PARLIAMENT OF VICTORIA

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE ASSEMBLY

## FIFTY-FOURTH PARLIAMENT

## FIRST SESSION

## 22 November 2001

## (extract from Book 9)

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## The Governor

JOHN LANDY, AC, MBE

## The Lieutenant-Governor

Lady SOUTHEY, AM

## The Ministry

| | |
|---|---|
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| Deputy Premier, Minister for Health and Minister for Planning | The Hon. J. W. Thwaites, MP |
| Minister for Industrial Relations and Minister assisting the Minister for Workcover | The Hon. M. M. Gould, MLC |
| Minister for Transport | The Hon. P. Batchelor, MP |
| Minister for Energy and Resources, Minister for Ports and Minister assisting the Minister for State and Regional Development | The Hon. C. C. Broad, MLC |
| Minister for State and Regional Development and Treasurer | The Hon. J. M. Brumby, MP |
| Minister for Local Government, Minister for Workcover and Minister assisting the Minister for Transport regarding Roads | The Hon. R. G. Cameron, MP |
| Minister for Community Services | The Hon. C. M. Campbell, MP |
| Minister for Education and Minister for the Arts | The Hon. M. E. Delahunty, MP |
| Minister for Environment and Conservation and Minister for Women's Affairs | The Hon. S. M. Garbutt, MP |
| Minister for Police and Emergency Services and Minister for Corrections | The Hon. A. Haermeyer, MP |
| Minister for Agriculture and Minister for Aboriginal Affairs | The Hon. K. G. Hamilton, MP |
| Attorney-General, Minister for Manufacturing Industry and Minister for Racing | The Hon. R. J. Hulls, MP |
| Minister for Post Compulsory Education, Training and Employment and Minister for Finance | The Hon. L. J. Kosky, MP |
| Minister for Sport and Recreation, Minister for Youth Affairs and Minister assisting the Minister for Planning | The Hon. J. M. Madden, MLC |
| Minister for Gaming, Minister for Major Projects and Tourism and Minister assisting the Premier on Multicultural Affairs | The Hon. J. Pandazopoulos, MP |
| Minister for Housing, Minister for Aged Care and Minister assisting the Minister for Health | The Hon. B. J. Pike, MP |
| Minister for Small Business and Minister for Consumer Affairs | The Hon. M. R. Thomson, MLC |
| Parliamentary Secretary of the Cabinet | The Hon. G. W. Jennings |

## Legislative Assembly Committees

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**Standing Orders Committee** — Mr Speaker, Mr Jasper, Mr Langdon, Mr Lenders, Mr McArthur, Mrs Maddigan and Mr Perton.

## Joint Committees

**Drugs and Crime Prevention Committee** — (*Council*): The Honourables B. C. Boardman and S. M. Nguyen. (*Assembly*): Mr Cooper, Mr Jasper, Mr Lupton, Mr Mildenhall and Mr Wynne.

**Environment and Natural Resources Committee** — (*Council*): The Honourables R. F. Smith and E. G. Stoney. (*Assembly*): Mr Delahunty, Ms Duncan, Mr Ingram, Ms Lindell, Mr Mulder and Mr Seitz.

**Family and Community Development Committee** — (*Council*): The Honourables E. J. Powell and G. D. Romanes. (*Assembly*): Mr Hardman, Mr Lim, Mr Nardella, Mrs Peulich and Mr Wilson.

**House Committee** — (*Council*): The Honourables the President (*ex officio*), G. B. Ashman, R. A. Best, J. M. McQuilten, Jenny Mikakos and R. F. Smith. (*Assembly*): Mr Speaker (*ex officio*), Ms Beattie, Mr Kilgour, Ms McCall, Mr Rowe, Mr Savage and Mr Stensholt.

**Law Reform Committee** — (*Council*): The Honourables D. G. Hadden and P. A. Katsambanis. (*Assembly*): Mr Languiller, Ms McCall, Mr McIntosh, Mr Stensholt and Mr Thompson.

**Library Committee** — (*Council*): The Honourables the President, E. C. Carbines, M. T. Luckins, E. J. Powell and C. A. Strong. (*Assembly*): Mr Speaker, Ms Duncan, Mr Languiller, Mrs Peulich and Mr Seitz.

**Printing Committee** — (*Council*): The Honourables the President, Andrea Coote, Kaye Darveniza and E. J. Powell. (*Assembly*): Mr Speaker, Ms Gillett, Mr Nardella and Mr Richardson.

**Public Accounts and Estimates Committee** — (*Council*): The Honourables D. McL. Davis, R. M. Hallam, G. K. Rich-Phillips and T. C. Theophanous. (*Assembly*): Ms Asher, Ms Barker, Ms Davies, Mr Holding, Mr Loney and Mrs Maddigan.

**Road Safety Committee** — (*Council*): The Honourables Andrew Brideson and E. C. Carbines. (*Assembly*): Mr Kilgour, Mr Langdon, Mr Plowman, Mr Spry and Mr Trezise.

**Scrutiny of Acts and Regulations Committee** — (*Council*): The Honourables M. A. Birrell, M. T. Luckins, Jenny Mikakos and C. A. Strong. (*Assembly*): Ms Beattie, Mr Carli, Mr Dixon, Ms Gillett and Mr Robinson.

## Heads of Parliamentary Departments

*Assembly* — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

*Council* — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

*Hansard* — Chief Reporter: Ms C. J. Williams

*Library* — Librarian: Mr B. J. Davidson

*Joint Services* — Director, Corporate Services: Mr S. N. Aird
Director, Infrastructure Services: Mr G. C. Spurr

## MEMBERS OF THE LEGISLATIVE ASSEMBLY

## FIFTY-FOURTH PARLIAMENT — FIRST SESSION

**Speaker:** The Hon. ALEX ANDRIANOPOULOS

**Deputy Speaker and Chairman of Committees:** Mrs J. M. MADDIGAN

**Temporary Chairmen of Committees:** Ms Barker, Ms Davies, Mr Jasper, Mr Kilgour, Mr Loney, Mr Lupton, Mr Nardella, Mrs Peulich, Mr Phillips, Mr Plowman, Mr Richardson, Mr Savage, Mr Seitz

**Leader of the Parliamentary Labor Party and Premier:**
The Hon. S. P. BRACKS

**Deputy Leader of the Parliamentary Labor Party and Deputy Premier:**
The Hon. J. W. THWAITES

**Leader of the Parliamentary Liberal Party and Leader of the Opposition:**
The Hon. D. V. NAPTHINE

**Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:**
The Hon. LOUISE ASHER

**Leader of the Parliamentary National Party:**
Mr P. J. RYAN

**Deputy Leader of the Parliamentary National Party:**
Mr B. E. H. STEGGALL

| Member | District | Party | Member | District | Party |
|---|---|---|---|---|---|
| Allan, Ms Jacinta Marie | Bendigo East | ALP | Leighton, Mr Michael Andrew | Preston | ALP |
| Allen, Ms Denise Margret [4] | Benalla | ALP | Lenders, Mr John Johannes Joseph | Dandenong North | ALP |
| Andrianopoulos, Mr Alex | Mill Park | ALP | Lim, Mr Hong Muy | Clayton | ALP |
| Asher, Ms Louise | Brighton | LP | Lindell, Ms Jennifer Margaret | Carrum | ALP |
| Ashley, Mr Gordon Wetzel | Bayswater | LP | Loney, Mr Peter James | Geelong North | ALP |
| Baillieu, Mr Edward Norman | Hawthorn | LP | Lupton, Mr Hurtle Reginald, OAM, JP | Knox | LP |
| Barker, Ms Ann Patricia | Oakleigh | ALP | McArthur, Mr Stephen James | Monbulk | LP |
| Batchelor, Mr Peter | Thomastown | ALP | McCall, Ms Andrea Lea | Frankston | LP |
| Beattie, Ms Elizabeth Jean | Tullamarine | ALP | McIntosh, Mr Andrew John | Kew | LP |
| Bracks, Mr Stephen Phillip | Williamstown | ALP | Maclellan, Mr Robert Roy Cameron | Pakenham | LP |
| Brumby, Mr John Mansfield | Broadmeadows | ALP | McNamara, Mr Patrick John [3] | Benalla | NP |
| Burke, Ms Leonie Therese | Prahran | LP | Maddigan, Mrs Judith Marilyn | Essendon | ALP |
| Cameron, Mr Robert Graham | Bendigo West | ALP | Maughan, Mr Noel John | Rodney | NP |
| Campbell, Ms Christine Mary | Pascoe Vale | ALP | Maxfield, Mr Ian John | Narracan | ALP |
| Carli, Mr Carlo | Coburg | ALP | Mildenhall, Mr Bruce Allan | Footscray | ALP |
| Clark, Mr Robert William | Box Hill | LP | Mulder, Mr Terence Wynn | Polwarth | LP |
| Cooper, Mr Robert Fitzgerald | Mornington | LP | Napthine, Dr Denis Vincent | Portland | LP |
| Davies, Ms Susan Margaret | Gippsland West | Ind | Nardella, Mr Donato Antonio | Melton | ALP |
| Dean, Dr Robert Logan | Berwick | LP | Overington, Ms Karen Marie | Ballarat West | ALP |
| Delahunty, Mr Hugh Francis | Wimmera | NP | Pandazopoulos, Mr John | Dandenong | ALP |
| Delahunty, Ms Mary Elizabeth | Northcote | ALP | Paterson, Mr Alister Irvine | South Barwon | LP |
| Dixon, Mr Martin Francis | Dromana | LP | Perton, Mr Victor John | Doncaster | LP |
| Doyle, Robert Keith Bennett | Malvern | LP | Peulich, Mrs Inga | Bentleigh | LP |
| Duncan, Ms Joanne Therese | Gisborne | ALP | Phillips, Mr Wayne | Eltham | LP |
| Elliott, Mrs Lorraine Clare | Mooroolbark | LP | Pike, Ms Bronwyn Jane | Melbourne | ALP |
| Fyffe, Mrs Christine Ann | Evelyn | LP | Plowman, Mr Antony Fulton | Benambra | LP |
| Garbutt, Ms Sherryl Maree | Bundoora | ALP | Richardson, Mr John Ingles | Forest Hill | LP |
| Gillett, Ms Mary Jane | Werribee | ALP | Robinson, Mr Anthony Gerard Peter | Mitcham | ALP |
| Haermeyer, Mr André | Yan Yean | ALP | Rowe, Mr Gary James | Cranbourne | LP |
| Hamilton, Mr Keith Graeme | Morwell | ALP | Ryan, Mr Peter Julian | Gippsland South | NP |
| Hardman, Mr Benedict Paul | Seymour | ALP | Savage, Mr Russell Irwin | Mildura | Ind |
| Helper, Mr Jochen | Ripon | ALP | Seitz, Mr George | Keilor | ALP |
| Holding, Mr Timothy James | Springvale | ALP | Shardey, Mrs Helen Jean | Caulfield | LP |
| Honeywood, Mr Phillip Neville | Warrandyte | LP | Smith, Mr Ernest Ross | Glen Waverley | LP |
| Howard, Mr Geoffrey Kemp | Ballarat East | ALP | Spry, Mr Garry Howard | Bellarine | LP |
| Hulls, Mr Rob Justin | Niddrie | ALP | Steggall, Mr Barry Edward Hector | Swan Hill | NP |
| Ingram, Mr Craig | Gippsland East | Ind | Stensholt, Mr Robert Einar [2] | Burwood | ALP |
| Jasper, Mr Kenneth Stephen | Murray Valley | NP | Thompson, Mr Murray Hamilton | Sandringham | LP |
| Kennett, Mr Jeffrey Gibb [1] | Burwood | LP | Thwaites, Mr Johnstone William | Albert Park | ALP |
| Kilgour, Mr Donald | Shepparton | NP | Trezise, Mr Ian Douglas | Geelong | ALP |
| Kosky, Ms Lynne Janice | Altona | ALP | Viney, Mr Matthew Shaw | Frankston East | ALP |
| Kotsiras, Mr Nicholas | Bulleen | LP | Vogels, Mr John Adrian | Warrnambool | LP |
| Langdon, Mr Craig Anthony Cuffe | Ivanhoe | ALP | Wells, Mr Kimberley Arthur | Wantirna | LP |
| Languiller, Mr Telmo | Sunshine | ALP | Wilson, Mr Ronald Charles | Bennettswood | LP |
| Leigh, Mr Geoffrey Graeme | Mordialloc | LP | Wynne, Mr Richard William | Richmond | ALP |

