sixth of all Melbourne metropolitan pawnbrokers operate in my electorate of Monash Province.

I cannot say I have spoken to all those businesses, but over the past three to four years, particularly since the changes to the act in 1997, I have had cause to speak to a good number of people who operate pawnbroking businesses and have found them in the main to be concerned that they comply and continue to comply with the legislation. In discussions I have had with my local pawnbrokers about this bill they outlined to me the importance they place on compliance, but they also highlighted the concerns they have that this bill may not necessarily, despite its intentions, assist in the proper regulation of pawnbroking in this state.

Conversely, the bill may lead to the destruction of an existing legal set of businesses that offer pawnbroking services and at the same time create a more nefarious type of pawnbroking that may operate outside the official regulatory framework because of the onerous obligations placed on pawnbrokers, in particular the obligations in proposed section 23A, which introduces the concept of residual equity.

Other honourable members have explained how it will operate. It will be interesting to see how pawnbrokers and clients of pawnbrokers will adjust to proposed section 23A, firstly, in determining what are reasonable costs of sale when trying to determine residual equity, and secondly, in many cases identifying the amount loaned on a particular item where a gross amount may have been loaned over a whole series of items. As Mr Best outlined in his contribution, it could be fraught with danger and difficulty for pawnbrokers.

Other issues are the transient nature of certain clients of pawnbrokers. Despite the best efforts of a pawnbroker, those clients may not be able to be contacted and, unfortunately, the pawnbroker will effectively be holding onto moneys on a trust basis for a period of up to 12 months when clients may no longer have any intention of redeeming the goods or recovering any residual amount. The bill imposes significant obligations on pawnbrokers.

Based on discussions with local pawnbrokers in my electorate, my concern is that legitimate operators in this industry will be driven out because they will simply find it too hard and will convert to being second-hand dealers who only buy goods. There may be a nudge-nudge, wink-wink arrangement under the counter so that if people presented in a reasonable period they could purchase their goods. That in itself is a concern to members of this house. Worse still, individuals may set themselves up outside the legal framework and operate as pawnbrokers outside the regulatory framework, which is also fraught with danger and completely defeats the well-intentioned purposes of the bill.

The disappearance of a legal pawnbroking industry in Victoria will hurt the very people that the legislation intends to protect — that is, those vulnerable people who at a particular stage in their lives may find it attractive to pawn their goods for a short period and when their circumstances change recover what may often be important family heirlooms and get on with their lives.

If the industry disappears they will be placed at the mercy either of illegal loan sharks or the nudge-nudge, wink-wink arrangement of the second-hand dealers who have purchased their valuable goods. It is difficult to understand how a government that continually pays lip-service to social justice and the concept of providing for the unfortunate and underprivileged in our society introduces this sort of legislation when players in the industry have made it clear to me that it is likely to hurt the very people the government is supposedly trying to support with the introduction of the legislation.

Pawnbrokers in the main have provided a valuable service in our community. Often people, particularly honourable members on the other side of the house, think that social good and social services are something

that is provided on a not-for-profit basis, but industries such as pawnbroking provide an important service to a range of people in our society who are not looked after by the big end of town — that is, those who are not effectively looked after by the more traditional lending institutions such as the banks and building societies, and they have found significant support in times of need from the pawnbroking industry.

It is sad to think that legislation drafted to protect those clients of pawnbrokers will lead to the destruction of the industry that is providing a valuable service as well as being a legitimate business. I hope the minister monitors the legislation, in particular the $10 residual equity amount that is currently provided for in it, because she is given power under proposed section 23A to alter the prescribed amount to any other sum. If it proves to be difficult and cumbersome, I imagine the minister will look at it and increase the $10 value of residual equity to a more appropriate sum.

Inspectors will be given analogous powers to those given to inspectors under the Victorian Motor Car Traders Act, the Prostitution Control Act and the legislation governing brothels.

The only thing I want to point out, apart from the fact it is sometimes difficult to envisage in legislation how an inspectorate would work in practice — and I hope the minister and her department will monitor it to ensure that the inspectors are complying with the legislation in both letter and spirit — is that honourable members may or may not be aware that the Law Reform Committee, of which I am a member, is currently conducting an inquiry into powers of inspectors in relation to entry, search and seizure, with a view to hopefully standardising those powers. I implore the current drafters of legislation, as this inquiry is being conducted, to look at the discussion paper that the Law Reform Committee has produced to hopefully get some guidance in producing more standardised and more even powers to inspectors across a broad range of legislation, rather than cherry picking what might be appropriate powers in one piece of legislation and putting it into another bill where those powers might be completely inappropriate.

On that note I again place on record my concern that this bill, with all the good intentions in the world, may hurt the very people it is purporting to support and protect. I hope the minister will monitor the legislation and its impact very closely to ensure that if any negative consequences arise they are addressed as soon as practicable. The Liberal Party does not oppose the passage of this bill.

Motion agreed to.

Read second time.

Third reading

Hon. M. R. THOMSON (Minister for Consumer Affairs) — By leave, I move:

That this bill be now read a third time.

In so doing I thank honourable members for their contributions to the second-reading debate. A couple of issues were raised in the debate that I would like to clarify. In relation to the question of residual equity, the Honourables Carlo Furletti and Ron Best raised the issue of keeping a monitor on this and the effect of the amount that has been set at $10. I undertake that we will certainly be monitoring the effect of that.

Also, in relation to the issue of privacy — I think the Honourable Ron Best raised it — currently those who pawn goods are already required to give an address. They can also give a postal address that is different from their residential address in the details that they already provide, and they can continue to do so to maintain any privacy they wish to maintain. So they have a choice of giving alternative addresses if they wish to do that.

I thank honourable members for their contributions to the second-reading debate because I know it was done with a genuine commitment to try to ensure we have a pawnbroking industry that acts effectively and honourably and looks after what are some of the most vulnerable people in our community.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

AUCTION SALES (REPEAL) BILL

Second reading

Debate resumed from 4 December; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. M. R. THOMSON (Minister for Consumer Affairs) (*By leave*) — Mr Deputy President, I wish to clarify for the *Hansard* record the commencement dates contained within the Auction Sales (Repeal) Bill 1958 in order to clarify possible confusion. Section 35 of the Auction Sales Act will be repealed on 1 January 2002

to coincide with the introduction of the Livestock Disease Control (Amendment) Regulations 2001.

Clause 7 of the bill, which inserts a new section in the Livestock Disease Control Act 1994, also comes into effect on 1 January 2002. The remainder of the Auction Sales Act 1958 will be repealed on 1 January 2003 if not proclaimed earlier.

Hon. C. A. FURLETTI (Templestowe) — I am pleased to contribute to the second-reading debate on the Auction Sales (Repeal) Bill. I am very pleased to indicate that the opposition will support the passage of this bill. It has had a fairly lengthy gestation period. In fact, it was introduced in the other place on or about 3 April, and when introduced a number of problems were identified. Many people, particularly in the country, were very concerned about the impact it would have on livestock sales.

So it was that it has taken some eight months for the matter to be appropriately resolved, and it was the contributions of the opposition, the Stock and Station Agents Association, the Livestock Saleyards Association and other affected groups that led to regulations being prepared and parties working cooperatively to ensure that there were no adverse effects to the bill.

The bill is a very brief document. As the minister indicated in her explanatory comment, the various provisions commence at different stages, relative to maintaining a sense of integrity and assurance that the Livestock Disease Control Act and the regulations made thereunder will remain operative and the provisions relating to the auction sale of livestock and the maintaining of registers under the act remain in operation and effective.

Honourable members will be aware that earlier today the house approved and passed the regulations under the Livestock Disease Control (Amendment) Bill. They are intended to be introduced on 1 January 2002, so these two bills need to be dealt with in tandem to ensure that the area addressed in the Auction Sales Act is covered. Given that it has taken eight months to do this, we are pleased that we have come to the stage of passing the bill today, sooner rather than later.

The provisions of the act, as I indicated, are very brief. One needs to recognise that the main thrust of the bill is to repeal the Auction Sales Act 1958. In repealing the principal act it is important that the elements of it that need to be retained are in fact retained. The repeal provisions are in clause 3. The requirement for the retention of the registry of cattle in clause 3(1), which refers to section 35 of the principal act, is repealed effective on 1 January 2002 because of the regulations under the Livestock Disease Control (Amendment) Bill coming into effect.

One assumes from a reading of clause 2(4) that the main repeal provisions will come into effect progressively but no later than January 2003, with the intent that those who are affected will have plenty of notice as to its repeal. Clause 4 amends the Estate Agents Act by substituting a new paragraph (a) in section 13B(2). Currently the cross-reference to 3(2) in the Auction Sales Act gives effect to the provision, so what is happening is that the current provision is being transported across to the Estate Agents Act.

The amendments to the Forests Act are to give effect to the removal of the reference to auctioneers licences, and the remainder of the amendments, which are to a number of acts referred to in the second-reading speech and which I will not repeat, are to consequentially amend references to licensed auctioneers which with the repeal of the requirement no longer exist.

The Auction Sales Act is a somewhat redundant piece of legislation, and the decision to repeal it arises out of a review undertaken by the Honourable Haddon Storey in 1999. The review found there was no justification for continuing to licence auctioneers of goods, because if a person had six friendly neighbours who were prepared to sign as to the person's character and was willing to pay a fee then he or she became an auctioneer. In its prompt action to implement the review of the Honourable Haddon Storey the government disregarded to some extent the issue of cattle sales and the regulations of the Livestock Disease Control Act, and so those matters were required to be addressed, which has now occurred.

It was gratifying to see that in its consultation with those affected the government heeded the advice and opinions of the umbrella organisations that were referred to. It clearly took the concerns to heart, in particular the problem that to repeal the act without further consideration would seriously impact on livestock auctioneers, and also the fact that there could be some serious concerns with respect to tracking diseases and the like. Following the amendments that were introduced in the other place the bill is now in acceptable form, and we wish it a speedy passage and commend it to the house.

Hon. E. J. POWELL (North Eastern) — The purpose of the bill is to repeal the Auction Sales Act 1958. It also makes a number of consequential

amendments to a number of other acts. The minister clarified the commencement dates earlier.

The Auction Sales Act 1958, which is the act to be repealed, provides for the licensing of auctioneers of goods, including livestock and farm produce. It is to be repealed because the government believes the licensing regime is outmoded and also cumbersome. The bill amends the Estate Agents Act 1980, the Forests Act 1958, the Instruments Act 1958, the Livestock Disease Control Act 1994, the Meat Industry Act 1993, the Motor Car Traders Act 1986, the Murray Valley Citrus Marketing Act 1989, the Police Regulations Act 1958, the Second-Hand Dealers and Pawnbrokers Act 1989, the Summary Offences Act 1966 and the Transfer of Land Act 1958. Although the bill has the effect of amending a number of acts it specifically removes the reference to the licensing of auctioneers.

The National Party does not oppose this bill. We made a number of requests to the government. We asked for bill be deferred until regulations were placed in the Livestock Disease Control Act of 1994, and those amendments were included in a bill today. We are very pleased that the government responded to those requests and that the minister accommodated other changes that we thought needed to be protected.

The bill preserves the record-keeping requirements for tracking and controlling livestock diseases, a protection which is important to keep. I was recently in the United Kingdom on my Commonwealth Parliamentary Association trip and saw first hand the effects of the outbreak of foot-and-mouth disease. I spoke to some of the locals in the rural part of England where the outbreaks were occurring and saw the effects not just on the agricultural industry but also on the retail, commercial and tourist industries. As an exporting nation we must retain our clean, green image. We in Australia have to ensure that we do not get a similar disease coming to our shores.

Australia is an exporting nation, and the markets are huge. When the coalition was in government it set a target of $12 billion worth of exports to be reached by the year 2010. I understand that at the moment we have already reached $5.7 billion, and that is really important. I was pleased to see that the current government supported the $12 billion target and is helping the agricultural industry to secure it.

This bill is the government's response to the recommendations of the national competition policy review of the Auction Sales Act 1958, which was undertaken in 1999–2000. The review committee stated that it consulted widely with all sorts of organisations, such as the Livestock Saleyards Association of Victoria, the Victorian Farmers Federation pastoral group, the Victorian Stock Agents Association, the Auctioneers and Valuers Association, the Real Estate Institute of Victoria and Victoria Police. As can be seen the review committee went to a number of stakeholders and gained their insight into the effects of repealing or amending this legislation in some way.

One of the committee's recommendations was to repeal the Auction Sales Act of 1958. It also concluded that the benefits of licensing the auctioneers of goods outweighed the costs. It raised a number of concerns about the auctioneering of cattle, and it was interesting to read the definition of 'cattle' under the Auction Sales Act 1958, because the definition is far broader than we would acknowledge. 'Cattle' means horses, mares, fillies, foals, geldings, colts, bulls, bullocks, cows, heifers, steers, calves, ewes, wethers, rams, lambs and swine. The definition of cattle is far broader than most people would believe it to be.

Another recommendation was that auctioneers of goods other than cattle should no longer be required to hold an auctioneer's licence, nor should licensing be replaced with a system of registration, notification or the like. Under the principal act, the definition of goods includes chattels, articles, matters or things or any interest or supposed interest therein. It is a broader definition of goods and cattle.

The review committee also recommended that the registration of auctioneers of cattle should be automatic upon payment of a registration fee and should be ongoing. It further recommended that registration provisions for auctioneers of cattle should be administered by the Business Licensing Authority.

The national competition policy review report, in assessing whether the Auction Sales Act 1958 was anticompetitive, stated that it also took into account the impact on the industry. That is extremely important in looking at competition or lack thereof. When taking something away we need to make sure about the impact on the industry, and ensure that it is not disadvantaged.

Currently there are about 1700 auctioneers in Victoria licensed under the Auction Sales Act 1958 enabled to conduct auctions of goods of any kind as defined in the act. The committee made the point that they do not operate in any single industry.

The committee also examined Internet auctions. Over recent years there has been huge growth in commerce on the Internet, and businesses have been looking at the potential this method offers. Goods can now be bought

and sold through auctions conducted online, and many auction sites have been established. A recent search of online auctions on the search engine Altavista revealed 14 086 matches.

The committee examined a small sample of sites and revealed they fell into four categories. The first category consists of sites established by existing auction houses. The second category is vendors who offered their own goods for sale by auction online. The third category consists of auctioneers who provide a facility for sellers to submit their goods for auction online and for bidders online. The fourth category is business people who are offering online services to people in connection with auctions. Even though online auctions are now big business, the review committee recommended that the act not be amended to cover Internet auctions.

In coming to its decision on this bill, the National Party consulted widely. The National Party spokesman for consumer affairs, the honourable member for Wimmera in the other place, wrote to municipal councils; the Livestock Saleyards Association of Victoria; real estate agents; the Real Estate Institute of Victoria; auctioneers; the Victorian branch of the Stock and Station Agents Association; the Stock and Station Agents Association Ltd, and a number of others. The honourable member received acknowledgment from the Stock and Station Agents Association, which expressed a number of concerns regarding the proposed amendments. It did not want unethical agents operating in Victorian saleyards and wanted to make sure saleyards maintained their existing quality.

At the request of the honourable member for Wimmera, the association met with the Minister for Agriculture. In a letter dated 23 November the Stock and Station Agents Association wrote to the honourable member for Wimmera after its meeting with the minister, and I will read part of its letter into the record. It states:

> I write to advise you that a delegation from the Stock and Station Agents Association Ltd attended a meeting with the Honourable Keith Hamilton — Minister for Agriculture and the Honourable Marsha Thomson — Minister for Consumer Affairs.
>
> …
>
> I am pleased to advise that an agreement was reached between the ministers and ourselves on the following basis;

The association then listed four points about which it was concerned, including the following:

> The repeal of the Auction Sales Act would proceed, on the condition that licensing of auctioneers (and specifically livestock auctioneers) would remain in force until new and appropriate measures are in place with respect to livestock agency.
>
> It was agreed that Minister Hamilton would form a working group to develop appropriate legislative measures that will underpin livestock agent licensing and operations. The group will comprise DNRE, SSAA, Wesfarmers Landmark and Elders VP representatives.
>
> It was agreed that Minister Hamilton would prepare and forward a letter confirming the issues discussed and agreed upon.
>
> As a result of the meeting the association is comfortable with the process of repeal in relation to the Auction Sales Act 1958, subject to receipt of a written agreement confirming the government's intention not to proclaim the repeal of the Auction Sales Act 1958 until appropriate measures are in force to underpin livestock agent licensing and operations.
>
> Minister Hamilton indicated that it was his intention to have the working group finalise development of new arrangements by June 2002 for introduction in July 2002.

The Minister for Agriculture wrote to Mr Andrew McCarron, executive director, Stock and Station Agents Association, on 22 November. The letter states, in part:

> As agreed, I have asked the Department of Natural Resources and Environment to convene an industry working group to explore options for training and accreditation of Victorian agents. The group should aim at reporting to the minister by June 2002.
>
> I expect the working group to include in its membership representatives from the SSAA, Wesfarmers, Elders and DNRE and to have the option of co-opting other members as required.
>
> Further, I will raise with my counterparts in other states the notion of a national scheme for livestock agent training.
>
> With regard to the establishment of a licensing regime for Victorian stock agents, the government's preference is for an industry self-regulating mechanism rather than for a legislative or regulatory licensing regime.

It has removed its opposition to the repeal of the act.

I will talk briefly about training, because it is important that we train our stock and station agents and also recruit younger people as agents. A 14 February article in the *Weekly Times* states:

> The lack of new blood in Victoria's livestock industry was highlighted at last week's young auctioneer competition at Bendigo.
>
> The event, which is restricted to agents aged 25 years and under, could only muster a field of four entrants from across the state.
>
> Kaine Lanyon, who presented the Graeme Lanyon trophy to the winner, said it was a worrying number considering Victoria's livestock industry was still built around the auction system.

> 'It's sad but there's not many young people coming through the stock agent ranks,' said Mr Lanyon.

The article goes on to quote one of the competition's three judges as saying:

> … aspiring auctioneers were finding it difficult to gain experience.

I want to place on record how proud I am of an agent in Shepparton, who won an award. Scott Butler, a director of Shepparton's Stockdale and Leggo, came second in the 2001 Annual Stockdale and Leggo Auction Championship. He competed against participants from Stockdale and Leggo offices throughout Victoria and only seven entrants progressed through to the finals. It is fantastic to see a young auctioneer making it into the big time. Scott said that he competed against metropolitan auctioneers who conduct an average of four or five auctions each week, compared to the minimum of two auctions he may perform on a busy weekend in spring. He said that it was the toughest auction of the 200 he has done. That shows how important it is that young people come into the industry.

Victoria's food industry is of vital importance to industry generally and to Victoria's economy. The livestock industry is a major player and it is important that it has a clean and green image. Saleyards play a vital role in that. An article headed 'Saleyards in spotlight', which appeared in the *Weekly Times* on 8 August, talks about the importance of saleyards:

> Livestock identification, quality assurance, animal health and market access are the challenges facing the livestock industry — and they dominated debate at the National Saleyards Convention in Melbourne.
>
> More than 200 delegates tackled the issues at the convention and organisers said it was clear there was widespread concern.
>
> Livestock Saleyards Association of Victoria executive officer Frank White said the convention had highlighted the integral role saleyards played in disease eradication and outbreak prevention.
>
> 'It was very clear that saleyards are seen as one of the first places an infected animal will be noticed,' Mr White said.
>
> 'The farmer who owns the stock might not see the symptoms of disease, so we are relied upon as the first line,' he said.
>
> He said discussion about foot-and-mouth disease had been particularly relevant, in the wake of the recent outbreak in the UK.
>
> Delegates were told a similar outbreak in Australia could cost the economy up to $5.8 billion in the first year, and billions more in ongoing recovery costs.

The new amendments to the Livestock Disease Control Act, which this house passed this evening, will implement a framework for the national livestock identification scheme (NLIS) to allow the permanent identification of cattle — and potentially other species of livestock — and will allow for the monitoring and control of livestock disease. This scheme is presently for cattle only and will be implemented in stages; however, sheep and pigs will come later. An identifying microchip will be attached permanently to each animal.

Clause 7 of the bill inserts proposed section 144 into the Livestock Disease Control Act 1994, which provides for the saving of the records of cattle sales kept under section 35 of the Auction Sales Act 1958 as if they were kept under section 94A of the Livestock Disease Control Act 1994, which comes into effect on 1 January 2002.

Finally, sales in agriculture is a huge business and it needs to be accountable. Victoria's estimated 1999–2000 turnover consisted of crop sales of $2.11 billion, livestock sales of $1.12 billion and livestock product sales of $1.87 billion. In 1999 wool exports were approximately $830 million and red meat production was $1.7 million. The saleyard sector is an important contributor to the effective functioning of Victoria's livestock industries, handling over 1.2 million cattle and 5.2 million sheep.

The National Party does not oppose this bill, and it is pleased that some of the regulations that it asked for have been included.

Hon. R. F. SMITH (Chelsea) — It is with pleasure that I rise to speak on the Auction Sales (Repeal) Bill. I do not know whether to start with a moo or what, but I do say that this bill responds to representations made by the national competition policy review of the Auction Sales Act 1958. It repeals the act, and as a consequence makes amendments to a number of other acts. Given the time unfortunately I will not be able to go into detail of what those acts are.

This bill includes a savings provision, which requires records of livestock that are currently kept under this act to be preserved. The bill seeks to maintain the status quo of the Second-Hand Dealers and Pawnbrokers Act 1989, the Motor Car Traders Act 1986 and the Real Estate Traders Act 1980; they will remain unchanged. It is typical that this government has had significant consultation on this bill. The following government departments have all been consulted and support the bill unamended: Premier and Cabinet, Treasury and Finance, Natural Resources and Environment, Infrastructure and Justice. Those departments, as well as the Magistrates Court, Victoria Police and business leasing authorities, all support the bill.

It needs to be said that Victoria Police raised some concerns about the bill, particularly with regard to stolen property and how it may be fenced through auctions. However, it did not provide any evidence in support of its concerns.

The repeal of the bill will take effect on 1 January 2002. That will enable current licence-holders and intending applicants to be advised well in advance of the date of the new licences.

Although small in volume, the bill is important. I would like to finish with a story about the old bull and the young bull overseeing the paddock, but given that it is Christmas and time is running out, I will not. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

Hon. M. R. THOMSON (Minister for Small Business) — By leave, I move:

That this bill be now read a third time.

In doing so I thank honourable members for their contributions to the debate, and I thank them for the timeliness and succinctness of their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 6.29 p.m. until 8.02 p.m.

COUNTRY FIRE AUTHORITY (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Debate resumed from 4 December; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. B. C. BOARDMAN (Chelsea) — When I adjourned the second-reading debate on the bill yesterday I said that the amended second-reading speech was a disgrace. I not only stand by that comment — in the circumstances I think it was a little too kind.

The second-reading speech that the minister read to the house yesterday is embarrassing. Based on the negotiations that have taken place between the government and the opposition regarding the legislation, I do not believe it represents what I consider the real situation to be, and I will comment extensively on that point. However, I place on the record that the second-reading speech does not reflect what has occurred since this bill was introduced and subsequently debated in the lower house, and for that reason the opposition registers its disappointment that the government has taken this action.

It is an important piece of legislation which comes at quite an opportune time. This house over the past couple of days has been debating issues and raising questions about various appointments this government has made to a number of boards and executive positions, creating an environment where government members represent themselves as almost untrustworthy in situations. We have seen the Premier's friend — past friend, old friend, whatever the definition was — Jim Reeves initially being placed on a fairly lucrative government contract and then subsequently resigning under dubious circumstances. A question was raised yesterday about the secretary of the Australian Workers Union, Bill Shorten.

Hon. M. M. Gould — Get on to the bill!

Hon. B. C. BOARDMAN — This has everything to do with the bill. It is another example of what the government is trying to do — that is, to create a legislative process where it has complete autonomy over choosing its own people to represent it rather than people representing the interests of the authority or body governing the organisation; it simply wants Labor Party representation in those positions. That is what this bill is trying to do.

I raised the issue of Jim Reeves and Bill Shorten as examples of a government that clearly cannot be trusted. We have a situation where the government has purely made quite political and unjustified appointments. But in relation to the second-reading speech — —

Hon. M. M. Gould interjected.

The PRESIDENT — Order! Minister, he has been going for less than 5 minutes and you are at him. Let him develop his case and someone else can respond to it.

Hon. B. C. BOARDMAN — I find the interjections equally as confusing as you would, Mr President, because, as I have simply stated, this bill is about

enabling the Labor minority government to place its own people in positions where there should be more qualified and more appropriately represented people to do the jobs. The Minister for Police and Emergency Services has attempted to rush this bill through the lower house and then drop the amendments because there was a degree of confusion over what was going to happen here tonight. The second-reading speech makes it quite clear that this is simply an opportunity for the minister to have more authority to promote to positions on the Country Fire Authority board people who may or may not be the most suitable. Page 2 of the minister's circulated second-reading speech states:

> Unfortunately, the opposition has determined it will play politics with these proposed changes. It indicated it would block the proposed changes, publicly characterising them as an attempt by the Victorian government to 'stack' the CFA board.
>
> This is clearly incorrect. The proposed changes were focused only on making commonsense improvements to current nomination processes. No substantive changes to the current structure of the board were proposed.

The second paragraph I have quoted is correct. No substantive changes were proposed. This goes to the question of trustworthiness and ethics. Section 7 of the Country Fire Authority Act provides for those who are eligible to sit as members of the CFA board. I will read each category because it is important that honourable members are aware of those categories. The first category is that one person will be the chairman and will be appointed by the Governor in Council — obviously a ministerial appointment. The second category is the deputy chairman who will also be appointed by the minister. Then there will be two ministerial appointments, but they will be names submitted by the minister who administers the Environment Protection Act; they will be from the Minister for Environment and Conservation — usually bureaucrats within that department — so quite clearly you can construe that they are once again ministerial appointments. Then there will be two members submitted by the Victorian Rural Fire Brigades Association, two members submitted by the Victorian Urban Fire Brigades Association, two members submitted by the Insurance Council of Australia, and two members from the Municipal Association of Victoria, one of whom is supposed to represent an urban area and one a rural area, giving a total of 12 members. Under the current provisions of the act the minister only has the option of directly appointing four specific people to serve on the Country Fire Authority board.

Section 7(2) provides that if any of the bodies fail to submit a panel of names within the prescribed time, the minister may recommend names from any organisation with no personal or professional qualifications to serve on the CFA board. That clearly allows the minister to have direct control of and interference in those appointments. The opposition acknowledges that that has been the case for some time, particularly with the Insurance Council of Australia. For some years the ICA has made it quite clear and stated publicly, and backed it up through its policy announcements, that it perceives a conflict of interest when it comes to serving on the Country Fire Authority board and as such it does not participate in nominating two members to serve. While that has been a practice in the past, past governments have used the opportunity that is afforded to them in this legislation to appoint people who have the qualifications, professional standing and reputation and who also have, most importantly, the ability to do the job as intended under the act.

The Labor Party could not be trusted in that situation. Its track record and history is appalling. In the last couple of days we have had questions raised over people who have been appointed to boards under dubious or political circumstances. The opposition will not allow that to happen to the Country Fire Authority board. This is an exceptionally good organisation. It is world class. Its standards are undoubtedly among the best of emergency services standards anywhere in the world. Direct interference by the government with the people who are the executive managers of the organisation will not be tolerated, not only by the opposition but also by the Victorian public at large.

This is why the opposition will move some amendments tonight that will clearly stipulate and tighten the rules that will prevent the government, and particularly the minister, from using their authority under the act to make appointments that could be considered dubious. Realising that the Insurance Council of Australia has a perceived conflict of interest and that it has made its public policy clear in this regard, the opposition will move an amendment to remove section 7(1)(d) and replace it with a new paragraph (d) that will allow the employer to appoint a representative from the Victorian Farmers Federation and a representative from the Victorian Employers Chamber of Commerce and Industry.

They are two key stakeholders when it comes to fire service management and are very appropriate appointments in the circumstances. When the time is appropriate I will move such amendments and give my justification for them.

It is equally important to remind the house of just how committed the opposition is, as I suspect the National

Party is, to the Country Fire Authority as a whole. It goes without saying that it is a tremendous organisation, one which is the envy of national emergency services organisations and one which certainly is highly regarded and has a well-valued reputation internationally. The volunteers and professional firefighters who make up the core staff of the Country Fire Authority have been involved for many years not only in assisting their interstate colleagues but recently we have seen some of our members travel internationally, particularly to California, to assist with emergency services management issues that unfortunately have been endemic in that part of the world.

There are currently 1228 CFA brigades around the state. Servicing those brigades, which are managed by 11 areas under 20 regions, are 357 career firefighters, 698 management support and administrative staff and approximately 61 657 volunteers. By anyone's interpretation that is quite an extraordinarily large organisation. The CFA's expenditure is about $142.5 million. It is interesting to note that only 22.5 per cent of its gross income comes from government contributions, which equates to about $35 million. The remaining 77.5 per cent comes from 114 insurance companies, owners or brokers who contribute the funds through the fire services levy, which is a compulsory tax for property holders in Victoria.

The opposition supports the tax in its current format but places on the record its curiosity as to whether the government will be amending the provisions of the fire services levy at any stage to take into account what has occurred in other states, such as where the fire services levy is determined on a rateable property basis. For the time being the system works reasonably well, although the Insurance Council of Australia acknowledges the conflict of interest. The funding criteria is adequate and serves the authority exceptionally well in the circumstances.

The CFA is a big organisation which has for some time quite tragically been subject to ongoing industrial bans and disputes, primarily and unjustifiably initiated by the Victorian division of the United Firefighters Union of Australia. With only 357 career staff the union does not have a whole lot of say in what happens in the management of the CFA. Unlike the Metropolitan Fire and Emergency Services Board the union is not represented in the CFA. If the opposition were to let the government get away with this bill potentially it may use the clauses of the bill, or worse still use the proposed amendments that it wished to initiate when the bill was first introduced in the other place, to appoint union members to an organisation where the union influence is quite limited.

The ongoing industrial dispute and bans which have been in place over successive periods have not only had a direct impact on the operational efficiency of the CFA and its members, but for some time it has put public safety at risk because of the undue influence of the union and the disruption it has caused to volunteer firefighters. I stress that although the volunteers are a very important core component of the CFA, they are admirably serviced and backed up by most of the career firefighters, who are an equally important component of the organisation.

The time has come for the union to understand that the situation is not going to change. Volunteers are as valuable an asset as career or paid staff and it must be acknowledged that to ensure that the most effective operational and performance standards are met in the community's best interests, the union — that is, the career firefighters — and the volunteers must work cooperatively to get the best possible result for Victoria.

Recently the Victorian Urban Fire Brigades Association, and I suspect the Victorian Rural Fire Brigades Association, initiated a process to incorporate a draft volunteer charter. They wanted to ensure that all the players in the CFA — the authority itself, the state government and the union — were aware of the volunteers roles and responsibilities and that the volunteers themselves had an awareness that their individual responsibilities both to the authority and for their performance were documented, acknowledged and signed by all.

This volunteer charter was released on about 20 June. It was to be signed by Tom Brodie, the president of the Victorian Rural Fire Brigades Association; Rob Waterson, the president of the Victorian Urban Fire Brigades Association; Len Foster, the chairman of the Country Fire Authority; and the Honourable André Haermeyer, the Minister for Police and Emergency Services on behalf of the state of Victoria. The volunteers decided that because of the significant role they play in emergency management and emergency provision in the state the Premier, Steve Bracks, should sign the charter as well.

I received a letter from Peter Davis, the secretary of the Victorian Urban Fire Brigades Association, on 2 November. I know Peter; he is a member of the Carrum brigade, which is one of the local brigades in my area. He is an exceptional individual and a person who over many years has performed with an enviable degree of dedication to the community. Quite rightly he

was writing on behalf of his members expressing some concern as to why the Premier initially was reluctant to sign the charter. Thankfully, and because of a degree of pressure placed on the government by the opposition, the Premier did sign the charter acknowledging just how vital the role of volunteers is in the state. But for the Premier initially to have some concern or even, dare I say it, confusion over whether he was going to sign the charter was quite reprehensible.

The Premier of the state has an obligation to all members of the Victorian community, and you would expect that the Premier would have no hesitation in supporting this organisation and its staff, because people are giving up their own time to make our community safer.

It is important that I read the first paragraph, which is the preamble, of the volunteer charter because it sums up what the volunteers believe their roles and responsibilities are and it gives an indication of just how important those roles are. It states:

> Volunteers of the CFA are fundamental to emergency management in Victoria, and their value and importance is recognised. Volunteers and the commitment they bring to the protection of the Victorian community remain the core strength of CFA. The individual and collective interests and needs of volunteers must be protected if they are to deliver their services safely and effectively. They must always be consulted about issues that affect them as volunteers.

I find it difficult to believe any member in this house would not agree in totality with the sentiments set out not only in the preamble but in the whole volunteer charter.

It is also important to note the corporate plan of the CFA for 2001–02. On page 10 under the heading ‘Our commitment — what we value most’ and the subheading ‘People’ it states:

> Our most valuable resource is our people, volunteers and staff, and we will strive to treat them with dignity, respect and fairness, because we value their contribution to the community.

It is an exceptional sentiment; it indicates that there is corporate value in the relationship the management has with the staff and acknowledges the vital contribution the staff makes. It is not before time that the management of the CFA and all the members have been made aware of what that commitment is and how valued the members are, because it was not that long ago when industrial bans were imposed by the United Firefighters Union, which I alluded to earlier, which quite clearly did not encourage a sense of equality within the organisation — it had a dreadful impact on morale and placed emergency management in the state at risk. If the union reads that, and I hope it does — I trust it already has — it will understand that its members are as valued as the volunteers and that they should be working together. A more coordinated approach to emergency management and firefighting will undoubtedly be in the best interests of the organisation and the community.

The corporate plan acknowledges that a number of challenges are presented in the environment in which the authority operates. It states that the world is changing and because of those changes it faces certain challenges. One of the changes mentioned is the growth in metropolitan provincial centres. The unique situation in my area is that the Metropolitan Fire and Emergency Services Board administers the metropolitan area, which stops at the Mordialloc Creek in the northern part of the electorate. Many years ago that may have been considered to be the true end of the metropolitan area, but now the area all the way down almost to Mornington is a very built-up residential and urban environment, but it is still serviced by the CFA. It is a growing area with strong residential construction taking place, which poses significant challenges.

Some of the other challenges the CFA acknowledges are the decrease in the numbers of volunteers due to an ageing population, dormitory communities, changing rural communities, economic restructuring and globalisation and a declining youth base. They are critical factors, particularly in my area, as it is growing in residential terms and people are becoming more time poor because of professional and other community commitments, but the CFA is still the authority that services the area. If the CFA is finding it difficult to obtain members because of some of the demographic and other challenges it outlined in the corporate plan, those challenges will undoubtedly have to be recognised and this government will need to be committed to ensuring that it provides the CFA with valuable resources to ensure it can function correctly.

Some of the other challenges it identifies include the increase in volume and diversity of services required due to changes in populations — that is, the population shift. As more people move to the city the population base increases, and there will be some dispersion. The CFA has to be conscious of that and needs to apply the appropriate resources to service the needs of the community.

Additional changes also need to be made, such as supporting the needs of the CFA’s people based on a climate of increased and competing work, family and lifestyle pressures. There are community expectations for the CFA to provide high-quality, accountable and

sustainable services while giving value for money. That is a very important point. Volunteers have service obligations to their community, and they need to ensure that they are trained appropriately. To be trained appropriately they have to dedicate their time and, importantly, their efforts and commitment, so we need to ensure that they have the available resources and training qualifications to fulfil their needs. That exceptionally important challenge needs to be addressed by providing the resources and a policy and strategy.

The corporate plan also refers to the impact of technology and the outcomes of the Linton coronial inquiry, which resulted in a number of recommendations on operational issues that concern the CFA. The CFA also mentions the events following the 11 September attacks in the United States. One other challenge that has been identified, which I mentioned earlier in my contribution, is the new industrial relations framework. Although the enterprise bargaining agreement has been completed there are still issues that affect the contingencies of volunteers and career firefighters that need to be worked out to ensure that no members are jeopardised in any of their positions.

Before I conclude my remarks so that other honourable members are able to make contributions and debate the amendments during the committee stage of the bill, I wish to pay tribute to all the authority members who have provided a dedicated and diligent service for the board and the management, which has been responsible and has acted appropriately in the circumstances. It must be acknowledged that it is a difficult job but one which these people perform quite admirably.

Equally it is important to place on the record my personal thanks and strong support for all the Country Fire Authority brigades and their members: the volunteers, the career firefighters, and the support and administrative staff. They have a busy fire season ahead of them. Although it does not feel like summer, we are into the fifth day of summer and no doubt it will start warming up soon. I offer the CFA brigades my full support. I know that they are an extraordinarily committed group of people who service their local communities with great diligence and dedication. These people deserve the respect they have and I pass on my thanks and offer them my continued strong and emphatic support. I wish them well and although it is unlikely that they will have a quiet summer I hope that that will be the case.

This bill needs to be amended in the interests of Victoria generally and the Country Fire Authority and its members in particular. We do not want the government to deliberately, maliciously or even inadvertently appoint someone to the board when that is not in the best interests of the organisation. We must ensure that the mechanics of the Country Fire Authority Act 1958 service the community's needs and expectations. The opposition will unreservedly move its amendment with a great deal of pride and distinction.

I will comment only very briefly on the other parts of the bill which need to be commented on. One is the use of prescribed devices during a fire danger period. I am not a person with a rural background and I am sure that when Mr Hall speaks on behalf of the National Party he will go into further detail about that provision and the implications of gas-fired scatter guns. I do not have the expertise to comment on that clause. However, I will make a brief comment on the municipal fire prevention plans. I indicate that the opposition does not oppose the intentions of those important plans. The bill clarifies the existing responsibilities of councils in the preparation of the plans. It also gives the power to audit the plans to ensure that they meet their intended purposes and their obligations to the community. The opposition supports that part of the bill.

It is unfortunate that we have had to come to this debate this way and that the opposition could not reach consensus with the government on its amendments. Maybe if the government's track record and level of trustworthiness were higher that might not have been the case but there is no evidence to suggest that that can be counteracted and therefore we have to go down this path.

It has been put to me that if the bill is not passed and does not receive assent in a reasonably short time municipal fire prevention plans may be in jeopardy. I refute that assertion and simply suggest that the Country Fire Authority and its brigades have operated very successfully in past years and, although the municipalities have a responsibility to coordinate their emergency services resources as best they can, the world will not crumble if this bill is not passed. The volunteers and the career staff will go about their tasks as best they possibly can and with a great degree of distinction.

The bill contains a number of other minor amendments of a technical nature — which will assist the bill both as it stands and with the opposition's amendments — and as they are minor they do not need to be discussed. At the appropriate time in the committee stage the opposition will move its amendments and discuss them further. Until then I offer the opposition's full support to the Country Fire Authority and confirm that the

Liberal Party holds it in an extraordinarily high degree of esteem and always will.

Hon. E. C. CARBINES (Geelong) — I am pleased to speak tonight on the Country Fire Authority (Miscellaneous Amendments) Bill. The bill seeks to assist the Country Fire Authority (CFA) in its vital role of protecting the Victorian community from the danger of fire.

As a member of this place representing a regional electorate I can attest to the enormous contribution the CFA and its volunteer members make in rural and regional Victoria. It is appropriate to acknowledge, especially in this the International Year of Volunteers, the tireless dedication of members of the Country Fire Authority and the commitment they make to protecting the members of their communities from the risk of fire. It is also important to recognise that in carrying out their volunteer duties members of the CFA place themselves at considerable personal risk — fighting fires to protect you and me and the other members of our communities.

Members of this house will have heard me speak last week about the terrible tragedy involving the Geelong West CFA brigade. Three years ago five young men from the Geelong West brigade were tragically killed while fighting bushfires at Linton. I know that the Geelong community will never forget those five young men. Their memory serves to remind us all of the dangers faced by each and every member of the CFA.

In every way the volunteers who make up the Country Fire Authority epitomise the true spirit of volunteers. That spirit strongly resounds in regional and rural Victoria. As a member for Geelong Province I was honoured to present certificates to members of several of the CFA brigades in my electorate earlier this year, including the Portarlington, Barwon Heads, Mannerim, Wallington and Ocean Grove brigades. Those certificates acknowledged the contribution of the CFA volunteers. They were a small token of the government's appreciation on behalf of all Victorians of the vital role the CFA and its members play in our state.

The Bracks government has introduced several initiatives to support the CFA and its members. Not only does the government acknowledge its appreciation of all they do for each and every one of us but it backs up its appreciation with solid funding commitments to make a real difference to the CFA and its volunteers in their duties.

One of the very strong initiatives that have been introduced by the Bracks government which has huge support among Country Fire Authority members is the Community Safety Emergency Support Fund program, which involves funding for the upgrade of emergency vehicles and the equipment used by CFA members. I have been pleased to announce over the course of this year that several of the brigades in my electorate have received such funding. Earlier this year I attended a function at the Mannerim rural fire brigade to launch its new Quick Attack vehicle, towards which the government had contributed $20 000. The members of that CFA brigade said to me that without the funding the government provided they would not have been able to purchase that vehicle for many years, and they were very appreciative of it. Similarly, in August I went to the Wallington Country Fire Authority brigade on a Sunday morning to hand over the keys to its new four-wheel-drive vehicle which was also purchased with a $20 000 grant from the Bracks government and which complemented the fundraising efforts of the volunteer members to raise a similar amount.

Recently I was very pleased to advise another rural fire brigade in my electorate — the Gnarwarre Country Fire Authority brigade — that it was also to receive funding under this program which would allow it to buy a new 1500-litre tanker. I was also very pleased to receive a letter from the brigade thanking me and the government for the funding commitment and acknowledging that without that funding it would not have been able to purchase the tanker.

On top of that funding, the Minister for Police and Emergency Services has recently announced another funding grant to another brigade in my electorate, the Torquay Country Fire Authority brigade. The minister has announced a $650 000 funding grant for the building of a much-needed new fire station in a great location at Torquay, in Grossmans Road. I was very pleased to meet one of the CFA members out there who impressed upon me that this new location and the new station would serve the Surf Coast very well and would be in a great position to be able to gain access very quickly to fires that may break out along the Surf Coast. It is good that the government is not only talking about its appreciation of the CFA and its volunteers but is also putting that talk into practice by providing significant funding.

Honourable members will have heard me speak recently about the Geelong West fire station, which was partially destroyed by fire a couple of weeks ago. I expressed my concern about the Geelong West fire station in the adjournment debate and asked the minister to intervene to make sure that adequate

funding was supplied as soon as possible to rebuild it. At that time I raised with members of this house the poignant memory of the tragic deaths three years ago of five young men from that brigade. The destruction of that fire station a couple of weeks ago reopened some of the wounds that had started to heal following the bushfire in which those young men died. I am pleased to acknowledge that the minister very promptly announced that whatever funding it would take would be supplied to the Geelong West urban fire brigade to restore its station appropriately.

Another funding program the Bracks government has initiated has been very warmly received by all CFA volunteers — that is, the boot program, whereby for the first time CFA volunteers will be provided with new boots. This funding program is very popular among CFA members, and earlier this year when I was at the Mannerim rural fire brigade to launch its new Quick Attack vehicle the members were excited about not only their new vehicle but also their new boots. Some of them had been out that morning to have their new boots fitted and were very proudly displaying them to the members who had not yet bothered to go for their fittings. I was encouraging one of them to be a model in front of the crowd to show off his new boots, but he was rather a reluctant starter. However, we all enjoyed their excitement at getting the new boots, and they thought it was a very practical way for the government to support their volunteerism.

The Bracks government is very proud to support the Victorian CFA in such practical ways, and the bill before us also seeks to further assist that organisation. The purpose of the Country Fire Authority (Miscellaneous Amendments) Bill is to implement a number of minor and machinery changes to simplify and facilitate the manner in which the Country Fire Authority operates. Consequently the bill before us amends the Metropolitan Fire Brigades Act 1958 in relation to the use of prescribed devices on fire danger days. The bill will allow for the safe use of gas-fired scatter guns on days of high fire danger. These devices are used by farmers, vignerons and orchardists to deter birds, and the Victorian Farmers Federation supports the imposition of such restrictions on the usage of these guns during times of high fire risk.

The bill also amends the principal act so that the municipal fire prevention plans which councils are required to prepare will comply with the new guidelines which the CFA has drawn up. The second-reading speech states:

> It will be the responsibility of each municipal council to maintain and formally approve its plan and to act upon it. This will emphasise the importance of proper planning for the purpose of increasing fire safety for the community.

The bill also repeals redundant provisions relating to long service leave. It further amends the principal act in relation to evidence of a declaration of a day of total fire ban. Currently it is a requirement that the original certificate signed by the chief executive officer is produced in court for prosecutions to proceed. This bill will amend the principal act to allow for a certificate signed by the chief executive officer declaring a day of total fire ban to be sufficient for prosecutions to proceed. That is a useful and practical amendment to the principal act. In this way the government seeks to assist rather than hinder the CFA when it is necessary to prosecute offenders.

The bill contains other minor amendments, which are also designed to assist the CFA in the conduct of its duties. The Bracks government is very pleased to assist the CFA in such practical ways to recognise, in the International Year of Volunteers, the contribution that the CFA makes to each and every one of us in this state. I commend the bill to the house.

Hon. P. R. HALL (Gippsland) — This bill had its second reading in the Legislative Assembly on 19 September and was not debated until 27 November. It is quite unusual for there to be a two-month gap between the time a bill is introduced and when it is debated. It sat around for two months with seemingly little effort being made by the government to resolve the issues that surfaced when the bill was first made available.

Some significant issues surfaced about the composition of the Country Fire Authority (CFA) board. Some of those have been outlined by the Honourable Cameron Boardman in his contribution; I will also talk about some of them.

It is pretty disappointing that the bill sat there for two months without any constructive effort being made by the government to resolve those differences between the government, the opposition and the National Party. As to the minister's claim in the second-reading speech that the opposition has determined that it will play politics with these proposed changes, I say that it is the government that is playing politics and that it is its fault that this bill will be amended tonight by the opposition and by the National Party and will therefore not proceed because the Assembly has already risen. The government is the one that is playing politics with this bill, because it had more than two months to try to resolve those differences.

On other bills that have passed through this Parliament there has been a time delay, but through good time management the differences have been able to be resolved between houses. But the fact that the government decided it would not bring on this bill for debate until late last week, the last week of the Assembly sitting, means that when the amendments are passed by this chamber tonight with the support of the opposition and the National Party, this bill will not proceed further.

So I say the politics has been played by the government — not by the opposition and not by the National Party. It is the government that has delayed the passage of this bill by its refusal to come to the table and negotiate on some concerns that were expressed when the bill was initiated.

The second-reading speech states that the purpose of the bill is to implement a limited range of amendments to the Country Fire Authority Act 1958. It does that, and the National Party accepts that that is the purpose of the bill and that the amendments will improve the effectiveness of the CFA.

But there was one aspect of the original bill which we were not happy about and which I have to say the majority of people in the CFA organisations were not happy about either, and that revolved around the composition of the CFA board. Let me go to what was proposed in the original legislation. Section 7(1)(d) of the Country Fire Authority Act provides for two positions on the board to be filled by people appointed from a list of names supplied by the Insurance Council of Australia. We understand that for some time the Insurance Council of Australia has not wished — and certainly does not wish in future — to have a representative on the Country Fire Authority board. We accept its reasons; it believes it may have a conflict of interest, and that is an acceptable reason for it not to be on the board.

The amendment the government had previously proposed was that those two positions simply be filled by people appointed by the minister; it was a completely open-ended process of appointment and the minister could put in whomever he wanted to fill those two positions on the board. That was the original proposal when the bill was introduced in the other place.

It was also proposed that the act provide for the Municipal Association of Victoria to nominate two representatives — one from an urban ward and one from a rural ward. The amendment proposed by the government was that the two representatives be councillors representing a municipal council under the control of the Country Fire Authority.

The National Party had concerns with both those aspects of the amendments to the composition of the CFA board. Firstly, we believed that if the insurance industry council did not wish to continue being represented on the board, other organisations should be represented on it, and it has been proposed by way of amendment that those two positions be filled by a nominee of the Victorian Chamber of Commerce and Industry and a nominee of the Victorian Farmers Federation. We believe it is an opportunity for other organisations to put up nominees to take the place of those two positions previously filled by nominees of the insurance industry council.

These proposals the government put forward were objectionable to many of the volunteers in the Country Fire Authority. The National Party believes the interests of the volunteers should be paramount, because the CFA, great organisation that it is, is largely composed of volunteers, and surely if we are considering changes we should take their views into account.

As has already been said in this debate, the Country Fire Authority has something like 1228 active brigades in Victoria, with a total support staff of 62 712. The vast majority of those 62 712 — 61 657 of them — are volunteers. So we in the National Party say that the views of the volunteers should be paramount when considering changes to the Country Fire Authority Act. They are the people who selflessly make a commitment and give of their time, and sadly on some occasions their lives, to protect community assets by their willingness to volunteer in that great organisation — the Country Fire Authority.

The Honourable Cameron Boardman outlined challenges ahead for the authority and made mention of the forthcoming summer season. Despite the benign temperatures we have experienced so far, this season will pose some real challenges and threats to fire safety in Victoria. As a result of the good rains we have had during the spring period the growth in vegetation has been prolific in many areas of country Victoria. In parts of my electorate in Gippsland I have never seen the grass so good. Although that benefits our primary producers to a great extent, it also poses some significant fire risk. The prolific growth and the build-up of grass and flammable materials in some of our forests and grasslands means that invariably there will be some serious fires. In addition, the lack of adequate fuel reduction burning in some of our parks and forests under the control of the Department of

Natural Resources and Environment also increases the fire danger.

Constituents such as Mr Ralph Barraclough based at Licola, who is the captain of the Licola fire brigade, are extremely concerned about the possibility of a serious fire in the Alpine National Park this year.

Hon. B. W. Bishop interjected.

Hon. P. R. HALL — We saw what devastation fires in that area caused in the summer of 1998 when fires devastated the Caledonian Valley area. The local residents are fearful that that situation will occur again because of the build-up of fuel on the forest floor, which poses a serious fire risk. This summer we all hope and pray that that will not eventuate, but the possibility is there. As the Honourable Barry Bishop interjected, we have to take account of the local views on the situation, and Captain Barraclough of the Licola fire brigade will tell you that more should be done to reduce the build-up of fuel on the forest floor in the Alpine National Park.

I wish to put on the record what the volunteers are saying. One of my keenest constituents in matters concerning the Country Fire Authority is Mr Alex Hooper of Winnindoo via Heyfield. I am sure many honourable members have received correspondence from him over the years. He is a great stalwart of the CFA. He wrote to me making some comments about the composition of the CFA board proposed in the original bill.

He referred to clause 3 in the original bill, which provided for two members to be appointed by the Governor in Council on the nomination of the minister. His comment was:

> This proposal is not acceptable and I would suggest two alternatives.
>
> Option (1)
> The positions be abolished leaving only 10 CFA board members.
>
> Option (2)
> The Victorian Farmers Federation be requested to submit a panel of two names, one to be appointed.
> The Victorian Employers Chamber of Commerce and Industry be requested to submit a panel of two names, one to be appointed.

His conclusion was that:

> Option (2) is the preferred solution as it will give the major stakeholders and financial providers input to the authority at the highest level. Members of these organisations are responsible for major assets including industry, both primary and secondary, as well as domestic, investment and commercial dwellings, located within the country area of Victoria, and protected by CFA brigades …

He goes on to outline the contribution insurance levies make to the funding of the CFA and uses that to substantiate his argument that a member of the Victorian Employers Chamber of Commerce and Industry (VECCI) and a representative of the Victorian Farmers Federation (VFF) should be members of the board. He concludes on the following point:

> It is imperative that industry, both commercial and primary, have a voice and representation on the CFA board that was previously exercised through the insurance industry.

I agree wholeheartedly with those sentiments. The amendments which the National Party will put forward are very much the same as those to be put forward by the Liberal Party and will give effect to the view being expressed by this volunteer on behalf, I would say, of the majority of volunteers in the CFA, in that they want those two positions that were previously occupied by the insurance industry council to be occupied by a nominee of the VFF and a nominee of VECCI.

The other point that has been changed by the withdrawal by the minister of the original clause 3 when the bill was amended in the other house relates to the two nominees from the Municipal Association of Victoria. It was proposed that the two nominees from the MAV be a councillor of a municipal council with a municipal district wholly or partly within a country area of Victoria. What is a country area of Victoria? We are not sure of those boundaries, — they get blurred. We know the CFA comes in and helps suppress fires in Springvale.

Hon. N. B. Lucas — Yes.

Hon. P. R. HALL — Springvale is certainly not country Victoria. So under the wording proposed by the minister it is possible that two councillors from the City of Kingston — —

Hon. B. C. Boardman interjected.

Hon. P. R. HALL — Frankston or Greater Dandenong — that two councillors from those councils could be members of the CFA board. The National Party says there is nothing wrong with one of them having membership of the board, but we at least want some country representation.

The second set of amendments the National Party will move will ensure that one of the two nominees from the MAV comes from a council within an 80-kilometre radius of Melbourne and another beyond an 80-kilometre radius of Melbourne to ensure there is

truly country representation on the CFA board. They are two sensible proposals put forward by my constituent Mr Alex Hooper, and his views represent those of the vast majority of CFA volunteers in country Victoria.

What do other organisations say about these amendments? I have to go back because as I say the bill was first introduced two months ago and we had not had any changes until last week, when the government rammed this bill through the Assembly. What does the Victorian Rural Fire Brigades Association say about the amendments proposed by the government? On 1 October the National Party spokesman, the honourable member for Shepparton in another place, Don Kilgour, received correspondence from Mr Bob MacDonald, the executive officer of the Victorian Rural Fire Brigades Association, which states:

> Our preference would be that membership of the authority remain the same. However, if this is not possible we would still like one of the representatives of the MAV to be from a rural area.