[1] Resigned 3 November 1999
[2] Elected 11 December 1999
[3] Resigned 12 April 2000
[4] Elected 13 May 2000

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## THURSDAY, 22 NOVEMBER 2001

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## QUESTIONS ON NOTICE

## TUESDAY, 20 NOVEMBER 2001



## THURSDAY, 22 NOVEMBER 2001

# Thursday, 22 November 2001

**The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 9.35 a.m. and read the prayer.**

## RULINGS BY THE CHAIR

### Auditor-General's report: publication

**The SPEAKER** — Order! Yesterday a point of order was taken by the honourable member for Box Hill about the publication of an article in the *Age* relating to the Auditor-General's report *Teacher Work Force Planning*, which at the time of publication had not been tabled in the house. In considering the point of order I indicated that I would make inquiries and report back to the house.

I have now contacted the Victorian Auditor-General's Office and asked him for a response in regard to the circumstances relating to the tabling of the said report. He has responded in a letter jointly addressed to me and the President of the Legislative Council in the following terms:

> This morning the media referred to a performance audit report on teacher work force planning, which was tabled in both houses of Parliament today.
>
> I wish to assure Parliament that my office does not provide information regarding the contents of audit reports to the media prior to tabling those reports in Parliament.
>
> The conduct of the audit has complied with legislative procedures. Prior to making a report to Parliament on a performance audit, section 16 of the Audit Act 1994 requires the Auditor-General to provide to an authority subject to a performance audit a summary of the findings and proposed recommendations and include the authority's response in the report.
>
> In this performance audit, the proposed report was provided to the Department of Education, Employment and Training and, through the president of the Australian Council of Deans of Education, the eight Victorian universities. The responses were included in the report. This consultative process provides an opportunity for relevant authorities to respond to audit recommendations and helps to ensure information presented in reports is factual.
>
> Currently the Audit Act 1994 does not have a provision precluding unauthorised disclosure during the statutory process. Clause 21 of the Audit (Further Amendment) Bill 2001, now before Parliament, would prohibit the unauthorised disclosure of information by a recipient of a proposed report by the Auditor-General to Parliament. If endorsed by Parliament, this amendment should serve to reduce the likelihood of improper release of information relating to an audit before the results of that audit are reported to Parliament.

It is signed 'Wayne Cameron, Auditor-General'.

In my opinion the publication prior to the tabling was not a breach of privilege, but it is clearly a gross discourtesy to the house. However, it is not possible for me to determine how this leak has occurred. In the circumstances, therefore, I propose to take no further action in relation to this matter.

**Mr McArthur** — On a point of order, Mr Speaker, in listening to your explanation and your ruling on the point of order raised by the honourable member for Box Hill yesterday a number of very important facts and matters have arisen. Clearly, Sir, you have taken appropriate steps to inquire of the Auditor-General and the Auditor-General's office whether or not the audit office had any role in the leak of this report and what I think you described as a gross discourtesy to this Parliament. But in accepting the Auditor-General's assurance that neither he nor his office had provided that information to the newspapers concerned, or any other parties, I believe only half the task has been done.

The honourable member for Box Hill requested an investigation as to who had made this available and what steps could be taken to correct it. Clearly the Auditor-General himself has identified the likely sources in saying where he had provided information. He made it clear he had provided this information to the government department he was investigating and clearly therefore to the minister's office. I believe it is now incumbent on you, Mr Speaker, to investigate whether or not it was a departmental officer, the minister or one of her private office staff who was responsible for this gross discourtesy to the Parliament.

This is the second instance of what is now clearly becoming an established pattern of behaviour for this government. When we had the report on the electoral redivision, that was selectively leaked to chosen, favoured people. Now we have another report, a report clearly critical of the performance of the minister and the government, which has been selectively leaked to chosen people in order to minimise the damage, and the timing at very best is questionable.

The government tries to hide it in the middle of the World Cup soccer event; it goes out of its way to minimise the damage. This is a cynical political exercise. It is a gross discourtesy to the Parliament, and the Speaker should take further action to investigate the involvement of the minister or any departmental officer in this and report back to the house about it. This should not be allowed to continue.

**Ms Kosky** — On the point of order, Honourable Speaker, as you have already indicated — and part of the point of order raised by the honourable member for

Monbulk was what action is taken — there is currently a bill before this house that will address this matter because it deals with the provision of an Auditor-General's report to the public prior to its being tabled in this house. It will make it an offence, and there are penalties attached to that offence. That bill is currently before the house to be debated next week. I do not want to go into detail because it is before the house, but this government is taking action to ensure that no-one in this house, including the opposition, can leak an Auditor-General's report prior to its being tabled here.

**The SPEAKER** — Order! On the point of order raised by the honourable member for Monbulk, which essentially asks of me as Speaker to conduct an investigation involving the Department of Education, Employment and Training and the eight universities, as I have already indicated in my ruling, I undertook on the point of order raised by the honourable member for Box Hill yesterday to conduct this investigation by essentially asking an officer of this Parliament, the Auditor-General, about the circumstances leading to the release and tabling of this report.

Can I say that the role of the Speaker is not one of conducting, and nor does the Speaker's office have the resources to conduct, an extensive investigation such as is suggested in the point of order. Such a proposition rests appropriately with the Auditor-General to decide whether he wants to proceed down that track. I am not prepared to uphold the point of order.

*Honourable members interjecting.*

**The SPEAKER** — Order! The honourable member for Springvale will find himself outside the chamber very shortly.

## PAPERS

**Laid on table by Clerk:**

Auditor-General — Report on the Finances of the State of Victoria for the year 2000–2001 — Ordered to be printed

Auditor-General — Report of the Office for the year 2000–2001

Bethlehem Hospital Inc — Report for the year 2000–2001

*Environment Protection Act 1970* — Order varying State Environment Protection Policy (Waters of Victoria) *(Gazette S192, 2 November 2001)*

Intellectual Disability Review Panel — Report for the year 2000–2001

*Members of Parliament (Register of Interests) Act 1978* — Cumulative Summary of Returns September 2001 — Ordered to be printed (*in lieu of Report previously tabled on Wednesday 21 November 2001*)

Mercy Public Hospitals Incorporated — Report for the year 2000–2001 (three papers)

*Parliamentary Committees Act 1968*:

> Response of the Minister for WorkCover on the action taken with respect to the recommendations made by the Economic Development Committee's Report into WorkCover Premiums for 2000–2001

Public Prosecutions — Report of the Director, Committee and Office for the year 2000–2001

Southern Health — Report for the year 2000–2001.

## MEMBERS STATEMENTS

### International Day for the Elimination of Violence Against Women

**Ms McCALL** (Frankston) — This Sunday, 25 November, is the International Day for the Elimination of Violence Against Women. I draw to the attention of the entire chamber the fact that this is not just a women's issue but also a family issue and a community issue. It is something about which all honourable members should be aware.

Domestic violence or violence against women is an exercise of power, whether it be by bullying, physical violence or mental anguish. We have seen enough around the world to suggest that there are large groups of people, particularly women, who have been repressed by a number of regimes. This is no different from physical violence being exercised against them. I draw the house's attention to the Taliban in particular, and to the repression of women over the past five years in Afghanistan. It was a great credit to the women of Afghanistan to see them on television reading the news, at last with their faces uncovered in an assertion of their rights to be treated as equals by the community.

From the Victorian perspective, domestic violence, including sexual assault against women, is a scourge. It is something this community should not allow to happen. Every single one of us as legislators or as members of the Victorian community should be responsible for ensuring that every single member of this community, in particular the women, live in safety and security every day. Can I ensure we all celebrate Sunday as a way of preventing it ever happening again?

**The SPEAKER** — Order! The honourable member's time has expired.

## RACV Energy Breakthrough

**Mr HELPER** (Ripon) — I would like to share with honourable members the experience of the Maryborough community, which late last week hosted the RACV Energy Breakthrough. This spectacular event is based on a 24-hour, hybrid-powered vehicle endurance trial and attracted entries from 140 school teams from Victoria and interstate. The four days of activities were the product of a fantastic partnership involving the Maryborough community through its many volunteers and the incredible effort members of the whole community put in; the Royal Automobile Club of Victoria, which has been behind the event and pursued its growth in a magnificent way; the participation of Holden and its sponsorship of the alternate energy park this year for the first time; the Central Goldfields shire; and last but certainly not least the state government, which played a very constructive part in the event.

In the short time I have left I would like to pay tribute to the successful teams.

**Ms Allan** interjected.

**Mr HELPER** — My colleague the honourable member for Bendigo East is right in saying that one of her schools was successful. The Bendigo Secondary College team's Battered Sav secured top position overall in the field of 23.

## Wimmera: real estate transactions

**Mr DELAHUNTY** (Wimmera) — In the adjournment debate on 18 September I raised a matter for the Minister for Consumer Affairs about evidence of real estate concerns which some call a scam. The issue is highlighted in a *Wimmera Mail-Times* article headed 'Real estate scheme is immoral'. This scheme was operating in country Victoria and one of the companies involved was Perna Pty Ltd.

I am pleased to see that the honourable member for Narracan is in here. Last night I heard him gabbling on about what the previous government did, and I have evidence to show that this government is not only selling houses but is giving them away. This immoral practice is continuing in country Victoria. On 20 July the Director of Housing transferred a house to Perna Pty Ltd for $19 500. On 6 August — 17 days or 11 working days later — that house was sold for $58 000 to some Melbourne people. At that stage I asked the Minister for Consumer Affairs to do something about this. I also have evidence of a house sold by the Director of Education for $21 000 being sold a short time later for $38 500.

I have been giving this evidence to the Minister for Consumer Affairs. When will this government do something to stop this immoral practice that is taking place in country Victoria?

## Seymour: Tidy Town award

**Mr HARDMAN** (Seymour) — I congratulate the township of Seymour, which on the weekend was named Victoria's tidiest town for 2002. Seymour won eight sections of the Tidy Town awards in Mildura on the weekend. A great number of people in the town, especially Jill Noakes, who is a passionate leader of the group, have worked very hard over the past few years to achieve this award and finally did so. The Seymour community will now be representing Victoria in trying to be the nation's top Tidy Town. The rakes, lawn mowers and paintbrushes will be in use to ensure Seymour can be the top Tidy Town in Australia.

The Tidy Town awards are about a commitment to ensuring cost-effective programs that promote good environmental practice, awareness and resource management. Several of the projects that won Tidy Town awards received significant funding from the Bracks government, and I thank the government for helping the community to achieve this. However, in many respects the work was done by a great number of dedicated and enthusiastic volunteers from all sectors of the community; I congratulate all of them.

One of the major projects nominated was the Seymour skate park. Sport and Recreation Victoria gave $50 000 in a $2-for-$1 grant for the development of that skate park. Shane Barnbrook and his committee developed the park as a group of young people, and the ownership held by those people has kept the skate park going. It is a very clean and tidy place with no graffiti. It is fantastic.

## Metropolitan Ambulance Service Royal Commission: costs

**Mr DOYLE** (Malvern) — On 21 December 1999 by letters patent this government set up the Metropolitan Ambulance Service Royal Commission. It is true to say that there has never been such a cut-and-paste royal commission in Victoria's history. Consider for instance just the cost. Approximately, by rough rule of thumb the cost of this royal commission could have provided 520 ambulances, 650 hospital beds, 1000 nurses and 700 doctors to the state of Victoria.

I also ask the house to consider the terms of reference of the royal commission, which have been chopped and changed three or four times. On that day of infamy — 25 September 2000, when Cathy Freeman ran and won the gold medal in the Olympic Games 400-metre event — the exact reason for establishing the terms of reference and the royal commission was removed.

What about the reporting dates? They have been changed four times: they have been December 2000, April 2001 and July 2001; and on 19 July last the Premier, by way of press release, said that by no later than 27 November would the Metropolitan Ambulance Service Royal Commission report. We have even passed an act of Parliament about the royal commission — and surely it will be one of few acts of Parliament to actually sunset before it is ever used! That now only leaves next Tuesday for the royal commission report to be tabled in this house. We will be watching and waiting. We expect it to be not a report of spin, but a report of substance.

## Rail: Gippsland service

**Mr MAXFIELD** (Narracan) — I rise today to say how disappointed and saddened I am that the National Party has abandoned not only rural Victoria but also Gippsland. Its position on the very fast train project is the most backward step I have ever witnessed from a party that purportedly stands for rural Victoria.

Even worse, the National Party actually wants to remove one of the dual rail lines between Moe and Melbourne. The thought of having trains going up and down two lines is too much for the National Party. It wants to wind back the clock and rip up the rail lines so that when one train approaches another from the opposite direction, passengers would have to get off, wait until one train had passed and then reboard their train. How ridiculous! The two rail tracks were laid many years ago, but now the National Party wants to turn back the clock.

What is the position of the Leader of the National Party in the other place, the Honourable Peter Hall, who represents Gippslanders? Does he support the Leader of the National Party in this house in his proposal to remove one of the rail lines? Do they support the removal of the very fast train? Why are they so anti-Victorian, so anti-rural Victoria and so anti-Gippsland? It is a shame and a tragedy that Victoria has a party that purports to represent rural Victoria when the state actually has a party that supports rural Victoria — that is, the Bracks Labor Party.

## Freedom of information: Human Services

**Mr WILSON** (Bennettswood) — Honourable members will be acutely aware of the severe politicisation of freedom of information (FOI) under the Bracks Labor government. In the recently tabled annual report of the Ombudsman we read how the independent umpire has had to intervene in the FOI process on behalf of opposition members and others for a total of 170 completed complaints.

The Ombudsman offers the example of his intervention in my FOI request to the Department of Human Services regarding consultancies worth less than $100 000. Because the Department of Human Services had failed to maintain a consultancy register, in breach of government guidelines, the FOI officer was inclined to deny my request on the basis of it being voluminous. The same officer did, however, offer me a copy of the consultancy register, when completed. That offer was later withdrawn by the senior management of the Department of Human Services, thus prompting intervention by the Ombudsman.

The Ombudsman's report details the inappropriate management of my FOI request by the Department of Human Services. It states:

> … the task of identifying relevant documents only became a substantial and unreasonable diversion of the agency's resources, due to the department's failure to maintain a register as required by the guidelines.
>
> … I considered the decision not to provide the applicant with a copy of the completed document to be unreasonable and contrary to the objects … of the act.

Other aspects of the Ombudsman's inquiry led him to conclude that the action of the Department of Human Services was:

> … contrary to the FOI guidelines issued by the Attorney-General in February 2000.

The Ombudsman currently has a number of opposition FOI requests under investigation and we will continue to expose the mismanagement of FOI by the Bracks Labor government.

## Schools: speech pathology

**Mr HOLDING** (Springvale) — I congratulate those primary schools in the Springvale cluster that developed and participated in the speech pathology screening project for prep students this year. The project has ensured that all prep students in the cluster have been individually tested to gain a sense of their oral language skills. The project required the engagement of a speech pathologist for about six weeks

and teachers were provided with verbal feedback and written profiles of each student's oral language skills. This was followed up with appropriate professional development and other activities. The project cost approximately $6000, and 766 students were screened at 19 primary schools, 1 special development school and 1 English language centre. The schools and the students services cluster funded the project from their existing resources and from a small contribution from the Springvale Lions Club.

Projects such as this, which attempt to identify student needs and weaknesses early in a child's education, are vital, particularly in communities like Springvale where the vast majority of students come from non-English-speaking backgrounds. I congratulate Lien Ta, the speech pathologist who screened the students, as well as Helen Lafferty, Katrina Wenham and Fiona Balfe from this Springvale cluster.

## Johanna Seaside Cottages

**Mr MULDER** (Polwarth) — I wish to recognise the outstanding efforts of Joy Evans from Johanna Seaside Cottages on winning not only the Colac-Otway shire business of the year award but also the Victorian Tourism Council award. Judges also chose Johanna Seaside Cottages for the category of the region's best tourist accommodation award. The cottages are located on a 224 hectare property which is part natural Otway bush and part dairy farm, offering a tranquil setting which nestles on the edge of the Southern Ocean.

These awards are recognition of 16 years of dedicated work by Joy Evans to create an award-winning accommodation facility on the Great Ocean Road. Accepting the awards, Joy Evans dedicated them to her staff, and in doing so also recognised her assistant manager, Charelle Cuolahan.

The award-winning Johanna Seaside Cottages typify the growth and popularity of the Otways in the Great Ocean Road region, and Johanna Seaside Cottages have set a benchmark for quality accommodation run by dedicated and welcoming country people.

## State Emergency Service: Woodend

**Ms DUNCAN** (Gisborne) — It was with great pleasure that I attended the Woodend State Emergency Service unit last Monday night to present to its members, under the Community Safety Emergency Support Fund program, nearly $10 000 worth of new equipment. I praise the efforts of the volunteer members of the SES Woodend unit, who also raised $4000 to be eligible for that grant. They put in a fantastic effort. I congratulate Ailsa Howe and the volunteers at Woodend SES.

In attendance that evening were representatives of the Country Fire Authority, the local police, ambulance officers and local councillors. The Woodend SES unit has experienced falling membership, but on Monday night I saw increased membership and improved morale as part of the unit's ongoing program to update its equipment and also to try to improve its facilities. I will continue to work with the SES, the local council and the local community to help improve the conditions for this fantastic group of volunteers.

Also in attendance was Graeme Poulton, the SES director for the north-west region, who made a point of complimenting the Minister for Police and Emergency Services and said that in our region in the last two years the SES has felt the full benefits of the increased funding that has been directed to rural Victoria as part of the Bracks government's commitment to govern for all of Victoria.

**The SPEAKER** — Order! The time set down for members statements has expired.

## FILM BILL

*Second reading*

**Debate resumed from 1 November; motion of Ms DELAHUNTY (Minister for the Arts).**

**Mrs ELLIOTT** (Mooroolbark) — The opposition does not oppose the Film Bill. However, I point out at the outset that the Cinemedia Corporation was established in 1997 with bipartisan support, and yet four years later the Labor Government is unbundling Cinemedia. I will quote from some comments made by the honourable member for Coburg about the Cinemedia Corporation Bill and reported in *Hansard* of 18 March 1997:

> The opposition supports this small bill. At first reading it may look unimportant, but it is vital inasmuch as it is probably the first bill to tackle the implications of the digital revolution and multimedia.
>
> The bill is about the amalgamation last year of Film Victoria and the State Film Centre.

The honourable member for Coburg went on to say:

> The bill is important. It is easy to understate the importance of the digital revolution in multimedia or to underestimate its impact in 5 or 10 years.

Later in the same speech he said:

> We must recognise that profound changes must be made to existing institutions. Only now is Parliament faced with a piece of legislation which recognises the multimedia challenge. The bill tackles the issue and creates the institution to focus on multimedia and the need to accept the convergence of film, television and all elements of media.

That was a mere four years ago.

The opposition is committed to seeing Victoria as a centre of excellence in film production, film distribution, television, multimedia and screen culture. Indeed, in 1995 the former Premier and former Minister for the Arts, Jeff Kennett, spent considerable time in the house bemoaning the fact that under the Keating federal Labor government film and television commonwealth funding had become almost totally Sydney-centric.

The Honourable Haddon Storey, another former coalition Minister for the Arts, was a completely dedicated film buff. Indeed, he is still a regular at the Melbourne International Film Festival. Victoria, through various governments, has had a proud history in film and television. It has the oldest film festival, which started up close to my area in Belgrave I believe, and is now an enormous event on Victoria's cultural calendar every year. Victoria had the first film school, at Swinburne University. The first film magazine dedicated to film was published in Victoria. Melbourne has the greatest concentration of tertiary students learning about all aspects of film and television.

Film is important, because it gives us a sense of our cultural identity. It is also important to Victoria for economic reasons. Some films have engraved themselves on the national consciousness. Many were produced in Victoria, some for television, some for screen. Who can forget *The Man from Snowy River* or *The Castle*, one of the most iconic of Australian films and one that could only have been made in Victoria? Who can forget the scene where the family are up at Bonnie Doon where the water has receded? It will stay engraved on my memory for a long time. Who can forget *The Getting of Wisdom*, the *Devil's Playground*, *Muriel's Wedding* or TV shows such as *Neighbours*? I will never forget being in a pub in Ireland several years ago and seeing the entire pub transfixed at lunch time by the latest episode of *Neighbours*, which was miles behind what we had already seen here. I knew what was going to happen from a few episodes I had watched, but I did not want to spoil their fun.