As I said, the amendments that will be moved by the opposition parties will ensure that occurs. The letter further states:

> Further should the Insurance Council of Australia not wish to have representation on the board then the board should be reduced in number by two. Again we would prefer the representation to come from the insurance council as they are a key stakeholder and for them not to be on the board would strengthen their argument not to collect fire levies.

That leads me into a different subject, but I will not take that lead because it is not directly part of the bill before the house. The Victorian Rural Fire Brigades Association is saying clearly that it does not want the additional two representatives to be appointed simply at the whim of the minister. The Victorian Urban Fire Brigades Association shares a similar view. In a letter dated 28 September to Mr Kilgour, Peter Davis, the secretary of the association, expressed the same sentiment. They want the insurance industry to continue as a Country Fire Authority board member, but if that does not happen they do not want two extra people appointed purely at the whim of the minister. They are the views of some of the stakeholders on the proposals originally put forward by the government, and they are all valid arguments.

What happened when this bill was finally debated last week after two months of complete inactivity? The response from the minister was to drop all the proposed amendments to the composition of the board, to take his bat and ball and to go home and say, 'Because I cannot have my way we will not do anything'. That is purely a petulant act from the minister on this issue. What about the other provisions that are deemed to be necessary — that is, changing the definition of where the representatives from the Municipal Association of Victoria come from? There was no mention of those; the minister dropped those. He said they needed to be changed, but because he was not going to get his way he spat the dummy, took his bat and ball and went home.

As I said, the National Party felt strongly about this issue from day one when the bill was first introduced in another place. We have been staunch in our view that the representation on the CFA should include people such as a nominee of the Victorian Farmers Federation and a nominee of the Victorian Employers Chamber of Commerce and Industry — entirely appropriate appointments. Appointments should not be subject purely to the whim of the minister. Indeed, one of the two MAV appointments should come from rural Victoria, and we have put that into effect in our amendments by defining rural Victoria as any place which is more than 80 kilometres from the central business district.

Those are the amendments that will be moved by the National Party, and as I said, after listening to the Honourable Cameron Boardman I suggest they will be almost identical amendments to those which are to be moved by the Liberal Party. If that is the case I will be pleased to stand up and second the Liberal amendments on behalf of the National Party.

In conclusion, there are a few other aspects of the bill on which I will not go into detail tonight given the time and the program for getting legislation through the Parliament tonight. Other aspects of the bill include the use of prescribed devices during a fire danger period, municipal fire prevention plans and several other technical amendments. The National Party has listened to the comments of organisations such as the MAV on those matters, and it is our understanding that organisations representing Victorian municipal councils are happy with those changes. They appear to be reasonable, and as I said at the outset, they appear to improve the effectiveness of the operations of the CFA.

We look forward to the committee stage. We are strong in our view that the membership of the Country Fire Authority board needs to be addressed to appropriately replace the two representatives from the insurance industry council. We are also strident in our view that country Victoria needs appropriate representation on the CFA board. The amendments will achieve that outcome, and we look forward to moving those amendments during the committee stage of the bill.

Hon. K. M. SMITH (South Eastern) — This bill had to come forward. It will change the make-up of the Country Fire Authority board. Over time and in conjunction with the United Firefighters Union (UFU), the minister has been attacking the CFA and the way it works. There is not a better volunteer organisation anywhere in the world than the CFA in Victoria. It should not be under attack from this government. It should not be under attack from Peter Marshall and his union mates from the UFU, who have taken this opportunity to try to stack the board with union mates who will try to ruin the authority so they can take control of it and force its 60 000 members to be members of the UFU. That is what this is all about.

Hon. J. M. Madden interjected.

Hon. K. M. SMITH — The minister should be ashamed of himself for allowing his union mates to do it — and we will not let you do it!

Hon. J. M. Madden — You are deluded, absolutely deluded!

The PRESIDENT — Order! In this house an honourable member has never been allowed to drown out another honourable member with a constant barrage of nothing in particular. I ask the minister to desist and allow the honourable member to advance his case.

Hon. K. M. SMITH — Mr President, thank you for the protection from the minister you have offered me.

Hon. C. A. Furletti — Which you need.

Hon. K. M. SMITH — I do not really need the protection because I can shout louder than he can. If he wants to shout people out I am more than happy to shout at him.

Hon. B. C. Boardman — The difference is that you are articulate.

Hon. K. M. SMITH — I am articulate, and I appreciate that comment from you, Mr Boardman.

I have concerns about what the minister is doing here. The opposition will move a number of amendments in the committee stage. We believe we have answered what the minister is trying to put forward in a fair and reasonable way by having people appointed to the board who will have some expertise to offer, people from the urban area and from the rural area who will have an understanding of the difficulties faced by the fire services, particularly in country areas.

We know that the CFA is a fantastic organisation that works in urban areas, in particular around Dandenong and Frankston as well as Werribee and Whittlesea. The United Firefighters Union would like to claim those areas as being their own for no other reason than to swell membership.

The Liberal Party has a number of amendments that it proposes to move. During this summer period Victoria will face one of its worst fire danger periods on record. Yesterday it was raining in Melbourne and country Victoria, which is nice for the farmers because it is good for the grass and the crops, but the difficulty is that because of the changing climatic conditions Victoria may have a hot summer and those green pastures will turn brown and become a threat to the farming, rural and some urban communities.

Some three years ago Mount Martha, where I live, was threatened by fire. It was disturbing to see the black clouds coming over the hill not far from my place but it was a great feeling to know that the CFA was around the corner and that we had one of the best rural fire brigades to fight the fires. Brigades from the peninsula and other regions came to the area to assist the Mount Martha brigade when the township and housing around Mount Martha was under threat. It gives one a good feeling to know such a brigade is available.

The Mornington Peninsula has the best-trained fire brigades, although I am sure Mr Baxter and other honourable members in rural areas will say that they have the best brigades. Volunteers train for many hours a week to the highest standards. We know that the UFU has stuck its nose in and want to organise the training because it feels it knows it better than anybody else. The truth is that if Peter Marshall and some of his firemen had to fight a fire racing up a hill towards them they would not be able to fight it any better than the volunteer firemen who represent the CFA.

Recently I went to a CFA 50th birthday celebration of the Mount Martha Fire Brigade. Some people have been involved with that brigade for more than 50 years because there are third-generation families in that area who have dedicated their lives to the CFA, and in particular that brigade. In the old days people had horses and buggies and carried buckets of water to fight fires. The brigade has now built itself into a magnificent unit and volunteers have provided their own time and money to help fight fires and represent the people in the area.

I cannot speak highly enough of the CFA. I am saddened that the government has been prepared to introduce legislation and the insurance council people

are saying they do not want to have representatives on the board. The minister said that he will appoint two particular people. We know that he has four people on the board which gives him complete control of it, but he wanted two more.

Hon. N. B. Lucas — Labor mates!

Hon. K. M. SMITH — Yes; filled with Labor mates. This may be a job for Jim Reeves in the future. He can become a board member of the CFA because he missed out on the big job; or Bill Shorten may come down from the alpine areas. Even worse, they may appoint Peter Marshall! That would be dreadful. He is the same Peter Marshall the police are now investigating in regard to members of a particular council being asked to contribute money to a women's policing book that was being distributed, but they suddenly found themselves being billed by the UFU. Two members, Mr Boardman and I, have from time to time been critical of the UFU. One can imagine that the UFU has said: these two members have obviously changed their position and must be supporting the UFU because they paid their $269.50 and are prepared to advertise in the book.

The last time I was critical of Peter Marshall and the position he took, particularly on the training of CFA volunteers, he wrote to me and asked for an apology for being critical of the UFU. What a joke!

Hon. N. B. Lucas — It was a waste of a stamp!

Hon. K. M. SMITH — It was a waste of a stamp, just as it is a waste of time for my good friend from the National Party, the Honourable Jeanette Powell, to tap her watch to indicate that I should wind up. I will not because I am having such a good time talking about the most wonderful volunteer organisation in Australia — and probably the world! I can only say that my colleague Mr Boardman, in his speech — —

Hon. I. J. Cover — Tell us about the apology. Did you apologise?

Hon. K. M. SMITH — I am afraid I did not apologise. I know that is probably not really good of me, but if he writes to me again I still will not apologise to him! I felt quite insulted that he felt I would apologise to him for the things I had said.

The PRESIDENT — Order! I ask Mr Smith to get back on the bill or wind up.

Hon. K. M. SMITH — I am pleased you raised that issue, Mr President, because that is what this bill is all about: Peter Marshall and the United Firefighters Union getting control of the CFA, and Minister Haermeyer allowing himself to be manipulated by the union. That is in fact what it is all about.

But in view of the fact that this is the second-last day of the sittings, I indicate that this is an important bill. I think I have made the points I wished to make.

Hon. I. J. Cover — And made them well.

Hon. K. M. SMITH — I have made them very well. Thank you very much for that, Mr Cover, I do appreciate that. I'll get a couple more union mates and the troglodytes from the Trades Hall Council for you, okay?

It is important that we maintain the independence of the CFA and continue to maintain this magnificent volunteer organisation here in Victoria to ensure that our homes and our people are safe. I am sure Mr Boardman's contribution during the committee stage — and I might even get into it a little bit more there — will be a great one.

Motion agreed to.

Read second time.

Committee

Committed.

Clause 1 agreed to.

Clause 2

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Although I recognise the comments made by honourable members during the second-reading debate, I just reinforce elements of the second-reading speech which I believe are worth considering, particularly by opposition members who commented on the positions or nominations of members of the board. I reinforce those statements in the second-reading speech:

> The bill proposed to remove the current requirement for the Insurance Council of Australia (ICA) to provide nominations for two positions on the board. This change was proposed in direct response to the ICA's publicly stated policy position of not participating on the board.

The ICA did not want to take part in representation on the board. As has been the case, and as is highlighted in the next paragraph of the second-reading speech:

> Ministers have already been exercising this power under default provisions in section 7(2) of the current act since the ICA stopped making nominations in the mid-1990s.

Hon. P. R. Hall — It doesn't make it right.

Hon. J. M. MADDEN — What I am saying is that this has been consistent. It has been the status quo since the 1990s. What we are doing now is clarifying that, as was the case in the legislation introduced in the other chamber. Because the opposition was not prepared to accept that, those provisions were amended. Again I reinforce that in this instance the bill now before the committee would maintain the status quo. Nothing would change.

The opposition parties are requesting amendments to make changes, and again I reinforce that we do not believe those changes to be appropriate, nor are they manageable in an appropriate form. Since that has been probably the most contentious issue in the debate this evening, I wanted to clarify that, and re-emphasise that on that basis the government proposes not to accept the amendments to be moved by either of the opposition parties.

Clause agreed to; clauses 3 to 5 agreed to.

Clause 6

Hon. K. M. SMITH (South Eastern) — I raise concerns regarding municipal fire prevention plans and who is responsible for ensuring that the municipalities have decent fire prevention plans. Each honourable member is very much aware that bush and scrub fires often start on land owned or controlled by municipalities. I am not sure that what is in this bill gives enough authority to the Country Fire Authority (CFA) to take control of the municipalities around Victoria that have been negligent over the years in ensuring that their little patch of ground is looked after in such a way as to prevent fires on their own land.

I would like the minister to give me some assurances that those municipal fire prevention plans are controlled more by the local members of the CFA who can advise the municipalities that they have to take action on their own land.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Sections 55A and 55B were included in the act in 1997, and they require each municipal council to prepare and maintain a municipal fire prevention plan for its municipal district — and this is the crux — which is then audited by the Country Fire Authority. I reinforce that that municipal fire prevention plan is audited by the CFA, thereby clarifying Mr Smith's point. The preparation is done by the municipality but it is audited by the CFA, so it is not done in isolation but in consultation with the CFA.

Hon. K. M. SMITH (South Eastern) — Is the CFA in a position where it can direct municipalities to take some fire prevention measures on their own land?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I reinforce that the fire prevention plan would highlight elements of concern across the municipality. I understand the CFA would then audit that fire prevention plan, and I am advised that should the audit highlight areas that are not addressed in the fire prevention plan — the sorts of areas of concern Mr Smith is suggesting pose a greater fire risk — the CFA would have greater input to that municipal fire plan through the audit process.

Hon. K. M. SMITH (South Eastern) — I was not so much saying 'having input' as 'having control over' municipalities with their fire prevention plans.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that these amendments allow the CFA to have greater influence in relation to the municipal councils' fire prevention plans and also allow it to direct the councils to make appropriate changes to those plans, so that means the plan would highlight areas that need direct attention. In that manner it would allow the CFA to have a direct say in specific areas of concern.

Clause agreed to; clauses 7 to 10 agreed to.

Clause 11

The CHAIRMAN — Order! We are of the opinion that amendment 1, which stands in the names of the Honourable Cameron Boardman and the Honourable Peter Hall, will test amendments 2, 3, 4 and 5. I now invite the Honourable Cameron Boardman to move amendment 1 standing in his name and to canvass amendments 2, 3, 4 and 5 in the process.

Hon. B. C. BOARDMAN (Chelsea) — I move:

1. Clause 11, line 15, omit "***section 115***" and insert "***sections 115 and 116***".

I will also canvass amendments 2, 3, 4 and 5, and I will respond to the minister's preamble in the committee stage.

The opposition is well and truly aware of the jurisdiction the minister has under section 7(2) of the main act. We understand that past governments particularly have used that section, which allows the minister to make appointments where the authorities listed under the main section 7(1) have not furnished their nominations and the minister has the discretion to put his own people up. In the past that has worked well.

Past governments have used that clause appropriately. The Kennett government appointed to the Country Fire Authority (CFA) board people who were undoubtedly appropriate and responsive, and professionally qualified and competent to fill the roles with the diligence and professionalism that the roles require.

But I have to stress that the reason the opposition will move these amendments is that the government has form with this type of issue. In the past two days on two separate occasions this house has debated and asked questions on issues where the government has form — the appointment of Jim Reeves to the Urban and Regional Land Corporation and the appointment of Bill Shorten to the Alpine Resorts Commission.

The government has a track record that is dubious, and the opposition does not want to place the Victorian public or the members of the CFA in a situation where the minister will be appointing people not in the best interests of the organisation and who have some political or other alliance with the Australian Labor Party. In response to the minister's concerns, that is the justification for the amendments, and in the circumstances the justifications are more than adequate.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — All I can say is that I believe those concerns are flawed and as such we as a government will not support the amendments proposed.

Hon. K. M. SMITH (South Eastern) — Regarding the appointment of people to the board, in the time that I have been a member of Parliament and served in this place I do not think I have ever seen a paragraph in a second-reading speech that has criticised the opposition in the way that this minister's second-reading speech has done. I will read it out:

> Unfortunately, the opposition has determined it will play politics with these proposed changes. It indicated it would block the proposed changes, publicly characterising them as an attempt by the Victorian government to stack the CFA board

That is a disgraceful thing to put in a second-reading speech when we have very genuine concerns about the people who will be appointed to the board. We have genuine concerns about the people who are already on the board, the representatives of the 60 000 members of the CFA, who may well find themselves on a board that has been stacked with Labor Party appointees who will do the bidding of the Labor government instead of doing the bidding of the people of Victoria and their need for a CFA. It is a disgrace that that is in the second-reading speech. This minister and the Minister for Police and Emergency Services should reflect a little bit on what they put in second-reading speeches because we do not appreciate it. We have raised genuine issues of concern that the types of people the minister may appoint to the board will not reflect the best interests of the people of Victoria.

Hon. P. R. HALL (Gippsland) — It is a remarkable coincidence that there are two identical sets of amendments, one moved by the Honourable Cameron Boardman and one proposed to be moved by me. Given that the opposition has first call I am pleased to stand and second each of the amendments moved by the opposition.

I want to state my understanding of how the committee is proceeding through amendments 1, 2, 3, 4 and 5. The house is debating amendment 1, which tests the five. My understanding is that amendments 1, 2, 3, 4, and 5 allow for the insertion of a new clause, which comes under amendment 6. So amendment 1 allows for the insertion of transitional provisions because of changes to the CFA board as proposed in amendment 6, and that is the same with amendments 2 and 3 putting in those transitional provisions — amendment 3 is just a renumbering clause, as are amendments 4 and 5. The renumbering is required because of the insertion of the new clause to follow clause 2, once again as per amendment 6.

I therefore submit that the substantive debate is really on amendment 6, so by putting amendment 1 we are really testing how the house will decide on each of the amendments. I am happy to go by your ruling, Mr Chairman, that at this stage we will do a test for amendment 1, which will test amendments 2 to 5, and I would like to contribute further when we talk about the detailed composition of the boards under amendment 6.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — That is understood, and I appreciate Mr Hall's comments. I believe amendment 6 is probably the philosophical issue that is of contention in the chamber tonight, but to streamline the proceedings I recognise that rather than get too caught up in the symbolism of the process we should just stick to the amendments and divide accordingly on the first one.

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

Ayes, 14

Broad, Ms	Madden, Mr
Carbines, Mrs	Mikakos, Ms
Darveniza, Ms (*Teller*)	Nguyen, Mr (*Teller*)
Gould, Ms	Romanes, Ms
Hadden, Ms	Smith, Mr R. F.
Jennings, Mr	Theophanous, Mr

McQuilten, Mr
Thomson, Ms

Noes, 27

Ashman, Mr
Atkinson, Mr
Baxter, Mr
Best, Mr
Birrell, Mr
Boardman, Mr
Bowden, Mr
Brideson, Mr
Coote, Mrs
Cover, Mr
Craige, Mr
Davis, Mr D. McL. (*Teller*)
Forwood, Mr
Furletti, Mr
Hall, Mr
Hallam, Mr
Katsambanis, Mr
Lucas, Mr (*Teller*)
Luckins, Ms
Olexander, Mr
Powell, Mrs
Rich-Phillips, Mr
Ross, Dr
Smith, Mr K. M.
Smith, Ms
Stoney, Mr
Strong, Mr

Amendment agreed to.

Amended clause agreed to.

Hon. B. C. BOARDMAN (Chelsea) — I move:

2. Clause 11, line 17, after this line insert —

'"115. Transitional provision — Country Fire Authority (Miscellaneous Amendments) Act 2001 — Membership of Authority

(1) Despite the commencement of the **Country Fire Authority (Miscellaneous Amendments) Act 2001**, the Authority as constituted on and after that commencement is deemed to be the same body as the Authority as constituted before that commencement.

(2) Despite the commencement of the **Country Fire Authority (Miscellaneous Amendments) Act 2001**, a person who is a member of that Authority under section 7 as in force immediately before that commencement, continues, subject to this Act, to be a member until the expiry of that person's term of office.'.

3. Clause 11, line 18, omit '**"115**' and insert "**116**".

4. Clause 11, line 23, omit "9" and insert "10".

5. Clause 11, line 28, omit "9" and insert "10".

Like amendment 1, they are simply enabling amendments to deal with amendment 6, which is a new clause A to follow clause 2.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Again, the government does not accept those proposed amendments.

Amendments agreed to; amended clause agreed to.

New clause

Hon. B. C. BOARDMAN (Chelsea) — I move:

6. Insert the following new clause to follow clause 2 —

'A. ***Constitution of Authority***

In section 7(1) of the **Country Fire Authority Act 1958**, for paragraphs (d), (e) and (f) **substitute** —

"(d) one is to be selected by the Governor in Council from a panel of not less than two names submitted by the Victorian Farmers Federation;

(e) one is to be selected by the Governor in Council from a panel of not less than two names submitted by the Victorian Employers Chamber of Commerce and Industry;

(f) one is to be appointed by the Governor in Council from a panel, submitted by the executive committee of the Municipal Association of Victoria, of the names of two persons, each of whom, at the time of submission, is a councillor of a municipal council with a municipal district that is —

(i) wholly or partly within the country area of Victoria; and

(ii) within an 80 kilometre radius of the General Post Office (Corner of Elizabeth and Bourke Streets) Melbourne;

(g) one is to be appointed by the Governor in Council from a panel, submitted by the executive committee of the Municipal Association of Victoria, of the names of two persons, each of whom, at the time of submission, is a councillor of a municipal council with a municipal district that is —

(i) wholly or partly within the country area of Victoria; and

(ii) outside an 80 kilometre radius of the General Post Office (Corner of Elizabeth and Bourke Streets) Melbourne.'.

This amendment relates to issues that have been widely canvassed in the second-reading debate and also in this committee.

In summation, in reference to the Insurance Council of Australia wishing to divest itself of the responsibility of making possible appointments to the Country Fire Authority board, we will replace paragraphs (d), (e), (f) and (g) in section 7(1) so that the Victorian Farmers Federation will provide two names to the Governor in Council for recommendation for a representative position on the CFA board. Similarly, the Victorian Employers Chamber of Commerce and Industry (VECCI) will provide two names, one of which the Governor in Council will appoint to the CFA board.

Similar to the existing situation regarding urban and rural municipalities, the Municipal Association of Victoria (MAV) will provide two representatives, one from urban areas and the other from rural areas to serve on the board.

That clause needs to be clarified, because the definition of rural district contained in the principal act states that it:

> … means an area designated by the Authority as the main area of operation of a rural brigade …

The act defines an urban district to mean:

> … an area designated by the Authority as the main area of operation of an urban brigade …

The opposition is concerned that, as the act allows the authority to determine which is an urban area and which is a rural area, there could be some potential for conflict and confusion as to what municipalities would be designated as urban or rural.

The opposition's amendment clearly stipulates that a test should be provided under the definition of the proposal of a rural municipality to show that it is one that is wholly or partly within the country area of Victoria and outside 80 kilometres of the General Post Office (GPO) at the corner of Elizabeth and Bourke Streets in Melbourne. That removes the confusion and removes the potential for the MAV to appoint or nominate two councillors who would come from what the opposition would consider to be metropolitan or urban councils such as those mentioned in the second-reading debate — the City of Greater Dandenong, the City of Kingston or the City of Frankston — within which CFA brigades operate but which in no way could be construed to be rural areas. They are definitely urban and residential environments, and the opposition does not want a situation to occur where rural and country areas are not adequately represented to the extent that they should be.

The definition of an urban area is exactly the same, except that it is inside a radius of 80 kilometres from the GPO. It is an explanatory amendment and will improve the efficiency of the act and make it easy for the MAV to determine a municipality's location and which municipalities will provide the representatives to the CFA board. It will remove any potential conflict that may arise from the existing provisions. I am disappointed that the minister has foreshadowed that the government will not support what is a commonsense amendment.

Hon. P. R. HALL (Gippsland) — As this amendment appears to be identical to amendment 6 standing in my name, I am pleased to second the new clause moved by the Honourable Cameron Boardman.

Honourable members interjecting.

Hon. P. R. HALL — I had absolutely no knowledge of what Liberal amendments were going to be brought here tonight.

In his response to amendment 2 the minister said that the effect of the government's decision to withdraw the original clause 3 from the bill meant that 'nothing will change'. Those were his words. That is not completely accurate. It will formalise the process and practice that exists. That is a truer statement of the effect the government's proposal to withdraw clause 3 from the original bill will have. The opposition says that is not good enough. If there is a chance to change the composition of the board it should be made a better board. Because two representatives from the industry council are dropping out of this, it can be made better by representing organisations such as the Victorian Employers Chamber of Commerce and Industry and the Victorian Farmers Federation in place of those two industry council positions. That would be better than giving the minister an open-ended agenda to appoint whomever he wants. Let's make it a better bill. We have been saying that from day one, and the government has refused to sit down with the opposition and the National Party to negotiate, so it is the government's fault that we are at a stalemate tonight.

As has been explained, the effect of the new clause moved by the Honourable Cameron Boardman is to remove three provisions in section 7 of the act, which would remove the two industry council appointees and the two nominated Municipal Association of Victoria positions. In their place the amendment substitutes new paragraph (d), which provides for a nominee of the Victorian Farmers Federation; new paragraph (e), which provides for a nominee of the Victorian Employers Chamber of Commerce and Industry; new paragraph (f), which provides for a nominee of the Municipal Association of Victoria from councils within 80 kilometres of the GPO; and paragraph (g), which provides for a Municipal Association of Victoria nominee from an area outside an 80-kilometre radius of the GPO.

The National Party sought advice on these changes to see what people think of the government's decision to withdraw clause 3 of the bill. Once again my constituent, Alex Hooper — I warned you, Mr Chairman, that he was a dogged, good volunteer who is in touch with me constantly — was in touch on Monday to say:

> The government proposal to delete clause 3 is not acceptable unless replaced with your proposed amendment. I urge you and your colleagues to take every action to have your proposed amendments included, and if possible to have the Victorian Employers Chamber of Commerce and Industry nominee to be a member from the country area of Victoria.

The National Party is not making that stipulation in the amendment. The Victorian Employers Chamber of Commerce and Industry nominee does not necessarily have to be from country Victoria, but we will convey that request. That is the view of a representative of the vast number of volunteers in this great organisation, the CFA, and they need to be listened to. They need our support, and the National and Liberal parties are giving them that support. I call on the government to also support the volunteers in the CFA by supporting this amendment.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the clause and the issues discussed by honourable members opposite, again the government does not support the amendment. However, I emphasise that the Municipal Association of Victoria would still have been required to provide nominations for two board members even if the bill stood the way it was prior to coming to this chamber. There is a degree of symbolism in the submission of the 80-kilometre radius from the General Post Office as a definitive boundary in relation to the metropolitan area, and it must be appreciated that as a result of urban sprawl over time that 80 kilometres will become a more confused and arbitrary measure to define what is rural.

I also emphasise that those definitions in many ways recognise the symbolism, and there is nothing wrong with that, but in terms of workability there is still the potential to appoint people who live outside the 80-kilometre radius but in highly urbanised regional centres, so in a sense although they live outside the 80-kilometre radius they will necessarily have the ability to deliver on such aspects as a greater understanding of rural issues. As previously highlighted, the status quo would have prevailed had the bill been allowed to pass. One must appreciate that since the mid-1990s the minister has been able to exercise power under the default provisions of section 7(2). I find it somewhat difficult to appreciate the sensitivity of honourable members opposite when in fact they had a substantial period of time in which to make those alterations had they been so perceptive of that issue. The government will not support the amendment.

Hon. B. C. BOARDMAN (Chelsea) — The concluding comments of the minister are nonsense, because the government has introduced the legislation to change the composition of the board. The government is entitled to do so, and the opposition is just using the opportunity to streamline the process and make it more effective as well as to provide the guidelines that will better service the community of Victoria and make it more appropriate to ensure the best people are in the job.

The minister's point in relation to the 80-kilometre radius is far more than symbolism, but it is a practical definition. It is far more reasonable and streamlined than the current definition, which, as I stated in a past contribution, is primarily based on an interpretation of the act by the board as it stands. That interpretation is by no means steadfast or reasonable for the reasons the minister has outlined.

There are issues of urban sprawl, consolidation and residential development. For that reason, although the 80 kilometres used is a practical example, the opposition acknowledges it may have to change in the near future, but the current definitions in the principal act are hardly worthwhile. For that reason, our proposals are exceptionally valid. It is disappointing that the government is not being as practical as it should be.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am happy to very quickly respond to that issue.

Hon. P. R. Hall — You don't have to!

Hon. J. M. MADDEN — I know I don't have to, but I am happy to in this instance. The proposed change the government was seeking was in direct response, I am advised, to the Municipal Association of Victoria's concerns that the current rural and urban distinction was difficult to interpret in practice.

Hon. K. M. SMITH (South Eastern) — How could the Municipal Association of Victoria say it was difficult to interpret when it is very well set out in the amendment that has been put forward by Mr Boardman? The distance of 80 kilometres is a set area that should be very easy to follow.

If the minister is concerned about the urban sprawl moving out further, it is easy to come back into this chamber, as the minister knows, to make practical amendments to bills. At least the new clause sets practical guidelines that people may understand. I believe the proposal put forward by Mr Boardman sets it out well.

The suggestion is that not less than two names will be submitted by the Victorian Farmers Federation, from

which one person will be selected; and two names will be submitted by the Victorian Employers Chamber of Commerce and Industry, one to be selected, and they are people who have great interest in the areas they represent, particularly those in areas that may be covered by the CFA.

The other name is to be selected by the Governor in Council from a panel submitted by the executive committee of the Municipal Association of Victoria. I believe that proposal put forward by my colleague Mr Boardman is good, straightforward and easy to understand.

Hon. B. C. BOARDMAN (Chelsea) — For the record and for the government's edification, the opposition has consulted extensively on these definitions. They have been accepted by all stakeholders, not just the VFF and VECCI, and particularly by the members of the CFA, as being appropriate and reasonable in the circumstances. If the government is not in agreement with what the key stakeholders believe is reasonable, quite clearly it is not representing the interests of those people as adequately as it should be.

New clause agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a third time.

In doing so I thank all honourable members for their contributions.

Remaining stages

Passed remaining stages.

RULINGS BY THE CHAIR

Auditor-General's report: publication

The PRESIDENT — Order! The house will recall that on 21 November it asked me to undertake an investigation in relation to the release of the Auditor-General's report on teacher work force planning.

At the request of the Council I wrote to Mr Stuart Hamilton, the Secretary of the Department of Education, Employment and Training, and to Professor Mary Kalantzis, the president of the Australian Council of Deans of Education, being the two recipients of the draft Auditor-General's report. I had the assistance of the Auditor-General in the terminology I used, and my letter states:

> I have been requested by the Legislative Council to write to you in relation to the release of this report, which was tabled in both houses of Parliament yesterday.
>
> It is clear from an article which appeared in yesterday's *Age* newspaper that the *Age* was given access to the contents of that report prior to it being tabled in Parliament. This represents a grave discourtesy to Parliament and was certainly upsetting to the Auditor-General.
>
> The Auditor-General has advised that only two copies of the draft report were prepared. One of these was provided to the president of the Australian Council of Deans of Education and the other was provided to you as Secretary of the Department of Education, Employment and Training. Mr Cameron — —

the Auditor-General —

> informs us that each page of those documents was stamped 'draft' and 'confidential'.
>
> The request from the Legislative Council is that I write to the two recipients of the report and seek your assurance that the leak did not occur from your office and to otherwise seek an explanation as to how the leak might have occurred. Were copies made of the document, and if so, to whom were they provided?

I asked them for an early response. I have now received the two responses, the first from Mr Stuart Hamilton of the Department of Education, Employment and Training, in which he states:

> I refer to your letter of 21 November 2001, not received by me until 27 November, in relation to the release of the Auditor-General's report on teacher work force planning.
>
> I received from the Auditor-General a copy of the draft report for the purpose of providing a response for inclusion in the final report. This draft was sent by my office to the senior officer responsible for coordinating the DEET response, who in turn made copies for consideration by senior officers in other parts of the department who had responsibilities relevant to developing that response. Each of these senior officers has assured me that a leak of the report did not occur from their offices, and I can assure you that a leak did not occur from my office.

A letter dated 3 December from Professor Kalantzis, which I got today, states:

> I was sorry to hear about the concern experienced by the Auditor-General regarding the article in the *Age* on November 20. I confirm receipt of the report and give you my assurance that the information was not communicated to the *Age* from my office.

> The letter from Mr J. W. Cameron requested me to coordinate a response on behalf of Victorian-based deans of education. In order to do this I had to provide the deans with a copy of the report and a list of the Victorian deans is attached.

There are 12 of them. The letter continues:

> The deans were all aware that the report was a confidential draft.
>
> I am happy to discuss the matter further and to help in any way I can to resolve this matter.

Thus ends the report.

LIQUOR CONTROL REFORM (PROHIBITED PRODUCTS) BILL

Second reading

Debate resumed from 4 December; motion of Hon. M. R. THOMSON (Minister for Small Business).

Hon. C. A. FURLETTI (Templestowe) — I am pleased to contribute on behalf of the Liberal opposition to debate on the Liquor Control Reform (Prohibited Products) Bill. The opposition's resolution not to oppose the bill was tempered somewhat by the house amendments introduced in the other place with respect to the extraordinary powers given to the minister in this bill. I will refer to those powers shortly.

I will begin by saying that the opposition agrees in principle with the provisions of the bill insofar as they seek to restrict the sale and availability of alcohol-based food essences as defined in the bill and the inappropriate use of those products by young people. The bill is typically a very brief bill. The purpose of the bill is to:

> … amend the Liquor Control Reform Act 1998 to prohibit or restrict the sale of certain alcoholic products …

The phrase 'certain alcoholic products' refers to alcohol-based food essences defined in clause 4 of the bill. The definition of an alcohol-based food essence is:

> a food flavouring preparation in liquid form intended for human consumption with an alcoholic content greater than 0.5 per cent by volume at a temperature of 20° degrees Celsius.

That definition is very similar to the definition of alcohol in the principal act.

The bill seeks to put into statutory form provisions which the previous government had introduced as regulations. These regulations were aimed at having alcohol-based food essences in large volumes sold only through licensed outlets and to prevent these products being available from grocery stores and supermarkets.

The thrust of this bill is set out in proposed division 1A, which restricts the retail sale of alcohol-based food essences by limiting the volume that can be sold through grocery stores and supermarkets to 100 millilitres or less of vanilla essence and 50 millilitres or less of any other essence. The main purpose of that restriction is to ensure that, because of their very high alcohol content by volume, alcohol-based food essences cannot be utilised as a cheap alcohol source by young people and those who use alcohol for inappropriate purposes. The bill therefore restricts the retail sale of those essences to the volumes I have mentioned and prohibits the sale of larger volumes, with the exception of wholesale sales to those who use the products for commercial purposes.

The bill before the house results from an unfortunate incident in late 1999 when a young man who had consumed a large volume of essence was found in a very bad state and subsequently died. The coroner's report was handed down recently and although it did not directly attribute the young man's death to the alcohol he consumed, it was certainly found that it had contributed to it. It was a shame that the effect of the essence he had consumed was so serious as to have rendered him unconscious, which led to his untimely death.

I thank the minister and her advisers, and in particular Mr Brian Kearney from Liquor Licensing Victoria, for the briefing provided. I learnt that a 375-millilitre bottle of vanilla essence which sells for about $3.30 has the equivalent content of 25 standard drinks, which is a very significant amount. When one considers that price and the impact that that level of alcohol could have, particularly on young people — some of whom appear to drink only for the purpose of getting drunk very quickly — one can understand why this bill is being introduced.

As I said, the initial regulations were introduced by the previous Minister for Small Business, the Honourable Louise Asher, now the honourable member for Brighton in the other place. It has come to the attention of this government that the regulations are no longer effective, and therefore it has taken the step of putting those restrictions into statutory form. From that perspective the opposition is very supportive of this legislation and would certainly have supported it had it not been for the very broad powers of regulation contained in proposed division 1A which is inserted in part 8 of the principal act by clause 7 of the bill.

Those provisions give the minister the power to make regulations prohibiting the supply of any class of liquor, and they go on to give the minister absolute power in terms of regulation making under this bill.

One of the serious concerns expressed by the opposition at the very broad powers given by the bill was with the number of bills being introduced by this government which give the minister excessive regulatory powers without control. I give the minister credit: when I raised the matter with her and sought that the government consider a disallowance power in the bill, she eventually conceded — that was reflected in the house amendment which was introduced — and we are very grateful for that.

As a result, we oppose the bill less — rather than support it. I do not have the power to say we support it, not having gone to the shadow cabinet, but we certainly have a far more favourable attitude to that area. Were the government to consider adding as a matter of course a disallowance provision in most of the bills introducing the power for a minister to make regulations, I suspect there would be far greater support for a lot of the government legislation.

The opposition is very conscious of the reason for the introduction of the bill and is keen to see the sale of alcohol-based products being controlled. It is also very conscious of the fact that almost daily new products are being invented about which the government needs to be vigilant — for example, the spray alcohol products and alcoholic ice-creams that are coming onto the market — and, most importantly, the availability of those products to young people.

Therefore, in terms of a decision by members of the Liberal Party before we were aware of the disallowance provisions, members of the opposition all but support the bill. Had we been aware of that decision, we may have supported the bill unequivocally. I commend the bill to the house.

Debate adjourned on motion of
Hon. KAYE DARVENIZA (Melbourne West).

Debate adjourned until next day.

ADJOURNMENT

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That the house do now adjourn.

Women: HIV/AIDS

Hon. ANDREA COOTE (Monash) — The matter I raise with the Minister for Industrial Relations for the Minister for Health in another place is in regard to women with HIV/AIDS. As everyone knows, last Saturday was World AIDS Day, which brings to our attention the devastation of this disease and its implications on everyone's lives. We are all vulnerable. However, often education is directed at only particular sections of our community. Women are often the invisible faces of the AIDS epidemic.

An organisation in my electorate called Positive Women, which is run by women with HIV/AIDS for women with HIV/AIDS, does a fantastic job in raising community awareness of women with the disease and providing peer support, information and advice. Education about AIDS prevention is vital. I ask the minister how much funding he gives to the education of women, especially older women, on the prevention of HIV/AIDS.

Snowy River

Hon. R. M. HALLAM (Western) — The issue I raise is for the Minister for Energy and Resources. The minister will be well aware of my interest in the $40 million shown as an output initiative for 2000–01 — —

Hon. W. R. Baxter — We are all interested.

Hon. R. M. HALLAM — Thank you, Mr Baxter. In particular, I am interested in the relevance of that output initiative reported in retrospect under the title 'Restoration of environmental flows to the Snowy River', at page 259 of budget paper 2 for 2001–02, when as the minister has subsequently conceded the actual expenditure under the program was only $2.4 million for that particular year.

I have raised the issue on previous occasions, but I remain unconvinced by the minister's responses. I now ask her to explain to the chamber why that initiative is reported in the 2001–02 budget documents at $40 million when the previous budget included the same line item at only $12.3 million. More specifically I seek an explanation from the minister as to what happened during the initial year to require that the estimate given at the time be so dramatically increased in retrospect, particularly given that the actual expenditure was only a fraction of the initiative as originally reported.

Internet Registrations Australia

Hon. P. A. KATSAMBANIS (Monash) — I raise for the Minister for Small Business, who is also the Minister for Consumer Affairs, an important issue which covers both portfolios. Many small businesses in Victoria have registered Internet domain names and most of those are Australian domains — that is, .com.au. Those .com.au domains are registered by Melbourne IT, a company based in Melbourne and trading as either Internet Names Australia or Internet Names Worldwide.

Internet Names Australia will only licence a domain name in the .com.au domain for a period of two years at a time and the current renewal fee is $137.50. Melbourne IT, as the owner of the domain, issues invoices and small businesses pay them. Recently another company which trades under the name of Internet Registrations Australia has been writing to registered domain name holders before Melbourne IT issues its renewal notices offering to renew the registrations for 2 years, 4 years and sometimes up to 10 years. It requests $200 for each two-year period of renewal. If you pay Internet Registrations Australia for that period it simply forwards the $137.50 fee to Melbourne IT and keeps the rest of the money. If you select the longer period of registration presumably Internet Registrations Australia keeps the money and if it is still around in a couple of years time will forward the renewal registration at that time to Melbourne IT.

What is worse, Internet Registrations Australia has now started writing to registered domain name holders in Australia offering what it terms a free listing in a new Internet directory called *Business.com.au Internet Directory*. However, apart from the fact that there is no guarantee that the directory will ever be published, the real catch is that registration in this directory is not free. In order to be registered in this directory you have to hand over management of your domain name, your .com.au domain name, to Internet Registrations Australia, which means that they are the people who will then be able to go to Melbourne IT and renew the registration. Effectively you have to pay the $200 to Internet Registrations Australia.

My question to the minister is clear. I know this is a difficult issue, but it is clear in my mind that Internet Registrations Australia is trying to mislead Victorian small businesses into renewing with them instead of directly with Melbourne IT. I ask the minister to investigate this important issue and make sure that small businesses in Victoria are protected from what looks to me a bit like a scam.

Fuel: shortages

Hon. P. R. HALL (Gippsland) — I raise a matter with the Minister for Industrial Relations, representing the Premier in the other place. I seek the assistance of the Premier because I understand he is the minister who administers the Essential Services Act.

The situation has arisen that there is a critical shortage of fuel in Victoria, particularly diesel fuel and unleaded petrol. I understand that this shortage is created by the fact that the refinery at Altona is out for maintenance and is likely to be out for another two weeks. There are also refineries in South Australia and New South Wales which have had periods when they have not been able to supply petrol. As a consequence many important and vital industries in Victoria, and in particular country Victoria, face critical shortages of fuel at this point in time.

I refer to the operation of school buses, the operation of milk tankers with the pick-up of milk, which is in its peak season at the moment, the operation of grain harvesters and the need to ensure that the grain harvest is brought in. Because of this critical shortage of fuel there are likely to be some severe problems in providing those essential services.

Fuel is an item defined under the Essential Services Act. My request to the Premier is to take some immediate and urgent action to look into this matter to see if there is a need to implement the provisions in the Essential Services Act to ensure that fuel supplies continue to flow in this state and those important industries I have referred to are able to access fuel and carry out their businesses as required at this time.

Federation Square

Hon. W. I. SMITH (Silvan) — I refer the Minister for Major Projects and Tourism, through the Minister for Sport and Recreation, to senior appointments and an appointment made at the time the Bracks government was elected. Just before the government came into power the board of Federation Square completed an exhaustive six-month process to find a person to manage the board's operating company. They offered the job to a Karen Peuls. However, when the government came in it was decided out of respect for the state election process to defer Ms Peuls's formal appointment until the new government had been formed. Within days of taking office the Bracks government blocked the appointment of Ms Puels. It decided to put in somebody else the board had decided not to appoint, Peter Seamer.

At the time the Premier was queried by a journalist about the blocking of the Peuls appointment and said that Peuls was asking for a $400 000-a-year salary. That was clearly untrue at the time. The director of major projects was, at that time, raising serious questions about the Bracks government in writing about the costs, time and commercial impacts of the interference by Premier Bracks in the design of the Federation Square project. That has now been realised at enormous cost to the Victorian taxpayer.

Peter Seamer, the new chief executive officer, then wrote a report to the Bracks government about its management of Federation Square. Did the Minister for Major Projects and Tourism, Mr Pandazopoulos, go to the director of major projects to tell him about the report? No, he went straight to the *Age* and released a report. He said on the basis of the report he was sacking Dick Roennfeldt from the Federation Square project. Dick read about that in the Saturday edition of the *Age*. Who is the new director of major projects? It is former Premier John Cain's son. In light of the Reeves appointment, I ask the minister if he believes due process has occurred in this particular procedure or if there was political interference.

Beach Road, Beaumaris: safety

Hon. J. W. G. ROSS (Higinbotham) — I refer the Minister for Energy and Resources, as the representative of the Minister for Transport in the other place, to a dangerous section of Beach Road between Bodley and Deauville streets in Beaumaris. I have been advised there has been at least one serious accident on this stretch of road, and residents living nearby have advised me of near misses almost every day and the regular appearance of skid marks on the road. There appear to be road lane design problems that encourage southbound motorists to overtake in the dual lane section of the road, but suddenly they then need to negotiate a narrower section with a bicycle path and a dangerous intersection at Cromer Road. My constituents have requested that I seek the assistance of the minister to have this section of Beach Road evaluated for safety.

V/Line: promotions

Hon. E. J. POWELL (North Eastern) — I refer the Minister for Energy and Resources, as the representative of the Minister for Transport in the other place, to a matter referred to me by a constituent of the Honourable Bill Baxter and me, Mrs Val Hill, who phoned my office yesterday. She had seen an ad in the *Herald Sun* headed 'The best way into the city is with V/Line'. It states in part:

> It is all happening in Melbourne. Summer is a great time to visit Melbourne. Enjoy the excitement of the cricket, the fun of the tennis, or just take advantage of the great weather and visit the Melbourne zoo, Melbourne Aquarium or Melbourne's famous stores.

The ad listed some special prices. There is a Melbourne day out ticket which includes weekend travel on V/Line trains at the lowest off-peak prices, and there is also a special family saver ticket on which you can travel with your kids for only $5. However, there is some very small print which says it is only available on some lines.

When my office telephoned V/Line they said it was not offered from Shepparton — it is offered from Albury–Wodonga and Wangaratta but not from Shepparton. My constituent thinks it is because Hoys is a private line operator at Shepparton; however, all other V/Line concessions are available from Shepparton. The Hoys office advised that National Express runs V/Line and this promotion does not include other private operators, which has happened before.

Why does the government allow some promotions and not others to be offered to private operators by V/Line, thereby disappointing travellers from Shepparton, which is the fourth-largest regional centre in Victoria. Will the minister extend the promotion so that people in the Shepparton region can also travel to Melbourne at this very special price?

Australian Football League: grand final tickets

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise a matter with the Minister for Consumer Affairs which relates to a matter I raised this morning during question time regarding the scalping of Australian Football League Grand Final tickets. I go back to the minister's answer to a question without notice from the Honourable Ron Best of 25 September this year, when the minister informed the house:

> If we discover that tickets are being sold well beyond the recommended retail price action will be and is taken on those matters.

It is clear from the minister's answer to Mr Best that she or her department has had instances of ticket scalping, which have been acted on in some form. I seek from the minister an explanation of what action she or her department has taken, as her answer of 25 September indicates action has been taken in relation to ticket scalping.

Caseys Weir

Hon. W. R. BAXTER (North Eastern) — I raise a matter with the Minister for Energy and Resources for referral to her colleague the Minister for Environment and Conservation in another place. It goes to an issue I have reflected upon previously in another context — this is, where public policy decisions taken in isolation may lead to conflict with other policy decisions. In this particular example it happens to be decisions being made within the one department that are likely to be at odds with each other. I refer particularly to the future of Caseys Weir on the Broken River, just downstream of Benalla.

Caseys Weir was originally constructed primarily to provide water to a stock and domestic scheme which was operated by the old Shire of Tungamah and more latterly has been operated by Goulburn-Murray Water but which is now to be replaced with a pipeline system, which is entirely laudable because it will save a lot of water and increase delivery efficiencies. The consequence I am told is that Caseys Weir, which serves the Broken–Boosey–Nine Mile creek system, will no longer be required for that purpose and may therefore be removed.

If that were the case the creek system would be without water for many months of many years because water simply would not be flowing down the creek system. That would not only be detrimental to adjoining landowners but also, bearing in mind the recommendations of the Environment Conservation Council with regard to a state park on the Broken and Boosey creeks, scarcely in line with the council's recommendations either. It may be said that this is just returning the creek system to what was previously its condition before Caseys Weir was constructed a century ago. That is not so because previously the Boosey Creek, which has its headwaters in the Warby Ranges, would have, through spring and summer rainfall, conveyed and delivered water into that area, but because of the building of dams on farms for irrigation — another reason why we need the farm dams bill to be passed — that is no longer a source of supply.

I invite the minister to give close attention to this matter before any decision is taken to decommission Caseys Weir because the implications of so doing may well be far reaching, unexpected and unanticipated.

Trams: City Circle

Hon. M. A. BIRRELL (East Yarra) — I raise a matter with the Minister for Energy and Resources, representing the Minister for Transport, concerning the City Circle tram service. I am particularly concerned to get advice from the Minister for Transport as to when the City Circle tram service will return to the full service that Australian and international tourists grew accustomed to and fell in love with in the late 1990s. It has been a matter of concern that the City Circle tram service, which provides free travel around the central business district in our marvellous W-class trams, has been massively cut back, or at best left in a position of uncertainty.

Tourist promoters need to have greater certainty on this so they can promote it well overseas. Currently it is something of an embarrassment not to be able to give a year-ahead timetable for this popular service. We should all be encouraging the use of W-class trams, and of course we all want to promote the benefit not just to tourists but also to city-based commuters.

We have seen a decreased level of service over the past year, decreased use of W-class trams and — equally bad — no guarantee that we will get back to the full service that we grew accustomed to. I would like advice at the earliest opportunity from the minister as to when he is going to insist that the operators return the full tram service and when we will be able to get some kind of certainty about the timetable so it can be promoted well in advance, particularly by overseas tourist travel wholesalers, who regard this as one of the great assets of our great capital city.

Rural Northwest Health

Hon. R. A. BEST (North Western) — I raise an issue with the Minister for Industrial Relations, representing the Minister for Health in the other place. The issue I raise tonight is the most serious I have ever brought to this house for government action and resolution.

Rural Northwest Health has three campuses — Beulah, Warracknabeal and Hopetoun. In June this year I was advised that management had called a meeting at the Hopetoun campus to advise staff that services were to be removed and closed down; the midwifery and minor surgery services were to be removed and centralised.

I have received reports that at the staff meeting on 26 June at Hopetoun the chief executive officer (CEO) intimidated staff and threatened them with loss of employment if they contacted their local members of Parliament about the proposed changes. The local members are Mr Bishop, Mr Savage, Mr Delahunty, Mr Hallam and me.

I was advised that following that 26 June meeting with staff a public meeting was held in Hopetoun on 10 September, and I and other members of Parliament attended. At the meeting I was presented with nine signed statutory declarations from staff declaring that they were intimidated by the CEO and felt they would be threatened if they contacted their local members of Parliament.

On or about 18 October I was contacted by a staff member from the Warracknabeal campus of Rural Northwest Health and advised that at a staff meeting on 17 October she had been verbally abused and intimidated in front of other staff members, reduced to tears and humiliated. This report and evidence have since been supported by 15 letters from other staff members which have been sent to me.

If that were not enough, it has been reported to me that the CEO of Rural Northwest Health has claimed that because of her personal relationship with my leader, Mr Peter Ryan, there would be no use going to me for help because she would get me pulled into line. The phone call did go to my leader, and my leader said, 'Continue'.

This bullying and intimidating behaviour is totally unacceptable in today's workplace. Twenty-four people from Rural Northwest Health have been prepared to put evidence forward to me about this disgraceful management style. I know I have the support of my National Party colleagues, and I have been advised today that I have the support of the Independent member for Mildura in another place, Mr Savage. I am quite prepared to present these statutory declarations as evidence for investigation. So I call on the Minister for Health to undertake an urgent inquiry into the behaviour, intimidatory tactics and threats to the future employment of staff at Rural Northwest Health campuses of Hopetoun and Warracknabeal by the CEO.

Rail: Pakenham service

Hon. N. B. LUCAS (Eumemmerring) — I raise with the Minister for Energy and Resources, as the representative in this house of the Minister for Transport, the fast train project from Traralgon to the city. The other day I had a meeting with representatives of the Shire of Cardinia and one of the issues they raised was the fast train. Their proposal is, firstly, that the train should stop at Pakenham, given that that is where the train would first come across the metropolitan system and people could access the M Train system there and proceed wherever they wished. The other issues the council raised were the upgrading of crossings and the provision of any sound attenuation that may be necessary along the railway line.

Accordingly I ask the minister to provide advice on the government's decision if any since I last raised this matter as to, firstly, whether the government proposes to have a stopping place for the train at Pakenham — that being the station where the new train will meet the metropolitan system; secondly, whether the government will fund and construct the upgrade of level crossings along the line prior to the operation of the fast train; and thirdly, the details of any government decisions regarding sound buffers or attenuation facilities required or recommended for properties adjacent to the line.

Premier: transfer expenses

Hon. M. T. LUCKINS (Waverley) — I raise a matter with the Minister for Energy and Resources, as the representative in this house of the Treasurer. Will the minister confirm that Victorian taxpayers paid the stamp duty on behalf of Steve Bracks, now the Premier, when he relocated from Ballarat to Williamstown to take up the political appointment of ministerial adviser to the then Premier John Cain and his secondment as statewide employment manager from 1989 to 1993?

Hon. Jenny Mikakos — On a point of order, Mr President, the matter is obviously not of an urgent nature. The honourable member would understand that matters raised during the adjournment debate should relate to the current government's administration. The matter she has raised relates to something that happened many, many years ago.

Hon. Bill Forwood — On the point of the order, Mr President, this issue has just come to light and is obviously urgent in the time it has been raised; it may be old but it is certainly urgent now. It goes to the matter of the standards of this government, which is well in the news at the moment, and I would have thought it was entirely appropriate for this issue to be raised.

Hon. T. C. Theophanous — My understanding of the point of order, Mr President, is that the matter must relate to government business. I put to you, Sir, that something that happened while the current Premier was an adviser has nothing to do with the business of the current government and is not within that purview. If that were the case all sorts of questions could be asked about people when they were newspaper delivery boys and so on. It is ridiculous to be asking questions about

something which has nothing to do with the term of the current government.

Hon. M. T. Luckins — On the point of order, Mr President, after the motions that the government raised this morning, which were of a past not current, nature and which have been mentioned in the media and are known to be of past nature, this has just come to light. I am seeking an explanation from the Treasurer about the propriety of this payment.

The PRESIDENT — Order! I have heard enough of the argument. I remind honourable members of the 'Guidelines as to content' of speeches on the adjournment, as announced to the house by Mr President on 19 November 1975. These guidelines have been in operation for quite some time.

> An honourable member speaking to the motion 'That the house do now adjourn' at the conclusion of a sitting may:
>
> (a) make a complaint;
>
> (b) make a request; or
>
> (c) pose a query.
>
> In doing so, a member must:
>
> (a) raise only matters which are within the administrative competence of the Victorian government;
>
> (b) confine his remarks to a single subject; and
>
> (c) be brief …
>
> A member may not:
>
> (a) develop … a … speech;
>
> (b) reflect upon a statute;
>
> (c) request the introduction of legislation; or
>
> (d) raise a matter previously discussed in the same session.
>
> The matter raised by an honourable member must relate to a recent occurrence — i.e., be of an urgent nature. Any reply by the appropriate minister should be as brief as possible.

Nothing in these guidelines says matters have to relate to the current government, but the guidelines do say matters must relate to recent occurrences. That is clearly not so, and therefore I rule the matter out of order.

Industrial relations: government intervention

Hon. BILL FORWOOD (Templestowe) — I raise an issue with the Minister for Industrial Relations. In response to question on notice 2334, in which I asked the minister how many representations the government had made to the Australian Industrial Relations Commission over various time frames — one of those was up to 30 September 2001 — the minister gave a comprehensive response. In that time, according to the list, the government intervened on the safety net review case, minimum wages orders, parental leave for long-term casuals and reasonable hours of work. The response did not mention Saizeriya, which took place before 30 September. I wanted firstly to confirm that the minister did intervene, because I know Ian Kennedy gave evidence, but I wonder whether any others were left off the list.

Yallourn Energy: dispute

Hon. C. A. FURLETTI (Templestowe) — I address my question to the Minister for Industrial Relations. Today the minister suggested that it is up to the generator company and the union to sort out the dispute at Yallourn. The minister should be aware that the government has a right to intervene in the public interest. She should also be aware that the generator company has the right to bring the dispute back before the Australian Industrial Relations Commission on public interest grounds, but it requires the support of the government to have any chance of success. Will the government support the company if it seeks the commission's approval to further deal with the dispute by confirming to the commission that it would be in the public interest for the commission to immediately consider the matter further?

Yallourn Energy: dispute

Hon. C. A. STRONG (Higinbotham) — My question to the Minister for Industrial Relations relates to the question of the current Yallourn dispute and the minister's ongoing attempts to confuse, deflect and mislead the house on the question of industrial relations. The minister is on the record again today as blaming the transfer of industrial relations responsibilities to the federal government for the dispute at Yallourn. I ask the minister: is it not a fact that the electricity industry has always been under a federal award?

Taxis: surveillance cameras

Hon. G. R. CRAIGE (Central Highlands) — I raise a matter with the Minister for Energy and Resources, as the representative in this house of the Minister for Transport. The installation of surveillance cameras in taxis is a very important issue for taxidriver safety, and it has certainly been supported by the government and the previous Kennett government as well. The Victorian Taxi Directorate sent out a set of draft specifications in February of this year. Those

specifications were identical to the New South Wales specifications of 1998, and that concerns a lot of people because the technology in New South Wales has not been accepted by drivers on the basis that it is outdated.

In March this year representatives of the Transport Workers Union, Victoria Police, the Victorian Taxi Directorate and the Victorian Taxi Association met to discuss the specifications. Only a select group of suppliers were asked to attend to display surveillance cameras. In fact, some major players in the industry that make taxi equipment were not even invited to the meeting. In September 2001 final specifications were sent out to interested parties, and they included all people in Victoria and New South Wales who made surveillance cameras. The Victorian Taxi Directorate set a deadline of 3 November for suppliers to gain full approval. Only one of the four companies received full approval. One of those companies asked for an extension of that date.

Issues of serious concern have been raised. Taxi depot fees will increase by $55 per month or more, which will mean that taxi fares will have to increase to cover this outdated technology. New technology such as digital video cameras is much cheaper, but that was not even considered.

I request the Minister for Transport to delay this process so that taxis are fitted with state-of-the-art surveillance equipment and the community can be assured taxidriver safety is genuinely addressed.

Electricity: supply

Hon. B. C. BOARDMAN (Chelsea) — I raise a matter for the Minister for Industrial Relations. The minister appeared on the 3AW drive program this afternoon and the presenter, Steve Price, asked her directly whether there was a threat to Melbourne's power supply. The minister responded, and I quote:

> Not in the foreseeable future.

Honourable members would not interpret that as a definitive statement because it is leaving the gate open for a potential threat to Melbourne's power supplies in the foreseeable future. Equally the minister's statement is in complete contradiction to statements made by the Minister for Energy and Resources on a number of occasions in this house in response to questions without notice asked by the Honourable Philip Davis. She has said that there is no threat to Victoria's power supplies. She has repeated that statement a number of times.

In contradiction of the Minister for Energy and Resources, the Minister for Industrial Relations is suggesting there may be a threat to Victoria's power supplies. The minister has an obligation to give her definition of 'foreseeable future'. Who is accurate: the Minister for Industrial Relations, who believes there may be a threat to Victoria's power supplies, or the Minister for Energy and Resources, who says there is no threat to Victoria's power supplies?

Yallourn Energy: dispute

Hon. I. J. COVER (Geelong) — I refer the Minister for Industrial Relations to a meeting she convened last Monday to resolve the Latrobe Valley industrial dispute. Given the significance of the issue, why did the minister walk out of the meeting after only half an hour, which was clearly not long enough to resolve the dispute?

Electricity: energy efficiency

Hon. K. M. SMITH (South Eastern) — I address my question to the Minister for Energy and Resources. In view of the minister's statement today regarding energy savings, is it correct that her government's policy on energy sustainability is to pray for cool weather to avoid the drain on power caused by airconditioners?

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Andrea Coote raised for the Minister for Health the matter of women with HIV/AIDS. I will raise the issue with the minister and ask him to respond in the usual manner.

The Honourable Peter Hall raised for the attention of the Premier concerns about the supply of diesel. I will raise that matter with the Premier and ask him to respond immediately.

The Honourable Ron Best raised for the attention of the Minister for Health an issue of concern to him. I have spoken to the honourable member and will make some information available to him, but I advise him that I will speak to the Minister for Health in the morning.

The Honourable Bill Forwood raised for my attention the response to question on notice 2334, which concerns occasions when the government has intervened at the Australian Industrial Relations Commission. Just as the honourable member was asking me about this issue I realised that I had advised the house that the government had taken the unusual step of intervening with Saizeriya. I apologise for that and will rectify it. I do not believe there are any other matters, but I will double-check on it.

The Honourable Carlo Furletti raised a matter with me in respect of the dispute between Yallourn Energy and the unions which is before the Australian Industrial Relations Commission. I have made it clear to the employers and the unions that the government will not take sides in this matter or intervene on behalf of the unions or the employers, as was requested by both the unions and the employers. That matter before the commission has been adjourned and other dates have been set down. I hope the commission might be able to come up with some earlier dates than those indicated.

The Honourable Chris Strong raised a matter with respect to the Yallourn Energy issue, particularly about comments I made that the previous government had abolished the state industrial relations system and we have had no alternative system in the state. Honourable members would be aware that the government attempted to pass the Fair Employment Bill, which would have given it the opportunity to call parties in for discussions.

Honourable members interjecting.

Hon. M. M. GOULD — If the opposition had agreed to pass the Fair Employment Bill there would have been an alternative system to work under. Unfortunately all we have is a conflict-based federal Workplace Relations Act, which covers all Victorians.

The Honourable Cameron Boardman raised a matter about comments I made about the advice the government has received on the electricity supply forecasts, which indicate there is no problem with that supply. The government has no problem with the forecasts that were made available to it.

The Honourable Ian Cover raised a matter about the time I had spent at a meeting. If he had been listening properly he would also have heard that I corrected the time I spent there and that I had made it known to the parties concerned that I was in my office if they wished to discuss the matter further with me.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Roger Hallam again raised the matter of the output initiatives for the Department of Natural Resources and Environment reported on page 259 of the 2001–02 budget papers in budget paper 2, including the amounts for restoration of environmental flows to the Snowy River, and including the in-principle Treasurer's advance of $40 million in 2000–01 first published in the 2000–01 budget update.

I appreciate that Mr Hallam and the Treasurer have different opinions about what should be published in the budget papers about actual expenditures as opposed to budget allocations, including the Treasurer's advance. I am sure that is a debate that Mr Hallam can continue to have with the Treasurer, but the fact is that actual expenditures are not reported in the budget papers, and I do not expect that situation to change.

The Honourable John Ross requested the Minister for Transport to evaluate a section of Beach Road for safety, and I will refer that request to the minister.

The Honourable Jeanette Powell requested the Minister for Transport to examine the matter of V/Line promotions to certain private operators, and I will refer that request to the minister.

The Honourable Bill Baxter requested the Minister for Environment and Conservation to review the decommissioning of Caseys Weir, and I will refer that request to the minister.

The Honourable Mark Birrell requested the Minister for Transport to provide advice on when full operation of the City Circle tram service will be returned, and I will refer that request to the minister.

The Honourable Neil Lucas requested the Minister for Transport to examine a number of matters in relation to fast train proposals, and I will refer that request to the minister.

The Honourable Geoff Craige requested the Minister for Transport to ensure certain matters concerning safety of taxi drivers are addressed, and I will refer that request to the minister.

In response to the Honourable Ken Smith, praying is not part of my approach to energy policy. I do not expect that that will be necessary in order to address energy policy matters.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Peter Katsambanis raised an issue in relation to Internet Registrations Australia. He had concerns about whether or not it was operating as a scam with regard to the registration of domain names. The honourable member will provide details to me, and I will investigate the matter.

The Honourable Gordon Rich-Phillips raised the matter of scalping, and I stand by the answer I gave in question time today.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the question asked by the Honourable Wendy Smith about board and staffing positions within the major projects portfolio, I will refer

the matter to the Minister for Major Projects and Tourism in the other place.

Motion agreed to.

House adjourned 11.00 p.m.

Thursday, 6 December 2001

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

QUESTIONS WITHOUT NOTICE

Yallourn Energy: dispute

Hon. BILL FORWOOD (Templestowe) — I refer the Minister for Industrial Relations to the Yallourn Energy dispute threatening Victoria's power supply this summer and to her Pontius Pilate approach in saying 'It is not for the government to take sides', and I ask: who will represent the people of Victoria in this dispute?

Hon. M. M. GOULD (Minister for Industrial Relations) — As I clearly indicated to the house yesterday, this dispute between Yallourn Energy and the unions is before the Australian Industrial Relations Commission. The government has indicated to the parties that it will not be taking sides; it will not be supporting the union's application or the employer in the action. The government will take action, if necessary, because of a threat to supply, but all the advice it has been given at this point in time is that there is no such threat.

Consumer affairs: credit debt

Hon. JENNY MIKAKOS (Jika Jika) — My question is to the Minister for Consumer Affairs. Given the recent reports in relation to consumer debt, will the minister outline to the house what action the Bracks government has taken to try to protect Victorian consumers from falling into the credit trap?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — Yesterday Dun and Bradstreet released figures which show that there has been a 30 per cent increase in personal bankruptcies over the past 12 months; household debt has reached $72 billion; and credit card debt is up 20 per cent to $18.9 billion — a 100 per cent increase since January 1998!

We in the Bracks government have been active in trying to create an environment where consumers can be informed about their best options in relation to credit, and yesterday the house passed the second-hand dealers and pawnbrokers legislation. We raised the issue of payday lending nationally. On 10 December we will see the implementation of payday lending legislation.

Arising from the round-table meeting of consumer groups and financial institutions with the Minister for Consumer Affairs in New South Wales that I attended, a draft report was prepared by the New South Wales government for the uniform consumer credit code management committee. The report has been submitted to the Ministerial Council on Consumer Affairs to look at the recommendations coming out of that paper, which is now out for consultation. Also developed at the ministerial council level are amendments to the consumer credit code to introduce mandatory comparison rates for fixed-term consumer credit products. This was an election commitment of the Bracks government.

We will continue to raise these issues at a national level. Unfortunately we are having a bit of difficulty trying to work out who will be the federal minister responsible for these issues because it was not clear in the ministerial divisions given by the Howard government.

Of concern is the level of credit that is still applied to credit cards. We have seen in less than 12 months since January a 2 per cent cut in interest rates, but that has not been reflected in the interest rates charged on credit cards. The interest rates on credit cards are still 15 per cent or more and they have not changed a great deal in line with the rates that have dropped in other areas. We call on the banks to be more honest in the credit charge for credit cards and to ensure that they reflect the changing interest rates on other products and the official drop in rates that have occurred. It is also important that we educate consumers on how to use credit wisely so as not to overextend themselves.

In the house earlier this week I announced our Christmas credit campaign with consumers. This is occurring around shopping centres in Victoria. Unfortunately I did not bring the Christmas cards in at the time, but I have them with me now, and I wish all honourable members a safe and financially secure Christmas.

Electricity: supply

Hon. PHILIP DAVIS (Gippsland) — My question is to the Minister for Energy and Resources. Last summer the first knowledge that the public had of electricity blackouts was when traffic lights went out at intersections. In the case of the next blackout will the minister ensure that the public is fully advised prior to the damage occurring?

Hon. C. C. BROAD (Minister for Energy and Resources) — The opposition has a hide coming in here professing to care about Victoria's electricity

supplies. This, from a shadow minister who was a member of a government — —

Hon. Philip Davis — Three strikes and you're out, Candy!

The PRESIDENT — Order! Mr Davis has asked the minister a question. Obviously he expects to — —

Hon. R. F. Smith — He keeps interjecting!

The PRESIDENT — Order! I am just about to tell him that! As I was about to say before I was rudely interrupted, Mr Davis asked a question. He has to expect the minister to be able to answer the question in a way that can be heard by the house, so I ask both sides to keep out of it.

Hon. C. C. BROAD — This, from someone who was a parliamentary secretary in a government which cared about nothing except selling off Victoria's power supply, despite the fact that it knew the supply was tightening, and we know that it knew — —

Honourable members interjecting.

The PRESIDENT — Order! I cannot hear the minister. There may be other questions that are going to follow which require this information to be heard. I ask the house to settle down and allow the minister to answer the question.

Hon. C. C. BROAD — It did nothing about encouraging further investment in generation. In contrast, I am happy to tell you, this government has facilitated more than 1000 megawatts in new generation in this state, some of which has already been commissioned, which demonstrates the shadow minister's ignorance.

Hon. Philip Davis — Where? Not 1 megawatt. Nothing comes on line before the end of summer. You are being misleading.

The PRESIDENT — Order!

Hon. T. C. Theophanous interjected.

The PRESIDENT — Order! You keep out of it too. I am trying to get the house to settle down so we can have an orderly question time where the questions are asked and the answers given. If the minister got more directly to answering the question that was asked, she may not get the reaction she is getting now. I am just giving a bit of advice if members want a reasonably quiet question time.

Hon. C. C. BROAD — Thank you for the editorial, Mr President.

To continue with my answer, this government has done a great deal to secure electricity supplies for Victorians, not only for this summer but into the future. I will be very pleased to again chair a meeting of electricity ministers in Melbourne as a result of — —

Hon. Bill Forwood — On a point of order, Mr President, the minister is clearly debating the question. The question that was posed was: will the people of Victoria know this time before the lights go out — it was not about the generator capacity throughout the state. I ask you, Mr President, to tell the minister not to debate the question and get back to the answer.

The PRESIDENT — Order! The question asked was pretty narrow in its scope. It was, as has been said before, about whether there would be some forewarning to the public of Victoria if it is likely to face some sort of breakdown or brownout. I do not believe the minister has addressed that question as yet.

Hon. C. C. BROAD — Yes, I have indicated to the house this week already that there is no threat to Victoria's power supplies, and I am indicating now that this government has taken a whole series of actions in terms of securing supply through interconnects, through new generation, through demand management and through a whole series of measures.

Hon. Philip Davis — You won't warn the public, will you? You will let your union mates turn the lights out again and you will give no warning at all.

Hon. C. C. BROAD — Through that statement by the opposition, it has just demonstrated again that it is not interested in security of supply for Victorians. Opposition members are only interested in very tawdry political point scoring.

Industrial Relations Victoria: web site

Hon. G. D. ROMANES (Melbourne) — I ask the Minister for Industrial Relations to advise the house as to how Industrial Relations Victoria is using the Internet to make information available to help overcome the information void created by the Kennett government.

Hon. M. M. GOULD (Minister for Industrial Relations) — Sadly it is correct that the former Kennett government abolished important industrial relations advice services. That was particularly shameful given that the key to good industrial relations practices is

having a good understanding of the basic ground rules, as well as of each other's point of view. Industrial Relations Victoria is therefore working to restore some services in this area. IRV is an important source of advice to employers and employees about their employment rights and responsibilities, as well as cooperative workplace practices.

An important way of providing such information is via the IRV web site. In addition to the information already available on the site a new range of electronic material in the form of fact sheets was recently put on. At present 24 detailed specific-topic fact sheets are on the site and this is to be expanded further in the new year. The fact sheets cover a wide range of topics relating to minimum terms and conditions of employment, guidelines on hiring employees and effective employment practices. Employers are starved of this information and the government is responding to a request from them. After years of Victoria facing a black hole in this sort of information under the Kennett government, this government has now allowed access to it at the click of a finger so that employers can gain an understanding of what is required in the working environment.

IRV is committed to restoring a positive industrial relations climate in the state, and providing accessible information is an important way of achieving it.

Boating: licences

Hon. B. W. BISHOP (North Western) — My question is directed to the Minister for Ports, and, may I say, boats. During debate on the Marine (Hire and Drive Vessels) Bill earlier this week, members of the National Party were strenuously arguing against the imposition of a licence on operators of small recreational boats, and at one stage our assertion that it would cost more to become a licensed boat operator than a licensed car driver was challenged by the minister. Will the minister now concede that a 10-year licence to drive a car in Victoria costs $133 whereas the new equivalent licence to drive a boat will cost $250? How is she going to convince our many thousands of weekend small boat owners that such a fee structure is warranted or fair?

Hon. C. C. BROAD (Minister for Ports) — I am more than happy to provide the National Party with the comparisons prepared by the Marine Board of Victoria, which are somewhat different to the calculations the National Party has done. Notwithstanding that, it is disappointing that the National Party cannot see its way clear to support this very important initiative of the Bracks government to improve boating safety for all Victorians and to ensure that Victorians not only enjoy themselves but are able to do so in a safe manner.

The government believes that this initiative will greatly improve boating safety in the state. It is long overdue, and it is only as a result of the Bracks government that Victoria is finally coming into line with boat operator licensing laws which will now exist in all states except Western Australia. The government believes that this is a very significant achievement for improving safety in the state.

Swimming pools: industry conference

Hon. T. C. THEOPHANOUS (Jika Jika) — Will the Minister for Sport and Recreation inform the house of the role that Victoria is playing in demonstrating leadership in the aquatic industry and how the Bracks government is contributing to this success?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome the honourable member's question. This morning I had the good fortune of officially opening Aquacon, the national aquatic industry conference, at the Melbourne Sports and Aquatic Centre. The conference has attracted about 250 participants, many of whom are from interstate and overseas as well as many locals. The last conference of this type was held in 1992. This means we are able to bring the aquatic industry together and appreciate the contribution it makes to Victoria, not only in terms of community benefit and linkages and increasing the ability to enhance participation in recreation in Victoria but also to ensure that it is an economic sector in the state that contributes substantially.

Some of the figures are incredibly impressive. Apparently there are currently 1900 persons employed in the industry and in the order of 1500 of those are full time. The estimated capital value of facilities around the state, including public and private infrastructure, is $1.7 billion and the total attendance at such aquatic facilities is in the order of 61 million. That is in this state alone. That complements what the government continues to do in industry support and leadership, particularly in this sector, while enhancing grassroots participation and involvement.

Honourable members interjecting.

Hon. J. M. MADDEN — I reinforce some of these issues to the opposition. Members opposite should take some interest in this because many of these facilities are in their constituencies. The government has spent $6.7 million on new aquatic facilities in Swan Hill, Warrnambool and Wangaratta. They are all currently under construction. The government has allocated

$3.3 million for upgrading existing facilities in rural and regional Victoria and $7 million to new aquatic facilities in metropolitan Melbourne, including newly opened pools in the cities of Casey and Monash. In addition, the government has allocated $4 million to the redevelopment of aquatic facilities in Melbourne. This funding complements the government's commitment of $2.2 million to a safer and improved aquatic program.

This investment reinforces that not only is Victoria the sporting state of Australia but in real terms it is the aquatic state. The government is enhancing in many ways a sector of this state which has grown over many years — and it will continue to do so.

Honourable members interjecting.

Hon. J. M. MADDEN — I appreciate that opposition members are not listening now and they did not listen in government either. I reinforce that the government will continue to grow the whole of the state, unlike the previous government.

Electricity: supply

Hon. BILL FORWOOD (Templestowe) — I again refer the Minister for Industrial Relations to the threat to Victoria's power supplies this summer. Is it not a fact that the greatest threat to our power is not the weather but the behaviour of rogue unions that thumb their noses at the minister?

Hon. T. C. Theophanous — That is the dumbest question I have heard you ask.

Hon. M. M. GOULD (Minister for Industrial Relations) — Poor memory, Mr Theophanous, I think there have been one or two others. The government has clearly indicated its position with respect to this matter. The issue is before the Australian Industrial Relations Commission. The government has indicated to the parties involved that it will act decisively if any legally protected action they take shows any threat to the supply. The government will act.

The unions are taking legally protected action as they are entitled to do under the Workplace Relations Act. That is unfortunate because it is a conflict-based piece of legislation. If the opposition had bothered to support the government's Fair Employment Bill, that would have given this state some powers and then there might have been a different position.

The government has said to the employers and to the unions that they need to sit down around the table and negotiate this enterprise agreement, as it has been going on for too long. This government will act if there is a threat, but based on all the advice it has, there is no threat to supply.

Boating: safety programs

Hon. R. F. SMITH (Chelsea) — With the summer boating season now upon us, will the Minister for Ports advise the house of further activities by the Bracks government to promote marine safety?

Hon. C. C. BROAD (Minister for Ports) — To further develop a theme started by the Minister for Sport and Recreation earlier in question time, I am very pleased to advise the house that the Bracks government has initiated the first ever Boating Safety Week, which runs from 1 December to 8 December. This initiative is designed to raise awareness of safe boating practices and to reduce the number of accidents and fatalities which, sadly, occur on our waterways each year.

The activities available to the public as part of Boating Safety Week cover all facets of recreational boating, whether it be yachting, canoeing, powerboating or small-craft fishing. Interested Victorians can attend a workshop on basic sailing safety, view safety displays and attend an introduction to safe canoeing, and they can even take their boats along to one of the many locations around Victoria where boating safety checks are being conducted. Although Boating Safety Week runs officially between 1 and 8 December, boating safety events organised by the Marine Board of Victoria will continue to run well into mid-December.

As the International Year of Volunteers draws to a conclusion, I would like to thank a number of organisations, including the Australian Volunteer Coast Guard, the Volunteer Marine Rescue Service in Mornington, the Royal Volunteer Coastal Patrol and Canoe Victoria, which are assisting the marine board in the conduct of these events during Boating Safety Week. The marine board can provide more information on all these activities to interested Victorians.

This initiative by the Bracks government demonstrates that it is delivering on its vision of a safer Victoria, which includes improving marine safety across the whole of the state for all Victorians.

Yallourn Energy: dispute

Hon. PHILIP DAVIS (Gippsland) — I refer the Minister for Industrial Relations to the real threat to summer power supplies. On Monday the minister convened discussions with Yallourn Energy and the power unions. Will she confirm that the talks failed because she left after only 30 minutes?

Hon. M. M. GOULD (Minister for Industrial Relations) — The honourable member has been sitting over there on the other side of the house reading through *Daily Hansard*. If he had continued to read through the question that one of his colleagues asked last night during the adjournment debate, he would have seen that I corrected the amount of time I spent at that meeting.

I met with the employers and the unions for a period of time, and then I left the parties to continue their negotiations. The employers and the unions sat down and negotiated for some time after I left. My officers were there, and I advised the parties that I would be in my office if they wanted to discuss further matters with me — which they did!

Legislative Council: cooperation

Hon. E. C. CARBINES (Geelong) — Will the Minister for Industrial Relations advise the house of how the Bracks government's industrial relations goals are being promoted in the Legislative Council of Victoria?

Hon. M. M. GOULD (Minister for Industrial Relations) — On the last sitting day of this year I thought I would give a report to the house on how I believe this house has taken on some of the Bracks government's industrial relations practices.

Honourable members have heard me talk about cooperative workplaces and high performance. In that regard I would like to thank the leaders of the opposition parties for their part in the cooperative work practices that have taken place over the year in this high-performing workplace that we operate in.

Honourable members interjecting.

The PRESIDENT — Order! Last days are always like this, unfortunately. I suggest that members of the house should not interfere with the normal operation of the house. Having said that, I ask the minister to continue.

Hon. M. M. GOULD — I thank you, Mr President, for your ruling in chastising the Honourable Ken Smith for his flicking off the light switch.

Along with my colleagues on this side of the house I have worked cooperatively in trying to have a high-performing Legislative Council. We have certainly worked hard to get through the legislative program.

Unfortunately the Bracks government's goal of creating a fairer and more balanced industrial relations environment was not taken up by the opposition. We did not quite get it right, but we have been working on it. I guess that is no surprise.

The opposition, particularly on the back benches, has been working hard on trying to create an environment that is fair in this place, although sometimes ministers have had to work very hard to answer some of the silly questions from the other side. But all in all, it has been a good time. When there has been a dispute we have turned to you, Mr President, as the honest broker to come up with a resolution to the differences between the parties.

So I am pleased to report to the house during question time on the last sitting day of this year that the Council is taking up the government's view of working cooperatively and in a positive way to achieve good things for the whole of the state.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — I have answers to the following questions on notice: 2149–52, 2311–12, 2363–5, 2402, 2404–5, 2407, 2410, 2416–26, 2428–30 and 2435–8.

Hon. C. A. FURLETTI (Templestowe) — Mr President, I seek again, as I did on Tuesday, an answer from the Leader of the Government in relation to question on notice 2339, which I directed to the Premier in his capacity as Minister for Multicultural Affairs. I still have not received an answer. I wonder whether the Minister for Industrial Relations could at least indicate when I can expect an answer.

Hon. M. M. GOULD (Minister for Industrial Relations) — As I indicated to the house, I have taken up the matter with the Premier's office and have asked for a reply. I will follow it up again. I have chased it each day. I have been trying to get it from the office but I have not got it yet. I will follow it up again and get an answer to the honourable member as soon as possible.

Hon. Bill Forwood — On a point of order, Mr President, on the issue raised by the Leader of the Government, I appreciate that she is trying to accommodate the rules of the house: in the event that she gets the answer today, we would be happy to have it tabled later in the day. In the event that she does not get the answer I am sure Mr Furletti would like to

receive a letter which indicates the answer, and the answer could be tabled later when the house sits again.

Hon. M. M. GOULD — Further on the point of order, I am happy to accommodate the Leader of the Opposition. If I get the answer today I will take up the offer to present it to the house. If not I will ensure there is a letter of response to the honourable member.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — Questions 2213, 2251 and 2252 standing in my name and directed to the Minister for Industrial Relations for answer on behalf of the Premier have been on the notice paper now for almost 80 days. I have written to the minister and raised this matter before, and I request an explanation of when I can expect an answer. Like the Leader of the Opposition, if an answer cannot be provided today I would be happy to receive an answer in writing during the break.

Hon. M. M. GOULD (Minister for Industrial Relations) — I take on board the honourable member's request, and again I indicate that I have been following that up with the Premier, and if an answer is received today I will arrange to have it tabled. If not, I will arrange to have a letter sent to the honourable member.

PETITION

Fruit bats: control

Hon. BILL FORWOOD (Templestowe) presented a petition from certain citizens of Victoria praying that the Minister for Environment and Conservation takes note of their opposition to the relocation of flying foxes, otherwise known as bats, from the Royal Botanic Gardens to Horseshoe Bend in Wilson Reserve, Ivanhoe and reconsiders plans to migrate and breed flying foxes in Ivanhoe. (156 signatures)

Laid on table.

LIQUOR CONTROL REFORM (PROHIBITED PRODUCTS) BILL

Second reading

Debate resumed from 4 December; motion of Hon. M. R. THOMSON (Minister for Small Business).

Hon. KAYE DARVENIZA (Melbourne West) — I am pleased to rise and speak in support of the bill, which addresses a number of important issues. It addresses the availability of alcohol-based essence and products being introduced onto the Victorian liquor market which present an unacceptable risk to the community because of their potential to be misused or abused, particularly by young people. I am pleased to say this bill is not opposed by the opposition and will be supported through the house.

Consultation has played an important role in the preparation of this bill, as it has with other bills that have been introduced by the government. We believe that a full consultative process is very important. There has been ongoing consultation with the Victoria Police, whose job it is to enforce the liquor laws. Unfortunately its members also have to deal with the aftermath of alcohol abuse. That could involve accidents that have occurred because of alcohol consumption or unfortunate incidents resulting in injuries, even death, which are attributed to the consumption of alcohol. There has also been consultation with the Australian Hotels Association of Victoria, the Liquor Stores Association of Victoria and the Distilled Spirits Industry Council of Australia.

I refer to clause 7, which inserts a proposed division 1A dealing with the prohibition of the retail sale of high-alcohol food essence in large containers — that is, 375 millilitre containers. These products have been found to represent a cheap and potentially dangerous source of alcohol which can lead to abuse and potential misuse, particularly by young people.

Proposed section 118A restricts the sale of food essence that contains high quantities of alcohol and also sets out penalties if an offence is committed. The maximum penalty is $3000. Supermarkets and other retail outlets where you would expect to be able to buy food essence are still able to sell alcoholic food essence in small quantities. Lemon essence can be sold in containers up to 100 millilitres and all other essences can be sold in containers up to a maximum of 50 millilitres.

The Honourable Carlo Furletti yesterday spoke about the tragic death of Mr Leigh Clark, a teenager who died in unfortunate circumstances. It was found that consumption of alcoholic food essence was a contributing factor to his death. The fact that he died in such tragic circumstances has been one of the factors leading to the government amending the legislation.

Proposed section 118B provides a head of power for the making of regulations. This gives the minister the authority to recommend the making of regulations that may be used to prohibit other potentially dangerous alcoholic products which might from time to time emerge on the market and pose a dangerous threat. The sorts of regulations that could be considered necessary by the minister are those around products which are

high in alcohol and which are presented and designed to be used in a way that could lead to rapid consumption.

Alcoholic icy poles, milk-based ice-cream-type products and products consumed from small satchels, spray packs and so on are targeted towards the younger generation. The products are made to look attractive to young consumers and are marketed in a way that encourages excessive and rapid consumption. That means young people are drinking too much alcohol too quickly, which can lead to dangerous and life-threatening situations.

The act is deficient in that the minister does not have the power to intervene to make regulations to ban alcoholic products from sale where the minister believes and where it is clearly apparent that the products may be unacceptable to community standards because they are designed to encourage the misuse and even abuse of alcohol.

While the government acknowledges the commitment by the mainstream liquor suppliers in Australia to reasonable and responsible packaging and marketing, marginal suppliers and importers often do not comply with mainstream industry standards. Those importers and suppliers will need to pay attention — and they will need to continue paying attention — to the regulation-making powers in the bill.

Wide regulation-making powers are necessary to ensure that the suppliers of dangerous products cannot avoid detection simply by changing names, labels or packaging. The bill provides that the minister may recommend the making of regulations only when it is clearly in the interests of the community. The making of such regulations will be subject to a rigorous regulatory impact statement process, which will also involve extensive community and industry consultation. It will ensure that there is a tightly targeted approach to any regulations that are made. The government has also provided that such regulations may be disallowed by either house of Parliament, and Mr Furletti gave more details of that in his contribution yesterday.

In conclusion, the bill will have a big impact on the liquor industry. It will result in increased community safety and protection, particularly for young people, who, through the marketing of a whole range of products, are encouraged to rapidly drink or consume excessive quantities of alcohol, which is harmful. So the bill will add or give particular protection and safeguards to the young.

This bill deserves the support of all honourable members, and I commend it to the house.

Hon. W. R. BAXTER (North Eastern) — The National Party does not oppose this bill, but I feel I should note that it really is a sad commentary on the state we seem to have reached in our society that we have to be introducing this sort of legislation to control the consumption of substances which were never intended to be consumed as alcoholic drinks. They are in fact components of food products. It saddens me that we are now in a situation where these substances are being used by a number of people in the community — presumably mainly young people — as a source of alcohol consumption. To a degree I suppose this bill is a knee-jerk reaction in response to an unfortunate incident which has recently been considered by the coroner.

I suppose I have to ask myself what is happening to our society that young people are excessively imbibing alcohol by this means. What is happening to our education system? Where is the parental guidance and the parental example that would demonstrate to young people that alcohol consumption by these means is utterly inappropriate and dangerous? I have to ask myself: what can be the attraction of imbibing these substances with the apparent sole purpose of becoming extremely intoxicated in the shortest possible time? I ask myself: what is the pleasure in that, and why would people want to do it?

Why do we have among our young this apparent total inability to withstand peer pressure: that just because a colleague or a friend engages in binge drinking by whatever means, I should, too? I do not know whether I had a different upbringing, or I am of a different character or different personality, but I have never felt any sort of compelling need to cave in to peer pressure, to be one of the mob or group, to be one that just follows along and is led like a sheep. But, regrettably, there seems to be a significant proportion of the community who are so disposed. It seems to be an increasing proportion of people in the community that are unable to make their own decisions for their own welfare and wellbeing, that are in fact prepared to engage in high-risk behaviour, because somehow or other that gives them a feeling of belonging to and being part of the culture.

I really think that we as leaders of the community have to turn our minds to what is going wrong in our education system and our family life that we are not empowering our young people to make their own decisions to choose to live a healthy lifestyle and behave in a responsible and safe manner rather than succumbing to the dictates, encouragement and goading of some young people who want to be the leaders of the pack and who simply want to engage in high-risk

behaviour and take the pack along with them. I do not know the answer, but I have pondered over it quite a bit. I am concerned that we appear to have far too many young people who are prepared to just go along with things without taking their own decisions and saying, 'Hang on a minute, this is not in my interests at all'. We have to look at where we are falling down in our education system. The mob mentality rules, and people who want to take an independent stance are sometimes shouted down and belittled because they are prepared to show a bit of self-discipline.

A lot of the time it comes down to self-discipline. I could not help but interject during question time earlier today when the minister was answering a dorothy dixer about credit card debt. Much of that is simply due to a lack of self-discipline by people who cannot resist impulse buying, which is so easy to do on a credit card. Why should the rest of the community be blamed for their utter lack of self-discipline and their utter inability to resist the admonitions of clever marketers?

I am really concerned that we have a society that seems to be so lacking in self-discipline. We have to grab hold of things and encourage people to exercise much more self-discipline in their daily lives, whether it be in relation to the inappropriate use of alcohol or credit or driving a motor vehicle. This community is going in the opposite direction from what it ought to be in terms of self-discipline.

Governments cannot fix every problem; it is up to the people themselves — and we have another example here. Nevertheless, we have a problem. Some young people are abusing these substances apparently because they are cheap and because imbibing the stuff gets them to a state of mind and body that they see as buying them some kudos among their colleagues. What could be enjoyable about downing a pint or two of vanilla essence, Mr Acting President? Nothing at all! But it is going on, and we need to do something about it. To that extent, I am prepared to go along with this legislation because it will, to a degree, restrict the availability of this product to people who use it inappropriately.

I am pleased that the minister in another place has acted upon the opposition's suggestion that the regulation-making powers be subject to disallowance by either house. Obviously that is a good safeguard, and I am happy to support that change.

Rushing in regulations is no panacea for every problem that may arise from time to time. We have to be very careful that we do not give a forbidden-fruit image to alcohol. One only has to look at the reforms that have taken place in the liquor industry over the past 30 years. When you look back on it, 6 o'clock closing was disastrous because it gave alcohol that forbidden-fruit image in the eyes of some people. The hotel opening hours we now have are much more capable of leading to the responsible use of alcohol. I am not one who wants to lock the liquor cabinet — I do not want to give alcohol that sort of forbidden-fruit image — but in this example for the time being a regulation of this sort seems to be the only answer.

The long-term answer is better education of the community about the use of alcohol and particularly about the dangers of using alcohol substitutes, which is how I would class these essences, because they are not produced as alcohol for consumption in the normal sense of the word. They are alcoholic substances for an entirely different purpose, and it is inappropriate that they be consumed as a beverage. Therefore I am prepared to support the legislation.

Hon. G. B. ASHMAN (Koonung) — Originally the Liberal Party's position on this bill was not to oppose it, but given the amendment that was passed by the Assembly, and although it is not our formal position, I think the party's position would now be one of support for the measure.

The purpose of the legislation is simple and clear: it is to prohibit the sale of some alcohol-based food essences and additives — products that are used for purposes that were not the original intent. It will prohibit the sale of those essences in certain containers but not for wholesale sale to food processors and like businesses. The retail sale of the essences will be restricted to 100-millilitre bottles for vanilla and 50-millilitre bottles for all other essences. As has been explained, a 100-millilitre bottle of vanilla essence will probably last for 12 months for the user in the home kitchen, so the size of the container available at retail will not have any impact on domestic consumption or use of essence.

The real issue being addressed is the sale of 375-millilitre bottles for the price of not much more than a large bottle of Coke. It is being sold, as we understand it, in three main products — Old Mule, which is imported from New Zealand and has a whisky flavour; melon, which obviously has a melon flavour; and brandy which comes out as a Hoyts essence. They are being purchased as an alcohol substitute not only by young people but by people who have an alcohol addiction. The products are harmful because many have an alcohol content close to double that of a bottle of Scotch — we are told that the alcohol content by volume of some of those products is 80 per cent. Alcohol is required in the products as a carrier for the

essence because cooking requires a carrier that will not add flavour and will cook off — which is certainly the case with alcohol, so it is indeed the ideal carrier. I am told that in the industry no alternative carrier is available that will perform to a satisfactory level, so the option of varying the composition of the product is not available.

As has been mentioned, the bill proposes providing the minister with new regulatory powers to prohibit certain products. During the discussion stage we noted that the relevant clause is extremely broad. It was explained to us at the briefing that it needs to be broad because the range of products containing alcohol being introduced to the market is also broad. Not just drinks but also icy poles will be covered by this legislation. The suggestion has been made that alcoholic-based fruit, ice-cream, chocolates and a range of other sweets can be introduced into the market. The opposition believes the minister should control the retailing of these products, and that view is also vigorously supported by retailers and the Liquor Stores Association, who recognise the problems that essence products present. Supermarket operators with whom I have spoken tell me that on a daily basis they see young people purchasing essence products and are aware of the damage it is doing to them.

As Mr Baxter pointed out, these youths need some care and counselling; generally they have problems in their lives from which they are seeking to gain relief. They turn to these drinks as a substitute for family support. As a community, we need to address the issues that lead people towards addiction to these products and to other drugs, rather than necessarily prohibition of the product. Having said that, the opposition does not suggest for one second that it is not appropriate to prohibit the product. These measures will remove one of the crutches people use and it is important that we do that. It is also important to address the underlying problems of people who are dependent on the product.

Essence products may be replaced by other products. There is a concern that less reputable importers may turn to other products as a substitute. Were essences to be on the shelves of liquor stores they would require different labelling provisions and require the alcohol content and the number of standard drinks to be included in the labelling. I am advised that a 375 millilitre bottle of essence is the equivalent of 25 standard drinks. I am not sure how young people drink these essences. I found them extremely strong and not particularly pleasant. I am not sure whether the young people dilute the essence or drink from the bottle. It is not a pleasant drink, so price is clearly the driver. If the bottles were being sold out of liquor outlets as alcoholic drinks the price would probably be tenfold what it is today.

As I said at the outset, the opposition had concerns about the regulation-making powers. It asked the government to examine the disallowance provision so regulations could be reviewed by Parliament, but the shadow minister was not as enthusiastic about this as some of us thought he could have been.

We then pointed out to him that under these regulations the minister could prohibit the sale of his favourite grappa. Apparently one of the Clerks has a rather keen taste for French wines, and these regulations could ban French liquor. Using that argument, we persuaded the shadow minister to talk to the government about these provisions. If you had an extreme minister — and we acknowledge that the present minister is not — the regulations are so broad that the state could move to total prohibition. There would not be many people in this chamber who would support that. If a disallowance clause came into use under those circumstances a number of us would need to make pecuniary interest statements.

Having stated those few words, I advise that the Liberal Party does not oppose this legislation and with this amendment I think the real position is one of support.

Hon. K. M. SMITH (South Eastern) — The Liberal Party does not oppose this bill, but I will talk on a couple of issues. The minister's department put this together on the basis of the report that came from the coroner's hearing into the death of Leigh Douglas Clark, a 15-year-old boy who had been given vodka essence at a party. A friend's mother had stupidly gone and bought this stuff for the kids to drink. I am surprised that further charges did not arise as a result of the inquest into the boy's death.

I find it difficult to believe these products have been on liquor store shelves for a fair period of time. The larger bottles of essences were put there because of legislation passed by the previous government. I thought that would have made it acceptable and that young people would not be able to get at them because they were in liquor stores. However, when a boy's mother can go in and buy three bottles, one has to wonder what it is all about; the negligence of one person has probably caused the death of a young fellow. That is most unacceptable.

When the liquor people briefed us on this bill, they brought in a large number of essences of different flavours and tastes, which are meant to go into homemade cakes, ice-creams or whatever, and which

are freely available to people from liquor stores where they can be legally bought. It was an eye-opener for me because I was not aware that these products were on liquor store shelves, although I knew that vanilla and other essences contained in small bottles could be purchased from supermarkets and other stores. However, over time these essences have been put on liquor store shelves.

I find it hard to understand why there is a need for such legislation. During our briefing we were told that there was a problem in the Frankston and Mount Eliza area with young people who had been drinking these types of essences. I spoke to local police who said they did not know of any problems associated with the essence or that there was excessive use of it by young people. They were not aware that it was a problem. I visited a number of supermarkets and liquor stores in the area and spoke to proprietors about the situation. Huge numbers of bottles of this stuff were not being taken off the liquor store shelves.

Mr Baxter talked about the excesses of people, and people have to be big enough and smart enough to make decisions for themselves. Do we have to legislate for every weakness in people's personalities, whether it is credit cards or buying different types of essences? We have had one problem, and it is terribly unfortunate in that it brought about the death of a young person, but we are bringing in legislation that may stop further deaths in the future. However, from what I have been able to learn, the consumption of essence is not a huge problem — in fact, it is not even a small problem. The police and liquor store owners do not believe it is a problem.

The 375 millilitre bottle of essence is the equivalent of half a bottle of Scotch or other alcoholic drink, which is the equivalent of up to 22 standard alcoholic drinks. That is a huge amount of alcohol, and I believe we should be looking at why a group of young people — and this young boy who died was in a group of young people — would want to get themselves boozed in as short a period of time as they can to the extent that they are zonked out for the night. It is not as if they are having a great time, that they are even capable of standing up and having a dance or standing up at a bar and having a drink, because they are so smashed out of their brains that they cannot even stand up! We have to ask why that situation is occurring.

I suppose such behaviour could be put in the same basket of why do young kids want to stick needles in their arms, go to dances and take ecstasy tablets, or snort cocaine? Why? They are the sorts of questions we should be seeking answers to rather than putting legislation like this in place. Perhaps my friend Mr Boardman, being a former policeman, may be able to answer some of these questions when he has the opportunity. I am sure that as chairman of the Drugs and Crime Prevention Committee he would have questioned a number of people on this issue, and I look forward to his contribution to the debate.

The bill is a small bill and contains only 10 clauses. However, I was concerned, as was Mr Ashman, that the position would be as is stated in proposed section 118B(1):

> The Governor in Council, on the recommendation of the Minister, may make regulations prohibiting the supply of any class of liquor.

The minister could have recommended regulation and there would have been no opportunity for the Parliament to say, 'No, because you have not given any reasons; you have not given us enough factual evidence as to why you should be banning any class of liquor'. It gave the minister ultimate power. It made us think about inserting a disallowance clause. To the minister's credit — and it is not often I give the minister credit — she has allowed the disallowance clause to go in.

When we were in opposition some years ago, before the great years of the Kennett government, we would often put disallowance clauses in — in fact we did in most pieces of legislation that were put in place — not because we did not trust the minister, but often there are things written in legislation that are not enacted for maybe 5, 10, 15 or 20 years — they just sit there. Some of the young smarties who often give advice to ministers and governments will look through the legislation and say, 'Hey, listen did you know that you can make regulations prohibiting the supply of any class of liquor? We do not like a particular brand and we do not think the people should be allowed to drink Scotch. As the minister, you can prohibit the people without being accountable to anybody by taking that liquor off the market'. Any minister in their right-thinking mind would not do it, but then again some good reason can always be given for that happening.

So I say again that I am pleased there is a disallowance clause in the bill. If these sorts of regulations are put in place I am pleased that the Parliament of Victoria is in the position of being able to take some action to stop the excesses of a minister out of control.

Hon. M. R. Thomson interjected.

Hon. K. M. SMITH — It could happen, Minister, so don't shake your head as if it is not going to happen.

I have complimented you already, don't make me change my mind.

One other thing that was raised in the discussion with the people from the liquor licensing commission was the fact that the manufacturers, particularly Hoyts, had not been advised about the impending bill. In fact there had been no discussion with them, and I would have thought that was advisable. The government could have advised Hoyts that if it were to sell this essence to people for them to put in cakes or ice-creams there were good reasons for them using much smaller bottles, as they do with vanilla essence — it is in the supermarkets in smaller bottles without any restrictions despite having the same alcoholic content.

The opposition does not oppose the bill, but I find it unfortunate that this type of legislation has to go through the house because of the excesses of one child who unfortunately died. One has to feel great sorrow for the parents of that child.

Hon. N. B. LUCAS (Eumemmerring) — I wish to make a short contribution on the Liquor Control Reform (Prohibited Products) Bill. When I was a young lad we had two regular visitors to our house: one was the milkman to collect his money and the other was the Rawleigh man. I can recall watching my mother looking at the products the Rawleigh man provided to our household. For those who are a lot younger than me, he used to have a big box of condiments and all sorts of things that women used for cooking and other household tasks. He also sold vanilla essence. I recall my mother used to feel sorry that he had come all the way to our door when she did not want to buy anything, so she often bought a small bottle of vanilla essence.

As a young and quite naive lad I never thought vanilla essence contained alcohol. It is a sad fact that the youth of today know what is contained in these products. I suppose they are more ingenious or there is more information around now about what is in a product and what is not. Young people are now using these flavourings to indulge in the abuse and misuse of alcohol. It is a scientific fact that alcohol is used to carry the flavour in these products.

During the briefing on this bill we were shown a number of bottles of various substances and my hair — what is left of it — stood on end when I saw the percentage alcohol content of some of them. One that was mentioned by earlier speakers is the Hoyts imitation brandy, which has an alcohol content of 76.7 per cent. The fact that young people can buy such a product for $3.50, either illegally by pretending they are over 18 or by having somebody over that age buy it for them, and obtain what is equal to 25 standard drinks is just extraordinary. There need to be controls and that is what this bill is about.

The regulatory power contained in the bill is certainly worth while. In South Africa they are putting alcohol into milk and icy poles, and we had a situation with icy poles a few years ago. The latest products are spray cans containing substances that have an alcoholic content. Who knows what is coming next? I suppose that is the reason for the regulation. The Liberal Party's suggestion, which was taken up by the government, to have a clause included in the bill to allow either house of Parliament to disallow a regulation will mean that a minister who takes the issue too far at any stage and tries to regulate against something inappropriately will be brought to task, so to speak, by either house of Parliament. It is good that the government has agreed to that change.

Like Mr Baxter I wonder why these situations occur in our community. Mr Baxter's thoughtful contribution today was supported by the Honourable Ken Smith, who also asked why these things happen. I suppose they result from the breaking down of family life and the reduction in the social standards, self-discipline and commonsense in people of all ages, not just young people. It all results in the irresponsible use of alcohol. I support the regulating power that the minister will now have.

We live in a society where everything has been made easier and where all the alcohol laws are broader. You can get alcohol just about anywhere. A few years ago I saw a shop in Canberra that indicated on its door all of the hours it was open. It seemed to me that it was open all day, every day, and all night. Underneath those hours a sign stated, 'If these hours are not adequate, here is the phone number for Alcoholics Anonymous'. There is such an open opportunity for people now to obtain alcohol.

When you look at what is happening in the area of food additives, which are necessary and needed in food manufacturing, you realise that it is a shame that we have to bring in legislation such as this. The Honourable Cameron Boardman heads up the Drugs and Crime Prevention Committee, which in June presented a report on its inquiry into public drunkenness. Studies such as that are worth while, and we can learn from the research. I hope all of us will do our bit, and hopefully this bill will improve the situation in relation to food additives.

Hon. B. C. BOARDMAN (Chelsea) — On behalf of the Drugs and Crime Prevention Committee I thank

the Honourable Neil Lucas for his contribution. I appreciate his comments and those made by other honourable members, including the Honourable Ken Smith, on the committee's report entitled *Inquiry into Public Drunkenness*, which was tabled earlier this year.

It is opportune that I comment about the research, and in particular the findings in this report. I trust that the Minister for Small Business, who is the minister responsible for overseeing the Liquor Control Reform Act and generally regulating the liquor industry, is familiar with the report.

A number of important findings and recommendations in the report address this issue. Quite clearly the vexed and complex question of why the demand for alcohol and alcohol-related products among young people is at a relatively high level is difficult to answer. The level of research relating to this subject has been limited in recent times, although it is increasing.

The committee embarked on an extensive inquiry to identify demographic issues and ascertain consumption rates among young people to determine if there were any patterns or similarities — that is, whether alcohol consumption among young people is prone to certain geographic or demographic locations, and what environmental or contributing factors make this situation as difficult as it is to ascertain. Most of the research has been conducted by Professor Margaret Hamilton from the Turning Point Alcohol and Drug Centre. She argues quite clearly that the research is limited and that a lot more work needs to be done.

Our findings ascertained that only 15 per cent of young males aged 15 to 17 years say they have not had a drink. That compares with 11 per cent for females. When you think that there is only a very small percentage of young people in the 15 to 17 age bracket who state that they have not had a drink, you realise that it is an issue that requires significant attention. That justifies regulations such as this, which will limit and prohibit the sale of alcohol-based products that are attractive to young people. More than half the respondent group — that is, 15 to 17-year-olds — reported that they had consumed more than 10 drinks in their life. There was no difference in that behaviour between boys and girls.

The research indicates that during the most recent drinking occasion prior to taking part in the interviews that were conducted across Australia 42 per cent of males compared with 34 per cent of females consumed the equivalent of five or more drinks, and 32 per cent of males compared to 24 per cent of females consumed seven or more drinks. Given that the average consumption rate is between three and four standard drinks, it is extraordinary that this research is showing that young people are consuming at a level that is far in excess of the average per capita levels. That gives way to binge drinking, and this Parliament and ultimately the government have a responsibility to implement measures that certainly address those issues.

Ninety-four per cent of 18 to 24-year-olds reported that they consumed alcohol, which probably comes as no great surprise to honourable members. But among 18 to 24-year-olds, 51 per cent of males consumed 5 or more standard drinks at the last drinking occasion and 30 per cent consumed 10 or more drinks. The research on females reported that 36 per cent drank 5 or more drinks and 15 per cent drank 10 or more drinks during their last drinking occasion.

I make this point because it seems that particularly among young people alcohol consumption far in excess of the per capita average is quite prevalent. Taylor and Carroll conducted research on the statewide consumption of alcohol patterns. Page 319 of the committee's report refers to some of those findings and the reasons that increase young people's drinking. It states:

> … the greater range of alcoholic drinks now available, the increased number of outlets for alcoholic beverage sales, and the greater ease with which more cash for drinking can be accessed from automatic teller machines or EFTPOS facilities.

They are relevant points and go to the heart of what the Liquor Control Reform (Prohibited Products) Bill is trying to address — that is, the accessibility of alcohol and alcohol-related products.

I personally welcome the legislation as a positive step for two reasons. The first is because it reacts to a direct and tragic incident that needs an appropriate response. Thankfully this response is very appropriate in the circumstances. However, equally importantly it creates a regulatory environment that sends the clear message that if we are serious about trying to combat this prevailing problem, which is going to increase rather than subside, there has to be an appropriate regime that limits the sale of these attractive products.

It is not just the alcohol-based essences or the products that this bill directly addresses, but products that are seen to be more attractive to young people, such as icy poles, jellies and confectionery that contain alcohol. But it is not just alcohol. We cannot limit the discussion to one specific substance. There are substances that have not been researched fully as to their psychological, metabolic and physical effects, such as Echinacea,

caffeine and taurine, which are now becoming very popular and very much in vogue in products such as Red Bull and Black Stallion — these sports and energy drinks which are increasing in availability.

Hon. M. R. Thomson — And chocolate.

Hon. B. C. BOARDMAN — And chocolate as well, as the minister points out, that are increasing their attractiveness to young people because of clever and strategic marketing of their availability and possibilities.

Equally, in our report, the link between young people and alcohol-related violence cannot be talked down. It is disappointing that it seems to be on the rise, as is the level of young people who are unfortunately being incarcerated for alcohol-related offences. I encourage honourable members to read the report in detail, particularly the research that was subsequently obtained by the committee, because it creates a quite accurate picture in the context of what these types of debates formulate.

By way of a very brief interlude, I point out that the report makes very specific recommendations with regard to public education. It seems that one proactive measure that should be undertaken in order to address this issue is better education. I would like to read into *Hansard* recommendation 37, which states:

> Education programs should be developed within schools and the general community to inform young people, parents and other adults of the risks associated with alcohol consumption.

There are such programs in existence, mainly coordinated at a local level with the involvement of local councils and other groups that have responsibilities in this field, but we make this recommendation because we believe there is a responsibility of government in taking a whole-of-government approach to ensure that the education is systematic and appropriate in the circumstances, but importantly that it is being delivered to all students, and that young people have knowledge and access to information, not just as to how harmful these substances are but why it is necessary to regulate them and what sorts of treatment facilities and other rehabilitative options are available to them. I make that point quite strongly.

I want to conclude by saying that the government responded to the report of the Drugs and Crime Prevention Committee last week. I welcome the government's endorsement of the report in a general sense and I thank it for considering the recommendations. However, I stress that I am a little disappointed that the government did not go into greater detail with the recommendations. I understand the government states in relation to the response — and this is point 15 — that:

> We need time to properly consider the recommendations and their implications for Victoria.

That certainly endorses the committee's finding that it is a complex and vexed issue and one that requires careful and strategic consideration in order to identify the appropriate options that could provide solutions.