Tourism has been boosted by films such as *Hotel Sorrento* and another film that particularly took my fancy, *The Road to Nhill*, about a group of lady bowlers coming back from a bowls tournament and the bus turning upside down without any loss of life. The film has a very funny scene where they are all in their bowls uniforms and are suspended from the roof of the bus. They are all very good Australian films, many of them great box office successes that provided employment for many people and gave a great boost to the Victorian economy.

The former Minister for Multimedia, the Honourable Alan Stockdale, commissioned an inquiry into the film and television industry in Victoria, which was delivered to him on the eve of the last election. The report stated that Victoria's share of national film and television production had declined dramatically from about 28 per cent of the national take to about 17 per cent, and that without a significant boost of funds that decline would continue. I have no doubt that had we still been in government the current Minister for the Arts, whoever that might have been, would have done something about that.

**Ms Asher** interjected.

**Mrs ELLIOTT** — Had I been the Minister for Arts, as the honourable member for Brighton said, I would have done something about that. Plainly we are losing a share of the market nationally. The incoming Bracks Labor government did not accept that report.

It commissioned another report of its own under the leadership of the actor Sigrid Thornton which produced much the same results but which wasted two years while the industry was left in limbo waiting for an outcome. The findings of the Thornton report were similar: that Victoria was losing considerable share. However, there was one difference between the two reports. The Thornton report said it would be preferable that the four-year-old Cinemedia Corporation, which had been devoted to all forms of film, television, multimedia and screen culture, should be split in two, because the reason for the decline in Victoria's share was that it did not have a body dedicated to film and television.

This is a hypothesis that needs testing. Is it a fact that Cinemedia had taken its eye off the ball in regard to film and television and that only by splitting Cinemedia into two could Victoria's pre-eminent position in the film and television industry be restored? It is a hypothesis that does not stand up to scrutiny. Both New South Wales and Queensland, which are Victoria's major competitors in the film, television and multimedia industry, have only one body. In Queensland it is the Pacific Film and Television Commission; and in New South Wales, the Film and Television Office. They deal with all aspects of screen

culture and film and television production. They have made aggressive attempts to woo the industry.

The Premier of Queensland, Peter Beattie, has put a lot of money into attracting film — both footloose productions from overseas and local productions — to Queensland. In some respects Queensland has a superior climate for outside shooting. New South Wales, and Sydney in particular, has the natural advantage it has always had. It is the centre for the Australian Film Institute (AFI), the Australian Film Commission and the Australian Film Television and Radio School. New South Wales also offers significant inducements to film and television producers to work in that state.

These inducements range from fee-free locations through to something which the Labor government here has not yet addressed — that is, a rebate on payroll tax. Both Queensland and New South Wales offer extensive rebates on payroll tax. In New South Wales it applies to the producers using the Fox studio. In Queensland it has a wide-ranging application. Nowhere in the Film Bill is there mention of a payroll tax rebate. I would think that was a significant attraction particularly to footloose productions deciding which state they might use to produce and shoot films.

So it is not necessarily just one body that resulted in the decline of Victoria's share. There are many other factors in play. The bill before the house splits Cinemedia in two. The first part will be a dedicated body called Film Victoria with a board of between 7 and 11 members. We know already that its president — not chairman, which is different from all other state's major arts institutions which have chairmen of the boards or trusts — will be Mr Peter Redlich, a partner in Holding Redlich. Given the royal attribution usually given to the current Minister for the Arts it will be interesting when a queen meets a president, particularly in the context of the republican debate which rises and falls in this country. We might question why the term 'president' — a very American term — is being used rather than 'chairperson', which is also gender neutral.

A board of between 7 and 11 members has been described by the minister in her second-reading speech and in the Thornton report as a small and tightly focused body to attract film, television and multimedia to Victoria. Why does Film Victoria need such a large body? The bill states they will have expertise in film, television or multimedia and other business attributes which will be useful to the board. Here is another point of concern, which will be taken up by the honourable member for Doncaster: with the enormous emphasis on film and television, what happens to multimedia? What happens to the excitement felt by the honourable member for Coburg — currently a member of the government — when the Cinemedia Corporation Bill was introduced to the house four years ago?

Under the coalition government we had the state's first minister dedicated to multimedia. In the bill there is a total de-emphasis on multimedia. Yet film-makers are shooting in all forms. Film is becoming outmoded. Many of them are shooting digital. Will multimedia be underplayed? Will its importance be lessened? Only this morning I heard on the radio that Southern Cross Broadcasting is pulling out of some regional areas because it says it cannot afford the expense of converting to digital television. Many young film-makers, those involved in experimental forms of media, are looking for jobs in that area. With a concentration on film and television and the major big producers some of that verve, drive and expertise of young people may be lost. Unless there is a dedicated person for multimedia on the Film Victoria board we may see the state lose its edge in multimedia — an edge which was built up over the seven years of the Kennett government under Alan Stockdale as the Minister for Multimedia.

Nevertheless I should think the film and television industry is very pleased with the outcome. It has a minister with a background in television who has obviously listened to their pleas expressed through the Thornton report. The government has committed $40 million of taxpayers' money to a film studio at Docklands and $31.6 million over four years to be injected into funding for Film Victoria. The industry will be very pleased indeed. Whether that brings Victoria back to pre-eminence in Australia against Queensland and New South Wales, and even Screenwest in Western Australia, remains to be seen. The minister was on the radio this morning saying that the value of production this year in Victoria has risen to $120 million. This is under the current organisation of Cinemedia. The annual report of Cinemedia for last year gives no indication that there is any truth in the accusation in the Thornton report that film and television had suffered at the hands of multimedia.

Grants were given through Film Victoria, the Melbourne Film Office and the cash-flow facility of $4 517 786 in the last financial year. The Digital Media Fund provided a mere $752 950, and that digital fund only runs for three years. The screen culture functions of Cinemedia had spent on them $938 538. It seems, therefore, as though film and television got the lion's share of funding from Cinemedia.

Some of the film and television programs that received funding have already hit our screens and have been very successful. *Yolngu Boy*, a film about young Aboriginal boys caught between the clash of two cultures, was premiered in Victoria earlier this year. It was produced through the Australian Children's Television Foundation which was given $9500 assistance. *The Bank*, which opened the Melbourne Film Festival last year, received $130 000; *Sea Change*, the very successful Australian Broadcasting Commission (ABC) television series of which Sigrid Thornton was the star, received $250 000 for its third series; and *My Brother Jack* received $175 000. All those productions have made it to our screens either at cinemas or on television and have been outstandingly successful.

Others do not seem to have had quite the same success so far, although there is a documentary for Chunky Move, the contemporary dance company, called *Just Add Water*, which received $12 943. I recently received a memo from the general manager of Chunky Move saying that *Just Add Water* had had phenomenal success in New York.

Why am I referring to these figures and films? Under the current organisation of Cinemedia — the one organisation — film, television and multimedia seem to have done well without the need for the organisation to be split into two. The minister reinforced that today with the announcement that there are several feature films currently in production in Victoria and that the value of those productions has got close to the predictions made in the Thornton report. This is before the split in Cinemedia has even occurred, a split which will undoubtedly be expensive, will require two separate bureaucracies, two different locations for the people associated with them to be housed, and two large boards.

We will wait to see with interest and with hope how the state's film, television and multimedia industry goes in the future under this split. However, I sound the warning that if multimedia falls off the edge in favour of film and television it will be to Victoria's detriment. This government has no minister dedicated to multimedia, nobody to see that that stays an important part of the program of Film Victoria. I urge the minister to make sure that one member at least, if not more, of the board of Film Victoria has expertise in multimedia.

The opposition will also be watching to see that the strict provisions of conflict of interest are observed. With a relatively small film and television industry in Victoria, looking for up to 11 people to serve on a board will inevitably mean that when grants are being considered some will have a conflict of interest. We will be watching to make sure that absolute probity, honesty and high standards are observed as grants are being made from this new and well-funded Film Victoria. We will also watch to make sure that those taxpayer funds of $31 million and the $41 million for the studio at Docklands are properly and efficiently used, that there is proper accountability and mechanisms in place to avoid conflicts of interest.

I briefly mention the studio at Docklands, which is still just a fort. One of the producers I rang when I was thinking about what to say on this bill said there was a dearth in Victoria of young people being trained in the ancillary roles that go on around film production, such as location managers, catering managers, even tutors for child actors — film producers find it almost impossible to find tutors for child actors. He also said that building sets in studios is a very specialised skill and that where Crawford's and the ABC used to train people in these skills, they no longer do and there is a gap in that range of training. This has some reference to the Australian Centre for the Moving Image, which I will refer to later. Unless the government makes sure that the necessary skills and professions are provided across the range of film and television in Victoria, there is still the possibility that film producers and film distributors will be attracted to other states. That is where New South Wales has the advantage because of the Australian Film Television and Radio School.

Our own Victorian College of the Arts is a wonderful institution. I wish it were better funded. I wish it felt its own position to be more secure. I wish it had the same sort of widespread recognition in the community as does the Australian Film Television and Radio School in New South Wales. Over the six disciplines the Victorian College of the Arts does an incredible job, but most of its graduates want to go into production or into script writing. They are not trained in the ancillary services which I have just mentioned.

That is an important aspect about which the minister might talk to her colleague, the Minister for Post Compulsory Education, Training and Employment: are we training young people up to these skills? Are we training them up to be able to market their skills in multimedia, new media and digital media? I do not understand much about digital media but the honourable member for Doncaster does. I understand it to be extremely important in the age of broadbanding and convergence. Splitting Cinemedia into two has some positives but there are a whole lot of negatives as well.

I refer to the Australian Centre for the Moving Image. The Thornton report recommended this body be called Screen Culture Victoria, and the Premier's press releases around the time also said it would be called Screen Culture Victoria. Mysteriously, a few months later, it has become the Australian Centre for the Moving Image, which is a physical building and which we hope will be at Federation Square. In her second-reading speech the minister said that in 1997 the Australian Centre for the Moving Image was just an idea, now it will become reality. We are still waiting. Federation Square could become Mañana Square or Tomorrow Square. We are now in the latter half of November in the centenary of Federation and Federation Square is still not open.

It is puzzling to call a corporate body by the same title as a building. There is a physical building called the Australian Centre for the Moving Image dedicated to screen culture at Federation Square, made possible by a $50 million injection of funding from the federal government as part of the Federation year funding, and with an input from the state government of approximately $12 million for recurrent funding and $12 million for capital funding. The Australian Centre for the Moving Image, both the board which constitutes the corporate entity and that which constitutes the physical entity, will be the biggest challenge. It is dedicated to screen culture. Apparently it will have free entry to the building, although visitors will have to pay to engage in the various interactive activities. It will have an important educational function. It will be an institution that educates people, particularly young people, about the importance of screen culture.