I welcome that finding and I place on the record that although we would have preferred direct responses to the recommendations and a more direct consideration by the government, it is important that the government sticks to its word — and I am sure it will do so because it is such an important issue — but the partnership it has established with the Department of Human Services and the Department of Justice and other areas of government to examine the recommendations in further detail needs to be taken and considered seriously, and the committee and I will monitor that process and hope that in the future we will receive a more detailed response to these recommendations that are essentially important.

Motion agreed to.

Read second time.

Third reading

Hon. M. R. THOMSON (Minister for Small Business) — By leave, I move:

> That this bill be now read a third time.

In doing so, I thank honourable members for their contributions to the debate, and although I know the opposition was not able to formally support this bill because it had not been to a party room meeting since the amendment had been put through, I acknowledge the support that came from individual members for the passing of this bill and I thank them very much.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ENERGY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Debate resumed from 4 December; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. PHILIP DAVIS (Gippsland) — I am pleased to get to my feet to speak to this legislation. The minister is arriving in the house at the moment, and that gives me the opportunity to take issue with a number of matters the minister has commented on in recent times, including this very day. Indeed, I was provoked as I looked at an article in the *Weekly Times* today that was published this week to find the minister reciting and repeating the misrepresentations, which she has done even today in the house at question time, when she asserted that the Bracks government had been responsible for the facilitation of an additional 1000 megawatts of generation capacity in the state. The reality is that not one additional megawatt has been generated from those projects to which she alludes; the reality is that she is misrepresenting herself to members of this house. I find it extraordinary that she would continue to do so.

The fact of the matter is that Victoria's electricity resources are compromised because of the failure of the Bracks government to do anything in regard to managing the industry. For more than two years now we have seen this government sit on its hands. We have seen blackouts and repeated threats of blackouts: we saw blackouts in February and November last year, and now there are threats of further blackouts. The Minister for Industrial Relations has entirely abrogated her responsibility for managing the issue. In fact she has deferred to Dean Mighell of the Electrical Trades Union (ETU), who has said that if there is a threat to supply then the power workers will go back to work. At least he has made that commitment. The minister has said she will sit on her hands and not involve herself in the dispute in any way.

The reality is that the government has absolutely refused to act in the public interest. It has indicated that it will not go with the company to the Australian Industrial Relations Commission to have this dispute resolved. The government needs to intervene to ensure that summer power supplies are not put at threat.

However, there is a threat to supply, because Yallourn Energy produces 1450 megawatts of power from its power station, which is equivalent to about 22 per cent of the state's power supply. A set of industrial bans has been placed on the operation of the Yallourn coal mine. Generators do not spin without fuel — that is, coal. If the maintenance workers in the Yallourn mine refuse to maintain the plant, it will not operate and therefore there will be no coal — and if there is no coal, the plant will shut down and it will take four days to recommission. When the whole system becomes idle there has to be a recommissioning of the dredging operation, the filling of coal bunkers, the re-establishment of conveying operations and fuelling, and the firing up the generators.

For the Minister for Industrial Relations and the Minister for Energy and Resources to say to this place and to the public that there is no threat to power supplies is the most extraordinary statement one can imagine being made. The government's continued inaction led to power blackouts in February 2000, which was the first time that had happened in Victoria for 17 years. The government had been warned of the risk, but because of its complete capture by the trade union movement it was unable to act.

That was repeated in November 2000 with the same set of issues at Yallourn, which again provoked a dispute that led to power blackouts. Again the government sat on its hands and took no action to pre-empt that situation. Indeed the only action the government seems prepared to take is if there is a risk to supply, when it acts to restrict consumption. In February last year the net result was that for some days Victoria was exporting power interstate while Victorians were operating under restricted supplies.

Like King Canute, the government has sat on its hands and said it can do nothing about the dispute that commenced on Monday, which clearly puts summer power supplies at risk, because it says there is no threat.

Hon. W. R. Baxter — Why don't they read the papers?

Hon. PHILIP DAVIS — I put it to you, Mr Baxter, that it is clear the government does not know which way is up. You cannot take out 22 per cent of the state's power generation capacity. Clearly the minister is unaware that 25 per cent of Loy Yang Power's generating capacity is out of service because of maintenance requirements. The much-claimed additional generation capacity to which the minister keeps alluding has not been constructed. Indeed Dean Mighell, the ETU and other power unions have threatened that the additional capacity will not be constructed because of the actions of the Minister for Industrial Relations in failing to manage, mismanaging or ignoring the current dispute.

There are further threats of delays to the construction of gas turbines and additional generating capacity for the projects referred to by the Minister for Energy and Resources, which have already been frustrated by green bans and planning processes. The largest of those is the 500-megawatt AES Transpower project at Stonehaven near Geelong. It does not appear that it will come online for commissioning before the middle of next year anyway.

Hon. C. C. Broad interjected.

Hon. PHILIP DAVIS — The minister is well aware of that, and for her to continue to come into this place and claim that the government has facilitated the availability of an additional 1000 megawatts of peak load power this summer is — —

Hon. C. C. Broad — That is a misrepresentation!

Hon. PHILIP DAVIS — The minister interjects; she is acknowledging that it will not be available this summer. If the minister is acknowledging that the additional peak load power, which she has been claiming in this place for weeks will be available to support peak load requirements this summer, will now not be available, she has been deliberately misleading this place — although the reality is that we all knew it. The minister has admitted that she has been misleading this place in respect — —

Hon. C. C. Broad — On a point of order, Mr President, I ask that the honourable member withdraw those comments. I take offence; I have not misled the house. There are processes which the honourable member can avail himself of if he believes I have misled the house. I believe that is not the case, and I ask him to withdraw.

Hon. PHILIP DAVIS — I withdraw. The fact is that the minister has come into this place and said that the government has facilitated 1000 megawatts of additional general capacity which she now admits will not be available this summer.

As a consequence of the minister's admission we now know that the government is prepared to misconstrue the total capacity of the Victorian generation sector. We know that with a reduction in the order of 25 per cent of the base load capacity in the Latrobe Valley — as is presently the case because of outages at Yallourn and Loy Yang — there is no peak load capacity. The minister has come in here today after six months of claiming that this capacity would be available for this summer and, I believe for the first time, has clearly admitted that the government has done nothing to protect the interests of Victoria's energy customers. Electricity consumers in this state cannot now feel confident that they will be able to turn their lights and airconditioners on. They cannot be satisfied that the demand which they have for electricity will be met. Why is that? It is because this government will not pre-empt the industrial action being taken by the power unions to maximise their leverage at the most critical time. I do not entertain the prospect of taking sides in such a debate. I acknowledge what the Minister for Industrial Relations has said about this ultimately being between the employer and the employees. I acknowledge that the fact of the matter is that that is the case but when this disputation reaches a level — as it has now — where we have three months of commitment by the power unions to disrupt the continued generation of electricity at Yallourn, the consequence of that will inevitably be there will be uncertainty in the Victorian electricity market. That uncertainty will translate itself into uncertainty among the community as a whole.

There is no doubt that the government has an obligation to intervene in this matter in the public interest and ensure that there is no industrial disputation in the period of peak demand for electricity in Victoria. It is the case clearly that this matter could be dealt with through the Australian Industrial Relations Commission processes if the government were prepared to act in the interests of the Victorian public. There is no doubt that that would be the best outcome. However, failing that, and given that the Minister for Industrial Relations has demonstrated her impotence in dealing with the trade union movement — she has failed in every respect to have any bearing on the outcome of any industrial dispute during her watch as minister — it is clear that although the expectation of the community would be that a Labor government in bed with the trade union movement would have some influence, would be able to assert some modicum of responsibility and would be able to ensure that the power unions acted in the public interest, this Minister for Industrial Relations has proved that she is an abject failure. Her response to the electricity industry crisis in this state has demonstrated that on three occasions — in February and November last year and again in December this year the industrial relations minister has proven to be a complete failure.

That leaves us with the emergency provisions in part 6 of the Electricity Industry Act. I have heard the Minister for Energy and Resources say in this place over recent days that there is no threat to power supplies and those emergency provisions can only be used if there is a threat. In case the minister has not seen a copy of her act recently — we should bear in mind that last year this house adopted a substitute electricity

industry act in lieu of the 1994 act — it contains essentially the same provisions as the old part 3.

Part 6 of the act provides for anticipation of a threat. If the minister does not understand what anticipation of a threat is, I point out that anticipation of a threat is a set of circumstances and parameters which clearly indicate that electricity supplies will not be continuous. Not being continuous means disrupted by the failure of the generation sector to operate unhindered by industrial relations. In case the Minister for Energy and Resources is not aware of this, the Governor in Council can proclaim part 6 provisions and, as the responsible minister, the Minister for Energy and Resources can direct that the unions desist from those actions.

If the minister is not prepared to do that in anticipation then she will be accountable to the people of Victoria for any power failure this summer. As the minister knows, there are three months of peak demand which cannot be predicted because, as she also knows, we do not control the ambient temperatures. However, we know that we can have an influence on the generation capacity in terms of managing the industrial relations circumstances.

It is quite clear to this house that although the minister continues to deny responsibility for any aspect of the energy industry which she finds embarrassing to deal with and continues to claim credit for the reform achievements of the previous government, that will not wash any longer. The minister is two years into this position and she has failed in her responsibility on two previous occasions. As I said in an earlier debate this morning, three strikes and she is out. Victorians will not stand for the lights going out three times under her watch, and if the lights go out this summer she will be responsible. Everybody will know it, as everybody in this place knows it.

I was interested to hear during question time today that one of the claims the minister made was that the Bracks government was responsible for facilitating additional generation capacity and that the Kennett government had failed to take any action in that regard. I remind the minister, because she has a very short memory, of a debate in this house only a couple of weeks ago about ministerial responsibility for her portfolio. In case the minister has forgotten I will remind her that I pointed out at that time that in one of the reports upon which she claims she relies — that is, advice from the independent National Electricity Market Management Company, or Nemmco, which has the coordinating role for the financial market — it was said in relation to reserve levels that:

> … adequate reserve levels are likely to exist in Victoria until the 2002–03 summer.

That comment was made in the annual statement of opportunities report dated March 1999. The addendum to that report, which was published in June 1999, reiterated that advice about the summer of 2002–03, stating that sustained adequacy levels would be maintained until then. I then went on to say that because that was the last advice given to the then coalition government before the change of government it was not an unreasonable thing for the previous government to be — as the current government has said — reliant on a competitive market to attract and drive investment. So there was no pressure on the previous government in terms of these matters.

However, the game changed. What happened following the change of government? The first advice from Nemmco to this government — and to the minister, who took no note of it — was the statement of opportunities for 2000 published in March of 2000. What did that advice say?

The DEPUTY PRESIDENT — Order! Mr Davis has had a wonderful time for about 20 minutes. Perhaps he might return to the bill.

Hon. PHILIP DAVIS — I will conclude this point so it does not leave people wondering what I was going to say. In March of 2000 the statement of opportunities said that a change was forecast:

> … due to the significant increase in forecast peak summer loads in South Australia. This brings forward the point at which both regions have insufficient reserves to meet the reliability panel minimum reserve levels to the summer of 2001–02. This represents an advancement of one to two years.

I will take your direction, Mr Deputy President, and return to the bill. The bill is about energy legislation and under the scope of the rules of this house I would have thought that the title of the bill would allow for a wide debate, therefore I will continue to make some general remarks before getting to the specifics of the bill.

The bill is entitled the Energy Legislation (Miscellaneous Amendments) Bill and its purpose is to clarify the regulatory framework for the electricity and gas industries. Its principal purposes are to provide complementary amendments to the Electricity Industry Act 2000 and the Gas Industry Act 2001 in relation to consumer safety net provisions and to streamline existing default contract provisions in both those acts. The bill also amends the supplier-of-last-resort provisions in both the Electricity Industry Act and the

Gas Industry Act and provides for technical amendments to the electricity cross-ownership restrictions as they apply to new generation facilities, the approval process applying to any retail gas market rules and the scope and operation of the cost-recovery power contained in the Gas Industry Act.

I should indicate that on the basis that this bill primarily deals with extending the customer safety net provisions in anticipation of full retail competition, the Liberal Party will not oppose the bill. However, I repeat that although the minister would like to claim some credit for implementation of full retail competition, the house needs to be reminded that this is occurring more than 12 months late. The implementation is a year behind schedule, as the minister acknowledged in her remarks.

Hon. C. A. Strong — It is a few years behind the original schedule.

Hon. PHILIP DAVIS — Yes. On the original schedule that was established the implementation is a year late. As a result of being a year late Victoria has seen a lack of competition, and the consequence of that is being seen in the form of pressures on prices. The minister has made the clear point in her remarks in media releases and elsewhere that she acknowledges that competition will put a discipline on prices, and I agree with that sentiment. So why is the minister a year late? She is a year late because she was asleep at the wheel in 2000, as was demonstrated by my observations earlier about industrial disruption to security of supply.

In relation to full retail competition it is important to note that there is now great speculation in the industry about sovereign risk. The reason there is speculation about sovereign risk is the capacity of the government to cap prices in a way similar to California and to repeat errors made there, where the capping of prices in the retail market ultimately led to a dysfunctional electricity market and to retailers going broke because they could not continue to provide electricity at a price below the cost of purchasing it from the wholesale market.

Clearly the electricity industry is concerned about the approach the government is taking to price setting, and so it should be given the recent comments the Premier made publicly on the several occasions at least that I heard him on radio when he clearly indicated that he either did not understand or did not really care about the proper processes to be observed in dealing with standing offer tariffs to be determined shortly. As I understand it the government will imminently make an announcement, unless it has already done so today and I have not heard it. The fact is that there is a fast-approaching deadline for the government to announce its response to retail prices determined under standing offer contracts, the result being that we are seeing a great uncertainty entering the electricity retailer marketplace.

Because of the exigencies of time and the enthusiasm for the house to deal with the business before it this day, and on the basis that many people have predicted certain outcomes about the time the house might get up this evening, I thought I might continue a bit longer. The reason for that is that this is a very important debate. I want to make the following point. This bill is about extending the regulatory framework in terms of safety net provisions, and although it is set in that context there are other relevant matters.

The competitive market and the protection of customers depends substantially on there being an effective marketplace. It is truly my belief that the way this government has dealt with and mismanaged the electricity industry over the past two years means that consumers will be disadvantaged by a consequence of neglect — that is, that we have not seen proactive management by this government to ensure that there is a fully effective contestable market and that it is sending satisfactory signals to the market about the market's ability to get on with it without undue interference.

The ill-informed remarks by the Premier have really set the scene. I urge the minister to make every effort to remedy the concern that is being felt in the industry because I believe it will have an enduring impact on long-term investment in the electricity industry infrastructure in this state. I am concerned that unless the decision the government will imminently make about standing offer tariffs is a sensible decision which reflects the true cost to the industry of the increasing price of electricity in the wholesale market, although there will be a short-term political benefit for the government by the arbitrary capping of prices there will be a long-term crisis in the function of the market in Victoria.

Hon. P. R. HALL (Gippsland) — I welcome the opportunity to make a few comments on the Energy Legislation (Miscellaneous Amendments) Bill on behalf of the National Party.

Full retail competition within the electricity industry is finally in sight — finally. We understand by an announcement from the minister just days ago that the switch-on date for full retail competition is 13 January 2002. That is almost exactly a year beyond the date that it was originally planned; nevertheless, we will see it

next January. It seems that we have been preparing for full retail competition for an eternity. In most sittings of Parliament over the past three or four years amendments to the Electricity Industry Act and/or the Gas Industry Act to facilitate full retail competition have been passed through this Parliament.

It is a brave new world with full retail competition so one would expect that unforeseen issues will arise from time to time and that therefore there will be a need to amend both the Electricity Industry Act and the Gas Industry Act. Here we are again today doing exactly that — we are making some relatively minor amendments to both those acts to facilitate the introduction of full retail competition. As has been said, full retail competition for consumers using less than 40 megawatts of electricity per year will commence on 13 January. That will provide a choice of supplier to all domestic households and some small businesses.

What does it mean to those small customers? I am sure every mum and dad in their homes will wonder what this business of full retail competition means and what they have to do. Recognising that it will be confusing to some extent and bewildering to some people, the Office of the Regulator-General has undertaken an education campaign to prepare people for the advent of full retail competition. I commend the Office of the Regulator-General for its campaign entitled The Power of Choice, which I think has been done in an excellent way.

They launched it on Tuesday, 9 October, this year with a press release. That press release gave a history about competition within the electricity industry. For example, it stated that:

> … those consuming more than 160 MWh/y have been contestable since July 1998.

There has been a staged introduction of retail competition. As of 1 January 2001 those consuming more than 40 megawatt hours of electricity per year had a choice of retailer. On 13 January 2002 all Victorian households and businesses whose electricity consumption is less than 40 megawatt hours per year will also be able to choose their own retailer. That means that they will be able to shop around and there will be up to about 15 licensed retailers from whom they can choose to have their electricity supplied.

I thought the press release on Tuesday, 9 October from the Office of the Regulator-General was instructive in helping to explain what full retail competition was all about, as are the subsequent booklets. One booklet is entitled ‘Competition is coming.’ and another ‘All about your new power. A step-by-step guide’. In simple language they explain some of the concepts of full retail competition, what choices are available, how they work, whether you will be protected and what happens when you rent and you move in. Do you have to immediately sign up to a contract for the ongoing supply of electricity? It sets out all those queries in a simple and easy to understand way. Also the booklet ‘All about your new power. A step-by-step guide.’ elaborates on some of the points in the earlier brochure and gives definitions of some of the terms that are contained in the bill before the house and in the two acts.

I commend the Office of the Regulator-General for its education program entitled The Power of Choice. It was necessary and has been done well by the office. I have the greatest admiration for the work done by the Office of the Regulator-General since it was put in place by the previous government. The work it has undertaken has been recognised across the nation as the ideal model to oversee a deregulated industry, whether electricity, gas or other commodity markets. It has been an outstanding success. On 1 January next year the title of the Office of the Regulator-General will change to the Essential Services Commissioner and it will take on a broader range of essential services. My only hope is that the Office of Regulator-General does not lose the focus it currently has on the electricity and gas industries. It has done particularly well there and has done some pioneering work towards deregulation within those industries. I am sure it will continue to perform that good work although it will have some broader responsibilities.

I also enjoy reading the annual report of the Office of the Regulator-General. Some annual reports are confusing and give little information — they give just a quick overview of the work undertaken by an organisation throughout the year and then the financials for the year — but every year the Office of the Regulator-General gives some explanation, insight and background into the work that it has undertaken. Once again the recent report of 2000–01 is one of the best annual reports I have read.

Honourable members interjecting.

Hon. P. R. HALL — I just said I do not usually get excited reading annual reports but this one is full of background material that really adds to one’s knowledge. Some of the explanations one receives for these complex industries can be difficult to understand but that is not so with the report of the Office of the Regulator-General.

Honourable members interjecting.

Hon. P. R. HALL — I am struggling to find what the honourable members are amused by. Am I being laughed at because I bothered to read an annual report? Is that the go?

Honourable members interjecting.

Hon. P. R. HALL — I got excited because it uses such simple language. I might have a quiz for honourable members in the house to test how well they understand the complex structure of the electricity and gas industries. I do not think they would do too well, but I would do better than most because I have read the annual report of the Office of the Regulator-General, which sets out the information clearly.

If they do not want to read the whole report I refer honourable members to page 25, because it sets out the structure of the Victorian electricity industry as of 30 June 2001. It uses pictures — that would be helpful for some honourable members — to illustrate generators within the industry. I point out that Latrobe Valley still supplies in excess of 80 per cent of Victoria's power needs with its various power stations like those of Loy Yang Power, Yallourn Energy, Hazelwood Power, Edison Mission and AES Transpower, which has a gas-fired power station in the Latrobe Valley. It then illustrates transmission, which is through the big pylons owned by SPI Powernet that take high-voltage power around the state.

A number of distribution companies such as Powercor — which I understand has been taken over by Origin Energy — AGL, Citipower, United Energy and TXU Australia are distributors in this state. The report indicates that there are something like 19 registered retailers, although in the information supplied by the Office of the Regulator-General in its education campaign we are told 15 retailers will be available for people to potentially sign on with as retail suppliers of domestic electricity. Finally, at the bottom of the chain, the report mentions the customers. There are something like 2.13 million customers in the state of Victoria.

Again I refer honourable members to one of the better annual reports I have read — that is, the report of the Office of the Regulator-General. It is very instructive.

Hon. Philip Davis interjected.

Hon. P. R. HALL — It might be better than some of the stuff you might read before going to bed, Mr Davis!

The bill amends the Electricity Industry Act 2000 and the Gas Industry Act 2001. The second-reading speech states:

> This bill represents a further step in refining the regulatory framework in accordance with the government's energy policy.

It seems to me that this government's energy policy is not much different to the previous government's energy policy. There has been no dramatic change of direction since this government came to office. It has recognised that the direction taken by the previous government was appropriate for Victoria's energy industry.

I refer to some of the clauses in the bill. Clause 6 amends the supplier-of-last-resort provisions in the Electricity Industry Act. In essence the supplier of last resort means the default supplier. If the current supplier goes out of business for some reason, then the default supplier or the supplier of last resort comes online so that people continue to get electricity. The amendment provides greater security for customers who have been forced to go to a supplier of last resort.

Clause 7 substitutes proposed new section 39 and repeals section 40 of the Electricity Industry Act. The proposed new section deals with deemed contracts. That term is explained in one of the pamphlets produced by the Office of the Regulator-General. The simplest example I can give of a deemed contract is one where somebody moves into a new house or rental accommodation which is connected to a supplier. Until such time as they sign a new contract with the existing retailer or with a new supplier, they are said to be on a deemed contract. A deemed contract covers a period of 180 days or a cycle in which the consumer receives two electricity bills. Within that time the supplier must notify the customer of the terms and conditions that it is prepared to offer if it is to undertake the ongoing supply of electricity to that customer. Of course, during the period of a deemed contract the customer has the option of looking elsewhere at alternative suppliers.

Clause 8 clarifies arrangements that allow for the limited scope of cross-ownership in the electricity industry. That was an issue debated previously when amendments were made to the Electricity Industry Act. The amendments in this bill simply clarify the provisions to which the Parliament has agreed.

Clause 11 amends the Gas Industry Act by inserting supplier-of-last-resort provisions. They are virtually a mirror image of the section inserted in the Electricity Industry Act. Clause 12 substitutes a proposed new section 46 covering deemed contracts as provided for in

the Gas Industry Act. Again, it is a mirror of those provisions in the Electricity Industry Act.

Other clauses of the bill include provisions for the Office of the Regulator-General to approve, change, or not approve rules in respect of the retail gas market. There is also an amendment that will enable Vencorp to provide services beyond Victorian borders.

From consultation undertaken by the National Party it appears that most of the players in the electricity industry are reasonably happy with the amendments contained in the bill. Typical of one of the responses I got back was that from Mr Tony Wood of Origin Energy. He thanked me for sending him a copy of the bill and the second-reading speech and made these remarks in response:

> This bill addresses quite a range of procedural and associated issues that arise from the introduction of full retail competition to the energy industry. Origin has been, and continues to be, involved with the various arms of government in working through the many challenges posed by this major development. We are, therefore, familiar with the proposals of the bill. Whilst this will never be a perfect arrangement, we expect that most of the proposed amendments are sound and will provide a working environment to facilitate customer choice, avoid confusion, and also minimise the occurrence of 'lost customers'. Hopefully we have learned from the experience in other markets. It is likely that there will be a need to further refine the rules and procedures as the market develops.

He goes on to say that they have a few minor concerns but he is confident that with the processes in place to work with the government and the Office of the Regulator-General those minor differences and concerns will be resolved. It is pleasing to know that people involved in the industry are comfortable with the bill.

I need add no more. It is a relatively narrow bill. It will help refine, improve and facilitate the introduction of full retail competition in the electricity industry starting next January, and within the gas industry when it comes. The National Party is pleased to support the bill and wishes it a speedy passage.

Hon. G. D. ROMANES (Melbourne) — The extraordinary attack on the minister and the Premier by the Honourable Philip Davis earlier reminded me of the pathetic character Scrooge in the *Christmas Carol*. Mr Davis conjured up in my mind the image of him sitting and rubbing his hands with glee during the Christmas holiday period, not over the mounting pile of dollars on the table but the prospect of the possibility of a power blackout in Victoria. I am sure he would be gleeful if that were to happen.

I remind Mr Davis and other members of the house of the statement made earlier today by the Minister for Energy and Resources, in answer to a question from the opposition, that there is no threat to Victoria's power supply this summer. I also refer honourable members to the minister's media release dated 1 October in which she reported on an update from the independent operator of the national electricity market, Nemmco, on Victoria's summer electricity supply outlook. Nemmco released a report confirming that electricity reserves are expected to remain above the minimum reserve margin required for this coming summer.

Earlier today the minister also made the point that the Bracks Labor government has facilitated an additional 100 megawatts of capacity of electricity in the state.

Hon. Philip Davis — You missed a zero!

Hon. G. D. ROMANES — Sorry, 1000 megawatts.

The Bairnsdale gas-fired station and the Codrington wind farm have been commissioned, and the Somerton, Valley Power and second generator at Bairnsdale will be commissioned over the coming months.

In the mid-1990s the Kennett government began the disaggregation and the sell-off of Victoria's energy system. Since then Parliament has dealt with a number of amendments and finetuning of legislation which provides the framework for the privatised electricity and gas industries. The Bracks government is committed to making the new regime work for the benefit of and to continue to provide for all Victorian customers. In this changing scene there has been the need to respond to new knowledge and experience as the systems evolve to make this privatised regime work as concepts such as contestability become a reality and as Victorians come to terms with the new language in this area, such as standing offers, default and deemed contracts, suppliers of last resort, and so on.

The bill is consistent with the Bracks government's commitment to full retail contestability in the Victorian electricity and gas markets. The minister said that full retail contestability of the electricity industry will begin in Victoria on 13 January 2002 and in the gas industry towards the end of 2002. The purpose of the bill is to introduce complementary amendments to the Electricity Industry Act 2000 and the Gas Industry Act 2001 with regard to specific safety net provisions associated with the implementation of full retail contestability. In particular, as Mr Hall has outlined in detail, the purpose is to clarify the operation of existing default contract provisions which arise in circumstances when a customer takes supply without having entered

into contract with the relevant retailer. In some cases it is called the move-in or change-of-premises scenario.

The bill seeks to clarify the supplier-of-last-resort provisions and the ability of gas businesses to recover certain full retail contestability-related costs. The bill also enables Vencorp to investigate opportunities to sell the systems and services it has developed to meet the needs of full retail contestability to other states, provided there is a case and that the Minister for Energy and Resources, in consultation with the Treasurer, approves the action.

Mr Hall made the point that the energy policy of the Bracks government is no different from that of the previous government. I beg to differ. Energy is a different market from other goods and services. It is problematic in establishing a fully competitive market because it is not a product or service that can be turned on, turned off or stored; it has to be used as it is produced. It is a non-discretionary expense and a requirement for households and industry. Large customers would find it difficult and expensive to substitute as a fuel source, and substantial public goods and merit goods are involved, such as welfare and rural development needs.

The Bracks government has taken an important step to improving the regime it inherited from the previous government. The government has put in place major customer safety net provisions to ensure that domestic households will be protected and access to retail supply for all customers will be assured. The customer safety net comprises a number of features, as set out in the principal acts, such as the standing offer, deemed contracts, default contracts, fundamental terms and conditions, community service obligation agreements, and reserve pricing power. Those provisions have been included to provide customer protection that was not in place before the Bracks government began the process of dealing with and remedying the problems.

The broader community has expressed concern about privatised electricity and gas systems and the regime of full retail contestability. I direct the attention of the house to a publication *From Universal Service to No Service? — The Redlining of Vulnerable Electricity Customers in Victoria*, written by Andrea Sharam from the Energy Action Group.

Just as Mr Hall used the annual report of the Office of the Regulator-General to further his knowledge of the complexities of the industry, so this publication has certainly widened my thinking about the complexities of the energy industry. The Energy Action Group draws attention to something called redlining, which has emerged in various deregulated industries in parts of the world and in different sectors, including the electricity industry in the United Kingdom. Redlining is described as discrimination against particular consumer groups in the form of allocation of costs to those who have least capacity to avoid them, and is a situation where retailers encourage low-return customers to go to another supplier and in fact cherry pick the most reliable customers who are most able to pay for services.

The concerns expressed in this publication about the ways in which full retail contestability may operate against the wellbeing of some of the most vulnerable people in our state highlights some of the fears that people still have about the system that is about to commence from 13 January next year. As well as those concerns about fuel poverty, members of this house listened to the energy industry ombudsman for Victoria also voice her concerns about protection for those who have most difficulty in paying their energy bills and about whether the safety net provisions will adequately provide for them when we enter this new phase.

I raise those matters because there is still uncertainty about this new situation that we are about to encounter as of January next year, and we are in uncharted waters. As Mr Hall mentioned earlier, the Office of the Regulator-General is attempting to assist people to chart those waters through the customer education campaign about full retail contestability. The options which are being put forward and which are drawn to the attention of members of the public in Victoria are, firstly, to do nothing and stay on existing arrangements; secondly, to accept the standing offer of their local and current retailer; and thirdly, to enter into a market contract with any retailer of their choice.

About 2 million small business and domestic household customers will be involved in these changes next year. Despite the education campaign that is being conducted by the Office of the Regulator-General, it is very difficult to tell what the public's response to full retail contestability will be around 13 January next year and thereafter. As we know, most people do not engage in issues until a change actually occurs. That would be a good reason for having that do-nothing option, with default and deeming provisions that have been put in the safety net.

It is not really known at this stage what the triggers will be to prompt people to make an active choice about who their electricity retailer will be. Nor given the range of complexities of the energy systems — as alluded to by Mr Hall and as referred to by the Energy Action Group publication — do we know what may emerge as the unforeseen consequence of such

fundamental changes from what we have had — that is, universal service and pricing — to full retail contestability. But what I do know is that the Minister for Energy and Resources and the Bracks Labor government have put in a lot of work and are ready to meet that challenge of making this system that we have inherited work for the benefit of all sectors of the public.

The progress of the bill today will assist in refining and improving the regulatory framework and operation of the relevant acts in line with government energy policy. By December 2003, when these safety net clauses sunset, there will be a review of the way the system is operating to see whether competition is delivering the desired outcomes and whether further adjustments need to be made. I remind members of the house that there are many sceptics out there who are uncertain whether this new privatised system of energy supply, with full retail contestability as a central pillar, will be able to deliver the benefits which were promised when Victoria's electricity and gas industries were broken up and sold to the highest bidder by the former Kennett government.

I remind the house that those promised benefits were lower prices, better customer service and greater reliability of supply. It has taken a lot of effort and work through adjustments to the legislation over the past few years to put in place a legislative regime and a regulatory framework which will begin to fix up some of the mistakes of the past and to move towards delivering on those sorts of benefits.

I understand there has been considerable discussion and negotiation with the honourable member for Gippsland East in another place regarding the pricing of bottled gas and the feasibility of moving amendments to this bill. Clearly the government is sensitive to the concerns of people, particularly those in regional and rural Victoria, to ensure they pay a fair and reasonable price to cook, heat and have access to hot water in their homes. In response to these requirements I understand the government has committed to undertaking a review of pricing of bottled gas intended to be used for domestic and commercial purposes.

I take this opportunity to commend honourable members who represent regional Victoria for raising this matter with the government. That review, which will be an important piece of work, will examine those needs in rural and regional Victoria. That is a commitment by the government, just as it has committed to review the operation of full retail contestability. This is an important bill to have in place before the changes take effect early next year with the move to full retail contestability. I wish this bill a speedy passage.

Hon. C. A. STRONG (Higinbotham) — I rise to speak on the Energy Legislation (Miscellaneous Amendments) Bill. This is one of the last and also one of the most dangerous steps in the process towards full retail contestability. In essence it throws into question whether we will be going to full retail contestability within a free market or a regulated market, or whether we will be going into some form of camel between the two, with all the dangers that that brings forth.

It is worth saying that the current Yallourn and Latrobe Valley problems could well shrink into insignificance if this last step is not carried out properly. We only have to look at the current situation in California, with the largest international energy trader, Enron, going into bankruptcy — the largest bankruptcy in the world — to see the issues that arise in dealing with energy in this half-free, half-regulated camel market. Is this a free market or is it a regulated market, or is it somewhere in between? We can look closer to home at AGL in New Zealand, which got into all sorts of trouble for the same reason and which has lost millions of dollars.

This last step is very risky, but nevertheless I am glad we are now taking the step to full retail contestability on 13 January. I congratulate the minister on pushing the go button, because there have been many obstacles along the road. They include whether we would have profiling or smart meters and what sort of smart meters they would be, and whether they were to be connected directly by the telephone or whether we would have interval meters to be read monthly or quarterly. There were issues to do with the system, including support for swapping customers; the whole metrology thing, which has gone on and on; whether we would have contractual arrangements between retailers and distributors or between distributors and customers; and who would own the meter and who would not.

All these issues tended to be put in the way to slow up the process. I am glad to say that at last we have cut through them, because in truth many of them will not be solved in the abstract. If you try to construct scenarios for everything that can possibly go wrong and work out solutions for them, you can procrastinate and delay the implementation of full retail contestability for a long time.

In many cases those constructed scenarios may not be a problem. If they are, they may be only small problems that are fixed up as part of the implementation process. I am glad that we are going in that direction. Undoubtedly there will be problems, so there needs to

be an element of tolerance on the part of Victorian consumers. The little glitches along the way will be fixed, and the market will find that all the processes involved in swapping from one retailer to another will happen quite smoothly in a very short time.

Talking generally about what all this means, it is a great pity that we have had this delay in implementation, simply because we are coming to full retail contestability in a market which is somewhat more hostile and more difficult than it would have been 12 months ago. That is not a problem of all the systems, but it is a problem of the market. It is a pity that we did not come to full retail contestability earlier, because I feel the market would have operated much better; the supply–demand balance was much more in favour of customers, the price signals would have been able to develop more clearly over the last 12 months and the generation responses would have been developing as a result of those price signals. Now, because of the state of the supply–demand balance, that more orderly progression of the market and its more orderly response to those price signals will be fraught with many more dangers.

It is important to touch on some of the consequences to the new fully contestable retail market — if it is a fully free market — such as the impact of the Yallourn dispute. Although understandably we have focused on the question of a termination of supply — of blackouts and so on — as a result of the Yallourn problem, another problem will manifest itself clearly in the freer market — that is that as a result of the Yallourn problems, on a day like today there will not be a blackout because the weather conditions simply do not support it, but the price of electricity will go up very significantly. If the rain stopped and the weather improved slightly there still might not be a blackout but the price of electricity would go up very significantly. I am not talking about 10 or 15 per cent but about hundreds of percentage points. I am talking about an average price that may be somewhere between $30 and $50 per megawatt hour. When these sorts of constrictions are in place I am talking about $4000 to $5000 per megawatt hour, and as we move to a freer market the effect of those price signals will be felt by the customer, which will significantly affect the discipline of the whole system.

Essentially the bill deals with two issues I want to dwell on, and they are the supplier of last resort and the deemed or standing offer supplier. The deemed or standing order offers are tariffs and conditions that will be set for customers who in essence do not go out and negotiate something different; this is a default tariff from which a person will negotiate a variant. For the next three years the government has taken on to itself the capacity to set that tariff at any level it seeks to set it at. As we know, the government currently has in front of it offers from the major retailers of what that standing offer tariff — that deemed tariff — will be. It has to be enormously careful how it responds to that because if it responds at a level that is not market reflective, if it tries to cap the retail price of electricity when the price of wholesale electricity from the generator is uncapped, then the opportunity exists for huge losses to accumulate very quickly.

Hon. T. C. Theophanous — Why didn't you support it?

Hon. C. A. STRONG — I am highlighting the risks that the government has taken by taking upon itself the ability to overrule market prices for the next three years, which I suspect we would not have done quite like that. So it is not a question of supporting it; we are supporting the model.

Hon. T. C. Theophanous interjected.

Hon. C. A. STRONG — Had Mr Theophanous been here earlier he would have heard me deal with the fact that it is unfortunate — I am not attaching blame to this — that we are starting this new system in a time when the supply–demand balance is nowhere near as attractive to a free, well-operating market as it would have been 12 months ago.

Hon. T. C. Theophanous — Are you going to accept some responsibility for that?

Hon. C. A. STRONG — Certainly not for the last two years, no. Perhaps for the sake of pressing on I might address my remarks through the Chair, Mr Deputy President. However, I felt it necessary to respond to some of the provocative remarks coming across the chamber.

Hon. T. C. Theophanous — No-one took any notice of you when you were at the SEC, so why would anyone take any notice of you now?

Hon. C. A. STRONG — I could take offence at that remark, because it is factually untrue. The models for the electricity industry that I was working on and promoting are essentially the models that exist today. You cannot get a better demonstration of being taken notice of. As usual, Mr Theophanous does not know what he is talking about.

I was saying that the way in which these deemed standing-offer tariffs are capped is enormously important for the market. The government must

manage this with enormous care, because if at the retail end the free market is excessively interfered with and there is no regulation at the wholesale end, as has been the experience overseas — most recently in New Zealand — the impact can be extreme.

I urge the government to think carefully in arriving at its decision and to listen to the advice it gets from the Office of the Regulator-General to ensure that tariffs are workable rather than opting for some politically acceptable short-term solution. I caution the government about taking what might seem to be the politically acceptable course of capping the standing-offer tariffs at what they are now plus consumer price index increases for 12 to 18 months, because history has shown that these things cannot be held off for that long. They can come home to roost enormously quickly!

I now turn to the issue of the supplier of last resort, which is extremely dangerous ground to run on. It means that certain tariff conditions will apply if the system starts to implode and a retailer goes out of business and its customers have to be picked up by a supplier of last resort. If that tariff is too low the problem may snowball. Things may have started to fall apart because the standing-offer tariffs were too low, but if the supplier of last resort tariff is too low, the whole thing may flow through the chain until we reach a Californian-type scenario.

Because suppliers of last resort are a combination of retailers and distributors, cross-subsidies can start to creep in, going from the distribution arms to the retailing arms of their businesses, and as a result the distribution system may start to run down. Of course many of the distributors have quarantined or ring-fenced their retail arms from their distribution arms, so if they do get into retail trouble they can bail out of that area and the main assets, which are held in their distribution companies, are protected. That can then flow into Corporations Law issues, et cetera.

As I said at the outset, this is an important last step. It allows the government to set the standing-offer tariffs and the supplier of last resort tariffs at any level it wishes for the next three years. If that is not done with great care, the problems we have seen at Yallourn will be insignificant and the government could be responsible for bringing down one of the biggest industries in this state. I urge the government to make sure it sets these tariffs at realistic market levels, otherwise the system simply will not work.

Motion agreed to.

Read second time.

Third reading

Hon. C. C. BROAD (Minister for Energy and Resources) — By leave, I move:

That this bill be now read a third time.

In so doing I thank all honourable members for their contributions to an interesting debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 1.02 p.m. until 2.07 p.m.

AUDIT (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 4 December; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. D. McL. DAVIS (East Yarra) — I rise to make a contribution on the Audit (Further Amendment) Bill. In doing so I want to place on record that the opposition does not oppose the principles behind this bill. There are a number of things in the bill that are important and we welcome those changes. However, there are a number of aspects of the bill with which the opposition has some concerns, some of which have been flagged in the other place where there was considerable discussion, and there are also a number of points that the opposition wishes to make in this place.

The bill has received some publicity over the recent period and it contains a number of provisions that the opposition is quite concerned about. The opposition is appreciative of the background information that has been provided by the minister and is pleased to have received a briefing and follow-up information, which have been of assistance. The points of the bill where the opposition has some issues are matters that we are quite happy to continue discussing with the government. The shadow Treasurer and the opposition believe this is an important bill, it will be better if there is wide agreement across the Parliament and it is preferable to resolve these issues and points of discussion between the parties in an amicable way so we can come to agreement.

The bill is important because auditing is a crucial aspect of what is required in the public sector. The Auditor-General has a very important role as a

watchdog. He is in a position of trust to ensure that government accounts are presented in a very accurate way and that where there are difficulties or concerns about some public or statutory authority or government department in terms of spending he is able to investigate those matters and come to conclusions which are reported to the Parliament.

In this context some views have been developed by a number of people both in opposition and in government about how auditing ought to be undertaken. Discussions have occurred between the government and the opposition, not specifically in relation to this bill, but more broadly — for example, I have had discussions with other members of the Public Accounts and Estimates Committee about the style of auditing that is undertaken and the way that those audits are presented to the people of Victoria and this Parliament. My personal view is that when audit reports are placed before this Parliament or the people of Victoria they should be as full as possible and contain the greatest amount of detail.

There is a developing view across public sector auditing — and I do not particularly refer to the current Auditor-General — that on many occasions audit reports to Parliament or to government agencies ought to contain the bare bones — just the conclusions and not necessarily much of the detail that is garnered or gathered as an audit process or when an audit trail is followed. I take as an example — and I could pick a number of examples — a public hospital or a school or part of the education department — and I am not in any way singling them out; I am just using them as an example — where an audit by the Auditor-General is undertaken due to either a regular process or a specific process or even at the request of an agency. In my view there is a set of questions you would want to ask about how that is done and what process is followed. What is reported is the crucial thing — for example, you could simply report to the Parliament and the people of Victoria or to an authority the conclusions of an audit rather than the steps that led you precisely to that conclusion, and some of the colour and background behind those conclusions.

I agree with the changes that are occurring in auditing. At a previous time there was a style of auditing where the audit report was simply tabled or simply presented to an authority, and it reacted to that audit. At the moment there is a developing trend to bring greater early involvement of the authority or body being audited and to feed back to it aspects of the changes that are recommended and to make those changes and alterations in evolution as the process is being undertaken rather than to wait until a formal report has been provided. That is a process I support, and it is a process that makes sense.

If difficulties or reporting problems or concerns emerge, the auditor is within his rights — and I think it is a process that is to be encouraged — to bring the authority into his confidence at that point or make relevant reports to the correct authorities, or to ensure that processes are improved from an early stage. I support that process. However, I support it with one caveat, which is that it is very important for that early intervention, that involvement and those corrections that have occurred to be reported as part of the reports that the auditor presents so that the people of Victoria and this Parliament are aware of the fact that as part of the way through the process there may have been a feedback process that ensured that the authority or body being investigated was correcting any errors or problems that occurred. It is important that that process is undertaken in a sensible way and that it is transparent.

Having made those broad comments, I want to turn to what the bill does. It amends the Audit Act 1994 to clarify and give additional powers to the Auditor-General. It amends the Constitution Act 1975 to provide a statutory indemnity for the Auditor-General and his staff. The bill amends the Financial Management Act 1994 to alter the tabling requirements for reports and statements.

The Liberal Party strongly supports many of these amendments. It is reasonable that that clarity of indemnity be provided to the Auditor-General and his staff where they are acting in good faith, where they are going about their normal work within the scope of the act and carrying out their duties in a proper way. That is consistent with other areas of legislation, and I believe that as an opposition we have reasonable support for that. I am not aware of any specific difficulties that have occurred in this area, but given that this indemnity is being put forward by the government, I think we support that in principle.

Another aspect of the bill is the disclosure of information in reports yet to be tabled. This is an issue that the house has recently dealt with in another format, where reports to be provided to this house have been leaked to the press at an early point, and that is something of great concern to the house. The Liberal Party is certainly of the view that at least it is disrespectful to the house and to the broader Victorian community for things to be leaked from either an Auditor-General's report or another report that is required to be tabled in this Parliament.

In the sense that there is an argument that this is disrespectful to the house and may interfere with the process of auditing, I can see the principle that the government is wanting to approach. However, I note that the opposition has some significant concerns about this aspect, and I can only place on record my concerns and the concerns of the opposition that the current provisions lead us to the point where we believe that the section may catch many unintended groups, and I presume, being generous to the government, that that is unintended.

In the course of their duties journalists may be given access to a document that is leaked. It is important that the press is unimpeded in its duties and that it is in no way gagged or prevented from going about its proper and legitimate work. Although the press has many responsibilities and needs to undertake its work in a responsible, reasonable and ethical manner, it is important to ensure that information that ought to be public is on many occasions made public.

There are examples that all of us could think of where if something untoward were occurring the people of Victoria, and all of us in this chamber, would want to see that that information became public. The provisions in the bill, whether in an intended or unintended way, in my view would capture many journalists in the course of their normal and legitimate work. I know the government has provided some legal opinions, but, quite frankly, I am far from convinced by those legal opinions, as are many other opposition members and, I believe, a number of members of the press.

Hon. Jenny Mikakos — Did you read them?

Hon. D. McL. DAVIS — I am very much aware of the information in them — I have not read every centimetre of them, but it seems to me that this provision leaves enough openings to cause great concern for many in the community. I know many in the press in Victoria are very concerned indeed, as are honourable members on both sides of this chamber. Some honourable members on the other side of the chamber have longer memories than the newer members of this Parliament and they understand that at some point they may be in opposition rather than in government and that there is good reason for having arrangements in place that do not impede the activities of the press or members of Parliament.

None of that is to argue that people who are sent material by the Auditor-General in the course of his work and in a proper way ought to be empowered to leak material. I understand that the provisions of the bill that are intended to prevent leaking are an attempt to provide a better system and to enable the Auditor-General to go about his proper and legitimate work. But it is important when he seeks comment on part of a report or a report in its entirety that he can feel secure that that report will not be leaked.

Both the Constitution Act and the common law provide clearly that employees — in particular, those who in the course of their legitimate business handle draft reports or early versions of working papers associated with an Auditor-General's report — have a duty in the normal course of their activities to maintain a proper level of secrecy and dignity and not release that information. Having said that, there is little that can be said to suggest that this is a necessary provision. The oppositions thinks the appropriate way to handle this matter is for the Auditor-General to be able to clearly stipulate how widely he believes his report or partial report ought to be distributed for comment or input on its accuracy and whether it is in a proper format.

Although the opposition is not aware of very many occasions, there have been a couple of instances recently when it has become a problem. The Honourable Bill Forwood made comment in this Parliament about a report having been leaked, and recently the Workcover report was leaked ahead of time. So this can happen, and it is disrespectful to the Parliament and the people of Victoria.

However, I am also very cognisant of the need to not prohibit members of Parliament or journalists working in the press or electronic media going about their business in a proper way. One could fairly characterise the provisions as draconian, over-zealous, unhelpful and having the potential to limit the freedom of important groups like the press from going about their important public work that we would not want to see impeded. The health of our democracy could be damaged if this bill is passed and a wide interpretation is given to the provisions contained in it. That is an issue for all Victorians.

It is also important to place on the record some comments about other aspects of this bill. The extension of the definition of authorities to include public sector non-authority bodies is a provision that the opposition supports in principle. The provision to allow the Auditor-General to undertake other audit services is also of some significance, and the widening of the power to delegate is in line with a broader trend that is occurring.

I wish to comment about the time frame for the tabling of the Auditor-General's reports. The opposition has a number of concerns about the time frame as envisaged

by the government. Although on a number of occasions the Public Accounts and Estimates Committee has, in bipartisan fashion, supported the tabling of reports — not just Auditor-General's reports but reports generally — being tabled outside parliamentary sittings — I see Mr Hallam nodding — there are still a number of concerns and some caveats need to be put on that. In particular, the opposition is concerned that the tabling procedure will allow the government to manipulate the process and unfairly and unreasonably restrict parliamentary debate by careful timing of the tabling of reports to avoid proper parliamentary scrutiny. For example, if a report were tabled tomorrow — that is, after this Parliament rose — it is very likely there would be no opportunity for scrutiny subject to parliamentary privilege and in the forums of this house or the other house until late February or early March. That is a matter of some concern to the community, and there is a need to ensure that proper tabling procedures are in place.

The opposition has made a number of comments about the matter to the government, and it wants to comment on it further. Two business days is an appropriate length of time for notice to be given to ensure that people are aware of the time of tabling of a report. It is important that appropriate mechanisms are in place to ensure the proper scrutiny of reports that are tabled outside parliamentary sittings. The opposition strongly believes that the Parliament's scrutiny of reports — the Auditor-General's and others — ought not be compromised by procedures that are put in place. I want to flag that we in the opposition have a number of amendments we wish to discuss with the government and which we are prepared to discuss in further detail.

In my view it is more important that the bill be put in the right format — one which all parties in this house are comfortable with. It is important that that be done in a way that strengthens this important area of activity by the Auditor-General and that we are able to get to the best possible outcome. In that situation there is no reason for enormous haste, but we flag the need to continue discussions with the opposition.

Hon. K. M. Smith interjected.

Hon. D. McL. DAVIS — I am finishing now, Mr Smith, so you can rest comfortably.

I also want to record some concerns about the way this process has been handled by the government. There has not in my view been an adequate preparedness to discuss this bill and its implications in the wider sense, but I flag the need to consider some amendments. The opposition remains very prepared to discuss further aspects of the bill.

Hon. R. M. HALLAM (Western) — I rise to report that we in the National Party shall not be opposing the Audit (Further Amendment) Bill. We take that position on several specific grounds, and I want to go through those in explaining our reasoned position.

The first of those grounds is that we see this bill as clarifying and expanding the accountability, independence and reporting responsibilities of the Auditor-General. In our view that of itself makes it a supportable piece of legislation. Beyond that we recognise all the changes contained within the bill have been developed in consultation with the Auditor-General himself and in consultation with the all-party parliamentary committee, the Public Accounts and Estimates Committee.

I have spoken directly to the Auditor-General in relation to the bill. He is relaxed about the outcome of the negotiations, and I and others are consoled that the process by which the bill has been developed has been overseen by a committee of the Parliament. That is the second issue on which we base our decision.

The third is that we see all the changes within the bill as based on the assumption that the Auditor-General should be responsible to the Parliament as distinct from being responsible to the executive government. We see that as a supportable amendment as well.

For the record, given the attempts of recent days to rewrite history I repeat the fact that it was indeed under the previous government — that is, the Kennett government — that the Auditor-General became an officer of this Parliament and to that extent became immune from the influence of the executive government. I know that that is not a widely accepted fact, but indeed it is a fact at the end of the day.

Finally, the National Party came to the conclusion that this was a supportable bill when it was demonstrated that the changes contained within it are consistent with the rules that apply across the other jurisdictions, so there is nothing untoward or out of order in respect of the changes.

The amendments within the bill can be grouped under five classifications, and we looked at those in isolation. I will run through them briefly, because it is important that I put on the record precisely what the National Party sees as the effects the bill will have and the expectations we have of its practical administration. The first of those groupings goes to protection of the office and operation of the Auditor-General. We

understand and acknowledge that the independence of the Auditor-General is of a critical nature. We also acknowledge that the amendments within the bill go to that issue.

The Auditor-General and his staff will be provided with statutory indemnity where he and his staff have acted in good faith. We believe that to be an appropriate change. We draw the distinction between an indemnity and an immunity. This is not an immunity. This does not say that the Auditor-General is above the law. It simply says that where he and his staff have been acting in good faith he should be entitled to expect the financial protection of the public purse. We see that as being consistent with the protection and the indemnity given to other office-holders such as the Regulator-General, the Chief Electrical Inspector and the Ombudsman. On that basis we believe this bill to be supportable.

Under that heading there are also provisions which go to the question of confidentiality of the Auditor-General's reports. I acknowledge that there has been some toing-and-froing in respect of those provisions brought about in part by the experience of the last few weeks. On 21 November we saw a report into teacher work force planning tabled in this place. It is a very important report issued under the aegis of the Auditor-General. The unfortunate experience was that while it was listed on the notice paper for this and another place — the other house of Parliament — it appeared in detail in the *Age* of the same date.

We read about the effects of that report on the morning it was meant to be delivered to the Parliament. We take the starting point that that is absolutely disrespectful to the Parliament and contemptuous of the protocols of this place. But that is not the problem we believe we should address. The problem is the opportunity that an agency which is criticised by the Auditor-General has to manage that criticism — a chance to bring the spin doctors out of hiding and have them ready to put the best possible version of events out into the marketplace. So the timing of the access to individual reports is of a critical nature. That is why the National Party is cross about the experience of 21 November, why it is cross about the disrespect that that demonstrated to the Parliament of Victoria and why it is supportive of the increase in the penalties that relate to the breach in confidentiality which that clearly represented.

What the bill says is that where there is a breach in confidentiality from the time of the passage of this bill the penalties shall be very steep indeed. It says that if the breach is perpetrated by an individual, he or she shall be subject to a maximum penalty of 50 penalty units, or $5000, but where that breach can be attributed to a body corporate the maximum penalty shall be 250 penalty units, or $25 000. If we compare that with the law as it stands today where the maximum penalty is 5 penalty units, irrespective of whether it is an individual or a body corporate, we come to the conclusion that this is a very substantial increase in the penalty related to a breach of confidentiality — and we say, particularly on the basis of the recent experience, that that is not a bad outcome. We have come to the conclusion that it is not so much the disrespect shown to the Parliament, but the actual timing of the reporting of any report which is critical.

I want to explain how that process works because to me it is very important that people understand what is going on here. The Auditor-General, in doing a report into a particular agency, particularly a performance report, is required under the rules of the game to let that agency know about any particular criticism that is going to be part of the report. The National Party believes that to be absolutely fair. Not only does the Auditor-General have to say to the agency, 'This is what I intend to say about you', in terms of criticism of an outcome or your process, but he is also required to allow that agency to respond to that criticism and is required to publish it in the report, all in the name of fair play.

I might say that we recognise that the Auditor-General is a watchdog rather than a bloodhound. He is meant to be supervising the process. We should not expect him to be following every trail, and crossing every 't' and dotting every 'i'. It is very important that he be extending the normal courtesies to the agencies because there might be an another explanation that would go to the criticism being delivered by the Auditor-General. The complication is that the agency then has forewarning of the criticism, and thus is given the opportunity to prepare the best possible spin on that story when it becomes public. That is why it is important that we get to the issue of confidentiality.

There are some complications because in the amendments being developed by the opposition parties — and I acknowledge that the shadow minister and I were both directly involved in the early discussions on this — we had to distinguish between those persons who received the report directly, and who therefore could be held absolutely responsible for any confidentiality breach, and those who might come across it in another form. The particular instance was that of the journalist — a journalist who sees value in actually digging beyond the headlines. We believe there should be a distinction drawn between those who come across it because they have been prepared to go and do a bit of legwork as opposed to those who have come

across it because it is their responsibility to receive it and to respond. The complication we have is that the way the bill was drafted did not differentiate between the two parties. I know that in the other place there was some discussion about the application of the rule of law in respect of a breach of confidentiality.

I understand the government argues that the journalists that we cite as a particular class are not at risk and that we in the opposition are jumping at shadows, suggesting that a journalist would be at risk given the way the bill has been framed. The government has led the argument and has used the advice of the Victorian Government Solicitor and an eminent Queen's Counsel to suggest that only those who would receive such a report as an 'official receipt' would be subject to the fines if the detail of that report was disclosed prior to its tabling in Parliament. I agree with the contention of my opposition colleagues that there are some real problems about the way the breadth of that penalty is prescribed.

The first problem I have is that if the journalists are included — I will leave the issue of whether the wording is appropriate to exclude them — we believe the penalty provisions are too wide. But we are not persuaded by the reverse. The government says only those who are directly receiving the report will be at risk. We think that is too narrow and we would like to talk about a compromise somewhere between those two extremes. Our point is that we do not want to rely on legal advice. I have no argument with the opinion of the Queen's Counsel being cited. His reputation goes before him, and I most certainly would not challenge his view of the world, but my view is we should be legislators in this place, and if we are going to have to rely upon the view of some eminent QC we should fix it now.

We should make it clear in the first place; we should not be relying on external legal advice. Irrespective of the merits of the arguments at one extreme compared to the other, the government should fix it. Here is the classic forum in which the issues should be addressed. Rather than leave it to some highly qualified legal expert outside, we should put it beyond doubt here and now.

The National Party's view is that that has not been done, and it should be done. On that basis it has some sympathy for the amendments being pursued by the opposition. It is not convinced that just officially receiving the report covers all the risks or incentives for an agency which is being criticised. The Auditor-General can, and I suspect would, delineate who would be subject to the rule of law when he provided the particulars of the criticism, but I do not see how he could expect to get to every eventuality in the operation of the office when the criticism is received. I do not want to leave a door open; I want to make sure that we as a Parliament have this issue nailed down before the law is framed. I want it to be as clear as we can make it. On that basis the National Party will be supporting the amendments which go to the issue of clarification.

By way of aside, and in the same context, the National Party is pleased to see clause 16(3)(a) of the bill, which at least gets to the issue in part. It says to the Auditor-General that from here on in, when he meets his responsibility to advise the agency he is about to criticise, he has the discretion to either give the agency the total report or restrict that part of the report being given to the agency to that part of the criticism that relates to the agency. I am not convinced that the Auditor-General has not had that opportunity in the past, but the bill puts it beyond doubt and on that basis the bill should be supported. The Auditor-General will have the discretion if there is criticism implicit within a report. He can make a judgment as to whether the agency of whom he is about to publish a critical comment can either have that part of the report that is critical or the whole report, whichever he believes to be the most appropriate. The National Party's conclusion in respect to the key issue of confidentiality is that it would like to have the issue put beyond doubt before the bill becomes law. That is the first classification.

The second classification is that of the scope of the Auditor-General as an officer of the Parliament. The provisions of the bill are absolutely that of clarification. We are not talking of new power; we are talking about the parameters of existing powers being more clearly articulated. The bill contains an amendment that makes it clear that in conducting his role the Auditor-General has a clear mandate. The bill spells it out and the National Party supports that delineation. It says that he shall have regard to any wastage of public resources, any lack of probity or any financial prudence. It says that the Auditor-General has the real power he needs to follow the audit trail wherever it takes him. The National Party believes that is supportable. It relied on clause 4 which spells out proposed new section 3A(2) which states:

> It is the Parliament's intention that, in pursuing these objectives, regard is had as to whether there has been any wastage of public resources or any lack of probity or financial prudence in the management or application of public resources.

I could not have said it better. The National Party believes that captures the brief it would want to give to the Auditor-General. It puts his role beyond doubt, and

while we acknowledge that it is nothing more than clarification we are prepared to give a thumbs up to that provision.

The bill then says that if the Auditor-General happens to come across any untoward evidence in the pursuit of that audit trail, he has the power to refer it to any other authority he deems to be appropriate. So where he stumbles across some evidence of misfeasance or potential criminality, we say to him, 'You have not only the authority to go and talk to the responsible officer, but we want you to do it'. Let us put this issue beyond doubt and on that basis, if no other, the National Party will support the changes to the Audit Act.

Finally, in respect of the scope of the Auditor-General's powers, we come to the question of that which is captured in his field of operation — what I describe as an expanded capture. The Auditor-General's field used to include a corporation, all of the shares of which are owned by or on behalf of the state. That has now been expanded to include all entities 'controlled' by the state. We are relying more on the definitions contained within corporate law to clarify the realm of responsibility of the Auditor-General. There are three classes of organisation over which the Auditor-General would be required to consider his responsibility. The first of them is those organisations that are fully owned — that is, 100 per cent controlled — and that has not changed.

There are those at the other end of the extreme where the government holds less than 50 per cent control — that has not changed. The Auditor-General is still required to treat those as a minority holding and so would report on the investment in those organisations as to the value and risk of that investment. But it is the category where the level of control or ownership falls between 50 per cent and 100 per cent where there is a change. In the past the Auditor-General had to get at that field by relying upon explicit coverage where those organisations were held to be 'prescribed'. Maybe that got the Auditor-General to all of those he would wish to run his eagle eye across but we have now put it beyond doubt. We have said that control shall relate from 50.1 per cent right up to 100 per cent, so there is no argument as to what falls within the Auditor-General's field of responsibility. The National Party says that that also is a supportable component of the bill.

I now want to go to the third area of amendment within the bill and that is the changes I have described as addressing an improved operational efficiency of the Victorian Auditor-General's Office. Two amendments fall within that category, and I want to deal with the simpler of them first. I refer to clause 8 where it says there shall be an increase in the delegated thresholds relating to audits undertaken on behalf of the Auditor-General by the private sector. We will address the parameters of that threshold in this bill. I must say at the outset that I find that incredibly ironic. Here is a bill addressing the responsibility of the Auditor-General, coming to us under a Labor government, extending the outsourcing capability of the Auditor-General. I for one remember extremely well what the Labor Party said in opposition about the concept of the Auditor-General outsourcing his responsibilities. I am left bereft in that context.

The previous government took enormous criticism that it was nobbling the Auditor-General when it talked about this precise issue, and here we have the government that took over just two years ago going back to address exactly the same issue. Of course the government says that the changes here are not designed to expand the area of outsourcing; rather they are designed to make those private sector operators who undertake audits on behalf of the Auditor-General more responsible. We are talking about those audits which can be signed off by the outsourced operator and not countersigned by the Auditor-General. Again, breathless irony! It goes back to exactly the same issue we were pilloried for in government. It is saying that we have expanded the parameters of sign-off by external contractors.

Where we used to have a test of whether there were net assets in the agency of more than $1 million and that happened to be increased in line with the consumer price index increase since 1999, we will now use the test of whether there has been more than $5 million of expenditure in the target authority. We are simply saying that if there is less than $5 million by way of expenditure each year, the external auditor can sign off and we absolve the Auditor-General of second-guessing the outcome. Members of the opposition parties are the last people to argue about that change in the breadth of outsourcing authority, but I again point to the irony of it being a Labor government that has come to that conclusion.

The second part of that category of improved operational efficiency goes to the one issue in this bill which the National Party acknowledges to be contentious. I am saddened that it is seen to be contentious because it goes to some very important issues. I speak of the question of out-of-session reporting. Under the bill the Auditor-General would become empowered to send complete reports to Parliament when it is not sitting — when it is out of session: let me get this right because I want to come back to that. Notwithstanding that they have been sent to the Parliament when it is not sitting, the reports

would still become public documents at that point in time and they would still enjoy parliamentary privilege when they were formally received by the Clerks.

I am happy to put on the record that that concept has been a bipartisan objective of the Public Accounts and Estimates Committee for as long as I have been part of that process. That committee has taken the view that this is a very important initiative on the basis that we do not want the Auditor-General trying to anticipate the sitting dates of Parliament and organising his reports to fall within those sitting dates. We see it as being an inappropriate constriction for the Auditor-General to not only not know when the Parliament will be sitting but, worse still, to have to guess when it might be sitting and construct a reporting schedule to meet that guessed outcome.

Beyond that, we acknowledge that if there is to be a change in the rules then we have to be very careful how we frame it because there are a couple of traps for young players. The first of those represents a standard concern. It is one that is not unique to this Parliament but one that relates to all parliaments where out-of-session reporting is embraced. We are not the first ones to think of this — it is a standard principle across other jurisdictions. The standard concern is the notion that government, because of its inside running and control of the process, might be able to influence the timing of the receipt of a report and it might just be able to assure fortuitously that a contentious, controversial report lands just after the Parliament rises.

We remember vividly the debate we had in this place not so long ago in respect of the ambulance royal commission. That is the standard concern, and it should be acknowledged that that is an issue that transcends all political persuasions. The National Party believes this is an issue which all honourable members should recognise goes beyond partisan politics, because it is not unique to one side of the house. That danger will be there irrespective of who happens to occupy the Treasury bench.

The National Party makes the point that there is not too much danger in the context of this bill because we are talking only about reports released by the Auditor-General — nothing more. The National Party's view is that if the Auditor-General had fallen under the influence of the executive government to that degree then we would have much bigger problems than the timing of particular reports. We would be in deep diabolicals if the Auditor-General had been captured, but we do not for a minute suggest that that is the case. I speak from the heart when I say that at least the three Auditors-General I have been involved with in my political career would not give that suggestion anything that looked remotely like leg room. So National Party members are not concerned about that in the context of this bill, and thus we say we should be able to find a solution which would aid the Parliament and the Auditor-General and allow the formal delivery of Auditor-General's reports outside the sitting dates of the Parliament.

However, it must be acknowledged that the executive government would have the inside running on the management of a controversial report, given as I mentioned earlier that the Auditor-General is required under the rules of the game not only to tell the relevant agency about a criticism in advance but also to invite the agency to respond to that criticism and then in turn to respond to that in the report itself. It is very clear that in those circumstances the agency — and presumably, therefore, the minister — would know in advance of the criticism and would thereby have the chance to put the best possible spin on it when it became public.

The National Party's real concern is that irrespective of who lands on the Treasury bench the prospect is that the poor old shadow minister would learn about the criticism when he or she read about it in the newspapers. So we have to find a mechanism to overcome that potential, and National Party members spent some time talking about how we might do that. I am happy to place on the record that I sat down with the shadow minister — and, indeed, the minister — to talk these issues through. My first conclusion was that we might be able to find a solution in an administrative sense, so I talked to the Clerks about what might happen if there were a rule that said that when they received a particular report they would be required to notify individual members of Parliament and put them on inquiry. However, there is no such standing rule, so I came to the conclusion that we did not have an administrative solution.

I then talked to the Auditor-General and asked, 'What would you say if we put up a rule that said that before you put in a report you are required to give the Clerks at least seven days notice of that report? You would have to tell the Clerks what the report is about and give them the opportunity to advise individual members that that report was about to hit the airwaves'. I told the Auditor-General, 'I do not mind whether it is you or the Clerks who advise individual members of Parliament, but my concern is that each member of this place should be given the same notice of the impending critical report'.

For what it is worth, the Auditor-General assured me that he had no problem whatsoever in providing seven days notice of the publication of a report and no problem at all in giving me an assurance that it would be possible to put the contents of the report on his web site concurrently with the delivery of his report to the Clerks of the Parliament. That overcame my concerns about a critical report being manipulated, if you like, and one side of politics gaining an unfair advantage.

An enormous amount of water has flowed under the bridge since those early discussions, and I know there have been difficulties in finding a compromise all the way through. As I understand it, we have reached the point where the government has agreed that the Auditor-General should give one working day's notice of publication, that he should be required to publish as soon as possible, and that the Clerks of the Parliament should be required to give members notice as soon as possible. We should probably say, 'That is a giant step in the right direction'. It is not as good as my original suggestion that there be seven days notice and that the advice to the Clerks and members of Parliament be concurrent, but I acknowledge that the government has stepped a fair bit beyond its original position.

However, we have also reached the question about whether the rules should apply only when the Parliament is in recess, and that relates to the amendments moved by the Independent member for Mildura in the other place. Do not ask me why, Mr Deputy President, but I understand they are government amendments although they were moved by one of the Independents. However, I do not want to get involved in that debate.

The question is whether the changed rules should apply when the Parliament is not sitting or when it is in recess. As I understand what the Liberal opposition is saying, it wants them to apply when the Parliament is not sitting. I also understand that there have been further developments and we are now talking about whether the changed rules that have been agreed to by way of compromise should apply to the Auditor-General irrespective of whether or not the Parliament is sitting. In any event, Mr Deputy President, I am sure you would not be surprised to learn that the National Party has great sympathy for a change in the procedures which would put beyond doubt the question of whether government had the inside running on the receipt of a contentious report.

We think it is relatively simple to fix that while the bill is before the house. We take the same view here as we do for the question I talked on earlier about its being subject to advice from Queen's Counsel. Here is the chance; this is the forum in which to fix the issue. Let us put it beyond doubt now. Let us agree upon the general principles and how they would be best achieved, and resolve it now and forever. I have to say — and I will not make a big thing about it, because that is not my nature — —

Hon. P. A. Katsambanis — Make an exception.

Hon. R. M. HALLAM — Make an exception! I was disturbed that the minister, the Leader of the Government, in reading a second-reading speech which went to these critically important issues without even bothering to find out whether the speech was the right one, showed absolute contempt for this place. She read a speech which had been delivered in the other place and which did not accommodate the changes determined there. If the minister is not on notice now she should be from hereon in. One thing I will not abide from any administration is contempt for this Parliament. Again the government has shown that it just does not do its homework.

The minister said, 'This is the speech that I was given by the department'. That was the excuse. From my point of view that is no excuse. If the minister could not bother herself to find out whether the speech was appropriate, I think she stands condemned. I want something better from her in the future, and I want that on the record. I have more to do than plough through the records to find out whether the minister can bother to read the right speech in anticipation of a debate. Having got that off my chest, I will move to the next issue.

The next issue I want to go to is the classification of changes within this bill which go to the question of the parameters of the accountability of the Auditor-General. We all know that the Auditor-General is an independent officer of the Parliament, and we all expect, I hope, that there will be a specific set of rules that relate to the parameters of that responsibility. This bill says, specifically, that if he decides to develop new auditing standards, irrespective of where he gets them from, he shall report those to the Parliament. We think that is absolutely appropriate. We also suggest the provision that if the Auditor-General decides to not adopt any recommendation of the all-party parliamentary Public Accounts and Estimates Committee he should straighten it out in his report to the Parliament is absolutely appropriate.

Finally, I want to briefly talk about the administration of the Audit Act. This bill provides that the Auditor-General can charge a fee for his work and put beyond doubt that question. It also draws a clear

differentiation between what constitutes an Auditor-General's report and what constitutes an opinion. We also see that as being important, although we acknowledge it to be but minor housekeeping. The National Party's conclusion is that this is a practical bill, that it is consistent with the concept that we should be further empowering the Auditor-General to undertake his critical role in this Parliament and that we should be ensuring that he is responsible to the Parliament itself as distinct from the executive government.

On that basis I confirm the National Party's stance on this bill. We shall not be opposing the general thrust of the bill, but we are attracted by the amendments foreshadowed by the opposition on the penalties for breach of confidentiality of the Auditor-General's report, and we are also attracted by the opposition's attempts to put beyond doubt the rules that would apply to out-of-session reporting. We see that as absolutely critical — that is, not just that governments should be denied any chance to manipulate the process but that the world at large should see that the government is denied the chance of manipulation. This is the old story of justice not only being done but being seen to be done. Here is a golden opportunity for Parliament to put the riding instructions beyond doubt, and we shall be supporting the thrust of the opposition amendments to the extent that they achieve that. The National Party shall not be opposing the bill.

Hon. JENNY MIKAKOS (Jika Jika) — It is with great pleasure that I rise to speak in support of this bill. It is important to note that this legislation seeks to build on this government's commitment to openness and accountability and to strengthening our democratic institutions. As is well known, the office of the Auditor-General is one of our democracy's principal safeguards. It acts as an independent watchdog over the activities of government; and it is a watchdog and a guardian of democracy that this government is committed to strengthening. Unlike the previous government, which sought to emasculate the Auditor-General, we are seeking to strengthen that office. I will come to the comments of the Honourable Roger Hallam and the very provocative remarks he just made.

Since 1999, when the first lot of legislation to strengthen the office of the Auditor-General went through, we have seen the Auditor-General's position enshrined in the state's constitution and a number of changes relating to the independence of that office-holder. At that time the government indicated that it would be prepared to consider further changes to the independence of the Auditor-General after appropriate consultation occurred with that office-holder. That consultation has now taken place. Considerable discussions have taken place between the government, the Auditor-General and the Public Accounts and Estimates Committee, and many of the changes contained in this legislation have been made at the Auditor-General's request.

The key aspects of the legislation include the provision of a statutory indemnity for the Auditor-General and his staff where they have acted in good faith. Clause 23 seeks to make an amendment to the Constitution Act 1975 to put the Auditor-General in the same position as many other independent parliamentary office-holders and to ensure that the Auditor-General and his staff are able to exercise their duties without fear of any liability.

The Auditor-General's report will also be protected by new confidentiality provisions which will prevent a person from disclosing information in a proposed report other than as part of their official duties. Opposition members have referred to their concerns about the confidentiality provisions. The Honourable David Davis alluded to legal advice the government had been provided with on this issue — I understand this is advice from the Victorian Government Solicitor's Office and also from an eminent constitutional expert, Peter Hanks, QC — which stated clearly that the penalty provisions of the Audit Bill would not extend to journalists.

The Liberal Party is seeking to run a scare campaign in the media on the issue but the advice the government has been provided with and has made available to the opposition parties clearly indicates that recipients of leaked reports will not be subject to the penalties provided for in the bill. Only public officials who receive reports will be subject to those penalties. Journalists who seek to publish the contents of leaked reports would not be fined under the legislation because they would not be in receipt of a report from the Auditor-General as defined in the bill.

The opposition has indicated that it will seek to make some amendments to the confidentiality provisions. A series of amendments has been proposed by the opposition. It has not been able to work out what it wants to put before Parliament — we will soon find out. My understanding is that what has been proposed by the opposition to amend the provisions is completely unnecessary and will not clarify the position in any way given that it is already quite clear that journalists will not be at any risk under the current provisions of the bill.

The other key aspects of the legislation relate to expanding the scope of the Auditor-General's powers. To be effective the Auditor-General needs the power to audit all entities within the Victorian public sector and to trace the flow of public resources. The amendments that have been proposed make it clear that the Auditor-General will be able to examine whether there is any wastage of public resources or any lack of probity or financial prudence by government entities. The definition of 'entities' has been widened to include any entity that comes within the control of government whether or not the government has a 100 per cent shareholding in the entity.

The Auditor-General will be able to refer any issue of apparent corruption or lack of probity to appropriate authorities and there are specific provisions in the bill to refer a matter to, for example, the Chief Commissioner of Police, and also to advise the Premier of the Auditor-General's actions. The Auditor-General will also be able to undertake other audit services for public sector entities at their request and with the approval of the responsible minister.

The other key aspects of the bill relate to the changes to the operations of the Auditor-General to enable the Auditor-General to transmit his reports to Parliament when Parliament is not sitting but his reports are being made public. The reports will still need to be tabled when Parliament resumes and may be debated at that time but the changes being proposed in the legislation will enable reports to be made public in a timely fashion so that issues of urgency are able to be acted on by the government or by government authorities as soon as possible.

The opposition has indicated that it will seek to make amendments to the provisions relating to the tabling of reports when the Parliament is in recess. Again, the government will not support the amendments. We have been prepared to take on board useful suggestions as made by the honourable member for Mildura in the other place. The government believes that the changes made to the new section 16 — —

Hon. W. R. Baxter — He is a puppet!

Hon. JENNY MIKAKOS — I am sure, Mr Baxter, that the honourable member for Mildura will be pleased to know you have accused him of being a puppet of the government. I categorically reject that assertion. The honourable member for Mildura and the other Independent members of Parliament take their responsibilities as Independent members of Parliament very seriously and seek to act in the best interests of their constituents. In fact, they often advocate positions that I am not happy with, Mr Baxter, but the government is prepared to take on board their concerns and useful amendments when they are appropriate to the legislation being put forward by the government.

Hon. R. M. Hallam interjected.

Hon. JENNY MIKAKOS — The government has been prepared to take on board these amendments, Mr Hallam, and we think the procedure that has been included in the new section 16AB is very good. The Auditor-General will be able to transmit reports to the Parliament when the Parliament is in recess. The Auditor-General is required to give one business day's notice of his intention to transmit a report to the Parliament. Once the report has been provided to the Clerks, the Auditor-General is required to publish the report on his Internet web site. As part of this process the Clerks must notify members of Parliament on the same day of the receipt of the notice from the Auditor-General and distribute the report to honourable members as soon as practicable. The report must then be laid before the house on the next sitting day. As I said before, the Parliament is able to debate that report when it next sits.

We have not yet seen the opposition amendments but have had an indication of some of the proposed amendments from the Honourable Roger Hallam. I believe Mr Hallam seeks to introduce a change from one business day to seven business days. The current position is that when the Parliament is sitting there is no notification of when a report is about to be tabled. We are prepared to include a procedure that would ensure members of Parliament are notified. The need for opposition members and the shadow minister to have seven days to get back from their vacations when the Parliament is in recess in order to come up with a response says a lot about their ability and commitment to their tasks. The amendment would only seek to reward laziness on the part of opposition members. One business day's notice is more than adequate and is a lot more than any honourable member gets when the Parliament is sitting.

Another aspect of the legislation that was touched on by opposition members which I will address relates to the existing ability of the Auditor-General to contract out different types of work. The government seeks to increase the delegation threshold to facilitate the sign-off of these audits by private sector service providers acting as the Auditor-General's agents. This will place greater accountability on service providers and improve the efficiency of the contracting arrangements.

I note that the delegation powers contained in the legislation seek to clarify the exclusions from delegation in section 7G of the Audit Act to ensure that certain types of work, such as the auditing of estimated financial statements, actual financial statements and annual financial reports cannot be delegated by the Auditor-General to private sector firms.

I note that the Honourable Roger Hallam sought to equate this legislation with the extraordinary attempt by the Kennett government to emasculate the office of the Auditor-General when, under the guise of national competition policy, the Kennett government wanted the Auditor-General, in a new organisation to be called Audit Victoria, to compete with private sector firms for its work. How the attempt to emasculate the Auditor-General can be equated with the clarification of the current delegation provisions contained in the Audit Act is beyond me. There is absolutely no attempt in this legislation to nobble the Auditor-General.

Hon. R. M. Hallam interjected.

Hon. JENNY MIKAKOS — Mr Hallam of all people would know that the Auditor-General already contracts out a lot of his work to private sector firms.

Hon. R. M. Hallam — True, and he always has. What is your point?

Hon. JENNY MIKAKOS — Because of the delegation threshold the Auditor-General is required to sign-off on a lot of that work, but the ultimate responsibility for that work lies with the Auditor-General except where the work involved relates to an authority which has a net expenditure and which falls below the threshold provisions. Only a small proportion of the work undertaken by the Auditor-General will be signed off by private sector agencies. The ultimate responsibility for that work rests with the Auditor-General.

His work plan, as is clear from the legislation, will be determined by the Auditor-General in consultation with an all-party parliamentary committee, the Public Accounts and Estimates Committee. There is ample accountability back to the Parliament by the Auditor-General in the performance of that work, and the Auditor-General will not be competing with private sector firms for his core responsibilities. So I see no resemblance between this legislation and what was proposed by the previous government. It is really disingenuous of Mr Hallam to draw a parallel between the conduct of this government and that of the previous government.

As I said, the government is seeking to introduce effective accountability mechanisms back into the Parliament. The accountability requirements, for example, include requirements to disclose auditing standards developed in-house and also quality control processes applied in the conduct of the Auditor-General's work. The Auditor-General will be required to note in his annual plan any comments made on that plan by the Public Accounts and Estimates Committee that he has decided not to adopt.

The final aspects of the legislation on which I want to comment relate to the overall administration of the Audit Act. Some of the amendments are being made to clarify the current operation of the Audit Act — for example, they relate to circumstances where the Auditor-General can charge a fee for his work — and clarify the difference between his reports and opinions and the scope of his narrative reports.

In conclusion this important legislation has been requested by the Auditor-General and will strengthen his independence and ability to oversee the conduct of government. I urge honourable members to support the legislation. The amendments are half baked and completely unnecessary. Legal advice provided by Queen's Counsel and made available to the opposition parties clearly indicates that the amendments are unnecessary.

Hon. N. B. LUCAS (Eumemmerring) — What is annoying about this debate is that one would like to say much about what is in the Audit (Further Amendment) Bill, to express one's views about it and to comment on the appalling contribution by the previous speaker, but with the time available one is not to be given that opportunity because of the appalling and inept way the Labor government has run its legislative program during this sittings. Legislation has been crammed into the last few days and the government is not giving opposition parties the appropriate opportunity to apply proper scrutiny.

The Honourables David Davis and Roger Hallam put a number of points with which I agree and would like to talk about at length. Any avid reader of *Hansard* should have a good look at what they said in this debate but should skip what the last speaker said!

Clause 16 of the bill inserts proposed section 16AB in the Audit Act and refers to the Auditor-General giving notice where he — I use that word advisedly because it is a he at the moment — proposes to lodge a report with the Parliament during a recess. The proposed section refers to one day's notice being given. That is insufficient notice. Ms Mikakos in her contribution said

that if more time is required it is a reward for laziness. To be fair, open and accountable the government is saying, 'We will probably have it a few days before, but you can have one day's notice'. Is that fair? Of course not. Many reports of the Auditor-General are of considerable interest to this house and having more than one day's notice would be much fairer. I would support any move to extend that period.

The proposal may be the result of recommendations from the Public Accounts and Estimates Committee. On two occasions I, as a former member of that committee, participated in presenting reports to Parliament which suggested and recommended that when the Parliament is not sitting reports should be given to the Presiding Officers and those reports should then be deemed to have been presented to the Parliament with the appropriate clauses in relation to privilege and so on.

I chaired a subcommittee of the Public Accounts and Estimates Committee which reported in May 1999 and which recommended a similar method regarding annual reports. I support the concept of the Auditor-General and other parliamentary officers tabling their reports in the Parliament during the parliamentary recess so that members are aware of them. Why not give notice of all reports for a longer period — I suggest seven days — and why not have a similar process for parliamentary committees? I hope one day legislation will be introduced that covers that latter point.

One earlier proposal was examined but the opposition saw through the government's ideas. The latest episode regarding Auditor-General's reports shows a similar dodginess, where the government is building into the legislation one day's notice for such reports to be presented when it has had a copy of the report in question for some time, has had it all along, which is not fair in my view.

Mr Hallam told the house that the Auditor-General is happy with giving seven days notice, as are the opposition parties, yet the government is saying it will be one day. Is that open and accountable and having everything on the table? The government has been caught again and is not meeting its obligations in respect of what it put before the community at the last election.

The other issue to which I refer is proposed section 20A(2), inserted by clause 21, which states:

> A person who receives a proposed report, or part of a proposed report, of the Auditor-General under this Act must not disclose any information contained in it except —

et cetera. The question is: what does that mean? We have heard Ms Mikakos — and Mr Hallam also — indicating that a Queen's Counsel, the Solicitor-General and eminent legal brains have said, 'It is all right. This means that we are referring to reports from the Auditor-General, and we are only referring in terms of it being something that you should not do if you are the official to whom it is given and you pass it on'. That is what Ms Mikakos is saying. She is saying, 'Trust us. The government is relying on legal advice to interpret what this bill means'.

But I have a question for Ms Mikakos — through the Chair, of course: what happens if this goes to a court of law and the judge says, 'Well, my view is the opposite. My view is that this means that any person who receives a report should not pass it on'? If that interpretation is made by a court, it does not matter how many eminent QCs and solicitors-general you have had saying it means one thing: if the court says it means something else, that is the end of the penny section. And are we going to lock up the journalists if that interpretation is given by the court?

Hon. C. A. Furletti — The fact that it is in the court proves that it is bad legislation.

Hon. N. B. LUCAS — Correct! So what Mr Hallam, Mr Furletti and I are suggesting is that it is bad legislation if on the very day that you are proposing to put it through Parliament you do not really know what it means. What you should be doing is changing it so that everybody knows what it means, so there is no debate about what it means, and so you will not get a host of solicitors standing on either side of a line — those on one side saying it means one thing, and those on the other side saying it means something or other else.

Why can't government members get that into their thick heads and change this proposed legislation so we all know what it means? I do not know what it means. I am in confusion over this. Why am I in confusion? Because Ms Mikakos said the QC and the Solicitor-General had interpreted this to not include journalists. I have another question: why is it that the Premier of Victoria said this on radio 3AW on 27 November:

> … and this proposed legislation is not principally aimed at journalists.

What does that mean? If it is not principally aimed at journalists, that means that maybe there is a second string that is aimed at journalists. What does that mean? It means to me that the Premier has taken the second interpretation — not the Solicitor-General's, or the

QC's referred to by Mr Hallam, but another interpretation. Clearly the Premier of this state was confirming that what this provision in the bill means is subject to a great deal of uncertainty; and he was suggesting to this community over the airwaves that maybe journalists will fall under this proposed prohibition. That is of great concern, and that is the second issue I wanted to refer to.

I refer also to the fact that the final report of the Auditor-General can be passed on to people in official places within the government and there is no reference to a penalty existing in relation to a final report. The proposed subclause (2) refers to 'a proposed report, or part of a proposed report', not a final report. So the final report could come out, be slipped to another officer of the department, who could in turn slip it to a journalist, and there would be no penalty. Tell me if I am wrong there! That is another situation showing where this proposed legislation has a weakness.

The opposition has made its position clear on this bill. It believes it has a number of things wrong with it. We believe it could be improved. We hope the government will consider the suggested amendments the opposition has for it. I hope that consideration can be had today and that we can finalise the bill today. But if we have to finalise it over the summer, that would be a shame. This bill does a number of good things, but it is mucked up by the government not doing its homework, and not listening to reason. Having had sufficient time to look at it appropriately, it has passed off the concept of extra time and extra notice; it has passed off the opportunity to amend the dodgy interpretation regarding penalties applying to people who use the information in the report or pass it on. That to me is a great shame. We could be doing a lot better; we could be sorting this out. We could be getting a result.

Finally Ms Mikakos referred to previous days and times to do with auditors-general and to the fact that the Auditor-General has a good amount of his work contracted out and undertaken outside his office. I point out that when Price Waterhouse, as it was formerly known, undertook a performance audit of the Auditor-General's office back in September 1995, it said at page 18 of its report:

> There is increasing reliance on agents to meet the demands of the office and approximately 50 per cent of the work is now contracted out.

We note from the second-reading speech that that figure has risen to approximately 70 per cent. So it is clear that the government realises and appreciates that a major portion of the Auditor-General's work needs to be undertaken outside the office by consultants. In fact they are locking that in to an even greater extent by delegating the ability to sign off reports to the contractors up to a certain level. Isn't it funny how things turn out a few years down the track? It is a shame that government members have not done their homework on this, and are taking a blinkered view on the amendments being proposed by the opposition. I hope they will have a second think about it because it would be great if those changes could be made to the bill to provide a better and more fair and open arrangement for the people of Victoria. That is what the opposition is suggesting here and I hope consideration can be given to the amendments today in order to finalise the bill in these sittings of Parliament.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — It is always interesting to follow the Honourable Jenny Mikakos in these types of debate — although I note that my colleague Mr Lucas has spoken in between.

Hon. B. W. Bishop — It depends on your definition of interesting.

Hon. G. K. RICH-PHILLIPS — Fascinating. Curious. The theme that prevails through the contributions of Ms Mikakos in this chamber appears to be a line in ideology that cannot be crossed. All the contributions she makes seem to be driven by a left-wing ideology, which in many cases seems to be based on blindness to the realities of the issues she is debating. To listen to some of the terms she used — I think she said 'disingenuous', referring to Mr Hallam's contribution on the Auditor-General and the history of audit legislation — it is quite extraordinary.

Hon. R. M. Hallam — I didn't pick that up!

Hon. G. K. RICH-PHILLIPS — It is quite extraordinary when you look at the way that the Bracks government has treated and politicised the office of the Auditor-General.

The first issue I refer to is associated with the second-reading speech. Mr Hallam quite appropriately touched on this in his contribution. It makes for quite interesting reading to refer back to *Daily Hansard* of 4 December when the minister moved the second reading of this bill. At the conclusion of the second-reading speech she was challenged by Mr Hallam as to the appropriateness of the second-reading speech she had just given. The minister assured the house at that time that she had just consulted with her bureaucrats and that it was the correct speech.

Later the same day the minister informed the house that she had delivered the wrong speech and proceeded to

read into *Hansard* the correct speech. At that time the minister apologised to the house. We recognise that, but it does not get around the issue of a minister yet again coming into this house and presenting an incorrect second-reading speech. It is not the first time it has happened; it seems to be a recurring theme with ministers in this current Parliament. It raises the question of the competence and professionalism of some of the people presenting as ministers in this house.

On reflection, one does not have to be a member of this Parliament for very long to realise just how fragile our democracy and democratic system is and how incumbent it is upon us as individual members to ensure that things are done properly. It is cause for concern that that error was not identified by a member of the government. It took — with respect to Mr Hallam — a National Party backbencher to pick up that error and bring it to the attention of the minister.

Had Mr Hallam not identified that error, would the speech have been allowed to stand on the record? If the government allows that type of thing to happen in the house, where else does it allow it to happen? Where else is the government sloppy in procedural matters? What about cabinet procedures and processes or Executive Council procedures and processes which are not scrutinised by Parliament? What happens there? We can only trust and hope that the professionalism of the government — —

Hon. W. R. Baxter — And pray.

Hon. G. K. RICH-PHILLIPS — Yes, and pray, Mr Baxter. This is not an issue of the integrity of the members of the cabinet or the government but one of professionalism. We see in this chamber sufficient errors of this type to raise the question: what happens in cabinet or in the Executive Council when Parliament is not there to scrutinise?

Hon. R. M. Hallam interjected.

Hon. G. K. RICH-PHILLIPS — I am sure you would be very well qualified, Mr Hallam! As I said earlier, this government's approach has been to politicise the office of the Auditor-General. Ms Mikakos used the same terms in her speech as were used during the election campaign — terms such as 'restoring the powers of the Auditor-General' and 'restoring democracy'. I think Ms Mikakos referred to the previous government emasculating the Auditor-General. Her government conveniently ignores the fact that it was the Kennett government — the previous administration — that enshrined the Auditor-General as an independent officer of Parliament. As Mr Hallam pointed out earlier, it was the Kennett government that removed the Auditor-General from the influence of the executive.

It is ludicrous for the government to say that the previous government was undemocratic and acted contrary to democracy in its dealings with the Auditor-General, just as it is ludicrous for the government to claim that the previous government emasculated the Auditor-General by making him an independent officer of Parliament.

On reading the arguments presented to the previous government's audit legislation, one would conclude that the Labor Party in opposition felt that the previous model employed by the office of the Auditor-General was some sort of panacea. The model that was employed when Ches Baragwanath was the Auditor-General existed at a time when the state's finances were being run down by the previous Labor administration, when we had the problems with the Victorian Economic Development Committee, Tricontinental, et cetera — —

Hon. A. P. Olexander — The Guilty Party!

Hon. G. K. RICH-PHILLIPS — The Guilty Party, Mr Olexander. The Auditor-General did not bring these matters to public account until it was too late. It would appear that the previous Labor administration thought that that model, which failed to protect the finances of the state, was the ideal, so it seems bizarre that the Labor Party would argue against the reforms introduced by the previous government.

The other example of the politicisation of the office of the Auditor-General relates to section 16B of the Audit Act, which was introduced by the Bracks government shortly after coming to power. Honourable members will recall that during the state election the Labor Party implemented a cute little trick. It engaged Access Economics to tick off a list of promises and financial commitments that the Labor Party made to prove some sort of financial bona fides for itself. But all Access Economics did was to add up a list of financial promises made by the Labor Party, check the arithmetic and say, 'Yes, Mr Bracks as opposition leader has added up the list correctly: 1 plus 1 does equal 2. He got that right!'. That was the extent of the financial audit undertaken by Access Economics.

It was therefore interesting to see that after the election the government inserted in the Audit Act a very similar provision requiring the Auditor-General to audit the estimated financial statements in the budget. It is

bizarre that the government requires the Auditor-General to 'audit' — and I use the word in inverted commas — estimated financial statements. How you audit financial statements that do not exist — they are projections into the future — is quite unfathomable.

If you look at the legislation you will see that despite the rhetoric regarding the Auditor-General auditing the estimated financial statements, what he is doing is checking that they have been drawn up in accordance with accounting standards, which is quite a different thing. The role of the Auditor-General is to say that Treasury has drawn up the balance sheets and the profit and loss statements correctly, which is different from auditing estimated financial statements.

The Labor government is being tricky and is politicising the office of the Auditor-General by attempting to provide itself with financial credibility. Basically it is bringing in the Auditor-General to tick off the estimated financial statements — which is saying that Treasury has drawn them up correctly and that they add up.

Turning to the bill, I point out that it is ironic that when one reads the correct second-reading speech, the second speech submitted to the house, one sees that the minister states there has been extensive consultation on the bill currently before the house. It is ironic because, given that extensive consultation has supposedly taken place, one would expect the government to have got it right.

The amendments before the house were foreshadowed by the government in November 1999, two years ago. After two years of consultation and presumably of drafting, the government is yet to get the bill right. So it is that the opposition has foreshadowed amendments to clarify the way the provisions of the bill will work. It again reflects on the lack of professionalism and the sloppiness of the government, as indicated previously with the debacle of the second-reading debate. After two years of consultation the government brings before the house a bill that does not adequately execute its intended function, and thus it requires the amendments to be proposed by the opposition to clarify the way the provisions will work.

In conclusion, given the brief time available, I place on record the fact that the government likes to claim the high moral ground with respect to the Auditor-General, but few governments would have done more to politicise the office of the Auditor-General than this government in the two years since it has been in power. It ignores the fact that the former Kennett government enshrined in legislation the independence of the office the Auditor-General.

The ACTING PRESIDENT (Hon. R. F. Smith) — Order! I am of the opinion that the second reading of this bill is required to be passed by an absolute majority of the members of the house. As there is not an absolute majority of the members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

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

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clause 1 agreed to.

Clause 2

Hon. M. M. GOULD (Minister for Industrial Relations) — The purpose of the Audit (Further Amendment) Bill is to amend the Audit Act 1994, the Constitution Act 1975 and the Financial Management Act 1994. In fulfilling the government's commitment to make further amendments to the Audit Act, the bill furthers the restoration of democracy and enhances transparency and accountability in the public sector by expanding the role of the Auditor-General and improving the framework within which he operates.

The bill strengthens the accountability arrangements of the Auditor-General's office and provides greater scope in his powers to promote sound financial management in the state. The government has focused the bill to provide greater protection for the Auditor-General, to increase the scope of his powers, to provide for greater efficiency in the operations of his office, to ensure greater accountability for him and to improve the administration of the Audit Act.

The amendments have been developed in consultation with the Auditor-General and the Public Accounts and Estimates Committee, where extensive consultation was undertaken to ensure agreement and support was

reached on all the amendments in the bill as it now stands.

The CHAIRMAN — Order! Does Mr Davis understand that he cannot debate anything under this bill other than the commencement unless leave is granted for that? Is leave granted?

Hon. M. M. GOULD — I do not know. Perhaps not. What is he on about?

Progress reported.

HOUSE CONTRACTS GUARANTEE (HIH FURTHER AMENDMENT) BILL

Committee

Resumed from 29 November; further discussion of postponed clause 7.

The CHAIRMAN — Order! The committee has now to deal with postponed clause 7, to which an amendment was suggested by the Council. The Legislative Assembly has notified by message that it has not agreed to the amendment suggested by the Legislative Council.

Clause agreed to.

Reported to house without amendment.

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That the report be taken into consideration.

Hon. D. McL. DAVIS (East Yarra) — I move:

That the following amendment suggested on the consideration of the bill in the committee of the whole be again suggested to the Legislative Assembly —

Clause 7, page 5, after line 27 insert —

"(7) The exclusion by sub-section (1)(aa) of a developer covered by a HIH policy from an indemnity under section 37 in respect of building work does not apply to a developer who lodged a claim with HGFL before 1 November 2001.

(8) The exclusion by sub-section (1)(ba) of a loss indemnified under a HIH policy from an indemnity under section 37 does not apply to a loss a claim for which was lodged with HGFL before 1 November 2001.".

Hon. G. W. JENNINGS (Melbourne) — I am not surprised that the way the chamber is dealing with this matter has set our hearts aflutter, because it is a precedent that is not used very often. We have seen a suggested amendment sent over to the Assembly after an amendment moved during the committee stage in that place was rejected. It did not even make it onto the notice paper to be debated in the other place, because it was ruled out as unconstitutional, given that the net effect would be to add a burden onto the budget of the state. The proposition has been supported by a $35 million commitment by the Bracks government to underpin this scheme, which was established by a bill considered earlier in the spring sittings.

We paused in the middle of the committee stage of the bill in this place to suggest that the amendment be further considered by the Assembly. It was volleyed back to the Council. This is the second opportunity for the amendment to be moved in the Council. On behalf of the government and for constitutional reasons outlined in the first instance, I oppose the motion. Clearly, given a ruling by the Speaker based on the advice of the Clerks in the other place, this matter will not be dealt with by the Assembly.

The suggested amendment is here in the same form in which it was considered by the Assembly. The government rejects it on the basis of that constitutional advice and, more importantly, on the basis of the political and human consequences of the amendment.

The government's concern is that the $35 million guarantee fund was established to provide the potential for members of the Victorian community to make a claim. It aimed to deal with the hardship cases of individual home owners and to cover the liabilities of individual builders, given the unfortunate and untimely demise of HIH Insurance, which is currently being investigated by a royal commission established in the commonwealth jurisdiction.

The clear intention of the government, both in making a public commitment and in giving a commitment to the Parliament, was to establish a fund to cover those individual cases. The effect of the amendment before the house is to provide comfort to property developers and others at the big end of town at the expense of individual small householders trying to complete their family homes. It is the government's view that that is a most undesirable element of the amendment, regardless of its constitutionality.

The net effect on Victorian families who want some degree of financial security in the lead-up to Christmas is most undesirable. The amendment that is being insisted on by the Liberal Party will generate a degree of uncertainty for those families at a time when members of the Victorian community would like to feel most secure and certain of their future. It will add a

great deal of uncertainty to their capacity to finish building their homes so they can move in in the new year.

As I rose to my feet I was provided with a list of the suburbs of Victorians who will be affected by the amendment by not being able to gain access to the funds they so urgently require. I will not read through the list, but I will willingly provide it to any honourable members opposite who may be concerned about the net effect that may be visited on their doorsteps, given that they have not been mindful of the needs of their constituents in the lead-up to Christmas.

Honourable members opposite are not mindful of ensuring that those households gain financial relief; instead they are preoccupied with giving some comfort to the big end of town and to property developers. The only Christmas stocking the Liberal Party is concerned about is its own. It is obviously seeking to fill it up with donations from the corporate sector, and it is ignoring the needs of hundreds of families in the Victorian community. It is most unfortunate that the Liberal Party is putting the corporate world ahead of individual householders.

This is not the only occurrence in the chamber today where the Liberal Party has seemed preoccupied with giving its preferences to the big end of town or the Chardonnay set, and I refer to the farm dams bill. Members opposite are looking to protect the stakeholders in the Liberal Party, not the stakeholders in the Victorian community, and certainly not Victorian families.

Any analysis of the contribution of Liberal Party members to this debate and to the farm dams debate will show that the Liberal Party is seeking to support the privileged and the well off at the expense of those who are trying to go about their daily lives, whether they be householders who want to finish building their homes or, with regard to the farm dams, longstanding members of the farming community in regional Victoria.

It is an appalling blight on this chamber. The device the Liberal Party is using in this debate has not been successfully used in the Victorian Parliament since 1925. The idea of trying, yet again, to send a suggestion to the Legislative Assembly that it change the structure of the budget and accept an unconstitutional amendment has not been accommodated by the Legislative Assembly since that time. The privileged nature of this amendment harks back to the establishment of this chamber, which is constantly being drawn into disrepute because it protects the interests of the privileged. In fact, the underlying philosophy of this amendment sits fairly and squarely in the 1850s and relates more to the Dickensian era than it does to today.

I oppose the Scrooge-like amendment of the Liberal Party. It is applying a reverse Robin Hood standard — it is taking from the poor to give to the rich. That is rejected by the government, and it will continue to oppose the amendment. We urge the Liberal Party to revise its stance on this during the Christmas season so as to provide some comfort and support to ordinary households in Victoria. It should recognise the folly of its ways and support the National Party and the government by sending this amendment down.

Hon. R. M. HALLAM (Western) — The National Party is unable to support the amendment being proposed by the Liberal Party to the House Contracts Guarantee (HIH Further Amendment) Bill, which is again before the chamber. I say to my friends in the Liberal Party that our decision is taken notwithstanding the fact that we have spent a great deal of time considering and discussing the issue involved in the question before the chamber and notwithstanding the fact that this issue has been canvassed broadly since it initially came before the National Party party room.

The position of the National Party is that much less comfortable given it could be portrayed as its stance on what constitutes retrospectivity. We do not enjoy being involved in this circumstance, whereby some people will be able to say that ours is a different position on that question, particularly given that we would all, I hope, start from the premise that retrospectivity in generic terms is repugnant.

Members of our community should be able to rely on the law as it stands from day to day and not be hijacked by retrospective changes to the rule book. But in this case the National Party has resolved that the provisions currently in the bill should apply from the date of the original debate — that is, 8 June 2001. We know our stance is capable of being portrayed as retrospective in application. While we would, of course, vigorously contest that conclusion, we expect that that argument will be run in some quarters.

In explaining the National Party's position it is worth restating the genesis of the House Contracts Guarantee (HIH Further Amendment) Bill, because it has implications for a vast number of members of the Victorian community, as well as for individual claimants and taxpayers generally. On that basis it is worth going back and looking at how we have come to the dilemma that is currently before us.

The bottom line is that when HIH collapsed last May it held some 30 per cent of the housing contracts guarantee insurance market in Victoria, which exposed thousands of our constituent home owners to the risk that there would be no remedy when builders refused to make good faults in the construction of their homes. The question put to us by government was whether we should support its decision to step in and provide at least the option of a replacement warranty. We were told that that represented a potential cost of $35 million, that at least half of that would be a direct cost to the public purse and that the other half would be clawed back by way of increased building permit fees to be imposed on future home owners. In any event, we are talking about a $35 million cost.

It is worth restating the National Party's starting position, which was that it is quite inappropriate to use the public purse to bail out the private sector, whether it is the entrepreneurs or their victims. The rationale we employ is relatively simple: if we have a wicket-keeper, particularly in the form of a government with incredibly deep pockets as a result of its taxing powers, the entrepreneurs out there in the real world become more adventurous and their clients become less careful. The risks seem more acceptable simply because the public purse is seen to be the ultimate protection. That is the reason for our golden rule.

But the National Party was persuaded to put aside the golden rule in the circumstances of last June for four special reasons. I have outlined them in the Parliament previously, but it is appropriate to reiterate them because they go to the issue that is currently before the chamber.

The first reason for the National Party deciding to turn its back on its golden rule is that Parliament resolved that there should be a scheme of warranty insurance to protect Victorian home owners.

That scheme was to have implications for the builders to the extent that they could not build unless they had evidence of cover, the council could not issue building permits unless it had evidence of the cover, and the home owner could not sell the property unless there was evidence of that cover. My point then, as it is now, was that the Parliament set up that scheme. It would be inappropriate for the Parliament now to say, 'We'll wash our hands when that scheme runs foul of the circumstances we have before us'.

Secondly, we in the National Party said that we recognise that HIH quite deliberately set out to capture a huge share of the market, of which it achieved about 30 per cent. We should leave aside the question of how that was achieved because there is now massive evidence as a result of the shift in the market following the demise of HIH that at least part of the market had been achieved by underpricing the inherent risk. The scheme that this Parliament put in place allowed HIH to capture 30 per cent of the available market. If we had not a legal responsibility to step in and provide some form of protection then at least we had a moral obligation to do so. It was a moral obligation to the home owners whom we set out to protect.

Thirdly, we put on the record that we thought in this case it was inappropriate to argue the principle of caveat emptor because the reality of the circumstances was that the home owner, who would be the buyer presumably at risk in these circumstances in many cases, was not even a party to the contract. The contract was written between the builder on the one hand and the insurer on the other and just by the way it provided protection to the home owner. So it was hardly appropriate to say to the home owner who may have been caught up in this without knowledge, 'We're going to leave you to your own devices'. On that basis we argued that it was appropriate for the Parliament to take account of the moral obligation.

But beyond that and more than anything else we argued that it was appropriate for the Parliament to step in and provide a warranty of last resort because of the home owner whom we were seeking to protect. I said then, and I say again, the relevant issue here is that Australians regard home ownership to be of incredible importance. It is part of our folklore; it is part of our traditional dream. It is the biggest single transaction that most people make in their entire life and so it becomes a very big deal. And so does the exposure and the pain should the builder go belly up.

We also took account of the fact that in many cases home owners were at a disadvantage when it came to the negotiating position because they were in that once-in-a-lifetime deal treaty with an experienced builder and therefore, to some extent, out of their depth. We thought that in those circumstances here was one instance where the issue of consumer protection was a really valid argument and we came again and again to the point that the scheme that was originally introduced, which we were now being invited to protect as a result of the collapse of HIH, was in fact a consumer protection scheme. It was not there as some sort of mechanism to protect the commercial world. It was there to protect the home owner and we took that into account.

We took a conscious decision to support the government's decision to introduce an alternative

scheme of warranty. It was our position then; it has not changed. I have not seen any factor that would convince the members of the National Party that we should revisit that issue.

What has happened since and what has brought the dilemma before the chamber is that when the administrators took up the day-to-day operation of that replacement warranty they came across a whole range of unanticipated problems. I do not think they were too surprising because a major company was involved and it was in liquidation. It was going to be messy by definition, and it turns out that the records were less than adequate. The officers involved in the scheme came across some very cute conditions within individual covers that defied description. But what they meant was that in those circumstances, because the company had collapsed, those who were expecting to be covered by the terms of the policy were in fact still exposed. Thus it was held that it was necessary to come back to the Parliament and re-tune the terms and conditions of the original legislation to ensure that it met its original intent and that home owners were covered by the optional warranty made available by the government irrespective of whether they happened to have had the misfortune to be involved in a policy that had this incredible fine print.

Then and only then the National Party was required to respond to what turned out to be the contentious issue of whether commercial developers were entitled to coverage or, more pointedly, whether the cover under the initial legislation extended to those commercial developers. Unfortunately the original bill did not put that issue beyond doubt. It did not say that this bill shall specifically exclude developers.

Now the government says, 'That is what we intended; we didn't need to put it in the bill because that was the intent' — that is, the exclusion of commercial developers was implicit in the bill and the government's intent was clear to exclude those developers based upon the debate, their contribution to the debate and the terminology used. I go back to the point that again and again the term 'home owner' has been used. There is a quite specific definitional coverage in relation to that which in my view clearly does not include builders and developers. The government argues that the intent was clear and that the change in respect of the coverage relating to developers in this case is simply clarification of the original intent and that therefore the effect of this bill should go back to the date of effect of the original bill because that was the original intent. In other words, it should go back to 8 June when the government introduced its optional warranty.

As I understand it, what the opposition amendment says is that the original bill was not clear, that developers were entitled to make a claim in the interim, that if they are now excluded, that would be retrospective application of the law, and that if we are going to exclude developers, it should only apply from the date of the second-reading speech of the second bill — that is, the House Contracts (HIH Further Amendment) Bill.

What we have is a difference between the date on which commercial developers shall be excluded from the coverage of the government's warranty. The government says that they were never intended to be included and therefore the exclusion should apply from the date of coverage, 8 June. The opposition says, 'You mucked the bill up and therefore the date of exclusion should be the date of the second-reading speech on the second bill' — that is, 1 November. The National Party is torn between them. We in the National Party understand that we are talking about $10 million which will be lifted directly from the public purse. We understand that the developers have lodged their claims. We bear no malice to those developers. I applaud them for having the nous to go and put their claims in the queue. But that is not the point. We are now required to judge whether their claims on the public purse are appropriate in all the circumstances. I admit it is a very tough call.

The National Party has come to the conclusion that it cannot support the Liberal Party's assertion that the Council should insist on the thrust of its original amendment and hold the door open to commercial developers for the five intervening months. I do not want to speak on behalf of the government or the opposition. I want to speak on behalf of the National Party, because we have gone back to this issue again and again. Our rationale is based on these points: the first is that we in the National Party intended that it would be only individual home owners who would be included in the government's warranty; that it was a scheme of consumer protection and was never designed to bail out a commercial developer. It is clear from our comments at the time — and we go back again and again to the terminology we employed, — which in my view makes that very clear indeed. The National Party makes the point that its intent was very clear indeed.

Secondly, we now have confirmation that of themselves the actuarial projections employed by government on which government relied to give us the costings the first time around excluded commercial developers, and I am persuaded that that is implicit in the confirmation provided by the Auditor-General. To that extent we now have confirmation of the government's original intent.