In her second-reading the speech the minister said it would become the seventh of Victoria's major cultural institutions. Four of the current six have their bottom lines in the red. Museum Victoria, the Victorian Arts Centre, the Geelong Performing Arts Centre and the Melbourne Museum are all in the red. Only the National Gallery of Victoria and Public Records Office Victoria are still in the black. Unless the Australian Centre for the Moving Image (ACMI) is managed carefully in the whole context of the Federation Square challenge, it too could head very quickly towards the red.

The current chief executive officer of Cinemedia Corporation, John Smithies, who by any reading of the annual report seems to have done a good job for film and television, gave me a comprehensive briefing about ACMI at Federation Square — not all of which I was able to absorb at once. It does sound an exciting concept, but it will also be very expensive. The minister and the Treasurer will need to keep a close eye on ACMI's bottom line.

There has been no indication about who the president — —

**Ms Asher** — Two presidents!

**Mrs ELLIOTT** — Two presidents now! There has been no indication about who the president of the entity called ACMI will be. I urge the minister to think very carefully about who the Governor in Council on her recommendation chooses for that position. It will be a huge challenge, but it could also be a huge opportunity if it is done well.

It again raises the question of the split between Film Victoria and the Australian Centre for the Moving Image. There will be areas where they have common interests. Will the two boards meet together frequently? Will they discuss those areas of common interest? Will the education function of ACMI influence the decisions of the board of Film Victoria, and will the decisions of Film Victoria influence the decisions of the board of ACMI? When worldwide the film industry is dedicated to convergence, why is the government making such a clean and sharp break between two important aspects of the industry in Victoria?

The minister spoke in glowing terms about Lord David Puttnam visiting Australia for the Cinemedia Grierson lecture a few years ago, and on 23 November 1999 the minister stated:

> In conclusion, I refer to the words of a man who has been central to popular culture around the Western world over the past 30 years. Last night I welcomed to Melbourne Lord David Puttnam to give the 1999 Cinemedia Grierson lecture.

So we now have a queen, a president and a lord.

> The lecture had not been given under the last government.

I do not think the lecture has been given since — I think it was a one-off! I have not found any record of it having been given since 1999. The minister went on to say:

> The Bracks government has revived the lecture.

It was a brief revival! She continues:

> The Grierson lecture was given by no less a person than Lord David Puttnam. Honourable members will recall some of his film credits — *Chariots of Fire*, *Midnight Express*, *The Killing Fields*, *The Mission* and *Local Hero*.

All well-known and successful films. The minister continues:

> Last night he delivered a powerful cri de coeur about the nexus between journalism, visual media, movies, education and the arts. I was delighted to hear that not only is he such an eminent and successful film-maker, but he is a Labour politician who has just finished reforming the upper house in the United Kingdom …

Honourable members might have various views about that!

The relevant point here is that the minister was praising Lord Puttnam for his cri de coeur about the nexus between journalism, visual media, movies, education and the arts, yet this Labor government is apparently breaking the nexus. It is splitting up the Cinemedia Corporation, quite expensively it seems, into two separate institutions, when Lord Puttnam, whom the minister admires very much and is worthy of admiration, feels there should be convergence.

It remains for the Labor government to make sure that this split does not become a deep trench and that the education of young people and the population in general about the importance of all forms of multimedia and screen culture is not separated from the people who make, produce and distribute films and who employ young people in the making and producing of those films. I agree wholeheartedly with the sentiments of the minister in her second-reading speech, that the film, television and multimedia industry in Australia and in Victoria is too important to be threatened in any way. It is important economically because it provides jobs and the spin-offs, particularly from overseas productions, into the Victorian economy are very important.

Possibly more important even that that is the fact that we need a national film industry because only such an industry can produce films like *The Castle*, which get to the heart of what makes us different as Australians and unique among all the peoples of the world. There was a telling picture in the paper the other day — and I forget which paper — of Afghanis scrambling to get into one of the cinemas that have reopened since the Taliban have been largely defeated in Kabul. The arts have a way of reasserting themselves after times of stress and strife and war.

I remember visiting my daughter in Bucharest a few years ago and seeing small independent art galleries which had opened up sometimes in ruined buildings after the defeat of the Ceausescu regime. The importance of the arts, and particularly film and television because they are such an accessible popular culture, cannot be underrated. Governments need to think carefully about the way they approach the arts and the sort of legislation that is introduced which affects this industry. As I have said already, we in the opposition are not opposing the bill — indeed, we wish the industry in Victoria every success — but there are some areas of concern, and I will enumerate them again before I conclude.

We should not let multimedia and new forms of media slip off the agenda so that film and television remain pre-eminent. Remember, it is young people — those who are experimenting in all forms of media and cross-media — who are our hope for the future in this industry. We should not separate the screen culture and screen appreciation aspects from those people who are the professionals in the industry and who make the film, television and multimedia productions. We should not let that conversion be split asunder. The government has invested a huge amount in the industry. It should make sure that every taxpayer dollar works for the people of Victoria and for our local film industry.

The high-jump bar has been set very high for the outcomes of the bill in terms of the industry in Victoria. We in the opposition will be watching with intense interest to see if those goals can be reached. We have some doubts about the necessity for the bill and the fact that it establishes two larger boards, two new bureaucracies, which will obviously be expensive and sop up some of the funds that should be going directly to the industry. Although the opposition has some concerns about that it is not opposing the bill.

**Mr MAUGHAN** (Rodney) — I am pleased to speak on the Film Bill, particularly to follow the honourable member for Mooroolbark, and to reinforce many of the points she made and to compliment her on her understanding of the industry.

We in the National Party, likewise, will not be opposing this legislation, but we also have many similar concerns to those expressed by the honourable member for Mooroolbark. We wonder about the need to have two separate organisations. We believe Cinemedia Victoria, as established by the previous government, had it been properly managed, could well have achieved the objectives which the government has and which the National Party supports.

We acknowledge that Victoria is a great cultural centre with a great pool of talent. The question is: how do we best develop that to get the maximum economic benefit for the state of Victoria and to spread that across the state into regional Victoria? I will deal with that a little later in my remarks.

The purpose of the bill is essentially to establish two separate organisations, Film Victoria and the Australian Centre for the Moving Image, and to repeal the

Cinemedia Corporation Act 1997, brought in by the Kennett government. The bill will abolish the Cinemedia Corporation, which was established under that act. Again I question whether this is the right approach, but I acknowledge that the Sigrid Thornton task force consulted widely with the industry and the industry was fairly strong in its view as to what needed to be done. Like the honourable member for Mooroolbark, I will watch and wait with interest and I wish the bill well. A different approach is probably possible, and I am not against this one, but I will watch with interest whether it achieves the objectives, which all honourable members share whether on the government or opposition sides of the house.

The objectives of the bill, as set out in clause 4, are to establish Film Victoria to provide strategic leadership and assistance to the film, television and multimedia industry of Victoria. That is all about content, creativity and productivity, which is set out in more detail in clause 7.

Film Victoria will provide financial and other assistance to the film, television and multimedia industry. Just in passing, I make reference to the fact that multimedia seems to have dropped off the agenda for this government. It was certainly a strong thrust of the Kennett–McNamara government. Victoria at that stage was right up there with the top in the world in terms of multimedia. Victoria has lost that initiative. In this legislation I see very little reference to multimedia. The bill is about film and television and so on, but the multimedia part of it seems to have dropped off the agenda. Film Victoria will promote the use of locations or services in Victoria for the production of film and TV.

The bill mentions multimedia projects, but I do not see much emphasis coming from the government on those multimedia activities. Further, Film Victoria will provide financial assistance for festivals, conferences, publications or exhibitions. They are all worthy, but again I have some concerns about how some of this money will be spent. Film Victoria will provide leadership to the film, television and multimedia industry to develop strategic plans, advise the minister, develop relationships or enter into partnerships, and so on.

The establishment of Film Victoria is covered by the first part of the bill. The second part deals with the establishment of the Australian Centre for the Moving Image (ACMI), which is presently under construction at Federation Square. Its purpose will be to exhibit film, television and multimedia programs and to promote public education. Those objectives are set out in clause 23 of the bill and headed ‘Functions of ACMI’. ACMI will promote the moving image to the public and manage the facility at Federation Square. Again I wonder when that is going to open. It was meant to be one of the features of our Federation celebrations, but it is way behind schedule. I note as I walk around the area that construction is still going on and wonder when we are going to see the opening of Federation Square and the Australian Centre for the Moving Image.

So it is to promote the ACMI as a national centre for the creation and exhibition of the moving image, and it is also about establishing, maintaining and conserving a collection of moving images. That is a worthy objective. We have some great television footage, films, et cetera which should be preserved for posterity, and that will be part of the function of the ACMI. The public education function is also important, as is to develop and create exhibitions of the moving image. That in essence is what this legislation is about.

The National Party certainly supports the objective stated in the opening paragraph of the minister’s second-reading speech:

> … to make Victoria a centre of excellence for film, television and multimedia production and to ensure a stronger future for the industry …

That is a very worthy objective. The National Party has no argument with that at all, and it supports that objective. I guess there are some differences of opinion as to how that might best be achieved, but I acknowledge the fact that there has been a change of government and this government has its priorities and has brought forward this legislation. I support the overall objective and note again that Victoria has a thriving artistic and cultural community both in music and dance, drama, films, ballet, opera and also in multimedia, although I think we are losing the lead we had in that area and I think we need to pick up the ball and run with that one.

There is an enormous amount of talent here in Melbourne and also in country Victoria. Earlier this week I spoke in this house about the world premiere of a melodrama called *Reform* that was written by a well-known Melbourne writer, Graham Pitts. It is a light-hearted look at the Kyabram reform movement of 1901, and it received its world premiere in Kyabram only a week or so ago. So we do have a thriving arts community, not only in Melbourne but throughout regional Victoria and in my own electorate of Rodney. This particular world premiere took place at the Plaza Theatre at Kyabram — and that is another story in itself: how that community has taken a dilapidated, old, tired theatre building which was built in about 1929,

just before the Depression, and which has gone through a whole range of uses, and converted it into a first-class performing arts centre that is undoubtedly one of the best outside Melbourne. Likewise, in Echuca we have the brand new Paramount Cinema and Performing Arts Centre, which provides in Kyabram and in Echuca wonderful facilities for the performing arts and caters for visiting artists or orchestral groups, plays, films and the like.

In Victoria we have been very fortunate with some of the great films that have been produced here. *All the Rivers Run* is one that comes readily to mind because it was produced in Echuca and in many ways put Echuca on the map worldwide. It generated a lot of economic activity for Echuca–Moama, and the flow-on effects of that are still happening. We still have people coming to Echuca–Moama to see the magnificent Murray River and to travel on the paddle steamer that was used during the making of that film. Sigrid Thornton, who has chaired the task force advising the government, was one of the stars in that film, together with John Walters. She has been to Echuca on a number of occasions since the filming and is a great ambassador for Echuca and the Murray River. That is one film that has had an enormous impact on the economy of Echuca–Moama, and there are many others. For example, *The Man from Snowy River* is another film that has generated enormous economic activity for the state of Victoria.