Thirdly, I now have confirmation in letter form that the developers were never covered under the original scheme — the home guarantee fund. I have a letter here dated 3 December. It happens to be sent to a senior officer in the Department of Treasury and Finance, but it is signed by Michael Stokes, who is the chief executive of the Housing Guarantee Fund (HGF). The letter says:

> … we have checked all claim payments made by HGF to 'HIH' claimants and confirm that, as at today's date, we have not made any payments to developers.

There has never been — —

An honourable member interjected.

Hon. R. M. HALLAM — You can rebut it. There has never been a payment to a developer, and I am talking about the system which goes way back before the issue arose as to whether the government should step in with an alternative warranty.

Hon. C. A. Furletti interjected.

Hon. R. M. HALLAM — You are at liberty to rebut the point I am making. In any event, it seems clear to us that the government can argue that the intent in respect of coverage was clear in the original bill.

Our point is this: if it is the intent of Parliament that developers were never intended to have coverage, why would those same developers expect the rules to change simply because the government steps in with an alternative form of warranty? It seems to me that these developers who are now queuing up must think this is Christmas on a stick, because on the evidence that I have had, they have never expected to be part of the process. Now all of a sudden apparently they do.

That raises all sorts of question marks. So the National Party concluded that the specific exclusion of the developer in the bill before the chamber is nothing more than confirmation of the original intent, and on that basis we believe it appropriate that the application of the bill today should go back to the date of the application of the original bill. To do other than that would of itself be unfair, and we certainly do not regard that as retrospective application.

Finally, let me say that we have looked at this very carefully and we are not persuaded by the amendment offered to us by the opposition, because it says that if you are a commercial developer and you got your application in before 1 November, you will be right. But if you did not get your application in before 1 November, for whatever reason, 'sorry, you miss out'. Our view is that that of itself is unfair. If we are going to make a decision about whether the scheme covers commercial developers, it should be all in or all out. The National Party thinks this is offering two classes of developer, and that of itself could be regarded as an exercise in retrospectivity. We do not think that to be any real solution. As it happens, we in the National Party do not believe the original intent was to cover commercial developers. We do not think it should have done. We think we made our intent clear the first time around and we intend to hold that line. We shall be arguing that the Council should not insist on the amendments previously sponsored by the Liberal Party, even though we have sympathy for the general concept of those amendments. We think that the application of the bill currently being considered should be the date of the original bill.

Hon. C. A. FURLETTI (Templestowe) — Let me at the outset indicate that at all times, and even now, the Liberal Party is prepared to discuss the terms of these amendments and to seek to negotiate with the government a resolution to this difficulty. There is no doubt at all, and we agree entirely with the government, that there are a number of individual home owners who are being held up because of the delay in the passage of this bill. That is not the fault of the Liberal Party. It is indeed in the interests of all that the matter be resolved very quickly, and the offer has been made by the shadow Treasurer to the Minister for Finance that if the provisions which are the issue of concern for the Liberal Party are excised from the bill, the matter can be dealt with very quickly. It is in the hands of the government, of course, if it wishes to bring back the Assembly to make sure that a rapid passage is assured.

If the government is interested in securing the passage and a resolution to this matter I am sure the shadow Minister for Finance is prepared to discuss it today or during the holidays to seek to resolve it. I need to put that on record because this is not an instance of our in any way seeking to obstruct the provisions.

There are two fundamental issues. The first is that the government messed up and now it is trying to say that it wants to turn back the clock. It is not prepared to acknowledge or accept that it messed up.

Hon. M. M. Gould interjected.

Hon. C. A. FURLETTI — Nowhere, either in the debate in the other place or in this house has there once been an indication that developers are not entitled to claim warranty under the legislation passed by the government. It has not been suggested because that is the case — when the government introduced its legislation it included developers, and now it wants to

say, 'Oops, we made a mistake'. As the Victorian public found out in the days of the Cain and Kirner governments, when the government makes a mistake unfortunately the government has to pay for it.

As was indicated by the Honourable Roger Hallam, retrospectivity is repugnant, and should be repugnant to all governments because governments should not govern through retrospectivity. How simple it is to say that we should use retrospectivity to fix up our own mistakes. That in itself is poor, but people have relied upon legislation that has passed through this house, and made applications for funding and issued Supreme Court proceedings in some instances.

I will touch on that because it is something that no-one else in this place has touched on. I do not know that honourable members have seen anything like proposed section 36A of the bill. Certainly I have not seen it in my six years in this place. It is a provision which deprives an individual of his legal right to go to the Supreme Court to enforce those rights. It is absolutely abhorrent. Legislators should not consider this type of provision except in the most extreme of circumstances. The provision here is for one purpose: to fix a mistake of the government. The opposition cannot cop that; it will not accept it because the opposition is here to respect the rights of the individual as against the Parliament.

If it is a matter of retrospectivity for the purposes of fixing a loophole, that is fine, but the government cannot say, and cannot possibly substantiate a claim to say as the Honourable Gavin Jennings said, 'We have introduced legislation and I am sorry; we did not mean to include developers so therefore we are going to amend the law and backdate it to the date of the original legislation'. This is not a loophole; it has never been suggested as a loophole. On 29 November the Minister for Finance acknowledged it as a flaw. If it is a flaw, if it is a mistake, the government has to pay for it.

Hon. M. M. Gould interjected.

Hon. C. A. FURLETTI — If the government wants to rectify the flaw it is in the government's gift to rectify the legislation by passing a bill of this nature with operation from the date of assent, or if it really wants to push it to the extreme from the date of the second-reading, which is what this amendment is all about. That is what the government should do.

The opposition objects to two things: the retrospectivity and the deprivation of the individual's rights to take an existing claim to a court of law. Imagine the concept of stopping people who are in the process of enforcing their legal rights from proceeding with those rights? What if a case had been heard and a decision was to be handed down tomorrow? What would the government say about that? It would say, 'Very sorry, we have changed the law and backdated it'. Is that the way to govern? Is that what legislators are intended to do? The opposition finds it offensive that the government would suggest it.

Hon. M. M. Gould interjected.

Hon. C. A. FURLETTI — If the government is interested in the 150 individual claims the opposition is happy to have them proceed today if the government excises these provisions — proposed section (7)(1)(aa). There is the challenge. The opposition is happy to do it. The challenge is on the table — and I have that from the shadow minister.

I will pick up on some of the words used by the Honourable Gavin Jennings. He indicated that this is a precedent that is not used very often. As is often the case these types of situations are used rarely because they are used to remedy or give effect to other rare situations. The rare situation was that of proposed new section 36A, which is one of the most abhorrent deprivations of rights that legislators could introduce. The amendment, which should have been fully debated in the other house, was ruled unconstitutional. With the utmost of respect to the Chairman of Committees in the other place, I would like to refer to the ruling which disallowed the amendment from being debated. I have considered the ruling, and in fact I have to hand a couple of legal opinions on it.

As the house would be aware there is a dispute — as was referred to by the Honourable Gavin Jennings — that the amendments were unconstitutional because they breached section 63 of the Constitution Act and standing order 170. The reality is that if honourable members on the other side had carefully read the appropriate sections of the constitution and the standing orders they would have been aware that they relate to the appropriation of funds from consolidated revenue. My first impression was that there was no such appropriation. In fact, the reality is that passing the amendment would have reduced the appropriation. Therefore, there was absolutely no basis for the ruling.

I have had advice that suggests there were two errors in the ruling, one of which was in equating state liability to appropriation, when they are clearly not the same thing. The legislation of June 2001 creates a state liability, which of course is satisfied through appropriation. In dealing with state liability there is no

dealing with appropriation, and that is what the amendment does.

Again with the utmost respect, the second ground for querying the ruling concerns section 46 of the House Contracts Guarantee Act 1987, which contemplates the necessity for separate legislation for funds to be appropriated by the Parliament and paid into the Housing Guarantee Fund.

This bill seeks to reduce rather than increase the state's liability. By maintaining the status quo there is no change to the state's liability. There are a number of grounds to strongly argue that the ruling in the other place was wrong, and therefore we have been deprived of the opportunity to fully debate and consider — —

Hon. Jenny Mikakos — On a point of order, Mr President, I seek your guidance on whether the honourable member is able to make the statement that the ruling by the Chairman of Committees in the other house was incorrect, given that that would constitute a contempt of the Chairman of Committees. I seek your guidance, and I wonder whether you could offer some advice to Mr Furletti on the matter?

Hon. Bill Forwood — On the point of order, Mr President, the issue is whether this house has the capacity to comment on actions taken in another place. We are going through a peculiar process in this place because of the inability of the Assembly to debate the amendment in a particular manner, which has consequences for this house. It is entirely appropriate for Mr Furletti to respectfully, as he said on both occasions when speaking about the ruling by the Chairman of Committees in the other place, to comment on the nature of it and its effect on this place. I submit that there is absolutely no point of order.

The PRESIDENT — Order! We do not often get to the situation where there is disagreement between the houses on a technical point, which is the ability of this house to suggest a amendment. It is quite open to a member of this house to comment on the position taken by the Assembly on a matter such as this if it is done in respectful terms.

Hon. Jenny Mikakos — It was not a position of the Assembly — it was a ruling of the Chairman of Committees.

The PRESIDENT — Order! The Council cannot be in contempt of the Assembly, there is no such concept.

Honourable members interjecting.

The PRESIDENT — Order! We have a system where we have two separate and independent houses. We are entitled to regulate our proceedings and to comment on issues that could impact on us in a way that the house sees fit. I do not uphold the point of order.

Hon. C. A. FURLETTI — Thank you, Mr President, I appreciate your ruling. The Minister for Finance in the other place is reported in today's newspapers as suggesting that if the house passed this amendment developers could make further claims on the limited fund. The spin that the government is putting on the issue that the opposition is seeking to raise is wrong.

Hon. M. M. Gould — That is exactly what you are doing.

Hon. C. A. FURLETTI — The Leader of the Government says that that is exactly what we are doing. The suggested amendment says that any claims made before 1 November should be accepted. The Leader of the Government might like to explain how somebody can make a claim now.

Hon. M. M. Gould interjected.

Hon. C. A. FURLETTI — How can the claim be increased? The Leader of the Government said that she agreed with the Minister for Finance, but the Minister for Finance is misleading the public, because it is impossible. The amendment talks about claims made up to 1 November. The minister is seeking to put a spin on the suggested amendment to justify a position which is simply untenable.

I repeat the offer: the opposition is prepared to allow the amendment to go through to give access to those families who are caught in an invidious position, because if they were not locked into this scenario there would be no difficulty with the processing of this legislation.

I make one other point before concluding. Again with the utmost respect, I draw the attention of the house to the treatment of this bill by the Scrutiny of Acts and Regulations Committee (SARC). I know that that committee does an excellent job and that its role is a very difficult one. However, I have sought to indicate to the house two grave and serious provisions in the legislation that dramatically affect the rights of those who happen to be caught in this situation. Section 4D(a) of the Parliamentary Committees Act 1968 provides that the Scrutiny of Acts and Regulations Committee is to:

> … report to the Parliament as to whether the bill, by express words or otherwise —
>
> (i) trespasses unduly upon rights or freedoms …

It then goes on to deal with other areas.

If the retrospective provisions that are contained in this bill — let alone the retrospectivity to the date of commencement — do not trespass unduly upon rights or freedoms, then what does? Proposed section 36A stops dead in their tracks any proceedings in a court of law. What greater trespassing upon rights or freedoms could there be? Yet the Scrutiny of Acts and Regulations Committee report on the House Contracts Guarantee (HIH Further Amendment) Bill simply quotes the explanatory memorandum relating to clause 2 of the bill.

I have picked up some other *Alert Digest* reports, one of which related to a private members bill on retail tenancies which I introduced in this house recently, in which retrospectivity was an essential element for the bill to be effective. The retrospective provision is dealt with in a big black box in that report which very clearly draws to the attention of the readers of the *Alert Digest* that the committee has noted the retrospective provision and so on — it is highlighted in the report!

I refer to section 4D(b)(iii) of the Parliamentary Committees Act, which is perhaps a little more tenuous but nonetheless something that the Scrutiny of Acts and Regulations Committee should have looked at. This subsection relates to section 85 of the Constitution Act, with which the government has become very familiar in its two years in office. It states that the committee should report on a bill:

> where a bill does not repeal, alter or vary section 85 … but where an issue is raised as to the jurisdiction of the Supreme Court, as to the full implications of that issue …

The Scrutiny of Acts and Regulations Committee is supposed to report on the implications of a bill when it impacts on the jurisdiction of the Supreme Court. Proposed section 36A impacts dramatically on the jurisdiction of the Supreme Court because it prevents people from proceeding with their actions.

Hon. Bill Forwood — People who are already there.

Hon. C. A. FURLETTI — They are there. It prevents them from proceeding. What do we have on that issue from SARC? We have a transcription of the explanatory memorandum relating to clause 5. What does it say in the committee's report? The committee makes no further comment.

I do not wish to be unduly critical; I can only say that there has been a grave omission on the part of the Scrutiny of Acts and Regulations Committee to adequately and appropriately — —

Hon. Jenny Mikakos interjected.

Hon. C. A. FURLETTI — Yes, I know you are a member of it, and I am very specific in this. There has been a grave omission and some element of neglect in not picking up these aspects — —

Hon. Jenny Mikakos — On a point of order, Mr President, I ask the honourable member to withdraw that statement. He said he was being very specific, given the fact that I am a member of SARC, and he was drawing particular inferences from the statement used by SARC in its *Alert Digest*. All members of the Scrutiny of Acts and Regulations Committee would be offended by that statement. I personally take offence to it and I ask the honourable member to withdraw it.

Hon. Bill Forwood — On the point of order, Mr President, Mr Furletti is being very clear in pointing out exactly what happened in relation to the report of the committee. He has not named any particular member of the committee; all he has done is point out the decision of the committee and what the committee wrote in its report, which was, 'No further comment'. It is a very long bow to draw to suggest that he cannot comment on a committee report.

The PRESIDENT — Order! The house is guided by standing order 134, which states:

> Whenever any member makes use of any expression personal and disorderly —

so it has to be personal and it has to be disorderly —

> or capable of being applied offensively to any other member, the President shall —

and so on. No member has been named in this instance. The committees of this Parliament are not sacrosanct and quite often robust comments are made in this house about recommendations or actions taken by them. The honourable member's comments clearly did not identify any member nor did they make use of an expression which was offensive or disorderly. Therefore I do not uphold the point of order.

Hon. C. A. FURLETTI — As I was saying, I am not sure where this aberration came from or why this grave omission took place, but it is a significant omission which I trust the members of the committee will address subsequently.

On the basis that the provisions of the bill contain a very serious intervention and deprivation of rights, the opposition seeks to pursue the suggested amendment and urges the government to accept it.

House divided on Mr D. McL. Davis's motion:

Ayes, 23

Ashman, Mr	Furletti, Mr
Atkinson, Mr	Katsambanis, Mr
Birrell, Mr	Lucas, Mr
Boardman, Mr	Luckins, Ms (*Teller*)
Bowden, Mr	Olexander, Mr
Brideson, Mr	Rich-Phillips, Mr
Coote, Mrs (*Teller*)	Ross, Dr
Cover, Mr	Smith, Mr K. M.
Craige, Mr	Smith, Ms
Davis, Mr D. McL.	Stoney, Mr
Davis, Mr P. R.	Strong, Mr
Forwood, Mr	

Noes, 20

Baxter, Mr	Jennings, Mr
Best, Mr	McQuilten, Mr
Bishop, Mr	Madden, Mr
Broad, Ms	Mikakos, Ms
Carbines, Mrs	Nguyen, Mr
Darveniza, Ms (*Teller*)	Powell, Mrs (*Teller*)
Gould, Ms	Romanes, Ms
Hadden, Ms	Smith, Mr R. F.
Hall, Mr	Theophanous, Mr
Hallam, Mr	Thomson, Ms

Motion agreed to.

Ordered that message be sent to Assembly with message intimating decision of house.

Consideration of report postponed.

SELECT COMMITTEE ON THE URBAN AND REGIONAL LAND CORPORATION MANAGING DIRECTOR

Membership

The PRESIDENT — Order! I advise the house that I have received from the party leaders, within the time set by the resolution of the house, letters in which the Honourables R. M. Hallam, G. W. Jennings, N. B. Lucas, G. K. Rich-Phillips and T. C. Theophanous were nominated as members of the Select Committee on the Urban and Regional Land Corporation Managing Director.

VICTORIAN INSTITUTE OF TEACHING BILL

Council's amendments and Assembly's amendments

Message from Assembly agreeing to some Council amendments, disagreeing with other Council amendments and seeking concurrence with further Assembly amendments considered:

Assembly's message:

Council's amendments 11, 13, 14, 15, 17, 18, 19 and 26 agreed with.

Council's amendment 1 as follows agreed with:

1. Clause 8, line 11, omit "19" and insert "22".

but following amendment made by Assembly:

Omit "22" and insert "20".

Council's amendment 2 as follows agreed with:

2. Clause 8, line 15, omit "9" and insert "12".

but following amendment made by Assembly:

Omit "12" and insert "10".

Council's amendments 3 to 9 as follows disagreed with:

3. Clause 8, line 22, omit "3 are to be teachers" and insert "one is to be a teacher".

4. Clause 8, page 9, lines 2 and 3, omit "or a school registered under Part III of the **Education Act 1958**".

5. Clause 8, page 9, line 7, after this line insert —

   "(e) one is to be the parent of a student in a school registered under Part III of the **Education Act 1958** selected by the Minister following the Minister's consideration of names submitted to the Minister from organisations representing parents of students in those schools;".

6. Clause 8, page 9, line 8, omit "2 are to be persons" and insert "one is to be a person".

7. Clause 8, page 9, line 13, after "**1958**" insert "that is operating under the auspices of the Catholic Education Commission.

8. Clause 8, page 9, line 14, after this line insert —

   "(g) one is to be a person nominated by the Minister following the Minister's consideration of names submitted to the Minister from person or bodies employing teachers in schools registered under Part III of the **Education Act 1958** (other than schools referred to in paragraph (f)) or bodies or organisations representing those employers;".

9. Clause 8, page 9, line 15, omit "one is to be a person" and insert "2 are to be persons".

Council's amendment 10 as follows agreed with:

10. Clause 8, page 9, line 22, omit "7" and insert "10".

but following amendment made by Assembly:

Omit "10" and insert "8".

Council's amendment 12 as follows agreed with:

12. Clause 8, page 9, line 25 omit "one is" and insert "3 are to be elected by and from registered teachers who are".

but following amendment made by Assembly:

Omit "3" and insert "2".

Council's amendment 16 as follows agreed with:

16. Clause 8, page 10, line 1, omit "one is" and insert "3 are to be elected by and from registered teachers who are".

but following amendment made by Assembly:

Omit "3" and insert "2".

Council's amendment 20 as follows agreed with:

20. Clause 8, page 10, line 11, after this line insert —

"(v) one is to be elected by and from registered teachers who are currently teaching in a school that is registered under Part III of the **Education Act 1958** (other than a school referred to in sub-paragraph (ii) or (iv)) or is currently teaching at least one subject in such a school;

(vi) one is to be elected by and from registered teachers who are currently teaching in a special school for students with disabilities or impairments;"

but following amendment made by Assembly:

Before " special" insert "state".

Council's amendments 21 to 25 and 27 to 42 as follows disagreed with:

21. Clause 9, line 15, omit "81" and insert "80".

22. Clause 13, line 32, omit "81" and insert "80".

23. Clause 18, line 22, omit "81" and insert "80".

24. Clause 21, line 15, omit "81" and insert "80".

25. Clause 21, line 27, omit "81" and insert "80".

27. Clause 61, omit this clause.

28. Clause 62, lines 16 to 25, omit all words and expressions on these lines and insert —

"member has all the powers and may perform all the functions of the member."

29. Clause 65, page 47, line 3, omit "64" and insert "63".

30. Clause 69, line 11, omit "68" and insert "67".

31. Clause 71, line 13, omit "68" and insert "67".

32. Clause 71, line 15, omit "70" and insert "69".

33. Clause 71, line 17, omit "84 or 94" and insert "83 or 93".

34. Clause 74, line 3, omit "70" and insert "69".

35. Clause 75, line 13, omit "70, 72 or 73" and insert "69, 71 or 72".

36. Clause 76, line 23, omit "70, 72 or 73" and insert "69, 71 or 72".

37. Clause 77, line 7, omit "70, 72 or 73" and insert "69, 71 or 72".

38. Clause 78, line 20, omit "70, 72 or 73" and insert "69, 71 or 72".

39. Clause 78, page 54, line 10, omit "70, 72 or 73" and insert "69, 71 or 72".

40. Clause 79, line 14, omit "70, 72 or 73" and insert "69, 71 or 72".

41. Clause 84, page 59, line 1, omit "consultation" and insert "agreement".

42. Clause 88, page 62, line 8, omit "88" and insert "87".

Council's amendment 43 as follows agreed with:

43. Clause 90, line 5, omit "19" and insert "22".

but following amendment made by Assembly:

Omit "22" and insert "20".

Council's amendments 44 to 49 as follows disagreed with:

44. Clause 90, line 16, omit "91" insert "90".

45. Clause 93, line 21, omit "92" insert "91".

46. Clause 94, line 23, omit "84" insert "83".

47. Clause 94, page 67, line 16, omit "84" insert "83".

48. Clause 94, page 67, line 21, omit "consultation" and insert "agreement".

49. Clause 94, page 67, line 26, omit "84" and insert "83".

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That the Council do not insist on their amendments with which the Assembly have disagreed and agree to the amendments made by the Assembly to the amendments made by the Council.

Honourable members will recall that on 28 November the Council proposed amendments to the bill. The next day, 29 November, the Assembly considered the proposed amendments.

The bill and the amendments now proposed by the Assembly provide for an increase in the membership of the institute council from 19 members to 20. The additional member will be elected and will come from a government special school. The changes also propose that the council comprise the Secretary of the Department of Education, Employment and Training, 10 elected members and 9 members appointed by the Governor in Council. They further propose that the election of members be conducted by electoral colleges, ensuring sectoral representation for government, Catholic and independent schools, and primary, secondary and special schools.

Although the opposition indicated that it would agree to the amendments now proposed by the Assembly, it requested that before the bill was debated again in the Council the government give consideration to two further amendments — the election of the institute chairperson; and the institute council being required to agree rather than consult with the board of a college established by the institute before making changes to the charter of the college.

In recent days the government has held further consultations with all relevant key stakeholder organisations, including the principals associations. As a result of these consultations there is now widespread support among the professions and stakeholder organisations for the bill as amended in the Legislative Assembly and for the passage of the bill in these sittings.

Following recent discussions with both Liberal Party and the National Party members, I understand that all parties represented in the house now support the bill with the amendments proposed by the Assembly on 29 November.

Hon. ANDREW BRIDESON (Waverley) — I advise the house that the opposition agrees with the amendments as proposed by the Assembly on the last day of the sittings. Through the process of amendments in this chamber and the other chamber, and in negotiations between the Liberal Party and the government, we have now ensured that the new institute will be far more representative. We have obtained if not 100 per cent of what we were aiming for then somewhere in the vicinity of 90 to 95 per cent, and we are relatively pleased with that.

We have gained a clear representation for the Catholic sector with a guarantee of one primary representative, one secondary representative, one principal and one employer from the Catholic Education Office. We have guaranteed that there will be representation for the independent sector with one teacher representative, one principal and one employer representative.

In conjunction with the National Party, the Liberal opposition has also secured an elected council position for the special school sector. That was debated fully last week in this chamber. We have also created what we consider to be a more realistic proportional representation of teachers across the three sectors — that is, the number of elected teacher representatives are spread across the sectors, which better reflects the actual proportions of teachers in each of them.

We had extensive consultation with the government principals groups and have guaranteed them that the principals college, which will be set up by the Victorian Institute of Teaching, will not compromise the current role of the existing principals bodies — including, most importantly, the Australian Principals Centre, which was established by the previous Kennett government.

We have also allowed for the provision of candidates' statements on the ballot papers for the election of the representatives to the Victorian Institute of Teaching. We have ensured that sectoral voting will be used in the voting for representatives so that Catholic teachers will choose their own representatives, government school teachers will choose their own, independent teachers will choose theirs, et cetera.

We have also made changes to the elected positions on the institute council, which will now comprise 10 elected and 10 appointed members. While we are not totally satisfied with that, it is close to the original aim of the majority share being elected representatives, which we campaigned for.

During the past week I have received numerous letters from grammar schools, Christian schools and colleges, and independent community schools which are still concerned about certain aspects of the bill. I could probably summarise their concerns by saying that they are extremely nervous about possible government and union intrusion with the aim of covert control, which is implicit in the bill.

In the debate last week I listed some concerns of the Association of Independent Schools of Victoria in particular. I trust that in the ensuing weeks members of the association will be able to meet with the minister or representatives of the Department of Education,

Employment and Training to come to a better understanding of those issues.

The last thing I want to say on this bill is that it has been through a relatively complex process because there have been amendments, amendments to amendments and we are about to have amendments to the amendments to the amendments. Closely involved in this process has been Susan McInnes from the Office of the Chief Parliamentary Counsel Victoria. I put on record the fact that she has been extremely overworked, but more importantly she has been helpful with the process that we have gone through. I end where I started, by stating that the opposition agrees with the amendments proposed.

Hon. P. R. HALL (Gippsland) — I am pleased to indicate the National Party's support for the bill in its amended form. It was the wish of the National Party that these issues be sent back to the Assembly and resolved. We supported the amendments moved by the opposition but implored the government to sit down with the opposition and work through those Council amendments to try to come to a mutual agreement on the issues. That has turned out to be the case. Consultation has been undertaken while the bill has been between the two houses and I am extra pleased that we have an outcome that is satisfactory to all players.

This is another example of the importance of the upper house working as a true house of review. The upper house suggested amendments went back to the Assembly, giving the two parties a bit of breathing space to be able to come together and reach a mutually agreeable position. I am pleased the upper house has played that important role again.

As did the Honourable Andrew Brideson, I have had contact with a number of organisations over the past week. I had a conversation with Mary Bluett, the Victorian President of the Australian Education Union, who was very keen for this bill to go through in its current form. I also had a discussion with a representative from the Australian Council of State School Organisations and received correspondence from the Victorian Council of School Organisations. Without going through that letter, I record that it indicated that its wish would be for the Parliament to support the bill in its current amended form.

As I said, it is pleasing that the parties have got together and worked out a mutually agreed position. I am pleased to indicate the National Party's support for the bill in its current form.

Motion agreed to.

JUDICIAL REMUNERATION TRIBUNAL (AMENDMENT) BILL

Council's amendments

Message from Assembly disagreeing with following Council amendments considered:

1. Clause 6, page 7, after line 2 insert —

   "(4) A reference of a matter for an advisory opinion must be in writing.

   (5) The Attorney-General or, if an Order under section 11(2) is in force, the relevant Minister, must cause notification of a reference under this section to be published in the Government Gazette specifying the matters referred to the Tribunal for an advisory opinion within 7 days of referring the matter to the Tribunal.".

2. Clause 6, page 7, line 3, omit "(4)" and insert "(6)".

3. Clause 8, line 26, after "recommendation" insert "or a report of an advisory opinion".

Hon. M. R. THOMSON (Minister for Small Business) — I move:

That the Council do not insist on their amendments with which the Assembly have disagreed.

In relation to the amendments that were moved in this chamber with which the Assembly has disagreed, as was pointed out during the debate in the committee stage, the government was concerned about issues of privacy in relation to individuals and that the amendments would impinge on the rights of those individuals. We were also concerned about policy advice that may go to cabinet and that cabinet confidentiality may need to be maintained in relation to that.

The government does not accept these amendments and I seek the house's support to not insist on the amendments.

Hon. C. A. FURLETTI (Templestowe) — I listened to the minister's argument on rejecting the amendments proposed by the opposition. She reiterated substantially the arguments of the Attorney-General in the other place who, on 28 November, clearly stated that the role of the Judicial Remuneration Tribunal is to set the remuneration of judicial officers. It is a pity that his contribution on that day did not allow that fundamental objective to be the theme of his argument, because he eventually lost that theme by watering it down and effectively suggesting that the role of the JRT

will be to give opinions about individual judges and particular matters and circumstances possibly affecting individual judges. It is interesting to hear the minister representing the Attorney-General in this place reiterate what most rational people will consider to be a great intrusion into the area of separation of powers which we hold so dear in our society.

I say unequivocally that the opposition supports entirely the principal purpose and intent of the bill and is anxious to see it enacted. It is, however, extremely concerned at the secrecy provisions contained in new section 11A inserted by clause 6. I shall not travel that route again and repeat what I said in my contribution to the second-reading debate. Suffice it to say that it appears that the Attorney-General is seeking to establish his own advisory committee for his own purposes to be used secretly at his whim.

As I have previously indicated — the Attorney-General picked up the comment made during the second-reading debate in this place — the opportunity to seek an advisory opinion is not restricted to the Attorney-General. It is extended in new section 11A(3) to any minister responsible for a tribunal. Although it appears there is currently only one such situation, that being the Minister for Health, it begs the question: what happens if one day we have a police complaints tribunal? It would be obvious that the Minister for Police and Emergency Services would be responsible for that tribunal. What if the minister were to set up a separate and independent retail tenancies tribunal under the auspices of the Minister for Small Business? The minister in this place would be responsible for that tribunal. As I suggested and pointed out in my contribution, that argument can clearly be extended across the board to include the whole cabinet.

The comments of the Attorney-General have aggravated and not allayed the concerns of the Liberal opposition. The Attorney-General said that he would like to think that he can use a Judicial Remuneration Tribunal to bounce policy ideas off. He suggests that he might talk to members of the Judicial Remuneration Tribunal about what to do about a particular judge who may be seeking sabbatical leave for whatever purpose. He repeated the comments of his parliamentary secretary in suggesting that the tribunal might have to give him advice on how to treat applications for maternity leave and the like. Each of those examples was expressed in terms of, 'I want to deal with the Judicial Remuneration Tribunal to give me advice on situations, circumstances and determinations that affect individual judges'.

That is an unbelievable comment. On what basis and in what circumstance could that happen? Are we to talk about whether a particular judge should have a certain amount of sabbatical leave different from his brother judges? Should we be talking about a particular judge seeking maternity leave who derives a benefit different from another expectant female judge? What about the independence of the judiciary? What about the extent of interference that could take place? What a disturbing notion. We are contemplating this and saying, 'This bill is intended to introduce transparency; this bill is all about the Judicial Remuneration Tribunal's determinations and recommendations being made public; this is all about the Judicial Remuneration Tribunal, and not the Attorney-General, doing things', yet tucked away in the bill is a provision which says, 'But these particular pieces of advice which the Attorney-General needs will not be made public'.

What is the Attorney-General suggesting? Will he go in and bat for one of his mates because he happens to be a member of the judiciary and wants a special deal? It is for precisely that reason that the request for an advisory opinion should be and must be public, open and transparent. The opposition amendments are simply about transparency and to ensure that the nexus between the Attorney-General and the Judicial Remuneration Tribunal is as open as possible. We do not deny that the Attorney-General is entitled to have that advisory council on his side, but what happens must be open.

The bill is inconsistent. On the one hand it promotes total transparency but on the other hand it shuts the door and draws down the blind. If the Attorney-General or any other qualified minister wishes to seek advice about how best to treat a mate, then he or she can do it. I hope that event would never occur, but to ensure that it, or even the perception of it, does not arise, I urge the government to accept the opposition's amendments.

Hon. R. M. HALLAM (Western) — The National Party is saddened that the fate of the Judicial Remuneration Tribunal (Amendment) Bill hinges upon the amendments, because we all agree that this is a worthwhile legislative initiative. Yet we are talking about an issue which goes absolutely to the margin of the tenets of the general thrust of the bill.

We have heard nothing which would change our views. The question that we canvassed at the time the bill came into this house in the first instance was the appropriateness of having advice sought from the Judicial Remuneration Tribunal by a minister of the Crown and then provided by the tribunal to that minister, and that it should be a matter of public record.

We believe that to be of fundamental importance because it goes to the issue of whether there would at least be the perception that the Judicial Remuneration Tribunal becomes some sort of private reference body available to the government to trot out as a referee if the advice happens to suit its cause, but to keep that advice under wraps if it happened not to suit its cause. We think that goes to the very nub of the issue addressed by the bill in the first place — that is, the issue of transparency outlined by the Honourable Carlo Furletti before.

So we see this as an issue of fundamental import. We have not been persuaded by anything we have heard from the government. The only thing the government has said is, 'Hang on a minute; it would be inappropriate to make this advice public if it relates to an individual member of the judiciary'. We accept that, because we do not think it is appropriate to seek advice from the Judicial Remuneration Tribunal that would relate to a particular member of the judiciary. We do not think that is an appropriate function of the tribunal. But even if we thought that was an appropriate function, we are prepared to pay the price of taking that option out of the range available to the government, on the basis that the independence of the tribunal is absolutely paramount in our view.

I am surprised that the government is simply relying on the notion that the opposition amendment would preclude a minister of the Crown getting advice from the tribunal that was, by definition, personal to one particular member of the judiciary. That goes to the very issue that we thought the bill was seeking to protect us from, and that the separation of powers was paramount in the process.

In any event, the National Party has not heard a single argument that convinces it to change its position. I place on the record the fact that we will support the amendments originally proposed by the opposition, which we presume will be insisted on by the house.

House divided on motion:

Ayes, 14

Broad, Ms	Madden, Mr
Carbines, Mrs (*Teller*)	Mikakos, Ms
Darveniza, Ms	Nguyen, Mr
Gould, Ms	Romanes, Ms
Hadden, Ms	Smith, Mr R. F.
Jennings, Mr	Theophanous, Mr
McQuilten, Mr (*Teller*)	Thomson, Ms

Noes, 29

Ashman, Mr	Furletti, Mr
Atkinson, Mr (*Teller*)	Hall, Mr
Baxter, Mr	Hallam, Mr
Best, Mr	Katsambanis, Mr
Birrell, Mr	Lucas, Mr
Bishop, Mr	Luckins, Ms
Boardman, Mr	Olexander, Mr
Bowden, Mr (*Teller*)	Powell, Mrs
Brideson, Mr	Rich-Phillips, Mr
Coote, Mrs	Ross, Dr
Cover, Mr	Smith, Mr K. M.
Craige, Mr	Smith, Ms
Davis, Mr D. McL.	Stoney, Mr
Davis, Mr P. R.	Strong, Mr
Forwood, Mr	

Motion negatived.

Ordered to be returned to Assembly with message intimating decision of house.

WATER (IRRIGATION FARM DAMS) BILL

Council's amendments

Message from Assembly disagreeing with following Council amendments considered:

1. Clause 4, page 3, line 11, after "51(1A)" insert "or 51(1B)".

2. Clause 6, lines 4 to 11 omit all words and expressions on these lines and insert —

   '(2) In section 8(6) of the Principal Act, after paragraph (c) **insert** —

   "(ca) a restriction or prohibition on the use, other than domestic and stock use, of water from a spring or soak or water from a private dam (to the extent that it is not rainwater supplied to the dam from the roof of a building) contained in an approved management plan drawn up under Division 3 of Part 3 for a water supply protection area; or".'.

3. Clause 6, after line 11 insert —

   "(3) In section 8(6)(d) of the Principal Act for "the prescriptions" **substitute** "any other prescriptions".

4. Clause 10, page 15, after line 14 insert —

   "(k) restrictions or prohibitions on the use, other than domestic and stock use, of water from a spring or soak or water from a private dam (to the extent that it is not rainwater supplied to the dam from the roof of a building);".

5. Clause 10, page 15, line 15, omit "(k)" and insert "(l)".

6. Clause 10, page 15, line 17, omit "(l)" and insert "(m)".

7. Clause 10, page 15, line 22, omit "(m)" and insert "(n)".

8. Clause 10, page 15, line 30, omit "(n)" and insert "(o)".

9. Clause 10, page 16, line 4, omit "(o)" and insert "(p)".

10. Clause 10, page 17, after line 33 insert —

"(14) Sub-section (13) does not apply to a contravention of a kind referred to in section 63(1A).".

11. Clause 19, lines 26 to 33 and page 29, lines 1 to 26, omit all words and expressions on these lines and insert —

"(1A) During the period commencing on 1 February 2002 and ending on 31 January 2003, a person may apply, without payment of an application fee, to the Minister for the issue of a registration licence to take and use water from a dam on a waterway other than a river, creek, stream or watercourse for a use other than domestic and stock use.

(1B) If an approved management plan for a water supply protection area prohibits or restricts the use of water from a spring or soak or water from a private dam, a person may, during the period of 12 months after the approval of that management plan, apply, without payment of an application fee, to the Minister for the issue of a registration licence to take and use water from the spring or soak or water from the dam (to the extent that it is not rainwater supplied to the dam from the roof of a building or water supplied to the dam from a waterway or bore), for a use other than domestic and stock use.

(1C) Sub-section (1A) only applies, in relation to a dam, to a person who at any time during the period of 10 years immediately before the commencement of section 32 of the **Water (Irrigation Farm Dams) Act 2001** was taking and using water from the dam for a use (other than domestic and stock use) for which a licence under sub-section (1)(a) is not in force.

(1D) Sub-section (1B) only applies, in relation to a spring, soak or dam, to a person who at any time during the period of 10 years immediately before the approval of the relevant management plan was taking and using water from the spring or soak or water from the dam (other than water supplied to the dam from a waterway or bore) for a use other than domestic and stock use.".

12. Clause 19, page 29, line 29 omit "(1C)" and insert "(1E)".

13. Clause 19, page 30, lines 12 to 35, omit all words and expressions on these lines and insert —

"(ba) in the case of an application under sub-section (1A) in relation to a dam by a person who at any time during the period of 10 years immediately before the commencement of section 32 of the **Water (Irrigation Farm Dams) Act 2001** was taking and using water from the dam for a use (other than domestic and stock use), set out the maximum volume of water to be used by the applicant in each year during the period of the licence, determined in accordance with the criteria specified by Order under sections 52A; and

(bb) in the case of an application under sub-section (1)(ba) or 1(B) in relation to a spring or soak or dam by a person who, at any time during the period of 10 years immediately before the approval of a management plan for the water supply protection area for which the application is made that prohibits or restricts the use of water from the spring or soak or dam, was taking and using water from the spring or soak or water from the dam (other than water supplied to the dam from a waterway or bore) for a use other than domestic and stock use, set out the maximum volume of water to be used by the applicant in each year during the period of the licence, determined in accordance with the criteria specified by Order under section 52A; and".

14. Clause 22, lines 18 to 20, omit "the commencement of section 32 of the **Water (Irrigation Farm Dams) Act 2001**" and insert "the approval of a management plan under Division 3 of Part 3 that prohibits or restricts the use of water from the spring or soak or dam".

15. Clause 26, lines 23 and 24, omit "licence issued under section 51(1A)" and insert "registration licence".

16. Clause 26, lines 31 to 33 and page 38, lines 1 and 2, omit all words and expressions on these lines and insert —

"51(1A) remains in force for an unlimited period.".

17. Clause 28, after line 9 insert —

'(1) In section 58(1) of the Principal Act, for "51" substitute "51(1)".'.

18. Clause 28, after line 17 insert —

'( ) In section 58(3) of the Principal Act, for "51" substitute "51(1)".'.

19. Clause 28, lines 21 to 28, omit sub-clause (3).

20. Clause 32, line 24, after "must not" insert "in contravention of an approved management plan for a water supply protection area".

21. Clause 32, page 40, lines 16 to 24, omit all words and expressions on these lines and insert —

"(4) If, an approved management plan for a water supply protection area prohibits or restricts the use of water from a spring or soak or water from a dam not on a waterway and at any time during the period of 10 years immediately before the approval of the management plan, a person was taking and using water from the spring or soak or water from the dam, sub-section (1A) does not apply in respect of that person in respect of that spring or soak or dam until the end of the period of 12 months after the approval of the management plan.".

22. Clause 56, page 53, lines 19 to 33, omit all words and expressions on these lines and insert —

"(8) If an approved management plan for a water supply protection area prohibits or restricts the use of

> water from a spring or soak or water from a dam (other than water supplied to the dam from a waterway or a bore) for a use other than domestic and stock use, a person who —
>
> (a) at any time during the period of 10 years immediately before the approval of the management plan was taking and using water from that spring or soak or water from that dam (other than water supplied to a dam from a waterway or a bore), for a use other than domestic or stock use; and
>
> (b) before the end of the period of 12 months after the approval of the management plan applies for a licence under section 51(1)(ba) in relation to the spring or soak or dam —
>
> is not liable to pay an application fee in respect of the application.".

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

> That the Council do not insist on their amendments with which the Assembly have disagreed.

Hon. PHILIP DAVIS (Gippsland) — The minister has formally moved that the Council not insist on the amendments, and I wish to indicate that the Liberal Party's position remains unaltered. A week ago we considered this matter. The government has proposed no new initiatives for this bill. I do not intend to recite the fulsome debate that we had last week on this matter, but I do indicate in summary that the purpose of the bill is to amend the current right to store water off waterways and use it for any purpose and that in future a licence will be required for all irrigation and commercial use in a catchment, as per the second-reading speech.

The Liberal Party's position is that we have developed an amendment that overcomes the one-size-fits-all criticism and given greater protection to existing statutory rights. The amendment will provide flexibility to cater for the differences between areas but will give the minister the required powers to properly protect the resource and to ensure it is used in a sustainable and responsible manner.

Essentially the amendment provides that the declaration of a water supply protection area will trigger the licensing registration process. In areas where there is abundant water for environmental flow and consumptive use and where the resource will not be fully allocated for some time there is no need for a costly and bureaucratic licensing process for farm dams. Our amendment relies on the minister's power to declare a water supply protection area wherever the minister has reason to believe it is needed. That is clearly the operative phrase. It is an area of ministerial discretion, direction and action in relation to the powers that exist to declare a water supply protection area where the minister has reason to believe it is needed.

The only further comments I intend to make relate to the position of the Victorian Farmers Federation on this matter. I remind the house that:

> The VFF's own policy is similar to the New South Wales approach and calls for the retention of private right equivalent to 10 per cent of run-off.

The words I just uttered are a verbatim extract of a letter to me signed by Peter Walsh, president of the VFF, on 15 November. Contrary to what Mr Walsh indicates to be the VFF policy, that is not the position that the VFF executive is advocating. It is in fact advocating something else, and regrettably I think Mr Walsh has got himself into a prime state of confusion.

An article that appears today in the *Stock & Land* newspaper, which many members have seen, indicates a major problem for the Victorian Farmers Federation because of the way Mr Walsh is handling the debate on this issue. The VFF has a clear policy position, a position upon which I have just reflected and which the executive of the VFF has failed to vigorously pursue and execute. However, the VFF president in comments in this week's rural papers, starting with the *Stock & Land* newspaper, has taken issue with the Liberal Party's position and says there is no logic to the Lib's dam policy. I would have to say there is no logic to the position that Mr Walsh has taken. I find the terminology and language used in that article to be extraordinary in the extreme.

The article by Mr Walsh suggests that:

> The Liberal Party's position also appears to be driven by a group of wealthy powerbrokers in the party who have, or aspire to develop, small vineyards.

Further, it says:

> Many, if not the majority, of new irrigation dams will be built by city-based investors who think it would be fun, and a great tax dodge, to invest in a vineyard.

I want to put on the record that if it were not for the fact that I am no longer a member of the VFF, because 12 months ago my family sold its farming interests and therefore I am not technically eligible to be a member of the VFF, I would have been provoked to resign as a result of this article. It is the most uninformed piece of nonsense I have ever heard or seen from a president of the Victorian Farmers Federation. In the 20 years I was a member of the VFF — and I dealt with Miles Burke,

Des Crowe, Bill Bodman, Heather Mitchell, Alex Arbuthnot, Peter Walsh and Wally Shaw — I did not hear or see anything the like of this piece.

I find it disturbing in the extreme that Mr Walsh could fail his members so seriously as to, firstly, not advocate the policy that the members adopted, and secondly, attack the Liberal Party in this fashion, which is clearly uninformed. I put on the record that in all of the discussions that I have had about this legislation no discussions with me have been about or by city-based investors and vineyards. In fact the majority of the discussions I have had on this bill have been about protecting the rights of traditional agriculture, particularly the dairy industry, in terms of irrigation dam development. I find the article completely bizarre. I have to say, as I said in the previous debate, that Mr Walsh must be under extraordinary pressure from the government on this matter.

I know Peter Walsh to be an honourable man. Given the circumstances, I cannot understand how he could put his signature to this article. I would hardly be surprised to find that Mr Walsh did not draft the article. He has been used in this circumstance. I find it highly regrettable and look forward to discussing the matter in person with him to get his own perspective, because I suspect it may be different from that reflected in the article in the media.

The Liberal Party has not been provided with any comfort by the government in protecting the private rights of land-holders. I am sure, were it the case that the Liberal Party had new information provided to it in the last week, there would have been further consideration of the bill. The Liberal Party stands by the position it adopted a week ago and looks forward to the government reconsidering this matter when the bill returns to the Legislative Assembly.

Hon. W. R. BAXTER (North Eastern) — Like the Honourable Philip Davis, I do not intend to canvass all the arguments on this amendment that I went through a week ago when the matter was last before the house. As the Liberal Party intends to insist on its amendment, I appeal for it to take note of community reaction to the positions it has taken on this legislation over the last four or five weeks and, in particular, of the community reaction to the amendment now before the house.

I refer honourable members to some of the evidence of the community reaction, not in detail, but to alert them to it. I refer to a letter from Professor Barry Hart from the Water Studies Centre and Freshwater Ecology, Monash University, in the letters to the editor section of the *Weekly Times* of 5 December. Professor Hart is a person of some expertise in the water industry and environment matters. His letter to the editor is entitled 'Libs' dam move bombs', which fairly sums up the reaction in other places.

I further refer to today's issue of *Stock & Land* and the article by Peter Walsh, the president of the Victorian Farmers Federation, to which Mr Davis referred. His letter is entitled 'No logic to Libs' dam policy'. It makes interesting reading and I am glad it has been circulating around the precincts of the house today so that honourable members have had the opportunity to look at it. It makes an assertion about the genesis of the Liberal Party amendment, and I will come to that later. The article puts paid to the claim that somehow the Liberal Party amendment is supporting Victorian Farmers Federation policy. It is clearly not, and Mr Walsh makes that clear.

From my own perspective I make it clear that the Liberal Party amendment does not support what it claims to be VFF policy — that is, a regime similar to that operating in New South Wales where there is an ongoing private right for 10 per cent of run off or 1 per cent of rainfall. The Liberal Party's own amendment extinguishes any private right in any event once a water supply protection area is proclaimed. It is misleading to suggest this amendment supports what purports to be VFF policy because it does not. It expunges that right the minute a water supply protection area is declared. In any stressed catchment or catchment likely to be stressed the expectation is that a water supply protection area would be declared in any event. The so-called right that some honourable members have got on their white chargers to protect would be abrogated and expunged.

I direct the attention of honourable members to a letter from the Hindmarsh Shire Council to the Leader of the Opposition, Dr Denis Napthine. The letter is protesting against the infamous 3 per cent amendment that the Liberal Party was pushing a week or two ago and which fortunately was abandoned. However, the principle expressed in the letter would also apply to the letter currently before the house. Among other things it states:

> You may be aware of the existing over-allocation of the Wimmera River, which receives less than 14 per cent of normal flows. Victoria's largest freshwater lake, Lake Hindmarsh, and the Ramsar-listed Lake Albacutya, at the end of the Wimmera system, are completely dry.
>
> Additional water harvesting in the upper catchment will degrade our natural environment.

It is a compelling view. If there is no proper water management system put in place in the upper

catchments in western Victoria what the shire says will certainly come to pass.

I direct the attention of the opposition to my remarks on the adjournment debate last night — a bit tangential to this issue — where I referred to Boosey Creek, which is denied flows it would have received in the past because of the farm dam construction in the headwaters of the Boosey Creek in the Warby Ranges, so the farm dams bill will go some way to preventing further degradation of environmental flows into the Boosey Creek.

Hon. E. G. Stoney interjected.

Hon. W. R. BAXTER — My good friend Mr Stoney says I am drawing a long bow, but I do not think I am at all because that is the reality of the system. If Caseys Weir is removed, Boosey Creek will rely on inflows from its headwaters in the Warby Ranges. Unless there is some proper control in dam building, Boosey Creek will be denied a stream, and all the people who rely on and the environment which relies on a flow in the Boosey Creek will be seriously affected.

Another issue which I have heard talked about around this house by one or two members of the opposition and which has been parroted in my electorate is that the National Party is simply interested in looking after irrigators and could not care less about people in upper catchment areas. Of course the National Party is interested in irrigators because by and large it is the party that represents irrigators in this Parliament. However, our interests are broader than that. In particular, Mrs Powell and I represent the upper catchment area of north-eastern Victoria where most of the angst has been generated. The National Party represents people in Gippsland and in south-western Victoria as well, but our interest on this occasion is not so much in the irrigators, because unlike the 3 per cent amendment this amendment will not affect them too badly.

The National Party is interested in making sure that farmers in upper catchment areas who have existing dams that are properly licensed and the like do not have their security of supply undermined by an open-ended system — which we still have — where someone can build a dam immediately upstream of their property and purloin their water. The National Party is interested in providing some certainty and security for upper catchment farmers who already irrigate. Clearly we are looking after those people. We are also interested in providing security for people who may be contemplating making a significant capital investment in an enterprise in an upper catchment area so that they can obtain a licence for a dam, obtain a water entitlement and know that it is secure, and that they will not be making an investment that will be exposed to risk of the water they are collecting being taken by someone else without their having any say in the process.

On both of those counts you would have to say that the National Party is very much attuned to the interests of the people beyond the gravity irrigation districts. In some respects it is a bit sad that the opposition seems to have been somehow talked into this amendment by people who are concerned about the apparent loss of a very narrow, so-called private but statutory right. Persons who are not currently irrigating may have no intention of ever irrigating anyway and may simply want to keep the open or blank-cheque system we have, even in the Murray–Darling Basin, which is already a stressed and capped catchment.

We have heard from Mr Phil Davis tonight about one size fitting all and that the Liberal Party amendment brings localism into the picture. I say it does the opposite — the bill provides for the local stream flow management committees where there will be local input. Honourable members will recall that it was agreed farmers should comprise 50 per cent of those local stream flow management committees. This amendment would compel the government of the day to declare the whole of the Murray–Darling Basin a water supply protection area forthwith. There would be a single water management plan drawn up for the whole of the part of the Murray–Darling Basin catchment that is in Victoria, which of course would take away localism. We would have a farmer from Waitchie deciding upon what is going to happen in the Biggara Valley. How can that be local? Let us not get carried away with this glib phrase ‘One size fits all’, because that is not the case.

Finally, I return to Mr Walsh’s *Stock & Land* article, and his claim as to what might be the genesis of the Liberal Party’s amendment and Mr Davis’s taste thereof. This afternoon I talked to a farmer at Kilmore. It is a place where the National Party does not garner a lot of votes but this again demonstrates the interest the National Party has in farmers well beyond the irrigation areas. This farmer has written:

> We run a commercial Angus farm with some 300 breeders at the abovementioned property. At the rear of our property … a large dam established some 50-odd years ago provides the main water supply to a series of water troughs to the majority of our paddocks.

The letter goes on to say that in the past couple of years a rural residential subdivision has occurred at the rear of

his property — that is, higher up the hillside — where four blocks have been excised. He understands that these blocks have all been sold. The letter continues:

> Last week we observed a new dam being dug at the rear of our property —

on one of the allotments.

> From our observation the dam seems to be much too large to provide water to stock or for domestic water use for the size of the property.

He says he believes that this dam will affect the catchment of their existing stock-and-domestic dam, will seriously affect their farm management practices in the future and may compel them to put down a bore or to seek an alternative water source. This farmer is fairly progressive. His dam has a solar-operated pump, which circulates water to his troughs. He has made a big capital investment and it looks as though someone taking completely unlicensed action on land above his land will render that investment redundant.

I say to members of the opposition that this is the sort of imbroglio that we are going to find ourselves in unless we have a proper system of managing our water supplies in this state so everyone can be sure that if they make an investment — even for stock and domestic let alone irrigation purposes — that their investment is secure and cannot be purloined by an action taken by someone on a higher area of land. That is not to say that people higher up are not entitled to get a water supply, but it has to be done taking into account water availability and it needs to be done by a proper licensing system. I believe the bill provides that system without derogating from anyone else's activities in the future. Therefore I oppose the amendment.

Hon. G. W. JENNINGS (Melbourne) — Mr President, thank you for the opportunity to talk about this important government reform of farm dam legislation, which has had a history of being volleyed from one chamber to the other during the current sittings. Indeed, the bill has seen a healthy working relationship established between the government, the Victorian Farmers Federation (VFF), the Australian Conservation Foundation (ACF), the Municipal Association of Victoria and a large range of individual members of the community.

Hon. Bill Forwood — And the ALP.

Hon. G. W. JENNINGS — Of course — this is an ALP government! We have worked in cooperation with large sections of the Victorian community in regional Victoria, and I am pleased to say that that cooperation has included the National Party, which has played a prominent role in making sure that this legislation and the regulation that will apply once enacted will not only provide the appropriate regulation of the water industry in Victoria but will assist in ensuring good environmental outcomes for the water systems within Victoria and will support the ongoing sustainable use of agricultural land within Victoria. They are important objectives and the government is proud to have worked in cooperation with all those sections of the Victorian community.

The last Victorian organisation standing that opposes these worthwhile and important reforms is the Liberal Party. On arrival in Parliament this morning I read with interest an article that appeared in today's edition of *Stock & Land*, which was referred to earlier in the debate. The article entitled, 'No logic to Lib's dam policy' was written by Peter Walsh, the president of the Victorian Farmers Federation. My response to the article is somewhat different from that of the Honourable Philip Davis, who first referred to it, but I think the logic that underpins the argument is fairly sound.

I would like to inform the house of the underpinning argument that runs through the article. The article at page 31 of the 6 December issue of *Stock & Land* states:

> Over the last couple of weeks the Liberal Party has sought to use its absolute majority in the upper house to amend the government's farm dams bill.
>
> …
>
> The Liberals amendments do not address the fundamental issues, which are the difficulties associated with waterway determinations. By pursuing these amendments they are, in effect, rejecting the government's legislation.
>
> …
>
> With other legislation before the upper house the Liberals stated clearly, to the VFF and others, that they would only block legislation where there was clear public opposition to the government's proposals.

As I have indicated to the house, there is significant community support for the proposals. The article states further:

> The VFF, the Municipal Association of Victoria, the Australian Conservation Foundation and almost all of the water industry organisations in the state support the government's farm dams proposals.

Mr Walsh argues in support of the proposals in the following way.

> The government's bill protects and enhances the security of existing dams. The rights of farmers to build new stock and domestic dams are fully protected. The rights of owners of

existing irrigation and commercial-use dams are also fully protected.

Mr Walsh concludes with what I think is a very good argument:

The principal beneficiaries of the Liberal Party's decision to block the legislation are those who want to build new irrigation dams.

Many, if not the majority, of new irrigation dams will be built by city-based investors who think it would be fun, and a great tax dodge, to invest in a vineyard.

Could they also be strong supporters of the Liberal Party?

In his response to the article Mr Davis indicated that if he had not already left the VFF, this article may have been enough to force his resignation from the organisation. My response is that if I make a decision to join the VFF once I am eligible, I will seriously contemplate subscribing to *Stock & Land* if this is the calibre of the contributions that appear in this journal.

Hon. W. R. Baxter — Don't tell me you're not a regular reader?

Hon. G. W. JENNINGS — As I indicated, if this is the usual standard of contributions I will be an avid reader in future.

Hon. W. R. Baxter — I recommend it. It is a good journal that provides a good understanding of rural Victoria.

Hon. G. W. JENNINGS — I thank the honourable member for that advice, and I thank the National Party for its enlightened approach to this important policy in the name of protecting the Victorian environment and in the interests of ensuring sustainable agricultural use of Victorian land in the future. As I indicated, the Liberal Party is the last body in Victoria to stand in the face of this important reform. As I said earlier also, in the past few weeks Peter Garrett of the ACF, Professor Barry Hart, director of the Cooperative Research Centre for Freshwater Ecology, and Tim Fisher, the ACF's land and water ecosystems program coordinator, have petitioned the Liberal Party in a most earnest way to get its members to change their minds.

In terms of understanding the significance of these issues, I do not know whether Don Blackmore, the chief executive officer of the Murray-Darling Basin Commission, has petitioned the Liberal Party, but I know he is on the public record as being supportive of the proposals and would be most angst-ridden if the proposed Liberal amendments were successful. In summary, the ACF's Tim Fisher has gone on the public record to say that if the Liberal Party were successful in its endeavours in this regard, it would take Victoria's water management back 10 years. The Liberal Party has taken an extraordinary political position.

I would have thought they would have acknowledged the courageous actions of my colleague the Minister for Conservation and Environment in taking this policy initiative, given that the Liberals had in government commissioned a number of reports into this important regulation required for the water industry in Victoria and, notwithstanding the lengths of and the consideration given by those reviews, were not prepared to come up to the line and implement their recommendations. They were not prepared to take what may be a painful decision to make sure that this important regulation went through.

The Minister for Conservation and Environment has performed a great feat on behalf of the people of Victoria to unite a cross-section of the Victorian community in a way that we have not regularly seen. The unfortunate aspect of that unity of purpose is that, unless my reading is incorrect, it will not result in majority support in the Legislative Council today. The people of Victoria and the environment will be much the poorer because of it. I take this last opportunity to urge Liberal members of the Legislative Council to look deeply into their consciences and protect Victoria's environment, provide for sustainable agriculture in this state and finally back off from trying to force amendments to the government's legislation.

I refer to a similar plea from Peter Garrett, the head of the Australian Conservation Foundation, which was sent to the Leader of the Liberal Party, Dr Napthine. It states in part:

ACF was, as you know, involved in the farms dams review process from the outset. I believe that this was an excellent process that canvassed all views on the matter. ACF, VFF and the Nationals all support the legislation. The result is a bill that will, if passed, resolve longstanding tensions on the issue, and clear up legislative confusion and 'loopholes'.

As it stands, ACF considers your amendment will have a number of serious ramifications for river and water resource management across Victoria.

The letter goes on to list a few of those ramifications:

Confusion around 'waterways' definition in the Water Act (1989) will remain.

The minister's capacity to announce permissible annual volumes will have no impact on constraining developments where they take place off a 'waterway'.

…

> 12 months period of grace after SMP means declaration of 'open season' that see a flood of unlicensed off-waterway developments.
>
> Water markets in capped catchments would become dysfunctional.
>
> …
>
> North of the Great Divide, the 'cap' will demand that unlicensed developments will require a reduction to existing water user entitlements as unlicensed developments proceed.

The letter concludes:

> I urge you and your party to reconsider the directions you propose …

If the Liberal Party is not prepared to take the view of the government rather than that of the National Party, the Australian Conservation Foundation, the Victorian Farmers Federation and the Municipal Association of Victoria, it should listen to the example Mr Baxter put on the public record today. Individual farmers and land-holders in this state will be severely disadvantaged immediately and into the future if this regulation is not passed, because we know a number of activities will take place in the 12 months before we have the opportunity to enact this regulation that could see the long-term demise of waterways in this state. This is the last opportunity the Liberal Party has to get out of the bog it has been in for quite some time in relation to this matter, to recognise the need for the ongoing sustainability of both agricultural activity and the environment in this state, and to support the government's bill. I applaud the National Party and others for joining in to support this important reform.

House divided on motion:

Ayes, 20

Baxter, Mr (*Teller*)	Jennings, Mr
Best, Mr	McQuilten, Mr
Bishop, Mr	Madden, Mr
Broad, Ms	Mikakos, Ms
Carbines, Mrs	Nguyen, Mr
Darveniza, Ms	Powell, Mrs
Gould, Ms	Romanes, Ms
Hadden, Ms	Smith, Mr R. F. (*Teller*)
Hall, Mr	Theophanous, Mr
Hallam, Mr	Thomson, Ms

Noes, 23

Ashman, Mr	Furletti, Mr
Atkinson, Mr	Katsambanis, Mr
Birrell, Mr	Lucas, Mr
Boardman, Mr	Luckins, Ms
Bowden, Mr	Olexander, Mr
Brideson, Mr (*Teller*)	Rich-Phillips, Mr
Coote, Mrs	Ross, Dr
Cover, Mr	Smith, Mr K. M.
Craige, Mr	Smith, Ms (*Teller*)
Davis, Mr D. McL.	Stoney, Mr
Davis, Mr P. R.	Strong, Mr
Forwood, Mr	

Motion negatived.

Ordered to be returned to Assembly with message intimating decision of house.

PAPERS

Laid on table by Clerk:

> Subordinate Legislation Act 1994 — Minister's exemption certificates under section 9(6) in respect of Statutory Rules Nos. 121 and 126.

RETIREMENT OF HOUSEKEEPER

The PRESIDENT — Order! I advise the house that Mr Bill Jarrett, Legislative Council Housekeeper, has indicated his intention to retire as from Sunday, 30 June 2002. As he will take annual leave and long service leave from 24 December until his retirement Bill's actual last day of work will be Friday, 21 December.

Bill Jarrett was born in Edinburgh, Scotland, and migrated to Australia in June 1960 with his wife. Soon after, his two children were born. Bill was appointed as a temporary doorkeeper in the Legislative Assembly as from 9 December 1979 following a 19-year career as a glazier.

He was appointed permanently as a doorkeeper in August 1980 and became a senior doorkeeper in the Legislative Assembly in March 1982. During his time in the Assembly he worked at most general attendant services, including parliamentary guide, post office and afternoon security.

In September 1983 he was appointed Premier's orderly. On 1 March 1993 he was appointed to the position of senior parliamentary attendant in the Department of the Legislative Council, and became Housekeeper of the Legislative Council on 27 February 1995 upon the retirement of Clarrie Quinn.

Bill and his wife Ann will be moving to Kilmore in their retirement, and I am sure that all honourable members will join me in wishing them a long, happy and healthy retirement. I thank Bill personally for his unfailing courtesy, his attention to the needs of our members and his professionalism in all his work.

Hon. M. M. GOULD (Minister for Industrial Relations) — On behalf of the government, Mr President, I would like to be party to this announcement that you have made in congratulating

and wishing all the very best to Bill in his forthcoming retirement.

When I first came to this place back in the autumn sittings of 1993 Bill showed me around. Because I came in on a by-election I did not come in with a group of others. As a new member you can get a little bit lost at times in this place. Bill was always very kind and courteous and he showed me where different rooms were in the place.

I remember one night coming back from having dinner with some of my colleagues. I sat where Mr Chris Strong sits at the moment. I did not feel terribly well because I had eaten something that did not agree with me. There were only a few people in the chamber and Bill asked if I was all right and could he help with giving me some Disprin or something to make me feel better. He spotted a member in the house who was not feeling very well and he came to my aid. That shows what Bill is like. He has helped out all honourable members on this side of the house and others, and many members before us in the years he has been in this place. He has always shown all members courtesy and respect, and sometimes we might question whether we deserve it.

Bill is always here. Since he took over the caretaker position after Clarrie retired in 1995 Bill has always assisted members. I would like on behalf of the government to wish him and Ann a very long and enjoyable retirement. Bill, on behalf of the government I thank you for all the assistance you have given to us here, to those in the other place and to previous members.

Hon. BILL FORWOOD (Templestowe) — It is my pleasure to rise on behalf of the Liberal Party to say farewell and thanks to Bill Jarrett. As the Leader of the Government said, he is always here. I get here pretty early in the morning and sometimes I leave late at night, and I see Bill around the place all the time, and on the odd occasion — —

An Honourable Member — He lives here!

Hon. BILL FORWOOD — Yes, but I see him! On occasions, as some of you know, I do become slightly absentminded, and I have locked my keys in my office and done peculiar things like that. I have always been able to find Bill, who with the unfailing courtesy that the Leader of the Government mentioned has been able to help.

We are privileged in the way we are looked after in this place. The standards are set by the leader, and Bill has been a real leader both in the way the chamber operates and also in the way the whole of the office of the Legislative Council operates. We have been very well served and we are very grateful to you, not just for the work you do but for the quiet unassuming way you do it and for the friendship you have shown to so many of us over such a long period of time.

On behalf of the Liberal Party, I wish you and Ann well for the future and say thank you very much.

Hon. P. R. HALL (Gippsland) — I too would like to extend on behalf of the National Party our best wishes to Bill on his impending retirement. As you said, Mr President, Bill started work here at Parliament in December 1979 and served on the other side of this Parliament House for the best part of 13 years. Bill then changed from a green coat to a red coat, which would almost qualify him to be described as a turncoat! But he turned in the right direction and saw better of his ways by coming across and serving us in the Legislative Council, which he has done magnificently for some eight years or so now.

Talking about green coats and red coats, it occurs to me that Bill Jarrett made somewhat of a reform in this place. I think he was the first chief housekeeper to change the attire from the traditional black tails and starched collar worn by his predecessors in Clarrie Quinn and George Oliver, who some honourable members will remember was the head doorkeeper when I first came here. So Bill has set something of a tradition. I am sure he is more relaxed in his red coat than he would be in the attire worn by his predecessors.

As has been said, Bill Jarrett has been a friend to all of us in this Parliament and we certainly appreciate the magnificent service of 21 years that he has had in this Parliament — a length of time that probably not many of us will enjoy in this place. Bill has put in some magnificent service to the Parliament as a whole. On behalf of the National Party I too extend to Bill and his wife, Ann, all the best in a well-deserved retirement.

BUSINESS OF THE HOUSE

Adjournment

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

> That the Council, at its rising, adjourn until a day and hour to be fixed by the President, which time of meeting shall be notified in writing to each honourable member.

Christmas felicitations

Hon. M. M. GOULD (Minister for Industrial Relations) — Mr President, on behalf of the government, I am pleased to wish everyone the very best for the festive season and the summer break, if we get some sunshine in the not-too-distant future. I trust that all honourable members will take advantage of the break to spend valuable time with their families and friends. It has been an eventful and very busy year for all of us, and it is important to have the time to recharge ourselves and give back to our families what they have been able to do in supporting us throughout the year.

This year has certainly been a momentous one. Some occasions were happy and some were sad. I am sure none of us here will forget the world-shattering events that occurred on 11 September. The events in the United States of America and the events since then have deeply affected us all. I am sure we will long remember the sorrow that we felt then and that we will work towards strengthening the racial tolerance in this Victorian community of ours.

However, there were some happier events to focus on. This year was an important year for Australia, and indeed for Victorian parliamentary history. We celebrated the centenary of Federation and welcomed our federal colleagues back to the home of the first Australian Parliament House. It was good that they only came back for one day because last time they spent 26 years here. It was the first time federal Parliament had sat here since 1927, when we threw our federal colleagues out and sent them back up to Canberra.

It has also been a special year for the Legislative Council of Victoria, its having made Australasian parliamentary history when on 16 August it was the first legislative chamber in Australia and New Zealand to sit outside its capital city. That historic meeting took place in Ballarat, where we celebrated the 100th anniversary of the first sitting of the Parliament of Victoria as a state legislature rather than as a colonial legislature. As I said at the President's dinner, I think we in this chamber did a better job than the Assembly did, and I think that is a credit — —

Hon. D. G. Hadden — It goes without saying — it was in Ballarat!

Hon. M. M. GOULD — It goes without saying, as my colleague from Ballarat says. But that goes to the credit of the staff, and of course you, Mr President, and everyone else who was involved in the events on that day.

This year also marked 100 years of the federal parliamentary Labor Party, which was greatly celebrated during the Federation events — it is the oldest party in the history of Australia!

This year has proved to be a busy one, with a demanding legislative program, as you would appreciate, Mr President. On behalf of government members I would like to thank you for the work you have done throughout the year. I would also like to thank the Deputy President and Chairman of Committees for the work he has done in keeping the committees as much as possible on the straight and narrow.

On behalf of the government I thank the Clerk, Wayne Tunnecliffe, and his deputy, Matthew. I am sure that all honourable members would agree that they always provide us with valuable advice and assistance in a most professional manner.

We cannot go without giving our thanks to Ray Wright, the Usher of the Black Rod. He serves the office with pride and distinction. Ray marked the significance of this year with the book *A Blended House*, in which he tells the story of Victoria's first Legislative Council. I congratulate him on his achievements in the book and the way he presented it to this Council and to the community.

I would also like to thank the staff of the Council papers office for their dedicated work. I thank Felicity Murphy, the manager of the papers office, and the other staff there for their hard work in helping honourable members to obtain papers and pieces of legislation and a number of other things to assist us in our daily work.

As we have just wished Bill Jarrett the very best in retirement, I would also like to thank him for his work this year in supporting me and my colleagues. I also thank Russel, the two Phillips, Peter, Michael, Greg, Geoff and Quentin for all their assistance during the course of the year. I thank all the attendants, because they do a fantastic job. Sometimes they do not get the door open quite quickly enough, which involves a little bump on the head from time to time. Sometimes there is a little slip-up, but all in all the attendants are very good. They are here in the morning and clean our offices. There are newspapers in my room every morning when I come in. The date on the calendar is changed, the rubbish bins are emptied and the heater is switched on on cold days. Without the assistance of Geoff giving my office a bit of a clean and making sure that it is in some sort of order after a whirlwind of a day in this place, it would be hard to get any work done.

The attendants all do a fantastic job and help us get through our days here.

I also thank Bill Schober for his efforts in the car park, which is an interesting place at times on busy days when both houses of Parliament are sitting, ensuring that all honourable members get a parking spot. Bill's most important job of the year is to renew the stickers on cars, and I hope all honourable members have done that. You won't get one unless you return your old one; Bill will not hand it over, so make sure you get them off your electorate office cars or you will get into trouble from Bill! It is extremely important to do that.

I thank Bruce, Gail and the other staff of the library. Sometimes you go in there and want some obscure article that you remember was back in 1999 or some other time and they can pull it out. The library staff are fantastic. They have taken up technology more quickly and efficiently than a lot of other libraries around the state. The other day I went and got my PIN for the news service, although I have not had a chance to plug into it yet.

Hon. R. A. Best — It is very good!

Hon. M. M. GOULD — Mr Best says it is very good — hopefully I will get a chance to use it over the summer break. Whenever we go in there with a bill that is to be debated immediately and say, 'Quick, I need something', the library staff are always professional, courteous and helpful in ensuring we get what we need.

Given the focus on Parliament House this year, Brian Bourke and his team need to be specially thanked. This magnificent building that we are all very proud of has been showcased during the centenary of Federation celebrations. Many people came through Parliament, and Brian and his team were able to make this lovely old building glitter and shine. They worked tirelessly to bring that about.

You cannot forget the gardeners, who always make the gardens look fantastic. I have often asked them whether they would come around to my place and do a bit of weeding and plant some plants, but they are always too busy here — and you can see that they are, with the fantastic work they do to ensure the gardens are always most presentable.

The people who always make us sound a damn sight better than we are when we speak are the staff of Hansard. They have introduced some new technology and had a few problems with the new sound system, but they do a fantastic job. Sometimes we are out of this place by maybe 11.30 at night, but it must be remembered that they are still down there transcribing what we have said. You get into the office the next morning and — not so much this session, but at times I have been in this place from very early in the morning until very early the next morning, and when you come back into the office at 9.30 a.m. *Hansard* is all done and sitting on the desk ready to be perused. The staff of Hansard must be thanked for the fantastic work they do. They have had some difficulties with the introduction of the new technology, and some of the technical problems they had when we sat in Ballarat were interesting. I thank them for their assistance in making the speeches of members of Parliament sound a lot better than they actually were.

I would like to thank John Isherwood and his staff in the catering area for their support, making sure we have food on the table when we are sitting.

I would like to finish by congratulating the Honourable Bill Forwood on his appointment as Leader of the Opposition and the Honourable Carlo Furletti on his appointment as the Deputy Leader of the Opposition. I thank them both for their cooperation and the ongoing consultation that we have during the course of a day and a week to ensure that as much as we can reach agreement on it the government's legislation is passed through this house.

I would also like to thank the National Party and in particular the Leader of the National Party, the Honourable Peter Hall, and the deputy leader, the Honourable Jeanette Powell, for their assistance in running this place efficiently.

I would like to take this opportunity to thank Ari Suss from the Premier's office who assists members on this side of the house in ensuring that we have the necessary bureaucrats here on time. As we all know, sometimes you can anticipate that it will take 3 hours to deal with a piece of legislation and then all of a sudden it can be condensed down to an hour and we need to ensure that the advisers are in their place.

I would like to thank my parliamentary team for their assistance in the past year. The Honourable Glenyys Romanes, the Government Whip, gets members into the house and does a terrific job of organising the bills. I would like to thank my deputy, the Honourable Gavin Jennings, for his support. His ongoing assistance in various debates, especially in general business, has been invaluable. I thank my ministerial colleagues, Candy, Marsha and Justin, for their assistance during the course of the year. I would particularly like to thank them for getting on with fulfilling the Bracks government's objective of growing the whole of the

state. I would like to thank our team for the work they have done.

I would like to finish as I started by wishing everybody a very safe and happy Christmas. I hope you enjoy this festive season. Spend some time with your families, recharge your batteries and thank them for supporting you during the year. I was given a challenge today as to whether I would get this into *Hansard* — school's out for summer!

Hon. BILL FORWOOD (Templestowe) — I also rise to wish everybody in this chamber and the people who support us the compliments of the season, safe holidaying and the best for the Christmas break.

Mr President, let me start by thanking you for your conduct in the chamber and the way you look after us and manage the affairs of the Council. We note that you are in your building monuments phase as your time here comes to an end. The Chamberlain wing has been built and we look forward to the naming ceremony. We have the wands that you have bequeathed us and in other parts of the building the airconditioning for the Clerks is going in. As some honourable members know, it goes through my office on its way to the Clerks — it does not stop in my office but it goes through. Thank you, Mr President, for your sound management of the house and your friendship.

I would also like to thank the Deputy President, the Honourable Barry Bishop, for the terrific job he has done and that motley bunch of members who double as temporary chairmen of committees: Ashman, Best, Bowden, Darveniza, Hadden, Mikakos, Smith, Stoney and Strong — they all do it very differently. I spend a bit of time in here but I put on the record my thanks to them all. Mr Smith, you are wonderful!

Honourable members interjecting.

Hon. BILL FORWOOD — Our efforts in this place require the help and support of so many different people. The Leader of the Government has run through them all. I am not sure there is anybody she missed.

Hon. M. M. Gould — Peter the painter!

Hon. BILL FORWOOD — Okay, Peter the painter. On behalf of the Liberal Party I wish to thank the many people who support us. The library is fantastic. We are very fortunate with Bruce and Gail. I am a person who uses the library a lot and they run a very good operation there.

Hon. G. R. Craige — Where is the library?

Hon. BILL FORWOOD — Some people do not know where it is!

Many of us have had our disagreements with Hansard over the years, and some of us query the direction it sometimes goes in, but in the end we cannot survive without the Hansard staff, and we are grateful for the work they do. I certainly like the front covers on the speeches, including the electronic versions, that are now distributed on our behalf. To the Hansard staff I genuinely say thank you for their efforts on behalf of us all.

We in this place are very well served by our staff. The advice that Wayne and Matthew, the Clerk and the Deputy Clerk, give us, and their performance in the house on a daily basis, is recognised by us all, as are the efforts of Ray Wright, the Usher of the Black Rod, who has been mentioned for his recently published book.

It has been over a year since Matthew had his heart attack, and he is back here as good as ever. He looks like he will live forever — and he behaves like it as well. I sought some advice from Mr Tricarico earlier in the day, and I received a very blunt response along the lines of 'I don't know'. It was very short and succinct.

Hon. G. R. Craige — I bet he said it in a different way.

Hon. BILL FORWOOD — He did say it in a different way, but I knew exactly what he meant when he said it!

I should also mention the papers office, and in doing so thank Felicity, Anthony and Rebecca. I thank Bill Jarrett, who has been mentioned before; and I also thank Russel, Michael and Greg. I thank Geoff Barnett, the President's orderly, who is a real asset to the place; he is also an extraordinarily hard worker who is very bright in the way he goes about his work. I thank Peter, Philip, Quentin the cleaner, whom many of us have got to know over time, and Phil — all of whom contribute very much to the way this place operates.

The Leader of the Government has mentioned the staff in the dining room and the gardens, and in particular we are fortunate to have Paul Gallagher.

No-one has mentioned the people out the back — they keep changing their name — in the Joint Services Department. I have been here for nine years now, and there has been an increase in the quality of the work done by that department over time. I am very pleased to see they are working well for our advantage as best they can.

I should certainly make mention of my colleagues in this place. I have been very grateful for the help and support I have received from all of them, in particular my deputy, Carlo, and my friend the whip, Smithy. Sometimes he shouts too loud even for me, and some of you will remember that he trained me how to shout. I have been very well served not just by my team on the front bench but by everybody on my side, particularly Carlo Furletti and Ken Smith, and I thank them very much for their efforts.

Members of the National Party now go their own way and do their own thing, and I admire the way they do it. I count many of them — in fact all of them — as personal friends, but I realise that they are in a different organisation and that they will do things differently to us. Sometimes we talk, sometimes we do not, but I am grateful for the relationship that I have with them all, and I look forward to that continuing — as I do with the relationship I have with the Leader of the Government. That has had its testy moments in the past few months.

Hon. A. P. Olexander — As is to be expected.

Hon. BILL FORWOOD — As is to be expected; thank you, Mr Olexander. There have been occasions this year when the communication between us has not been as clear as it might have been. I give an undertaking that I will continue to work to make our intentions clear so that we will not have misunderstandings. I left the chamber this afternoon to go to a meeting, and I understand that some people thought I was storming out in a fit of pique.

Hon. G. R. Craige — I did.

Hon. BILL FORWOOD — I was not, I was going back to a meeting. I welcome the opportunity to get that on the record.

Communication between the National Party, the Liberal Party and the government is important if this place is to operate properly, and I thank both the Leader of the Government and the Deputy Leader of the Government for their efforts in that regard.

Finally I should, without naming them all, put on the record my thanks for all the hard work done by not only my particular staff but also the staff of Liberal Party members of Parliament.

We all have extraordinarily hardworking staff, not just in the leader's office; in my office, Nicole Macdonald, whom many of you know, is an absolute trooper. We all have our own staff who work for us beyond the call of duty and put in terrific efforts on our behalf. I have forgotten the name of Mr Lucas's dog; otherwise I would mention him too.

Hon. N. B. Lucas — Watto!

Hon. BILL FORWOOD — Watto the dog!

I wish to briefly thank my wife, Anne, for her terrific support to me, not just over the last few months since there has been a change in personal circumstances with my becoming the leader, but over a very, very long time. She is a tower of strength to me, and I am very fortunate to have her.

With those few words, let me again thank you, Mr President, and wish everybody here a very merry Christmas.

Hon. P. R. HALL (Gippsland) — The National Party would also like to extend its best wishes to everybody for a very happy and safe Christmas and festive period. We all look forward to the end of the year and the impending Christmas and New Year period, when we can spend some time, which is pretty special, with our family and friends.

I have to say that in the National Party the end of year also brings with it a tinge of disappointment. During the course of the year my colleagues on either side of me and behind me are another family, and when Christmas comes we all go our own ways. We meet with our immediate families, but we do not have the presence of our other family with us at that time, although we really enjoy each other's company.

Honourable members interjecting.

Hon. P. R. HALL — Every night you will always find the six of us and our six lower house colleagues patronising the dining room here — because we enjoy each other's company so much.

Honourable members interjecting.

Hon. T. C. Theophanous — Do you like the food?

Hon. P. R. HALL — I will get to that. After the two or three months break we are about to have, we will come back in the new year renewed, refreshed and with a bunch of new stories and probably a volume of new jokes to share among ourselves.

In my conveyance of best wishes I would like to start with my colleagues who sit in the chamber, particularly my National Party colleagues.

Hon. G. R. Craige — Name them.

Hon. P. R. HALL — I do not have a problem about differentiating between the front bench and back bench because we are all frontbenchers in this small party and we all carry a very heavy workload, but we get through it because we are a close-knit team and are always prepared to help each other through.

I would particularly like to thank my deputy, the Honourable Jeanette Powell, for her role as deputy leader and whip. She does a very good job at keeping the boys in order! This year Jeanette stepped up into the role of deputy leader and has done a very admirable job.

I would also like to thank the former leader, the Honourable Roger Hallam, who stepped down from the position earlier this year. As I said at your dinner, Mr President, he set a very high standard for me to follow, and it is something that I am still striving to achieve. The Honourable Roger Hallam was a great leader of this party. I thank Roger for the opportunity to follow in his footsteps and also for the continued support he gives me as leader.

The Honourable Bill Baxter is a mentor for all of us in the National Party. Bill, also a former leader, provides us with great advice from the vast experience he has had here in Parliament. I will not forget my two very good friends from the north-west — the Honourable Ron Best, parliamentary secretary of the National Party, and the Honourable Barry Bishop, who fulfils the role of Deputy President. We are a tight team.

I would also like to convey our best wishes and thanks to our parliamentary colleagues on both sides of the house. On the government side, we know that at times some of us have upset a few ministers — and Candy Broad is not here tonight. I want to say that it is not intentional and that there is nothing personal about that. But we appreciate the fact that the ministers have given us access to briefings on bills and have endeavoured to answer our questions and address adjournment issues to the best of their ability. We thank them for that.

I also thank the Leader of the Government for her willingness to listen to Jeanette and me when we come along with a request for the weekly program. We appreciate the contact she has with us on a weekly basis.

I also wish to thank my colleagues in the Liberal Party opposition for the support they give us. In particular, I would like to thank the Leader of the Opposition, the Honourable Bill Forwood. I personally thank Bill for the work we do together. Yes, we are independent parties, and yes, we do go our own way on issues, but at the same time we have a very good working relationship, and I appreciate and respect that relationship.

I wish to thank you, Mr President, for the guidance you provide from the Chair and also the Deputy President for the work he does while in the chair and also when in committee. All honourable members know that being a President or Deputy President is not an easy task, and at times they come under as much scrutiny as the umpires in the recent third test between Australia and New Zealand. I agree with Steve Waugh: at the end of the day I think they get it pretty right. So thank you very much, Mr President and Mr Deputy President, for all the guidance you provide from the Chair.

Now comes the hard bit and that is thanking all those wonderful people around Parliament House who provide us with some excellent support services. I apologise in advance because if I miss anybody it is not deliberate or intentional. This morning a few of my colleagues on my right scoffed at me because I referred to a particular annual report and they wondered at my enthusiasm for reading them. I have four more annual reports to talk to them about tonight.

The first I want to refer to is the report of the *Department of the Legislative Council — Annual Report 2000–01* because it will minimise the damage I will cause by missing out people. Appendix B of the annual report lists all of those employed in the Legislative Council. Head of the list — —

Honourable members interjecting.

Hon. P. R. HALL — Just be patient! This is a time of goodwill and understanding, so listen to it. You will not cut me out.

Heading this list is Wayne Tunnecliffe and Matthew Tricarico, the Clerk and the Deputy Clerk respectively. Despite the friendly comments about Matthew, we think both of them do a terrific job and we appreciate that. I also thank Ray Wright who is Usher of the Black Rod, and Stephen Redenbach who fills in in that position, sometimes.

I would also like to thank the staff who serve us so well. We have already spoken about Bill Jarrett and I do not wish to repeat those comments, but I thank Bill for his leadership. There is also Russel Bowman, who I wish to thank personally for turning my kettle on every morning and sometimes doing my dishes. Thank you Russel. I also thank Michael Stubbings, Geoffrey Barnett, Greg Mills, Peter Anastasiou, Philip Stoits, Phillip Richardson and Quentin Cornelius, the cleaner.

All of those people we thank sincerely. That is the end of that annual report.

The next one is for the parliamentary library. I wish to extend the thanks of the National Party to people such as Bruce Davidson and his team for the excellent service they provide through the parliamentary library; Gail Dunston, the deputy librarian, and a host of others I will not name because some of them I do not know. Some of them are the people who work assiduously behind the scenes who we do not always see personally but we see the results of their work. They are people such as Jon Breukel, Mary Lloyd, Michael Mamouney, Debra Reeves and a host of others who provide us with excellent service.

As I said, we are not always aware of the talents of many of those people. One who came to the fore this year was Patrick Gregory, who wrote the history book on the library; people such as Patrick contribute in a quiet way but have a lasting impression through the quality of the work they do. The last person on the library team I would particularly like to mention is Karen Dowling, the education officer with the library. She plays an important role in informing us when we have school groups coming into Parliament and that is much appreciated.

The next annual report I turn to is that of Hansard. I particularly thank Carolyn Williams and her team for the excellent work that Hansard do.

Honourable Members — Hear, hear!

Hon. P. R. HALL — The delivery of some of the speeches in this house is terrible, but they look pretty good when you read them and every morning when you pick up the daily copy of *Hansard* you breathe a great sigh of relief and think, 'Wow, was I as good as that?'. They do a great job. I thank people such as Jan Kendall, John Hickey, Kevin Mills, John Nugent, Patricia, Maggie, Maria and a host of other Hansard staff too numerous to mention. Thank you all for the great job you do!

Finally I want to move to the group called the Joint Services Department — —

Hon. Bill Forwood interjected.

Hon. P. R. HALL — That is the old House Committee, as the Honourable Bill Forwood said. I just want to mention a few of them: Hilton Barr, the manager of the finances and resources unit and his team; Leigh Keen, the manager of the human resources unit; John Isherwood, the manager of the catering unit — and I will come to them in a minute; and Michael Purdy and all of his team in the information technology department — people we call on with some frantic pleas for help when we call up the help desk occasionally. I also thank people such as Brian Bourke and his team in the maintenance unit and Paul Gallagher and his team in the grounds and gardens unit.

Finally, I come to a group of people the National Party likes to thank — that is, the staff of the catering department. The way to National Party members' hearts is through our stomachs and our throats. Some people in the catering department do a magnificent job. John Isherwood as manager of the catering unit runs a particularly great organisation. We thank John for his work. Malcolm Sellar, the executive chef, is a great cook and has trained a lot of good young people. We thank Malcolm for all the work he has done. Sam Brooker has helped us out with many of our functions. The staff who serve us at the table, including Lynda, Deanne, Shirley Haynes, Shirley McDonald, Blanka and Jackie, are courteous and lovely to talk to each day. We also thank Robyn Rogers, the catering office manager. One member of staff whom I would particularly like to thank — this is a special request from two colleagues behind me — is Curtis Sinfield, who looks after the drinks and keeps us all lubricated. To Curtis, Malcolm, John and everyone in the catering department, thank you so much for looking after and feeding us so well.

I hope I have covered everybody with all those thanks. The National Party wishes everybody a safe and a happy Christmas.

The PRESIDENT — Order! I am obviously happy to join this motion. We have seen an historic series of events in this building because of the centenary of Federation. On 10 May this year it was a pleasure for me to sit beside the President of the Senate, Senator Margaret Reid, during that historic meeting.

The meeting in Ballarat has been commented on. An interesting thing about that meeting, as has been pointed out, is that we were the first legislature to do so in Australia. I think we beat the Assembly by half an hour because it slept in for Bendigo. I also express the view, as I did at the President's dinner, that it should be an annual occurrence irrespective of any decision taken by the Assembly. I thank particularly the City of Ballarat, the mayor, David Vendy, and the chief executive officer, John McLean, who could not have done more to ensure the success of the meeting.

In relation to the 150th celebrations I commend to honourable members Dr Ray Wright's book, *A Blended House*. It is very readable and I suggest honourable

members make it part of their January reading. It contains some interesting stories, and your constituents will be very impressed by your erudition when you can cite parts of our early history.

I also thank Ray Wright and Geoff Barnett who were responsible for putting together the complementary exhibition in the Premier's corridor. We tend to walk past these things, but I suggest honourable members take a bit of time to look at it. The exhibition contains artefacts that have not seen the light of day since the early legislation was passed, and some are very rare.

The 150th anniversary of the establishment of the library was celebrated, and for that purpose Patrick Gregory wrote a history entitled *Speaking Volumes*, again a very readable book. I am not suggesting honourable members read it from cover to cover, but they will find some interesting material in it.

The single most exciting development in the library for some time has been the further development of our Internet and intranet sites. Here I must pay special tribute to the leadership of Bruce Davidson, Gail Dunston and Peter Sculley for their magnificent work. Interestingly, Peter Sculley has been seconded for three months to Multimedia Victoria, which is a great accolade because that unit is the centre of excellence in Victoria. It is interesting that it has come to us for our skills.

The news centre for honourable members, from which we can avail ourselves of a news service whether from our homes or elsewhere, was arranged by Gail Dunston. It is a first-class service and one honourable member said to me that it is one of the most valuable tools available. This week a new service was announced where honourable members can order their choice of books electronically from the library catalogue and have them forwarded to their electorate offices by Express Post.

I also thank Karen Dowling. In her role as the education officer she is involved in many of our activities, receiving not just the tens of thousands of students who come to Parliament House but anything from 80 000 to 100 000 visitors a year. She is also involved with the Royal Melbourne Show display. Karen does some excellent work.

By the end of this week our two new meeting rooms will be operational. In fact, I believe one of the rooms has been booked for the select committee tomorrow. The two rooms and the informal meeting area adjacent will help to meet the demand for additional meeting space for members.

My thanks go to the Deputy President, Barry Bishop, for his professional assistance, support and friendship at all times; to the Clerk, Wayne Tunnecliffe, and the Deputy Clerk, Matt Tricarico, who members will recall last year was the winner of the Royal Victorian Order of the Quintuple Bypass!

I also thank the Usher of the Black Rod, Dr Ray Wright, for his constant assistance and many skills. I thank Dr Stephen Redenbach, manager of procedures and projects, and his assistant Sarah Davey, who assisted me in preparing for the Constitution Commission of Victoria at Corowa last weekend.

Thanks also to Felicity Murphy and her papers office staff, Anthony Pierorazio and Rebecca White. We have spoken of Bill Jarrett, whose work has been invaluable.

I mention again our parliamentary librarian, Bruce Davidson, and his staff for the professional assistance they provide to members and to me in particular as the library chairman.

I thank Carolyn Williams and the Hansard reporters and other Hansard staff for the excellent products they produce, their timeliness and the professionalism of their work.

Thanks go also to the Joint Services Department under Steven Aird and Graeme Spurr, and to Bill Schober, Brian Bourke and his maintenance team, as well as Marcus Bromley, who took on the important task of looking after the Joint Services Department prior to the appointment of Steven and Graeme.

I thank John Isherwood and the dining room staff, who look after us so admirably that it draws comment from the media, who are also regular users of our facilities. It is funny they do not mention that in their articles.

I commend the work of the parliamentary committees and their staff at 35 Spring Street; the gardens unit under the direction of Paul Gallagher, and last but not least, I thank my personal staff Yolande Henderson and Geoff Barnett here at Parliament House, and Jenny Menzel and Anne Milne in Hamilton.

I wish all members, staff and their families a very safe and peaceful Christmas, and hope to see everyone back here renewed and refreshed with shorter golf handicaps in the new year.

Motion agreed to.

ADJOURNMENT

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That the house do now adjourn.

Templestowe Heights Primary School

Hon. C. A. FURLETTI (Templestowe) — I have a relatively pressing issue that I wish to raise with the Minister for Sport and Recreation, who represents the Minister for Education in the other place, concerning the provision of funding for Templestowe Heights Primary School through the program for students with disability and impairment.

The school made application to the department in respect of a constituent of mine, Christopher Vassiliadis, a 10-year-old, in October last year. The application was supported by the necessary reports from a psychologist and a speech pathologist, both of whom are Department of Education, Employment and Training paramedical providers.

The application was rejected without explanation on 20 February. On inquiry the school principal, Mr Colin Pagram, was advised that the pathologist's report was defective. The problem was rectified immediately and within the cut-off period for applications.

The school was then advised on 28 March that the application process for the program was closed. The principal sought special consideration and urged that the department not penalise young Christopher for what appeared to be an administrative error by a departmental employee. He commented that, irrespective of where the fault lay for the rejection of the application, it was Christopher who would suffer from the refusal to reconsider which followed.

The principal pursued the matter doggedly and received two responses to his efforts in the form of identical letters from the department, on 28 May and 11 July, both signed by Glenda Strong. Both were indicative of some robotic functionary sending out pro forma letters rejecting applications. The application was rejected on the grounds that the date for process was closed and the department would not exercise its discretion to address an unfortunate situation.

We trust this was a one-off case and not a common occurrence. I point out to the minister that no amount of compensation will replace the year of assistance and benefit which Christopher has lost, but his parents are anxious to ensure there is no repeat of the events leading to that loss for the forthcoming year. I ask the minister to provide Templestowe Heights Primary School with an assurance for funding for Christopher for the year 2002.

Swimming pools: western suburbs

Hon. KAYE DARVENIZA (Melbourne West) — I raise a matter with the Minister for Sport and Recreation. Given the minister's comments today about the development of community facilities, particularly aquatic recreational facilities, I highlight to him the ailing infrastructure in Melbourne's western suburbs. There is clearly a demonstrated need for additional aquatic facilities to be established there. The need for increased recreational opportunities in this area has been pointed out to me many times. I ask what steps the minister has taken to acquaint himself with this issue and what steps he intends to take to address it.

Fisheries Co-Management Council: chairman

Hon. PHILIP DAVIS (Gippsland) — I direct a matter to the attention of the Minister for Energy and Resources concerning fisheries co-management. The minister will be aware that in 1995 the Fisheries Act implemented the provision to develop co-management in the state, auspiced by the Fisheries Co-Management Council. The first chairman of that council was David Williams, an independent chairman, and when he resigned Mr Kaz Bartaska took over the role of chairman on an interim basis and was eventually formally appointed chairman after the lapse of some considerable time.

Recently — in fact yesterday — the Environment and Natural Resources Committee of the Parliament tabled a report on its inquiry into fisheries management, which says:

> The chairman of the Fisheries Co-Management Council need not necessarily have fisheries management skills; the position requires, in particular, leadership, organisation and strategic planning skills. It is important that the person selected is, and is seen to be, independent of any particular sector.

I am advised today that the minister is considering the appointment of a new chairman of the co-management council, Assistant Professor John Sherwood, who is Victorian president of the Australian Marine Sciences Association and as such has actively supported the government's now defunct marine parks legislation.

Assistant Professor Sherwood has been prominent in debate over the marine park implementation. In a contributed article to the *Guardian* — the newsletter of the Communist Party of Australia — of 11 April this year, he came out strongly backing the proposals by the government for the marine parks in Victoria. He made

comments which were reported in the other left-wing newspaper, the *Age*, on 14 June. The article states:

> … it was ridiculous that the 'most important natural resource issue in Victoria in recent times' could be ruined by a political row over compensation.

Therefore I ask the minister: how will stakeholders, including commercial and recreational fishers, have confidence in co-management if the minister appoints someone who has a declared partisan position?

Responses

Hon. C. C. BROAD (Minister for Energy and Resources) — In response to the matter raised by the Honourable Philip Davis, firstly, in relation to the report of the Environment and Natural Resources Committee, that is a report which the government intends to give very careful consideration to. That is as it should be, after a great deal of work has been put into that report by members of that committee. The government will respond in due course.

In relation to the current appointment to the position of chair of the Fisheries Co-Management Council, I have consulted with a number of bodies about that appointment, and I have not had objections to that proposed appointment. In addition to the very selective description of the particular skills to which Mr Davis has referred, it is also the case that a whole range of other contributions have been made over a long period of time, which I expect will be invaluable in bringing an independent approach to the position of chair of that council.

It is disappointing that the appointment has been described in the terms that the shadow minister has used tonight. I have confidence that in proceeding with this appointment balance will be brought to the position. I expect that all the interests represented on the co-management council will find that that will be the approach employed. I look forward to the contribution that this appointment will make.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the question by the Honourable Carlo Furletti about specific student issues at the Templestowe Heights Primary School and those individual needs, I will refer the issue to the Minister for Education in the other place.

In relation to the question by the Honourable Kaye Darveniza regarding aquatic facility opportunities in the western suburbs, I recently visited the Footscray pool on the invitation of local members and the Maribyrnong City Council and was particularly impressed with the high level of community usage and the individual and specific community needs. I look forward to further opportunities to encourage well-planned strategic solutions that can provide opportunity for the local community to access potential funding through the community facilities funding program.

Motion agreed to.

House adjourned 7.23 p.m.

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.
Questions have been incorporated from the notice paper of the Legislative Council.
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.
The portfolio of the minister answering the question on notice starts each heading.

Tuesday, 4 December 2001

Post Compulsory Education, Training and Employment: applied learning certificate

2355. THE HON. ANDREW BRIDESON — To ask the Honourable the Minister for Sport and Recreation (for the Honourable the Minister for Post-Compulsory Education, Training and Employment): In relation to the Applied Learning Certificate announced by the Minister on 8 October 2001:

(a). Were there consultation papers/briefs prepared on this new certificate; if so, will the Minister make these available.

(b). Which education stakeholders were consulted in drafting in the lead up to the announcement of the new certificate.

ANSWER:

I am informed as follows:

(a) The Victorian Certificate of Applied Learning (VCAL) proposal was developed by the Victorian Qualifications Authority.

(b) In developing the VCAL, the Victorian Qualifications Authority discussed emerging designs for the new qualification with a range of stakeholder bodies.

Environment and Conservation: Mansfield treatment plant

2382. THE HON. E. G. STONEY — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): Will the Minister provide full details and results of all tests done on water in Fords Creek, Mansfield immediately below the Mansfield Treatment Plant for 1999, 2000 and 2001, respectively.

ANSWER:

I am informed that:

Goulburn Valley Water has responsibility for the operation of the Mansfield Wastewater Treatment Plant. The waste water from the treatment plant is stored in a winter storage pond and reused to irrigate the surrounding farmland during the dry months of the year. Given that the waste water is not discharged into Fords Creek, the EPA does not require Goulburn Valley Water to monitor the water in the creek.

Sport and Recreation: Freeza program

2440. THE HON. A. P. OLEXANDER — To ask the Honourable the Minister for Sport and Recreation:

(a) What financial commitment has the Government made to the Freeza Program for the period from 1 January 2002 to 30 June 2002.

(b) What is the proposed disbursement of any funds allocated for the program for this period.

(c) What financial commitment will be made to the 'PUSH' element of the program.

(d) Will recurrent funding be procured for the program after 30 June 2002.

ANSWER:

I will respond to the Honourable Member's question in my capacity as Minister for Youth Affairs. I am informed as follows:

(a) The Government through realising efficiencies within the program and accessing unspent funds from previous years has allocated $700,000 to the Freeza program in the period from 1 January 2002 to 30 June 2002.

(b) Funds allocated for this period will be disbursed by DEET to the 60 Freeza providers in accordance with the 2000/01 Funding Guidelines.

(c) The Push is being funded $100,000 for the period from 1 January 2002 to 30 June 2002.

(d) In line with the Youth Strategy, the shape and form of the Freeza program after 30 June 2002 will be considered as part of usual Budget deliberations.

Energy and Resources: energy supplies

2462. THE HON. ANDREA COOTE — To ask the Honourable the Minister for Energy and Resources: What percentage of Victoria's energy supply is currently met by — (i) wind power; (ii) solar power; (iii) biomass; (iv) geothermal; and (v) hydro.

ANSWER:

I am informed that:

The estimated percentage of Victoria's (electrical) energy supply in 2001 was met by:

(i) wind power: less than 0.1%;
(ii) solar power: less than 0.1%;
(iii) biomass: approximately 1.3 %;
(iv) geothermal: none;
(v) hydro: approximately 2.9%

Between 1999 and 2001 there was an increase in electricity consumption of approximately 5.6 %.

Energy and Resources: energy supplies

2463. THE HON. ANDREA COOTE — To ask the Honourable the Minister for Energy and Resources: What percentage of Victoria's energy supply in 1999 and 2000, respectively, was met by — (i) wind power; (ii) solar power; (iii) biomass; (iv) geothermal; and (v) hydro.

ANSWER:

I am informed that

The percentage of Victoria's (electricity) energy supply in 1999 and 2000 was met by:

(i) wind power: less than 0.1% (both years);
(ii) solar power: less than 0.1% (both years);
(iii) biomass: approximately 1.3 % (both years);
(iv) geothermal: none (both years);

(v) hydro: approximately 2.8% (1999) and 2.9% (2000).

Between 1999 and 2001 there was an increase in electricity consumption of approximately 5.6 %.

Energy and Resources: portable generators

2464. THE HON. ANDREA COOTE — To ask the Honourable the Minister for Energy and Resources: How many portable generators are available for the supply of supplementary energy in emergencies in Victoria.

ANSWER:

I am informed that:

There are very few, if any, portable generators of any size in Victoria.

However, a large number of small generators are available for hire or purchase, or are privately owned. These generators are not connected to the electricity grid. There are also a number of private and government owned 'stand by' generators, for example, those located in hospitals. These generators are not usually connected to the electricity grid.

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.
Questions have been incorporated from the notice paper of the Legislative Council.
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.
The portfolio of the minister answering the question on notice starts each heading.

Thursday, 6 December 2001

Transport: black spot program

2149. THE HON. E. G. STONEY — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What allocation from the statewide Black Spot Program has been made to improve roads in the electoral district of Benalla in the last financial year and this financial year, respectively.

(b) Will the Government supply a list of the applications for the statewide Black Spot Program for roads located in the electoral district of Benalla since the commencement of the program.

(c) Will the Government supply a list of the successful applications and the dates of acceptance of those applications for roads located in the electoral district of Benalla.

ANSWER:

a) The electoral district of Benalla is made up of the municipalities of Alpine, Delatite, Greater Shepparton, Murrindindi, Strathbogie and Wangaratta. Allocations from the Statewide Blackspot Program to these municipalities have been as follows:

	2000/2001	2001/2002
Alpine Shire	$0.85m	0
Delatite Shire	$1.10m	0
Greater Shepparton City	$2.01m	$0.59m
Murrindindi Shire	$3.58m	$0.16m
Strathbogie Shire	$0.39m	0
Wangaratta Rural City	$1.16m	$0.78m

b) The list of public and council nominations for the Statewide Blackspot Program in each municipality, together with their status, can be found at the arrive alive! web site –www.arrivealive.vic.gov.au. There have been a total of 140 sites nominated in the above municipalities.

c) The list of approved projects within the municipalities of Alpine, Delatite, Greater Shepparton, Murrindindi, Strathbogie and Wangaratta, drawn from public and council nominations, and other projects developed by Vicroads, is shown in Attachment 1. The date on which the projects were approved for inclusion in the program is also shown.

APPROVED BLACKSPOT PROJECTS

ATTACHMENT 1

(MUNICIPALITIES OF ALPINE, DELATITE, GREATER SHEPPARTON, MURRINDINDI, STRATHBOGIE AND WANGARATTA)

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Alpine Shire				
2000/2001				
Great Alpine Road - Steiners Lane to Howards Bridge	Smoko to Harrietville	194	Hazard Removal / Protection	October 2000
Kiewa Valley Highway	Baranduda to Mount Beauty	152	Hazard Removal / Protection	May 2001
Great Alpine Road	Wangaratta to Omeo	104	Hazard Removal / Protection	May 2001
Myrtleford-Yackandandah Road	Myrtleford to Yackandandah	56	Hazard Removal / Protection	May 2001
Buffalo River Road	Full Length	124	Hazard Removal / Protection	May 2001
Back Porepunkah Road	Bright	20	Hazard Removal / Protection	May 2001
Buckland Valley Road	Bright	20	Hazard Removal / Protection	May 2001
Great Alpine Road - Harrietville to Dargo Road	Harrietville	160	Route Improvements	June 2001
Bright-Tawonga Road - Curve at 22.0 Km	Tawonga	16	Hazard Removal / Protection	June 2001
	Alpine Shire Total	**846**		
Delatite Shire				
2000/2001				
Benalla-Tocumwal Road - Midland Highway to Murray Valley Highway	Casie Weir - Yarroweyah	112	Hazard Removal / Protection	May 2001
Benalla-Yarrawonga Road	Benalla to Yarrawonga	84	Hazard Removal / Protection	May 2001
Benalla-Winton Road	Benalla to Winton	28	Hazard Removal / Protection	May 2001
Mansfield-Woods Point Road	Mansfield to Woods Point	244	Hazard Removal / Protection	May 2001
Benalla-Tatong Road	Benalla to Tatong	84	Hazard Removal / Protection	May 2001
Baddaginnie - Benalla Road	Benalla	64	Hazard Removal / Protection	May 2001
Samaria Road	Benalla	45	Hazard Removal / Protection	May 2001
Maroondah Highway	Merton To Bonnie Doon	32	Shoulder Sealing	June 2001
Mansfield-Woods Point Road	Jamieson to Woods Point	410	Route Improvements	June 2001
	Delatite Shire Total	**1,103**		
Greater Shepparton City				
2000/2001				
Echuca-Mooroopna Road - Knight Street	Mooroopna	117	Intersection Improvements	October 2000

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Dhurringile Road - at Hogan Street/Fergusson Road	Tatura	184	Roundabout	October 2000
Murchison-Tatura Road - Girgarre East Road/Murton Road	Tatura	170	Intersection Improvements	October 2000
Central Ave - Broken River to Swainston Road	Shepparton East to Swainston Road	112	Route Improvements	October 2000
Shepparton - Euroa Road	Shepparton East	160	Hazard Removal / Protection	May 2001
Verney Road	Shepparton	70	Hazard Removal / Protection	May 2001
Katamatite-Shepparton Road	Katamatite to Congupna	112	Hazard Removal / Protection	May 2001
Bendigo-Murchison Road	Midland Highway to Murchison East	264	Hazard Removal / Protection	May 2001
Echuca-Mooroopna Road	Wyuna to Mooroopna	96	Hazard Removal / Protection	May 2001
Euroa-Shepparton Road	Euroa to Shepparton	112	Hazard Removal / Protection	May 2001
Dookie-Shepparton Road	Dookie to Shepparton	84	Hazard Removal / Protection	May 2001
Murchison-Tatura Road	Murchison to Undera	84	Hazard Removal / Protection	May 2001
Archer Street - Wilmot Road/Poplar Avenue	Shepparton	166	Traffic Signals	May 2001
Lancaster-Mooroopna Road	Lancaster to Mooroopna	168	Hazard Removal / Protection	May 2001
Echuca-Mooroopna Road - Alexander Street to McLennan Street	Mooroopna	108	Intersection Improvements	June 2001
	2000/2001 Total	**2,007**		
2001/2002				
Archer Street - Vaughan & Percival streets	Shepparton	40	Intersection Improvements	November 2001
Fryers Street - Maude Street to Corio Street	Shepparton	15	Pedestrian Facilities	November 2001
Ferguson Road - Craven Road	Shepparton	131	Intersection Improvements	November 2001
Katamatite-Shepparton Road - Congupna East Road & Jubilee Road	Congupna	110	Shoulder Sealing	November 2001
Midland Highway - Turnbull Road	Mooroopna West	295	Intersection Improvements	November 2001
	2001/2002 Total	**591**		
	Greater Shepparton City Total	**2,598**		
Murrindindi Shire				
2000/2001				
Maroondah Highway - Gypsy Lane To Cathedral Lane	Buxton	310	Route Improvements	October 2000
Maroondah Highway - South Of Connellys Creek Road To Grannies Lane	Acheron	398	Shoulder sealing	October 2000
Marysville Road - East of Maroondah Highway To Triangle Road - Granton To Triangle Road	Granton	385	Route Improvements	October 2000

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Whittlesea-Kinglake Road - Whittlesea-Yea Road To Heidelberg-Kinglake Road - Kinglake West	Kinglake West	337	Route Improvements	October 2000
Whittlesea-Yea Road - Watson Road To Silver Creek	Silver Creek	556	Shoulder Sealing	October 2000
Healesville-Kinglake Road - Gordons Bridge Road To Howards Road	Kinglake	38	Skid Resistance Treatments	October 2000
Healesville-Kinglake Road - Myers Creek Road To My Slide	Toolangi	439	Route Improvements	October 2000
Back Eildon Road	Eildon	25	Hazard Removal / Protection	May 2001
King Parrot Creek Road	Strath Creek	20	Hazard Removal / Protection	May 2001
Whittlesea-Yea Road	Whittlesea to Yea	80	Hazard Removal / Protection	May 2001
Goulburn Valley Highway	Alexandra To Eildon	108	Shoulder Sealing	June 2001
Goulburn Valley Highway - Shire Boundary To King Parrot Creek	Kerrisdale	235	Shoulder Sealing	June 2001
Goulburn Valley Highway - Southeast of Thornton	Southeast of Thornton	35	Hazard Removal / Protection	June 2001
Broadford-Flowerdale Road - Shire Boundary To Murchison Hill	Strath Creek	176	Shoulder Sealing	June 2001
Whittlesea-Kinglake Road - Bald Spur Road To Glenburn Road, Pheasant Creek	Pheasant Creek	250	Shoulder Sealing	June 2001
Broadford-Flowerdale Road - Upper King Parrot Creek Road To Spring Valley Road	Strath Creek	150	Shoulder Sealing	June 2001
Whittlesea-Yea Road	Junction Hill, Flowerdale	33	Hazard Removal / Protection	June 2001
	2000/2001 Total	**3,575**		
2001/2002 (Murrindindi cont.)				
Whittlesea-Kinglake Road - Watsons Road/National Park Road	Pheasants Creek	64	Intersection Improvements	November 2001
Whittlesea-Yea Road - Whittlesea-Kinglake Road	Kinglake West	48	Intersection Improvements	November 2001
Goulburn Valley Highway (High Street) - Melbourne Road To Miller Road	Yea	50	Route Improvements	November 2001
	2001/2002 Total	**162**		
	Murrindindi Shire Total	**3,737**		
Strathbogie Shire				
2000/2001				
Arcadia Two Chain Road	Euroa	40	Hazard Removal / Protection	May 2001
Avenel-Longwood Road	Avenel	120	Hazard Removal / Protection	May 2001
Creightons Creek Road	Euroa	90	Hazard Removal / Protection	May 2001
Drysdale Road	Euroa	80	Hazard Removal / Protection	May 2001
Kirwins Bridge Longwood Road	Nagambie	30	Hazard Removal / Protection	May 2001
Longwood - Ruffy Road	Ruffy	30	Hazard Removal / Protection	May 2001

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
	Strathbogie Shire Total	**390**		
Wangaratta Rural City		1,182		
2000/2001				
Glenrowan-Myrtleford Road	Whorouly	343	Route Improvements	October 2000
Beechworth-Wangaratta Road - Shire Boundary To White Post Road	Everton Upper	202	Route Improvements	October 2000
Mansfield-Whitfield Road - Peacock Spur To Whitfield	Whitlands	306	Route Improvements	October 2000
King Valley Road	Cheshunt	80	Hazard Removal / Protection	May 2001
Wangaratta Eldorado Road	Wangaratta	20	Hazard Removal / Protection	May 2001
Glenrowan-Myrtleford Road	Glenrowan to Gapsted	84	Hazard Removal / Protection	May 2001
Wangaratta-Whitfield Road	Wangaratta to Whitfield	124	Hazard Removal / Protection	May 2001
	2000/2001 Total	**1,159**		
2001/2002				
Swan Street - Rowan Street	Wangaratta	400	Roundabout	November 2001
Taminick Gap Road - Warby Range Road	Glenrowan North	360	Intersection Improvements	November 2001
Ford Street - Ped Facility North of Murphy Street	Wangaratta	23	Pedestrian Facilities	November 2001
	2001/2002 Total	**783**		
	Wangaratta Rural City Total	**1,942**		

Transport: black spot program

2150. THE HON. E. G. STONEY — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What allocation from the statewide Black Spot Program has been made to improve roads in the electoral district of Evelyn in the last financial year and this financial year, respectively.