I mention the support of Sigrid Thornton, who is a well-known actor and former board member of the Commercial Television Production Fund and Film Victoria. She was chosen by the government to chair the Victorian Film and Television Industry Taskforce, which was given the task of reviewing the Victorian film and television industry and recommending a strategic framework to develop Victoria as a centre of excellence for the industry. Chris Fitchett, a well-known writer and director, was also a member of that task force, as were Terence McMahon, John Howie, Jenny Sabine and Rob Sitch, the well-known writer, producer, director and member of the Cinemedia board.

I pay tribute to Sigrid Thornton's task force, which consulted widely and spoke to people throughout the industry. The task force produced an excellent report, which documents the information it found, and came up with some specific recommendations to government. Those recommendations were delivered to the minister in September. In its first-class report the task force looked at the Australian industry, put the Victorian industry in context and made recommendations as to what should be done to increase Victoria's share. I quote from section 2.1 of the report about the film industry in Australia:

> Total production in Australia —

that is, feature film and television production —

> has increased significantly recently. The increase has, however, been due entirely to foreign production and co-production.

This segment is important because it indicates where the Australian film industry is going.

> In 1995/96, 25 Australian feature films, 44 Australian television drama productions, 5 foreign feature films, 9 foreign television drama productions and 2 television drama co-productions generated a total production budget expenditure of $479 million in Australia.

I do not intend to go through all the detail, except to say that the value of foreign production expenditure in Australia more than doubled to $275 million between the years 1997–98 and 1998–99, but the value of Australian production fell by almost 30 per cent to $278 million.

For Australian series, the value of production expenditure dropped by 30 per cent to $108 million. So the trend is to a growing industry, but more of it has come from foreign production than from production here in the state. That is something that needs to be addressed.

The question is where the Victorian industry fits into all of that. As I said earlier, we have a very talented pool of actors, writers, directors and technicians in Victoria, and the state has always been regarded as the creative hub, if you like, of Australia's film and television industry. I have already mentioned *All the Rivers Run*. Other important films have been produced in Victoria. They include *The Man from Snowy River*, which has provided tremendous economic benefits to the high country around Mansfield, Merrijig and Jamieson, and *The Castle*, *The Devil's Playground*, and *Muriel's Wedding*.

However, the reality is that in 1998–99 Victoria's share of the national expenditure on the production and post-production of films and television was 28 per cent, or $149 million. To put that in context, New South Wales' share was $226 million, and Queensland's was $100 million.

I note that Queensland and New South Wales have both put a great deal of effort into attracting greater film and television production in their respective states, but Victoria has missed out as some of the film and television industry has moved to those states. It is time

we addressed that so we can increase our share of film and television production.

In its recommendations to government the task force members set out a vision of how this might be achieved. In the foreword to their recommendations, they said that their vision was ambitious but achievable. I agree that it is both ambitious and achievable, provided that certain things fall into place and the government provides the support that is being sought and that money is used wisely and not wasted.

Again, the task force has set out some objectives which it wanted to see achieved in year one. That is going to be an effective benchmark measure in looking at what the government achieves. The task force sets out what can and should be achieved in year one, and I will be very interested to have a look in 12 or 18 months time and see how we are going in achieving those objectives.

The task force also has set out achievable objectives — ambitious but achievable — for year three. We are to have two studio complexes in this state. It will be easy to measure and see whether the government has provided the support that it has indicated it will in order to achieve those objectives, one of which is for film and independent television production in this state to be worth $150 million to $200 million per annum. Those are very clear, very achievable figures — and figures we can measure. We will come back in three years time to see whether we have achieved those objectives.

In addition, international and interstate film production in Victoria is valued at between $50 million and $100 million a year, so three years from now we can expect the industry — what with local production and with international companies producing films and television shows around the state — to bring in something like $250 million to $300 million.

In its report the task force says that Cinemedia as it is currently configured and funded is not serving the film, television and multimedia industry as well as it might. Practitioners in the industry, as documented in this report, clearly favour change. The task force contemplated two options: to keep Cinemedia as it was and restructure it to achieve the objectives; or to create two new corporate entities. The second route is the one the government has chosen to go down.

I question why we need two separate entities when, as the honourable member for Mooroolbark pointed out in her contribution, in other parts of the world there seems to be a convergence, or a moving together, of the various sectors of the industry so they can work together to achieve objectives; but the government has made its choice, and I am not critical of it. I will, however, be looking with a great deal of interest to see how Film Victoria performs on the one hand and how the Australian Centre for the Moving Image (ACMI) performs on the other.

The task force recommends a whole-of-government approach to the film industry. I think that is sensible and reasonable, and I fully support it. It recommends providing additional infrastructure and expanded education and training opportunities. Those are all sensible recommendations; it is how they are implemented that will be the important factor.

I note the government has responded to at least one of those requests, that Department of State and Regional Development programs be extended by nominating the film and television production industry as a strategic industry. I welcome that initiative, although I hope it will not mean siphoning off funding from regional and rural Victoria. That is what the fund is for, so I hope the initiative is not a means by which the government can utilise some of that funding to get money into Melbourne rather than out to regional Victoria.

Members of the National Party will be watching that very carefully, because the Department of State and Regional Development has a very important role to play in developing rural and regional Victoria. While National Party members welcome the film industry being seen as a strategic industry, we also affirm and reinforce the fact that we have some terrific industries in country Victoria already needing the support of State and Regional Development — although for some projects I am aware of, that support has been rather slow in coming. I hope the department does a better job of encouraging the development of new jobs not just in Melbourne but more specifically in country Victoria.

The report of the task force also talks about increasing production in regional Victoria through an expanded role for local government. I very much welcome that initiative. I think there are great opportunities for expanding film production in country Victoria. I believe local councils can be involved in that and that the idea will contribute further to the economy of regional Victoria, so I welcome the $100 000 regional location assistance fund established by the government. I note Film Victoria has estimated that already that has generated production in regional Victoria valued at $1.6 million — although it does qualify those estimates.

I also note that the New South Wales government spends $500 000 a year in its film and television office on initiative and incentive payments to encourage film production outside Sydney. That office estimates that

the grant generates $100 000 per week in country New South Wales. If you multiply that up it comes to about $50 million a year.

Those arguments, both the one from Film Victoria and the one from the New South Wales film and television office, are excellent. We should put even more money into encouraging production outside the metropolitan area, because the money that has been spent and the money that is claimed to have been generated seems to have created a very good cost benefit ratio, indicating to me at least that governments of whatever political persuasion and of whatever state should be putting even more resources into encouraging film production outside the metropolitan area. There is clearly a case for increasing expenditure in that area.

Film production in country Victoria has an enormous impact on tourism. I have talked about *All the Rivers Run* and how that film has boosted the number of visitors to Echuca–Moama from about 40 000 a year before the film was made to about 100 000 after it came out. It is now well over that figure, something of the order of 160 000 visitors a year, about 60 000 of whom ride on the paddle steamer that was used in the film. It is amazing to see people coming to Echuca from all parts of the world when the first they had heard of it was when they saw the film *All the Rivers Run*. So the film industry has enormous positive consequences for the development of tourism in country Victoria. The same applies to the production of *The Man from Snowy River*, *Picnic at Hanging Rock* and other films.

The National Party supports the growth, encouragement and development of the film and television industry. As the honourable member for Mooroolbark pointed out, the previous government essentially had the same objectives but a different approach. One of those approaches was the rebate of payroll tax, which this government consistently refuses to consider — except in the case of Ford Australia. I think it is interesting that the government provided a payroll tax rebate for a metropolitan industry. I believe that mechanism can be used to develop industries in country Victoria, and the film industry is one of those where a rebate of payroll tax could be justified.

The film and cinemedia industry is very important to the state. Victoria has a thriving arts and cultural community, and we must capitalise on that. I note that the industry in Victoria employs somewhere of the order of 2500 people, although the figure is a bit imprecise. If you look at the economic activity generated and apply the multiplier effect to that, you can see it is worth of the order of $600 million to $700 million a year in economic activity to Victoria, and there is the potential to greatly increase that. If this legislation can achieve that objective, it will have the full support of the National Party, although as I have indicated, we would like to get a slice of that in country Victoria, and I urge the government to encourage that.

The film and television industry has certainly expressed its views through the Thornton task force, and the government has responded. I welcome the range of initiatives, and I wish the Victorian film and television industry a very bright and expanding future as it generates even more economic activity in Victoria — and hopefully in country Victoria as well.

**Mr MILDENHALL** (Footscray) — I rise to make a few brief remarks on the Film Bill 2001, given that a number of honourable members wish to make a contribution.

On the government's behalf I welcome the recognition of the importance and the strategic role of the film and television multimedia industry. That has been recognised and commented on by Liberal and National Party speakers in giving their lukewarm support to — or at least in not opposing — the government's initiatives in the legislation before the house today.

We can distil the need for this legislation down to a couple of basic points. There are two major challenges facing us in that area. One is that Victoria has been losing its share of the industry market. The value of production has been falling, and we have been losing our previously predominant position to the industry in other states — and, if you look overseas, to the international industry as well. So we have an industry which previously made its name in Victoria and which we face the challenge of revitalising.

We also have a major new cultural institution being constructed on Federation Square. Now that this government has taken a firm stand on the previous chaos that might have been said to have characterised Federation Square, the Australian Centre for the Moving Image is being rapidly completed. So we have a major new institution with an entirely different function. We have to look after it, promote it, manage it and operate it properly. Its role is to celebrate the products of the industry. It is about exhibiting, promoting and celebrating excellence. It is a centre for the moving image, for television production and for multimedia.

We need two separate major strategy areas. It is not good enough to say, 'We will have one board that can look after everything'. You would not have the board that looked after the arts centre looking after arts

development as an industry in the state. You would not do that for other cultural institutions. You would not ask the managers of the Melbourne Cricket Ground (MCG) to also be in charge of sports industry development in the state.

These are major institutions and major industries. But we do have a problem. Other speakers have spoken about the value of the film and television and multimedia industry in this state and how our share has been declining as the dollar value has fallen away.

Sigrid Thornton's report concluded that:

> In recent years Victoria's percentage of national production [and employment] has seriously declined and talented practitioners are leaving the state. However, the trend is reversible … In a world where film, television and new media deliver the ideas that drive the knowledge economy, the winners will be those who generate and control the delivery of their own ideas. Victoria is capable of producing high-quality creative content and distributing it to Australian and international audiences. A vision for the industry, backed up by prompt strategic interventions by government, would see Victoria becoming the envy of other states.

The Bracks government is responding to and taking up that challenge. It has designated film, television and new media as a strategic industry sector. It has allocated almost $32 million over the next four years for investment in film, television and new media production, and it has allocated up to $40 million for a state-of-the-art film, television and new media studio facility at Docklands, to be operated by an agency agreed by government.

This government is putting its money where its mouth is. It is responding to the challenge put to it in this excellent report produced by the excellent task force, and it is now putting the legislative framework together to provide the focus for that to occur.