(b) Will the Government supply a list of the applications for the statewide Black Spot Program for roads located in the electoral district of Evelyn since the commencement of the program.

(c) Will the Government supply a list of the successful applications and the dates of acceptance of those applications for roads located in the electoral district of Evelyn.

ANSWER:

a) The electoral district of Evelyn is made up of the municipalities of the Shire of Baw Baw and the Shire of Yarra Ranges. Allocations from the Statewide Blackspot Program to these municipalities have been as follows:

	2000/2001	2001/2002
Baw Baw Shire	$0.55m	$0.48m
Yarra Ranges Shire	$1.04m	$0.62m

b) The list of public and council nominations for the Statewide Blackspot Program in each municipality, together with their status, can be found at the arrive alive! web site – www.arrivealive.vic.gov.au. There have been 156 sites nominated in the above municipalities.

c) The list of approved projects within the Shires of Baw Baw and Yarra Ranges, drawn from public and council nominations, and other projects developed by Vicroads, and the date on which the projects were approved for inclusion in the program, is shown in Attachment 1.

APPROVED BLACKSPOT PROJECTS

ATTACHMENT1

(MUNICIPALITIES OF YARRA RANGES AND BAW BAW)

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Baw Baw Shire				
2000/2001				
Princes Hwy East - Bloomfield Rd (Nilma) to Moe Glengarry Rd (Moe)	Nilma To Moe	102	Route Improvements	October 2000
Princes Hwy East - Bunyip River To Nilma	Bunyip River To Nilma	102	Route Improvements	November 2000
Fisher Rd - Old Sale Rd to Labertouche Rd	Drouin	6	Hazard Removal / Protection	May 2001
Main South Rd - Westernport Rd to Shire Boundary	Hallora	28	Hazard Removal / Protection	May 2001
Yarragon-Shady Creek Rd - Princes Highway to Old Sale Rd	Yarragon	15	Hazard Removal / Protection	May 2001
Nayook-Powelltown Rd - Yarra Junction-Noojee Rd to McIntyre Rd	Nayook	300	Route Improvements	May 2001
	2000/2001 Total	**553**		
2001/2002				
Moe-Thorpdale Rd - Weirs Rd	Narracan	8	Intersection Improvements	November 2001
Warragul-Lardner Rd - Lardners Track	Warragul	13	Intersection Improvements	November 2001
Sunny Creek Rd - Princes Hwy to Sunny Creek Connection Rd	Trafalgar West	21	Shoulder Sealing	November 2001
McDonalds Track - Morwell-Thorpdale Rd	Narracan East	6	Intersection Improvements	November 2001
Narracan Connection Rd - Falls Rd And Schofield Rd	Narracan	11	Intersection Improvements	November 2001
Ten Mile Rd - Morwell-Thorpdale Rd	Narracan East	6	Intersection Improvements	November 2001
Clifford St - Smith St	Warragul	52	Intersection Improvements	September 2001
Connor St - Witton St	Warragul	26	Intersection Improvements	September 2001
Christies Rd - Lillico Rd	Buln Buln	30	Intersection Improvements	September 2001
Old Sale Rd - Brandy Creek Rd	Brandy Creek	260	Intersection Improvements	September 2001
Main South Rd - Burnt Store Rd	Drouin South	50	Intersection Improvements	September 2001
	2001/2002 Total	**483**		

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
	Baw Baw ShireTotal	**1,036**		
Yarra Ranges Shire				
2000/2001				
Maroondah Highway - Clyde Street To Victoria Road	Lilydale	35	Hazard Removal / Protection	October 2000
Belgrave-Gembrook Road - Grantulla Road/School Road	Menzies Creek	206	Roundabout	October 2000
Sherbrooke Road - Braeside Avenue to Owen Street	Kallista	22	Skid resistant overlay, delineation	October 2000
David Hill Road - Cavey Road to Emerald-Monbulk Road	Monbulk	56	Signage	October 2000
John Street - Cave Hill Road	Lilydale	71	Roundabout	October 2000
Monbulk Road - Perrins Creek Road To Camms Road	Kallista	425	Route Improvements	March 2001
Melba Highway - Healesville Yarra Glen Road To Kinglake - Healesville Road	Gulf Station and Dixons Creek.	27	Hazard Removal / Protection	May 2001
Wellington Road - Ryans Road To Brandt Road	Lysterfield	39	Intersection Improvements	June 2001
Belgrave-Hallam Road - Mountain Flat Road To Wellington Road	Narre Warren East	120	Route Improvements	June 2001
Lilydale-Monbulk Road - Spring Road To Monbulk-Seville Road	Silvan	34	Shoulder Sealing	June 2001
	2000/2001 Total	**1,035**		
York Road - Hawkins Road	Montrose	143	Intersection Improvements	November 2001
Mount Dandenong Tourists' Road - Mast Gully Road	Ferny Creek	34	Skid Resistance Treatments	November 2001
Monbulk-Seville Road - Beenak Road	Seville	440	Roundabout	November 2001
	2001/2002 Total	**617**		
	Yarra Ranges Shire Total	**1,652**		

Transport: black spot program

2151. THE HON. E. G. STONEY — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What allocation from the statewide Black Spot Program has been made to improve roads in the electoral district of Seymour in the last financial year and this financial year, respectively.

(b) Will the Government supply a list of the applications for the statewide Black Spot Program for roads located in the electoral district of Seymour since the commencement of the program.

(c) Will the Government supply a list of the successful applications and the dates of acceptance of those applications for roads located in the electoral district of Seymour.

ANSWER:

a) The electoral district of Seymour is made up of the municipalities of Greater Bendigo, Mitchell, Murrindindi, Nillumbik, Strathbogie, Whittlesea and Yarra Ranges. Allocations from the Statewide Blackspot Program to these municipalities have been as follows:

	2000/2001	2001/2002
Greater Bendigo City	$6.30m	$0.72m
Mitchell Shire	$0.30m	0
Murrindindi Shire	$3.58m	$0.16m
Nillumbik Shire	$0.34m	$0.41m
Strathbogie Shire	$0.39m	0
Whittlesea City	$2.65m	$0.94m
Yarra Ranges Shire	$1.04m	$0.62m

b) The list of public and council nominations for the Statewide Blackspot Program in each municipality, together with their status, can be found at the arrive alive! web site – www.arrivealive.vic.gov.au. There have been 272 sites nominated in the above municipalities.

c) The list of approved projects within the municipalities of Greater Bendigo, Mitchell, Murrindindi, Nillumbik, Strathbogie, Whittlesea and Yarra Ranges, drawn from public and council nominations, and other projects developed by Vicroads, and the date on which the projects were approved for inclusion in the program, is shown in Attachment 1.

APPROVED BLACKSPOT PROJECTS

ATTACHMENT 1

(MUNICIPALITIES OF GREATER BENDIGO, MITCHELL, MURRINDINDI, NILLUMBIK, STRATHBOGIE, WHITTLESEA AND YARRA RANGES)

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Greater Bendigo City				
2000/2001				
Calder Highway Sec3 Marong to Inglewood	Marong	1,480	Shoulder Sealing	October 2000
Calder Alternative Highway Ravenswood to Lockwood South	Ravenswood	530	Shoulder Sealing	October 2000
Midland Highway	Bagshot to Goornong	663	Shoulder Sealing	October 2000
Calder Alternative Highway- Bullock Creek To Marong	Bullock Creek	357	Shoulder Sealing	October 2000
Calder Highway - Oak Street	Golden Square	318	Intersection Improvements	October 2000
Calder Highway Maiden Gully to Marong	Maiden Gully	357	Shoulder Sealing	October 2000
Calder Highway - Myrtle Street, Don Street	Bendigo	30	Intersection Improvements	October 2000
Loddon Valley Highway - Creeth Street	Long Gully	51	Route Improvements	October 2000
Bendigo-Redesdale Road - Sternberg Street, Townsend Street, Somerville St, Williamson Street	Kennington	82	Intersection Improvements	October 2000
Nelson Street/Green Street/Chapple/Bright Street - Green Street	California Gully	408	Roundabout	October 2000
Bendigo-Maldon Road - Bullock Creek to Suttons Lane	Lockwood South	120	Shoulder Sealing	October 2000
Retreat Road - Carolin Street	Spring Gully	25	Bicycle Facilities	October 2000

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Mackenzie Street West - Browning Street	Kangaroo Flat	18	Intersection Improvements	May 2001
Sternberg Street - Condon Street	Kennington	24	Intersection Improvements	May 2001
Midland Highway - Bendigo - Eaglehawk Road to Northern Highway	Bendigo-Elmore	116	Hazard Removal / Protection	May 2001
Northern Highway - Hume Freeway to McIvor Highway	Hume Freeway-Heathcote	169	Hazard Removal / Protection	May 2001
McIvor Highway - Northern Highway to Calder Highway	Heathcote - Bendigo	282	Hazard Removal / Protection	May 2001
Chum Street - Booth Street	Golden Square	50	Intersection Improvements	May 2001
Bendigo-Sutton Grange Road - Carramar Drive (Municipal Boundary) to Huddle Road	Sedgewick	200	Shoulder Sealing	May 2001
Mandurang Road - Harcourt North Road/Claremont Place	Sedgwick	360	Shoulder Sealing	May 2001
Allies Road - Old Bridgewater Road to Schumakers Lane	Maiden Gully	277	Shoulder Sealing	May 2001
Heathcote-Kyneton Road - Siddles Road (Municipal Boundary) to Bendigo-Redesdale Road	Redesdale	380	Shoulder Sealing	June 2001
	2000/2001 Total	**6,297**		
2001/2002 (Greater Bendigo cont.)				
McIvor Highway - Mitchell Street	Axedale	58	Intersection Improvements	November 2001
McIvor Highway - Murphy Lane	Longlea	61	Intersection Improvements	November 2001
McIvor Highway - near Putnam Ave	Strathdale	145	Pedestrian Signals	November 2001
Calder Highway - Maiden Gully Road/Carolyn Way	Maiden Gully	81	Intersection Improvements	November 2001
Golden Square-Long Gully Road - Calder Highway to Sparrowhawk Road	Long Gully	158	Intersection Improvements	November 2001
Calder Highway - Calder Alternative Highway	Ravenswood	92	Intersection Improvements	November 2001
Loddon Valley Highway - Sailors Gully Road	Eaglehawk	120	Intersection Improvements	November 2001
	2001/2002 Total	**715**		
	Greater Bendigo City Total	**7,012**		
Mitchell Shire				
2000/2001				
Murchison Spur Road - Broadford-Flowerdale Road to Reid Road	Strath Creek	38	Route Improvements	October 2000
Old Sydney Road - Stockdale Road-Wallan Darraweit Road	Wallan	181	Route Improvements	October 2000
Lancefield-Tooborac Road - Hardings Road-Northern Highway to Northern Highway	Tooborac	79	Route Improvements	December 2000
	Mitchell Shire Total	**298**		

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Murrindindi Shire				
2000/2001				
Maroondah Highway - Gypsy Lane To Cathedral Lane	Buxton	310	Route Improvements	October 2000
Maroondah Highway - South Of Connellys Creek Road To Grannies Lane	Acheron	398	Shoulder sealing	October 2000
Marysville Road - East of Maroondah Highway To Triangle Road - Granton To Triangle Road	Granton	385	Route Improvements	October 2000
Whittlesea-Kinglake Road - Whittlesea-Yea Road To Heidelberg-Kinglake Road - Kinglake West	Kinglake West	337	Route Improvements	October 2000
Whittlesea-Yea Road - Watson Road To Silver Creek	Silver Creek	556	Shoulder Sealing	October 2000
Healesville-Kinglake Road - Gordons Bridge Road To Howards Road	Kinglake	38	Skid Resistance Treatments	October 2000
Healesville-Kinglake Road - Myers Creek Road To My Slide	Toolangi	439	Route Improvements	October 2000
Back Eildon Road	Eildon	25	Hazard Removal / Protection	May 2001
King Parrot Creek Road	Strath Creek	20	Hazard Removal / Protection	May 2001
Whittlesea-Yea Road	Whittlesea to Yea	80	Hazard Removal / Protection	May 2001
Goulburn Valley Highway	Alexandra To Eildon	108	Shoulder Sealing	June 2001
Goulburn Valley Highway - Shire Boundary To King Parrot Creek	Kerrisdale	235	Shoulder Sealing	June 2001
Goulburn Valley Highway - Southeast of Thornton	Southeast of Thornton	35	Hazard Removal / Protection	June 2001
Broadford-Flowerdale Road - Shire Boundary To Murchison Hill	Strath Creek	176	Shoulder Sealing	June 2001
Whittlesea-Kinglake Road - Bald Spur Road To Glenburn Road, Pheasant Creek	Pheasant Creek	250	Shoulder Sealing	June 2001
Broadford-Flowerdale Road - Upper King Parrot Creek Road To Spring Valley Road	Strath Creek	150	Shoulder Sealing	June 2001
Whittlesea-Yea Road	Junction Hill, Flowerdale	33	Hazard Removal / Protection	June 2001
	2000/2001 Total	**3,575**		
2001/2002 (Murrindindi cont.)				
Whittlesea-Kinglake Road - Watsons Road/National Park Road	Pheasants Creek	64	Intersection Improvements	November 2001
Whittlesea-Yea Road - Whittlesea-Kinglake Road	Kinglake West	48	Intersection Improvements	November 2001
Goulburn Valley Highway (High Street) - Melbourne Road To Miller Road	Yea	50	Route Improvements	November 2001
	2001/2002 Total	**162**		
	Murrindindi Shire Total	**3,737**		
Nillumbik Shire				
2000/2001				
Kangaroo Ground-Warrandyte Road - Blooms Road to Aton Street	North Warrandyte	88	Shoulder Sealing	October 2000

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Kangaroo Gnd-Warrandyte Road - Eltham-Yarra Glen Road to Yeomans Road	Kangaroo Ground	224	Shoulder Sealing	October 2000
Allendale Road - Oronsay Road to Arcadia Way	Eltham North	29	Skid Resistance Treatments	June 2001
	2000/2001 Total	341		
2001/2002				
Heidelberg-Kinglake Road - Phipps Crescent to The Parkway	Diamond Creek	410	Roundabout	November 2001
	2001/2002 Total	**410**		
	Nillumbik Shire Total	**751**		
Strathbogie Shire				
2000/2001				
Arcadia Two Chain Road	Euroa	40	Hazard Removal / Protection	May 2001
Avenel-Longwood Road	Avenel	120	Hazard Removal / Protection	May 2001
Creightons Creek Road	Euroa	90	Hazard Removal / Protection	May 2001
Drysdale Road	Euroa	80	Hazard Removal / Protection	May 2001
Kirwins Bridge Longwood Road	Nagambie	30	Hazard Removal / Protection	May 2001
Longwood - Ruffy Road	Ruffy	30	Hazard Removal / Protection	May 2001
	Strathbogie Shire Total	**390**		
Whittlesea City				
2000/2001				
Dalton Road - Metropolitan Ring Road	Thomastown	14	Intersection Improvements	October 2000
Plenty Road - Metropolitan Ring Road	Bundoora	24	Intersection Improvements	October 2000
Whittlesea-Yea Road - Mobile Mission To Hawkes Road To Hawkes Road	Humevale	180	Skid Resistance Treatments	October 2000
Edgars Road - Barry Road	Thomastown	243	Traffic Signals	October 2000
Donnybrook Road - Hume Highway To Plenty Road	Donnybrook	25	Hazard Removal / Protection	May 2001
Bridge Inn Road - Plenty Road To Yan Yean Road	Mernda	15	Hazard Removal / Protection	May 2001
Findon Road - Epping Road To Civic Drive	Epping	20	Hazard Removal / Protection	May 2001
Whittlesea-Yea Road - Church Street To Ridge Road	Whittlesea	20	Hazard Removal / Protection	May 2001
Campbellfield-Greensborough Road (Mahoneys Road) - Edgars Road To High Street	Thomastown	10	Hazard Removal / Protection	May 2001
Spring St - Harding Street To Johnson Street	Thomastown	67	Intersection Improvements	May 2001
Whittlesea-Yea Road		250	Route Improvements	June 2001
McDonalds Road - Plenty Road To Ferres	Mill Park	6	Signage	June 2001

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Boulevard				
Craigieburn Road East - City Boundary To Epping-Kilmore Road	Wollert	555	Shoulder Sealing	June 2001
Darebin Drive - Dalton Road To McKimmies Road	Thomastown	180	Intersection Improvements	June 2001
Epping-Kilmore Road - Donnybrook Road To Hadfields Road	Woodstock-Eden Park	1,045	Shoulder Sealing	June 2001
	2000/2001 Total	**2,654**		
2001/2002				
Currajong Street - Heaths Street	Thomastown	40	Roundabout	November 2001
Davisson Street - Rufus Street	Epping	65	Intersection Improvements	November 2001
Rufus Street - Howard Street	Epping	188	Roundabout	November 2001
High Street - Findon Road	Epping	113	Intersection Improvements	November 2001
Childs Road - Prince Of Wales Avenue	Mill Park	227	Traffic Signals	November 2001
Childs Road - Betula Avenue	Mill Park	305	Traffic Signals	November 2001
	2001/2002 Total	**938**		
	Whittlesea City Total	**3,592**		
Yarra Ranges Shire				
2000/2001				
Maroondah Highway - Clyde Street To Victoria Road	Lilydale	35	Hazard Removal / Protection	October 2000
Belgrave-Gembrook Road - Grantulla Road/School Road	Menzies Creek	206	Roundabout	October 2000
Sherbrooke Road - Braeside Avenue to Owen Street	Kallista	22	Skid resistant overlay, delineation	October 2000
David Hill Road - Cavey Road to Emerald-Monbulk Road	Monbulk	56	Signage	October 2000
John Street - Cave Hill Road	Lilydale	71	Roundabout	October 2000
Monbulk Road - Perrins Creek Road To Camms Road	Kallista	425	Route Improvements	March 2001
Melba Highway - Healesville Yarra Glen Road To Kinglake - Healesville Road	Gulf Station and Dixons Creek.	27	Hazard Removal / Protection	May 2001
Wellington Road - Ryans Road To Brandt Road	Lysterfield	39	Intersection Improvements	June 2001
Belgrave-Hallam Road - Mountain Flat Road To Wellington Road	Narre Warren East	120	Route Improvements	June 2001
Lilydale-Monbulk Road - Spring Road To Monbulk-Seville Road	Silvan	34	Shoulder Sealing	June 2001
	2000/2001 Total	**1,035**		
2001/2002				
York Road - Hawkins Road	Montrose	143	Intersection Improvements	November 2001
Mount Dandenong Tourists' Road - Mast Gully Road	Ferny Creek	34	Skid Resistance Treatments	November 2001
Monbulk-Seville Road - Beenak Road	Seville	440	Roundabout	November 2001
	2001/2002 Total	**617**		
	Yarra Ranges Shire Total	**1,652**		

Transport: black spot program

2152. THE HON. E. G. STONEY — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What allocation from the statewide Black Spot Program has been made to improve roads in the electoral district of Yan Yean in the last financial year and this financial year, respectively.

(b) Will the Government supply a list of the applications for the statewide Black Spot Program for roads located in the electoral district of Yan Yean since the commencement of the program.

(c) Will the Government supply a list of the successful applications and the dates of acceptance of those applications for roads located in the electoral district of Yan Yean.

ANSWER:

a) The electoral district of Yan Yean is made up of the municipalities of Hume, Nillumbik, Whittlesea and Yarra Ranges. Allocations from the Statewide Blackspot Program to these municipalities have been as follows:

	2000/2001	2001/2002
Hume City	$1.17m	$0.30m
Nillumbik Shire	$0.34m	$0.41m
Whittlesea City	$2.65m	$0.94m
Yarra Ranges Shire	$1.04m	$0.62m

b) The list of public and council nominations for the Statewide Blackspot Program in each municipality, together with their status, can be found at the arrive alive! web site – www.arrivealive.vic.gov.au. There have been 134 sites nominated in the above municipalities.

c) The list of approved projects within the Hume, Nillumbik, Whittlesea and Yarra Ranges, drawn from public and council nominations, and other projects developed by Vicroads, and the date on which the projects were approved for inclusion in the program, is shown in Attachment 1.

APPROVED BLACKSPOT PROJECTS

ATTACHMENT 1

(MUNICIPALITIES OF HUME, NILLUMBIK, WHITTLESEA AND YARRA RANGES)

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Hume City		1,466		
2000/2001				
Barry Road - Blair Street	Broadmeadows	255	Intersection Improvements	October 2000
Barry Road - King Street	Broadmeadows	299	Intersection Improvements	October 2000
Sunbury Road (Bulla Road) - Bulla-Diggers Rest Road To Quartz Street	Bulla	125	Route Improvements	October 2000
Riddells Road - Dalrymple Road	Sunbury	45	Route Improvements	October 2000
Airport Drive - Centre Road	Westmeadows	64	Intersection Improvements	October 2000
Pearcedale Road - Riggall Parade	Broadmeadows	230	Roundabout	October 2000
Blair Street - Rigall Street	Broadmeadows	110	Intersection Improvements	June 2001

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Riddell Road - Elizabeth Drive	Sunbury	41	Intersection Improvements	June 2001
	2000/2001 Total	**1,169**		
2001/2002				
Tullamarine Freeway - Mickleham Road Outbound Off Ramp	Tullamarine	297	Road Widening	November 2001
	2001/2002 Total	**297**		
	Hume City Total	**1,466**		
Nillumbik Shire				
2000/2001				
Kangaroo Ground-Warrandyte Road - Blooms Road to Aton Street	North Warrandyte	88	Shoulder Sealing	October 2000
Kangaroo Gnd-Warrandyte Road - Eltham-Yarra Glen Road to Yeomans Road	Kangaroo Ground	224	Shoulder Sealing	October 2000
Allendale Road - Oronsay Road to Arcadia Way	Eltham North	29	Skid Resistance Treatments	June 2001
	2000/2001 Total	**341**		
2001/2002				
Heidelberg-Kinglake Road - Phipps Crescent to The Parkway	Diamond Creek	410	Roundabout	November 2001
	2001/2002 Total	**410**		
	Nillumbik Shire Total	**751**		
Whittlesea City				
2000/2001				
Dalton Road - Metropolitan Ring Road	Thomastown	14	Intersection Improvements	October 2000
Plenty Road - Metropolitan Ring Road	Bundoora	24	Intersection Improvements	October 2000
Whittlesea-Yea Road - Mobile Mission To Hawkes Road To Hawkes Road	Humevale	180	Skid Resistance Treatments	October 2000
Edgars Road - Barry Road	Thomastown	243	Traffic Signals	October 2000
Donnybrook Road - Hume Highway To Plenty Road	Donnybrook	25	Hazard Removal / Protection	May 2001
Bridge Inn Road - Plenty Road To Yan Yean Road	Mernda	15	Hazard Removal / Protection	May 2001
Findon Road - Epping Road To Civic Drive	Epping	20	Hazard Removal / Protection	May 2001
Whittlesea-Yea Road - Church Street To Ridge Road	Whittlesea	20	Hazard Removal / Protection	May 2001
Campbellfield-Greensborough Road (Mahoneys Road) - Edgars Road To High Street	Thomastown	10	Hazard Removal / Protection	May 2001
Spring St - Harding Street To Johnson Street	Thomastown	67	Intersection Improvements	May 2001
Whittlesea-Yea Road		250	Route Improvements	June 2001
McDonalds Road - Plenty Road To Ferres Boulevard	Mill Park	6	Signage	June 2001
Craigieburn Road East - City Boundary To Epping-Kilmore Road	Wollert	555	Shoulder Sealing	June 2001

Site Description	Locality	Cost ($000's)	Treatment	Approval Date
Darebin Drive - Dalton Road To McKimmies Road	Thomastown	180	Intersection Improvements	June 2001
Epping-Kilmore Road - Donnybrook Road To Hadfields Road	Woodstock-Eden Park	1,045	Shoulder Sealing	June 2001
	2000/2001 Total	**2,654**		
2001/2002				
Currajong Street - Heaths Street	Thomastown	40	Roundabout	November 2001
Davisson Street - Rufus Street	Epping	65	Intersection Improvements	November 2001
Rufus Street - Howard Street	Epping	188	Roundabout	November 2001
High Street - Findon Road	Epping	113	Intersection Improvements	November 2001
Childs Road - Prince Of Wales Avenue	Mill Park	227	Traffic Signals	November 2001
Childs Road - Betula Avenue	Mill Park	305	Traffic Signals	November 2001
	2001/2002 Total	**938**		
	Whittlesea City Total	**3,592**		
Yarra Ranges Shire				
2000/2001				
Maroondah Highway - Clyde Street To Victoria Road	Lilydale	35	Hazard Removal / Protection	October 2000
Belgrave-Gembrook Road - Grantulla Road/School Road	Menzies Creek	206	Roundabout	October 2000
Sherbrooke Road - Braeside Avenue to Owen Street	Kallista	22	Skid resistant overlay, delineation	October 2000
David Hill Road - Cavey Road to Emerald-Monbulk Road	Monbulk	56	Signage	October 200
John Street - Cave Hill Road	Lilydale	71	Roundabout	October 2000
Monbulk Road - Perrins Creek Road To Camms Road	Kallista	425	Route Improvements	March 2001
Melba Highway - Healesville Yarra Glen Road To Kinglake - Healesville Road	Gulf Station and Dixons Creek.	27	Hazard Removal / Protection	May 2001
Wellington Road - Ryans Road To Brandt Road	Lysterfield	39	Intersection Improvements	June 2001
Belgrave-Hallam Road - Mountain Flat Road To Wellington Road	Narre Warren East	120	Route Improvements	June 2001
Lilydale-Monbulk Road - Spring Road To Monbulk-Seville Road	Silvan	34	Shoulder Sealing	June 2001
	2000/2001 Total	**1,035**		
2001/2002				
York Road - Hawkins Road	Montrose	143	Intersection Improvements	November 2001
Mount Dandenong Tourists' Road - Mast Gully Road	Ferny Creek	34	Skid Resistance Treatments	November 2001
Monbulk-Seville Road - Beenak Road	Seville	440	Roundabout	November 2001
	2001/2002 Total	**617**		
	Yarra Ranges Shire Total	**1,652**		

Transport: City Link — fines

2311. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): What is the monthly and itemised breakdown of all fines collected following the introduction of tolling on City Link for the following categories — (i) speeding fines, giving the number of infringements issued and total revenue collected; (ii) no e-tag, giving the number of infringements issued and total revenue collected; (iii) other infringements, giving the number issued and total revenue collected; and (iv) the number of infringements outstanding and the fines outstanding.

ANSWER:

The City Link enforcement system is administered through the Department of Justice and accordingly the question you have asked should be directed to the Victorian Attorney-General, the Hon Rob Hulls, MP.

Transport: W class trams

2312. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What are the details of all costs involved to date regarding W Class trams brake works showing a breakdown of Government payments and private operator payments.

(b) Has an agreement been reached as to when the entire W Class fleet will return and who will pay for the brake works.

ANSWER:

The Government has paid $621,732 as at 30 October 2001 primarily for the purchase of track brakes and new pneumatic brake systems

No - the focus has been on trialing two trams (one for each company) with the new pneumatic brake. The return to service will depend on the supply of the new brake equipment and satisfactory completion of trials. It is anticipated that agreement will be reached with the Franchisees before the end of December 2001.

Transport: Infrastructure — staffing

2363. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What is the itemised (month by month) breakdown of the staffing levels in the Department of Infrastructure since October 1999.

(b) What is the cost of employing those staff.

ANSWER:

Staffing numbers are compiled by the Department of Infrastructure on a quarterly basis. The following table shows the details requested from 30 September 1999 to 30 September 2001.

Period Ending	All DOI	Salary Costs for DOI
30/9/1999	580	10,454,502.59
31/12/1999	609	9,927,854.98
31/03/2000	629	8,095,236.30
30/06/2000	637	10,403,842,52

30/09/2000	617	9,761,136.40
31/12/2000	656	11,118,757.79
31/03/2001	684	9,503,349.95
30/06/2001	715	11,840,055.67
30/09/2001	719	10,778,986.33

Transport: rail projects group — staffing levels

2364. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What is the itemised (month by month) breakdown of the staffing levels in the Rail Projects Group since its inception.

(b) What is the cost of employing those staff.

ANSWER:

Staffing numbers are compiled by the Department of Infrastructure on a quarterly basis. The following table shows the details requested from the period ending 31 December 2000 to 30 September 2001.

Period Ending	Rail Projects Group	Salary Costs for RPG
31/12/2000	14	221,075.92
31/03/2001	26	389,227.62
30/06/2001	35	634,103.12
30/09/2001	35	647,454.38

Transport: Yarra Trams super stops

2365. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What level of community consultation has been in place in regard to Yarra Trams Super stops in Collins Street.

(b) What are the community consultation arrangements for the remainder of the Route 109 project.

ANSWER:

Yarra Trams have conducted six public and stakeholder forums and four meetings with traders and associated stakeholders. There have also been presentations to Council candidates for the City of Melbourne and to the Opposition Spokesperson for Transport and Liberal MPs, as well as various meetings with officers and Councillors of the City of Melbourne.

Details of community consultation arrangements for the Route 109 project are currently being developed. This will include the establishment of Community Advisory Groups that will provide advice on local and transport user issues, and to provide a forum for information sharing.

Transport: central business district — traffic management

2402. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): What are the details of any plans to improve traffic management in Collins Street, Melbourne central business district.

ANSWER:

The Government is constructing the extension of Collins Street to the west across Spencer Street and the railway station as part of access arrangements for the Docklands development. Tram super stops have been constructed in Collins Street at Swanston Street, and are under construction at Spring Street as part of the Yarra Trams franchise agreement.

Collins Street through the Melbourne Central Business District is the responsibility of the City of Melbourne.

Traffic management in Collins Street will be considered as part of the Tram 109 Project, which will improve tram operations along tram route 109 between Port Melbourne and Box Hill.

Transport: Victoria Street, Richmond — traffic management

2404. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): What are the details of any plans to improve traffic management in Victoria Street, Richmond.

ANSWER:

Traffic management plans associated with the Victoria Gardens development in Victoria Street Richmond are currently being reviewed, to ensure that access to the development is compatible with the needs of traffic in Victoria Street.

Traffic management in Victoria Street will be considered as part of the Tram 109 Project, which will improve tram operations along tram route 109 between Port Melbourne and Box Hill.

Transport: Kew — traffic management

2405. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): What are the details of any plans to improve traffic management for — (i) Kew Junction; (ii) High Street, Kew; and (iii) Cotham Road, Kew.

ANSWER:

Adjustments to turning movement signage at Kew Junction are being carried out.

Traffic management in Kew Junction; High Street, Kew and Cotham Road, Kew will be considered as part of the Tram 109 Project, which will improve tram operations along tram route 109 between Port Melbourne and Box Hill.

Transport: w class trams

2407. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) How many W Class trams have been returned to service.

(b) What was the total cost of repairs for each tram.

(c) What was the amount contributed by the State for each tram.

ANSWER:

As of 30 October 2001, 6 trams are completed and available for service.

The Government share of the costs is stated below. The Private operator costs to date have been requested from Yarra Trams and will be provided when they become available.

The State has not paid costs for individual trams but has paid a total of $621,732 as at 30 October 2001.

Transport: Melbourne airport rail link

2410. **THE HON. G. B. ASHMAN** — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): In relation to the Melbourne airport rail link:

(a) What is the estimated total cost of the project.

(b) When is construction expected to commence.

(c) What is the estimated total cost of the project, and what is the Government's contribution.

(d) Has any feasibility study been carried out on this project.

(e) What are the estimated patronage numbers for the link.

ANSWER:

The construction costs of the Airport Rail Link can only be accurately determined following a formal competitive tender process involving consortia interested in bidding for the right to build, own and operate the service. That process would require a detailed Project Brief describing the route in detail and taking account of current design standards and those recommendations from the recent Panels Victoria Report adopted by government. It is not possible to quantify these costs at this time.

Construction would commence following the conclusion of a competitive bidding process and the award of a contract to build, own and operate the project. No formal request for proposals has yet been issued.

As explained above, the estimated total cost of the project cannot yet be estimated. Any contribution by government to the costs of an Airport Rail Link can only be determined with certainty following a more definitive estimate of capital costs, operating costs, passenger demand and revenues.

Business cases for a number of alternative travel modes, route options and service levels are being developed within the Rail Projects Group of the Department of Infrastructure.

Patronage forecasts are currently being prepared by Booz, Allen and Hamilton for the Department of Infrastructure and will be the subject of a formal Report, which has not yet been delivered to government.

Police and Emergency Services: first responder emergency medical response

2416. THE HON. B. C. BOARDMAN — To ask the Honourable the Minister for Sport and Recreation (for the Honourable the Minister for Police and Emergency Services): In relation to the 'First Responder' Emergency Medical Response (EMR) service provided by the Metropolitan Fire and Emergency Services Board:

(a) What types of medical emergencies are Board personnel actually responding to.

(b) How much longer will the EMR pilot scheme continue before the program becomes a formalised regular service of the Board.

(c) What level of medical training have board personnel attained to date.

ANSWER

I am informed that:

(a) The Emergency Medical Response (EMR) Firefighter First Responder program is designed to provide early access to basic life support skills, particularly defibrillation, in cases of suspected cardiac arrest. Fire Brigade vehicles with First Responder trained crews, are dispatched simultaneously with MAS ambulances to time-critical life threatening medical emergencies focusing on patients who are unconscious and non-breathing (which implies a high probability of cardiac arrest).

The types of calls attended have included, – cardiac arrest, severe breathing difficulties, drowning, suicide and drug overdoses. The services provided by firefighter First Responders' have included defibrillation, airway management, CPR and, assisting The Metropolitan Ambulance Service (MAS) with patients on-scene and, when required, en-route to hospital.

(b) In early October 2001, the Minister for Health, The Hon. John Thwaites MP, agreed that the EMR pilot be confirmed as a continuing program. This followed the release of the assessment of the first twelve month's (February 2000 to February 2001) operation of the pilot program and a recommendation from the Steering Committee overseeing the pilot program.

Each of the emergency services involved was advised of the Minister's approval and asked to inform staff accordingly.

(c) The medical training and skills set determined appropriate for MFESB First Responders concentrates on those procedures with major value in the first few minutes only. These include performance of an emergency patient primary survey and vital signs survey, airway management including suction, oropharyngeal airway insertion, oxygen administration and fitting of cervical collars. Defibrillation using a computerised external semi-automated defibrillator is also an integral part of the First Responder protocols within the EMR program.

Medical and clinical oversight for the program is provided by an MFESB medical officer and ambulance paramedics. The MFESB medical officer reports to the Metropolitan Ambulance Service Medical Standards Committee.

First Responder training program for firefighters was developed in conjunction with the MAS and delivered by the Centre for Ambulance and Paramedic Studies at Monash University. The training program comprises of 8 days training and is delivered by ambulance paramedic instructors.

Ongoing skill maintenance training and continuing education is incorporated into the operations of the First Responder program with support from MAS ambulance paramedics. As appropriate, paramedics undertake clinical review of cases attended, support and debrief attending firefighters about the operational and clinical aspects of cases attended.

Currently there are 59 MFB Fire Brigade EMR-capable vehicles, with over 1350 First Responders trained firefighters.

Transport: fast rail project

2417. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) In what order will the regional fast rail projects to Bendigo, Ballarat, Traralgon and Geelong be commenced.

(b) What is the estimated date for the commencement of construction of each of those projects.

ANSWER

The Request for Tender (RFT) document asks the tenderers to propose the program for the works for which they are tendering. The Government has indicated it would wish to see the works start as early as practical given the size of each of the country works packages, with all works completed by mid 2005. The Government has set no priority order for the commencement of construction on any of the four corridors and will await the responses to its RFT in mid February 2002 with the tenderers proposing sensible start times to achieve the Government's overall objectives.

Transport: fast rail project

2418. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What are the current cost estimates for the fast rail projects to Bendigo, Geelong, Ballarat and Traralgon, respectively.

(b) What will be the Government's contribution towards this final cost for each destination.

ANSWER

Costs associated with works on each line were estimated as part of the original feasibility studies for the project. Further information was made publicly available in the Expression of Interest documentation.

Any verification of these estimates undertaken by the Government is commercial in confidence.

The cost of works on each line in the country areas is the subject of the current competitive tender process.

The Government's contribution to the Project is $550m.

Transport: metropolitan rail network — fast rail time objectives

2419. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What changes will be required to the metropolitan rail network to ensure regional fast rail time objectives are achieved.

(b) What will be the cost of any necessary works to the metropolitan rail system.

(c) What will be the impact on metropolitan rail services.

ANSWER

Present plans for Regional Fast Rail are to seek achievement of travel time objectives as much as possible outside of the metropolitan area. Verification of this strategy depends on assessment of the tenders to be received in mid-February 2002. Additional changes to the metropolitan rail network may also be required and are under consideration with the franchisee.

The cost of metropolitan works will depend on the need, if any, for them, and the nature of the works required. Neither of these are known at present.

The impact of works proposed to date for Regional Fast Rail in the metropolitan rail network has been to cause no degradation of metropolitan rail service.

Transport: fast rail Bendigo

2420. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): Will the regional fast rail to Bendigo be provided on a single or a double track for the full distance between Melbourne and Bendigo.

ANSWER

The double track between Bendigo and Melbourne will be retained. It will be up to the Tenderers to propose works needed to achieve the RFRP objectives for the Bendigo line.

Transport: fast rail project

2421. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What government resources have been committed to the regional fast rail project.

(b) What is the total cost for the provision of those resources.

ANSWER

Government resources committed to the Regional Fast Rail Project include a capital expenditure and management and technical services.

The Government's commitment to the project is presently $550 million.

Transport: fast rail project

2422. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What land acquisitions have been identified as necessary for each of the regional fast rail projects to proceed.

(b) What process will be used for the acquisition of this land for each project.

ANSWER

The Government has not identified areas where land acquisition will take place. Tenderers are required to provide details of any land outside the existing rail corridor that may be required to meet each country express run time nominated as per section 2.11 of the Request for Tender.

The process for land acquisition is set out in section 2.11 of the publicly available Request Tender document. (See www.linkingvictoria.vic.gov.au).

Transport: fast rail project

2423. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What environmental issues have been identified during the preliminary research into the regional fast rail project.

(b) What action has been taken to manage those issues.

ANSWER

Tenderers have been provided with existing planning, cultural, heritage, archaeological and environmental information that relates to the corridors and are required to comply with relevant laws and policies pertaining to these issues. This information forms part of the confidential suite of tender documents.

The Government has approved in principle the requirement for contractors to prepare a Site and Environmental Management Plan (SEMP) prior to works occurring. The SEMP must take into account all relevant environmental issues along the corridor during construction and provide details of appropriate management and mitigation measures. The SEMP must be prepared in consultation with local government and any other relevant Government agency or other normal referral agency, and undergo a peer review from an appropriately qualified person. The SEMP must be prepared to the satisfaction of the Minister for Planning.

Transport: fast rail project

2424. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): What endangered flora and fauna have been identified along the proposed route of the regional fast rail project.

ANSWER

Further information is required on the habitat of the striped legless lizard and warty swamp frog as it relates to the rail corridor. If these fauna are extant on the corridor, the contractor will need to ensure that appropriate environmental management regimes are put in place.

Endangered flora on the corridors have been identified in surveys undertaken for the Department of Natural Resources and Environment and are:

– Senecio macrocarpus (Large-fruit Groundsel)
– Rutidosis leptorrhynchoides (Button Wrinklewort)
– Pimelea spinescens ssp. Spinescens (Spiny Rice-flower)
– Dianella amoena (Matted Flax Lily)
– Diuris fragrantissima (Sunshine Diuris)

Transport: Transurban — tolling technology

2425. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): In relation to the negotiations with Transurban to allow for the expansion of the tolling technology outside the single purpose agency:

(a) What other issues were negotiated.

(b) Was an annual royalty payment to the State suggested as opposed to the one-off $10 million fee.

(c) Was the issue of State Government access to the electronic tolling system (TAG) raised and/or agreed to.

(d) Were concessions for off peak tolls raised and/or agreed to.

(e) Were lower City Link fines raised and/or agreed to.

(f) Was the Warungerway compensation part of the negotiations.

(g) If those issues were not negotiated, why not, or have they been negotiated in another forum.

ANSWER

A range of matters were discussed with Transurban in the recent negotiations and the announcement by the State and Transurban on 19 September sets out the agreed position between the parties.

There remain matters that are of interest to the State and these will be pursued in different forums. In order to maximise the benefit to the community in the outcome of any future negotiations, it is not appropriate to reveal information that may prejudice the State's negotiating position.

Transport: passenger numbers — Melbourne airport

2426. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What have been the passenger numbers at Melbourne airport in each of the last 12 months.

(b) What percentage of these passengers are international, domestic, business and tourism.

ANSWER

This question deals with matters outside the responsibility of the Minister for Transport and should be directed to the Minister for Regional and State Development, The Hon John Brumby MP.

Transport: Geelong regional fast rail project

2428. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What will be the cost for the electrification of the Geelong regional fast rail project.

(b) What proportion of those funds will be provided by the State.

ANSWER

With respect to the Geelong Corridor, electrification and the use of EMU trains is an alternative approach for achieving the Government's objectives, as is the alternative of using diesel powered fast trains (DMUs). Tenderers for the infrastructure works on the Geelong line are being asked to bid on both alternatives. The tenderers' response will therefore set the cost of infrastructure works for both alternatives - including electrification. The State will assess these responses in the context of its financial commitment to the whole project and other issues that are relevant to its decision such as the re-allocation of any residual rolling stock and the impact on operating franchises. Section 6.14 of the Request for Tender outlines the approach the State will take to evaluating electrification tenders.

Transport: fast rail project

2429. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): What is the Government's estimated ongoing operational subsidy to the regional fast rail project in cash or foregone revenues.

ANSWER

Broad estimates only have been made of the on-going financial subsidy adjustment to be made as a result of the RFRP, as the estimates are based on a wide range of commercial factors subject to significant volatility and variability.

Disclosure of the Government's estimates at this stage could prejudice negotiations to be held with the operating franchisee and lessee of the work and hence are considered as commercial-in-confidence. The RFT describes the

way the Government's $550m commitment to the project is likely to be allocated - including the broad estimates for infrastructure capital costs, and other costs (including subsidy adjustments not defined separately).

Transport: fast rail project

2430. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): What are the performance incentives established for the regional fast rail project.

ANSWER

The Request for Tender (RFT) details the Government's objectives for the project - which include these items - and places expectations on the tenderers to address these issues in their responses. The evaluation criteria listed in the RFT will be used to evaluate tender responses also against these issues. The contractual arrangements that will ultimately be put in place with the selected tenderer(s) will clarify the performance obligations to be met by the contractor and the mechanisms and processes that will be adopted to ensure these obligations are met.

The competitive tendering process presently under way is an important incentive for achieving value for money and the specifications for the work define the service delivery objectives and the requirements for quality certification to international standards as well as the right of the State to audit quality systems and performance.

Transport: revenue protection officers

2435. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): What has the Government done to ensure public transport commuters are not treated unfairly by heavy-handed and unreasonable tactics by Revenue Protection Officers and other forms of ticket inspectors.

ANSWER

Fare evasion is a serious problem, which impacts on the financial viability of the public transport franchise businesses. The Franchise operators are required under the Franchise Agreements to take action to minimise the level of fare evasion. This is the role of Revenue Protection Officers.

Revenue Protection Officers are trained for several weeks by their employer and then must pass training under the auspices of the Legal Services Branch of the Department of Infrastructure before they are authorised by DOI to start work and to issue Reports of Offence.

Revenue Protection Officers are empowered by law to seek the name and address of any suspected offender and, where necessary, to detain the person until the information is obtained. In situations where a suspected offender acts violently, the Revenue Protection Officers are authorised to use reasonable force to detain that person.

However, there is an element of discretion available to Revenue Protection Officers in the application of their powers. Following recent complaints, the Director of Public Transport has requested the three transport franchise operators to review their protocols and report back to the Director of Public Transport. The Director of Public Transport has also obtained agreement from all three transport franchise operators to adhere to a common set of protocols and practices. Procedures and practices for the enforcement of fare evasion are also the subject of ongoing monitoring by the Office of the Director of Public Transport.

Transport: public transport — fare evasion

2436. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What initiatives has the Government taken to tackle fare evasion on Melbourne's public transport system.

(b) Will the Minister provide details of the success or otherwise of these initiatives and the costs involved.

ANSWER

Under the contractual arrangements entered into by the previous Government, the franchise operators became responsible for the management of fare evasion across the public transport network.

Franchise operators has advised the Government that as a result of the automated ticketing system introduced by the previous government, fare evasion has increased significantly.

In order to tackle the high level of fare evasion, the Government is working in conjunction with Franchise Operators who are deploying Customer Service Employees and Revenue Protection Officers at City Loop Stations, on-board Trams and at outer Metropolitan Stations.

Consistent with its earlier election commitment, the Government has agreed to fund 100 additional Station Staff and 100 additional Conductors. The full complement of staff are now deployed on the metropolitan train and tram network.

The additional staff are fully accredited in the same manner as Revenue Protection Officers and are able to conduct ticket checks when required to do so.

Franchisees are taking an active part in reducing the level of fare evasion across the metropolitan train and tram network and have increased the level of revenue protection exercises conducted by their staff at city and outer metropolitan stations and on-board trams.

In addition, the Government in conjunction with the Franchise Operators is in the process of developing a strategy to investigate common issues across all franchisees such as:

– fare evasion policies and strategies;
– staff training and deployment;
– a consistent approach among operators in dealing with fare evaders;
– public education about the penalties if commuters avoid purchasing Met tickets.

The strategy will also include conducting surveys to measure levels of fare evasion and to understand the influence of various factors.

The current cost of the additional 100 station staff and 100 Conductors is $11.7 million for 2001/2002. It is important to note that fare evasion is a small part of the overall functions carried out by these staff.

The costs associated with the employment of Customer Service Employees / Revenue Protection Officers is the responsibility of the franchisees and does not involve any additional funding from Government over and above the existing subsidy levels.

Transport: Burnley and Domain tunnels

2437. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): What is the itemised (month by month) summary of the number of hours which the Burnley and Domain tunnels have been closed for maintenance or any other reasons.

ANSWER

The table attached indicates the periods when the Burnley and Domain tunnels were closed for maintenance or other purposes, as recorded by Transurban's operator, Translink Operations (TLO).

By way of comparison, TLO advises that the Sydney tunnels under the Harbour are closed for maintenance every six weeks for five consecutive nights. It is an aspect of tunnel operation that the many safety and operational systems require regular maintenance and performance checks. To ensure the safety of maintenance staff, such work is sometimes carried out under tunnel closure conditions. Wherever possible, such works are aggregated to make the most efficient use of the period of closure. As a general rule, programmed maintenance is undertaken in the early hours of the morning when the impact of diverting traffic along the old surface routes is least inconvenient.

Burnley Tunnel

January 2001				**0.0 Hours**
February 2001				**161.0 Hours**
19-Feb-01	to	26-Feb-01	Arch Wall Failure near Fire Box B27	
March 2001				**14.0 Hours**
7-Mar-01	21:00	5:00	Preparatory works for repairs to arch wall failure	
28-Mar-01	0:00	5:00	Establishment of work site at Fire Box B30 for wall rectification works	
30-Mar-01	18:30	19:30	Critical Mass protest	
April 2001				**7.0 Hours**
11-Apr-01	22:00	5:00	Asphalt Pavement replacement near Fire Box B10, joint sealing and reinstatement of NJB near Fire Box B33	
May 2001				**5.0 Hours**
16-May-01	0:00	5:00	Maintenance (inc. jet fans, toll gantry repairs, joint sealing and tunnel inspections)	
June 2001				**12.0 Hours**
16-Jun-01	22:00	10:00	Removal of work site near Fire Box B30, test of extensometer, various maintenance (inc drainage flushing, inspection of smoke duct)	

DomainTunnel

May 2000				**0.0 Hours**
June 2000				**5.5 Hours**
25-Jun-00	22:30	4:00	Maintenance-Inc. Jet Fans and system testing (CCCS)	
July 2000 - October 2000				**0.0 Hours**
November 2000				**14.0 Hours**

12-Nov-00	21:00	5:00	Maintenance (inc. jet fans and signage) and systems testing (inc.smoke dampers, traffic plans, deluge, METS phones, signage) & Emergency Services tours	
26-Nov-00	22:00	4:00	Burnley Tunnel ventilation system test (required Domain system to be shut down), maintenance and AID & RRB system test.	
December 2000 and January 2001				**0.0 Hours**
February 2001				**7.0 Hours**
4-Feb-01	22:00	5:00	Maintenance-Inc. Jet Fans, AM antenna, tunnel lighting, air monitoring equipment, signage and Tunnel Inspections	
March 2001 and April 2001				**0.0 Hours**
May 2001				**7.0 Hours**
20-May-01	22:00	5:00	Maintenance-Inc. Jet Fans, joint sealing and system testing (CCCS)	
June 2001 - September 2001				**0.0 Hours**
October 2001				**10.5 Hours**
6-Oct-01	21:00	7:30	Maintenance-Inc. Jet Fans & joint sealing	

Transport: fast rail project

2438. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport): What has the Government identified as "practical completion" of the Regional Fast Rail.

ANSWER:

Practical Completion is a term used in the tender documentation to describe the point in the process when the infrastructure works have been completed, fully tested, commissioned and handed over into operation. This applies to each contract for each of the four country works packages. Tenderers for each country works package will nominate the dates for practical completion within their program of works. Government has indicated in the Request For Tender that it expects all works on all four corridors to be 'practically completed' by June 2005.

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