There is probably not a lot of disagreement with those sorts of propositions, so the comments from other speakers have been around what we will call the minutiae of the legislation — for instance, why would we call the head of Film Victoria a president? We call the head of the Museums Board of Victoria a president. It is a title that is preferred in the arts area as a non-gender specific term. That is quite widespread. This is not the first time it has been used, and I believe we ought to focus on more significant issues.

I understand the honourable member for Doncaster wants to speak shortly. We could just about write his speech! We will hear all the usual stuff — that a government's commitment to multimedia is manifested simply by naming a minister and putting a title after their name. According to him that is the thing that makes the difference — not that there is much evidence, given the loss of market share and the loss of production in Victoria, that Alan Stockdale having the multimedia title after his name or the Premier also having the title of Minister for the Arts did much good for this broad industry area. They were obviously asleep at the wheel when some of these disturbing industry trends were becoming evident.

It is clear that this government has a major commitment to multimedia, and under the new legislation it is plain that multimedia is one of Film Victoria's responsibilities. The legislation focuses on multimedia as a creative and cultural output, but in addition a major commitment has been made by the Minister for State and Regional Development. In March this year he unequivocally stated the government's position by saying:

> The government strongly supports the development of a dynamic Victorian multimedia industry, the production of multimedia content for Australian and international consumers and maximisation of the economic and cultural benefits of new media arts and technologies to the state.

The management of the digital media fund, to be financed through Multimedia Victoria under the government's Connecting Victoria strategy, has been assigned to Film Victoria. In 2001–02 the average total budget for the digital media fund will be $3.6 million per annum, comprising $1 million per annum for the SBS accord, $1.6 million per annum for the ABC accord and $1 million per annum for other activities such as the digital cultural program and the interactive screen arts programs. It is clear that in terms of the focus of this legislation multimedia will not miss out. Multimedia is one of the major focus areas for Film Victoria.

The legislation has been welcomed and embraced by key identities within the industry. They include not only Sigrid Thornton, who chaired the task force, but also Mac Gudgeon, screenwriter and past president of the Australian Writers Guild, who commented that:

> The current legislation before the Victorian Parliament is of the utmost significance to the state's film and television industry.
>
> The re-establishment of Film Victoria as a dedicated film and television body will focus its work, and restore it to its former position as the most innovative funding body in the country.

Tony Wright, the Victorian chapter head of the Screen Producers Association of Australia, said:

> The Victorian film and television industry has been floundering for years. As a result of the raft of recent government initiatives such as the Docklands studios development and the increase in development and production

> investment, we can look forward to the gradual return of a healthy and vibrant industry in Victoria.

Sue Maslin, the chair of Film Victoria evaluation and assessment and a Cinemedia board member, said:

> The Film Bill will usher in an exciting new period. A reinvigorated Film Victoria capable of delivering more than twice the funding available for local film, television and digital media. An industry buoyed by higher levels of local, interstate and international film and television productions. A world-class Centre for the Moving Image based at Federation Square.

Those comments say it all. We face a major challenge, and the legislation provides the framework for the government to take up that challenge. The government's strategic investment provides the wherewithal to support the marvellous indigenous creativity, drive, energy and skill of Victoria's television, film and multimedia professionals and activists, who have long been the mainstay of creative output in Victoria and who will provide the human element of this initiative. I am sure that with this new strategic setting, this legislation and the government's revitalised commitment to this area we will see the success envisaged by Sigrid Thornton's task force and report, which has had such an impact. I take much pleasure in supporting this legislation and wishing it a speedy passage.

**Ms ASHER** (Brighton) — I too wish to make a brief contribution on the Film Bill. Before doing so, I would like to congratulate the honourable member for Mooroolbark on her speech. It is a pleasure to hear someone who is not only knowledgeable about her content matter but also passionate about it. I consider it to have been a privilege to sit and listen to her contribution.

The Film Bill dismantles Cinemedia and sets up two structures. The first is Film Victoria which, we are advised, will be headed by President Redlich! It also establishes the Australian Centre for the Moving Image to promote the moving image and manage the facility at Federation Square, whenever it opens. One of the functions of the ACMI will be to promote screen culture. The honourable member for Mooroolbark articulated the opposition's concerns about funding and whether it is really necessary to dismantle Cinemedia and set up an alternative structure.

I note that the second-reading speech is particularly broad in that it covers basically all the areas of the government's film policy — its additional funding, its announcement of a studio, this new structure, its desire to increase local production and so on. However, the basis of this bill is the Sigrid Thornton-chaired report of the Victorian Film and Television Industry Taskforce, which was given to the government in September 2000. The key recommendations of that report were this administrative split, to which every speaker has referred, and the establishment of the film and television studio that the Premier subsequently announced.

I turn my attention to that project to express a couple of concerns about the establishment of that studio while articulating clearly the opposition's support for the concept of government assistance for television and film production. One recommendation of the Thornton report refers to a film and television studio which would cater for offshore and local productions — a significant ask. The original proposal for a Docklands facility for film production was Studio City, which was developed to some extent under the previous government — but that proposal fell over early in the term of this government. That was a privately funded proposal with a range of attachments, if I can refer to the theme park in that way, as part of the discussions which commenced under the previous government.

This government announced that it would set aside $40 million of taxpayers' funds for a film and television studio. The Premier made that announcement in Hollywood, picking up on the Thornton recommendation that the studios would be for offshore and local productions. That announcement has since been further modified, and the government has announced that it will use its public–private partnerships structure, or Partnerships Victoria as it calls it, to allow the private sector to put in another $90 million.

**Mr Holding** interjected.

**Ms ASHER** — Try the second-reading speech and you will see it is relevant. Let me guide the honourable member in advance so he does not make a silly point, because the second-reading speech is incredibly broad. The private sector will have the capacity to contribute up to $90 million to this. The Premier announced a short list for this project on 27 September. It includes Central City Studios, Melbourne Docklands Studios and the Melbourne Film Studios. The Premier again emphasised the affordability of this project for Victorian film production.

The government has been very consistent in its claims that the studio will generate $100 million in film production annually in addition to what is being generated now and that the project will create an additional 1000 film and television industry jobs. The short list has been announced, construction is scheduled

to commence in February 2002 and we are told the facility will be fully operational in 2003.

There is a role for government in stimulating the film industry, but it needs to be exercised with considerable caution, because the last thing you would want to see is an expensive white elephant and a failure in this area. Melbourne, certainly in terms of television production, has had an historical role at the forefront of this area. I would hope this studio, if it is constructed, will have a key role in television in addition to film production. There is no doubt about it, Victoria needs a studio, particularly because New South Wales and Queensland have studios and production has been diverted to those two states.

I want to use this opportunity to outline some key concerns regarding this facility. Everyone knows film studios are difficult investments. It is very difficult to make a buck out of them, to use the vernacular. Normally they have either significant government support or some other private sector component to make them viable. I refer to the examples of New South Wales and Queensland where we can see that film studios do not stand alone — they have significant government support, as the honourable member for Mooroolbark touched on, and an additional private sector feature in the complex as a whole which makes them viable.

In New South Wales Fox Studios had an arrangement with the government, which either gave it the showgrounds at a low cost or at no cost and significant payroll tax concessions for people operating there. Likewise, in Queensland the state government gave the land to the Warner Brothers studio on the Gold Coast for next to nothing and offered payroll tax concessions. That government has a particular style of offering significant payroll tax cuts as an incentive for operations in that state. I do not advocate that this should occur, but I note that in Victoria the concessions are not as broad as they are in New South Wales and Queensland.

More fundamental to the economic success of these two studios is what is included with them, which harks back to the original discussions in Victoria about what would provide the financial viability of the studio. Firstly, everyone knows the back lot theme park in Sydney has not been successful, but there is a very successful retail component which makes the studio work. Likewise, the studio on the Gold Coast has a theme park. Those two examples, which I understand are representative of studios at a worldwide level, have private sector facilities that make them work. At this stage that aspect is missing from this government's proposal. I place that concern on the record.

Secondly, I raise the issue of the location of the film studio. In Melbourne the land selected at Docklands is both expensive — it is prime Melbourne real estate — and difficult for construction. The honourable member for Mooroolbark has already indicated that there is an open drain on the site, and for those of us who do not understand the technicalities of film production, Melbourne Docklands is an expensive option because the studio needs to have a level floor to shoot television and film productions. I am told this will add significantly to the cost of building. In many instances floors need to be replaced every five years anyway, but the government's choice of location will have a direct impact on these studios being very expensive and difficult to construct. As I said, the honourable member for Mooroolbark has articulated that concern on the public record for some time.

The key issue is whether the government is certain that this project will work. Is the government certain the project will not end up being an expensive white elephant? I request that the minister turn her attention to that issue. She has used the second reading of this bill as an opportunity to place before the Parliament her entire film policy, but it is very important that the government investigate these issues. Already at this early stage we are seeing some warning signs regarding the financial viability of these studios. It will be bad for local film and TV productions if, firstly, the project is an expensive white elephant, and secondly, if local producers cannot afford to go there.

At every stage of the announcements about the legislative program, the response to the Thornton report and the short-list tenders for the Dockland studios the government has emphasised and re-emphasised that these studios will be affordable for local producers. Of course, local producers are well aware of the fact that they will be blamed if the studios fall over. That is not something any of us would want to see. The government is setting the parameters for studio production in this state, and it needs to make sure the parameters are right. Labor governments do not have good track records in setting these sorts of parameters.

Finally, in the interests of the desire to allow a number of members to speak on the bill, I turn to the critical reservation and question, which lies with local producers — in the end will they be able to afford to use these new studios if and when they are built? Will the next Hector Crawford, for example, be able to shoot at these studios? Will the local industry benefit from

having this facility or will it be a very expensive white elephant?

I place clearly on record that the opposition welcomes a studio for Melbourne. The opposition welcomes stimulation of the film and television production industry in Melbourne. We see the need for the economic competitiveness of the industry to be based in Melbourne and the advantage of tourism spin-offs, as the honourable member for Rodney commented. However, we have grave reservations about the government's capacity to drive the project to end up with the result we all want to see — that is, film production from offshore, but most importantly film production by local producers.

**Mr LIM** (Clayton) — I am happy to contribute to the debate on the bill before the house. The purpose of the bill, as we have heard from the contribution of the honourable member for Footscray, is to repeal the Cinemedia Corporation Act 1997 and establish two new innovative statutory bodies: Film Victoria and the Australian Centre for the Moving Image. It is important to note that as far as film is concerned we have witnessed a decaying of the industry in Victoria over the past many years. Other states are forging ahead in this area, and Victoria needs to do a lot of catching up. It is pleasing to see that it is the Bracks government that is taking up the issue and running with it, and I commend the minister for having the audacity to do it in a big way by commissioning the task force led by Sigrid Thornton — I will come back to her later.

We need to look at what the bill is all about. It is important to bear in mind that the key objectives of the bill are, firstly, to repeal the existing Cinemedia Corporation Act 1997, and secondly, to establish two new Crown inner budget statutory arts bodies similar to the National Gallery of Victoria, Museum Victoria and the State Library of Victoria, called Film Victoria and the Australian Centre for the Moving Image.

The bill includes provision specifying the make-up, function and power of each new body, board procedures, probity, conflict of interests and a range of other corporate government arrangements. More importantly, it includes necessary consequential amendments and transitional arrangements to disaggregate Cinemedia Corporation into the two new organisations, manage the termination of the existing Cinemedia Corporation board and the commencement of the two new boards, and manage the transfer of staff and their accrued entitlements, assets and liabilities to the two new bodies.

The important aspect of the bill that I would like to reflect on is the extensive consultation that has taken place. All the main stakeholders have been consulted extensively. This is in keeping with the well-known Labor tradition: Labor listens and Labor leads. I feel strongly that that is how we won government. Who did the Labor government listen to on the bill? To answer that we have to look at the extensive list of organisations and individuals consulted. A who's who of the film and television industry either appeared or put forward a submission to Sigrid Thornton's task force.

It is important to mention what the task force is all about. The Bracks government established the Victorian Film and Television Industry Taskforce chaired by Sigrid Thornton. I had the privilege and honour to meet Ms Thornton through a mutual friend. This is a lady of real substance, not just in the artistic world but in her leadership of the task force. Who knows? With her leadership and experience she might even be joining the ranks on this side of the house. We would very much welcome her contribution.

The task force presented its final report, and it is a massive and impressive 127-page report. I congratulate the task force on its deliberations and investigations. As I said, the list of consultations is impressive, and it would be remiss not to mention some of the individuals and organisations that have taken part in the consultations. I counted the organisations and individuals taking part, and the total came to 127.

Each of the organisations is a giant in its own right as far as the industry is concerned. For example, the Australian Cinematographers Society, the Australian Film Institute, the Australian Screen Directors Association, the Australian Screen Editors, the Australian Writers Guild, the Australian Broadcasting Corporation, the Australian Children's Television Foundation — the list goes on. I do not want to go through the list of individuals because there is a time limit and other honourable members would like to contribute. I recommend that those who are interested look at the impressive list.

One thing that should be mentioned without fail is that the task force looked at the reasons Australia has been left behind as far as the industry is concerned. The task force also looked at the funding arrangements that would contribute to the revival of the industry. Members went overseas to look at what other governments are doing, and I think it is important to note that. They looked at government action in places such as the European Union, the United Kingdom, Germany, Canada, New Zealand and the United States

of America — these are our main competitors in the industry — to see how they sort out their problems or contribute to the robustness of the industry. This significantly affected the task force recommendations to the government.

One of the task force's key recommendations was to split Cinemedia into two organisations. However, the funding arrangement is very important. In terms of the funding it is appropriate to quote from the minister's second-reading speech:

> This legislation is the latest in a series of initiatives to secure the renaissance of the Victorian film, television and multimedia industry.

The minister lists a series of initiatives with which honourable members would be familiar. I recommend that honourable members take note of the minister's speech.

The bill effectively will put the Victorian film industry back onto the multimedia, television and film cultural map of the world. I commend the bill to the house and wish it a speedy passage.

**Mr ASHLEY** (Bayswater) — The objectives of this bill are noble and laudable. However, I have some grave misgivings about the way in which those objectives are sought to be achieved. If William Shakespeare were to be summing up the government's position he would likely say that a rose by any other name would smell as sweet. When it comes to human institutions, to rename and rebadge them does not necessarily mean that nothing is lost. In fact, a lot may be lost in the renaming and in the order of priorities that get sifted under a new name, such as Film Victoria, and then the creation of a separate body such as the Australian Centre for the Moving Image. There is a sense in which it might be said that Cinemedia as an organisation became a moving target.

I am not sure that the task force's recommendations will do the industry the kinds of favours it wants or that they will be achieved in the manner that it would like. My problem is that there is a dichotomy coming through that is all too typical of Australian thinking — that is, that the artists, intellectuals, writers and players separate themselves from the engineers. I do not see enough of the engineer's point of view in this, and I speak not as an engineer but as someone who appreciates the role of ingenuity in creating and innovating. That is what multimedia is all about.

That dimension runs a great risk of being locked out as a rearguard action is put in place to defend an industry as it has come to be. That is fine insofar as it goes, but we have to ask serious questions about the consequences of investing in things such as studios and other apparatus which simply may not be viable in 10 or 20 years because we have failed to factor in the engineering dimension and the extraordinary revolutionary changes that that brings about.

Five years ago I went to Sweden to find out from the Swedes how they kept on renewing themselves and remaining manufacturing and innovation leaders in the world. They told me that their major industries innovated naturally of themselves. They put huge amounts of money aside from their revenues for the creative work of research and development. Their problem was that their old industries were self-motivating and self-perpetuating, but how could they find new jobs for their young people?

The Swedish government took a strategic decision to fund only four or five areas, and it funded those areas strategically. It takes biotechnology, environmental technologies, security systems, software and a fifth area that I cannot recall. One in eight of all the submissions that come to government in those areas is 100 per cent funded through its conceptualisation phase. Then the government takes one in eight of those that reach that phase and invests government funding of 50 per cent, provided that the private sector comes good with 50 per cent through the prototyping and engineering phase up to preproduction. Once that phase has finished, it is over to the private sector to fund entirely the projects it believes have a future. Why is that government doing this? It is doing it because it is seeking the products that society will want in 10, 15 and 20 years.

My fear is that the way we are going, with the diminution of the multimedia aspect, runs the serious risk of freeze-framing the industry unwittingly, because it is simply not exposing itself to the totality of technological change. I will express that fear in this form: in the 1910s and 1920s we had a world of silent movies. There was another world of sound. The two were brought together finally to create the cinematographer. However, if those two had remained apart the world we have now would not be the world that we know cinematically.

We have to be careful that we do not fall into the trap of thinking that we are about creating film and television. We are image makers. Just as Bryant and May fell down because they thought they were matchmakers when in fact they were flame makers, we have to understand that our future is in image making in its totality and not necessarily in film and television. If we do not pay attention to the new technologies that are

coming through we will be left behind, no matter how noble our efforts are. With that concern I end my contribution.

**Mr HOLDING** (Springvale) — In my brief contribution on the Film Bill I will make a few points, particularly taking up some of the issues raised by other honourable members. This debate has been predicated on all honourable members, and this government in particular, noting that over the last decade Victoria's share of production and postproduction spending as part of the national contribution has declined sharply. It has declined from about 40 per cent in the mid-1980s to its current share of about 28 per cent.

It is easy for honourable members to note that. The question is: what do we intend to do about it? I congratulate the minister and the government on their willingness to confront the issue and do something constructive and worthwhile with some permanency about it. The government's vision in this area has arisen out of the recommendations made to it by the Victorian Film and Television Industry Taskforce, which was chaired by Sigrid Thornton and to which various honourable members have referred. We have been willing to engage in a process of active consultation with the industry, to take those recommendations and to use them as the basis for government policy.

During the debate opposition members have done the easy thing. They have come in here and poured scorn on 95 per cent of what the government is doing, expressed their grave reservations and outlined a whole range of problems they have with the bill, but they have offered no vision or alternatives. Then at the conclusion of their contribution they say, 'Nevertheless, we support the bill'.

Excellence in multimedia, in film and television will not be promoted unless the governance structures are right, and that is what this legislation proposes. Excellence cannot be promoted unless we are prepared to resource the industry properly, and we are doing that through the Docklands studio. What opposition members really mean when they say they have grave reservations about the splitting of Cinemedia into Film Victoria and the Australian Centre for the Moving Image and that they support the government's measures in promoting excellence but do not support the current developments at Docklands in promoting the studio is that they want to have their cake and eat it too!

They want to pour scorn on what the government is doing. They want to pour scorn on its vision, but at the end they want to reserve the right to go back to the industry and say, 'Nevertheless we support the government's vision because we voted for the legislation in Parliament'.

I conclude by saying that I wholeheartedly support the vision that the opposition — I mean, the government — has outlined on this measure. I wholeheartedly support the development of the studio at Docklands. I wholeheartedly support the measures contained in the bill and the process that the government has gone through to establish this vision by acting on the recommendations of the industry task force chaired by Sigrid Thornton. I am disappointed that opposition members are being churlish in coming in here and pouring scorn on so much of what the government has done in this area to date.

**Mr PERTON** (Doncaster) — The honourable member for Springvale indicated the true feeling of the community when with his slip of the tongue he said that he agrees with the opposition.

Given the time available my contribution will be short, but I endorse everything said by the shadow minister about the bill's failure to look to the future and multimedia, and I also commend the fine speech by the honourable member for Bayswater.

This is a retrograde step. It represents a pay-off by the minister to her established mates in the film and television industry. One of the great things about the Cinemedia Corporation was that it offered — —

**Mr Holding** interjected.

**The ACTING SPEAKER (Mr Kilgour)** — Order! The honourable member for Springvale has made his contribution. Will he please not interject!

**Mr PERTON** — It offered something to film-makers, television program-makers and multimedia people. Most importantly, one of the things that Cinemedia succeeded in was adopting the new media, new technologies, new designs and the future. It allowed artists and producers who were using and experimenting with the new technologies and media to create content that could be used in television, in film, on the Internet and in new types of installations in galleries. That was the success of multimedia.

Under this minister the management of Cinemedia has flagged and this minister, having no interest in the new media, newly arising artists or newly arising techniques, has utterly destroyed the capacity of the state to participate in those processes. Instead of the arts ministry being in charge of those valuable areas of multimedia, it has been sent off to the economics people. It has been sent to the Department of State and

Regional Development. That is the great tragedy of policy in this area.

The notion of Film Victoria is an utter failure in terms of rebadging the state and its efforts for the future. Film is film. It is an object and a technology-specific term. It is non-inclusive and a highly exclusive term pushing out multimedia and the new media. In this bill the only reference to multimedia is to say someone might be appointed who has multimedia qualifications, but that does not need to be done.

I had a much longer presentation to give but there are time constraints. The essence of what is so wrong with the bill is that it is a reversion to the past. When they produce new badging and new labelling other people look to the future and to positioning their enterprise for the future. This minister has gone back to film and a specific medium and ignored the future. That is what the Bracks government is about. It is anti-change, anti-technology and anti-the future. It preys on people's fears. It was elected by preying on people's fears and the minister, who is more intelligent than that, is complicit in it. In this legislation and its restructuring her job has been to buy off the support of established film and television producers at the expense of young people, those who are not yet established and at the expense of the future.

**Ms BURKE** (Prahran) — The idea of the Film Bill is to encourage production. There is no doubt that our acting schools have done extremely well, as can be seen by the many Australian actors who are doing so well both here and overseas.

The big problem now is production and production is about costs. It is interesting to note what is happening overseas and particularly in the United States of America. One of the major issues in moving production out of Hollywood is the costs of production — for example, the Canadian government is giving tax benefits to draw production away from Los Angeles much to the ire of the LA unions. However, it is the costs of production that are important to film-making, leaving aside all of the issues about film-writing.

It is interesting to note that multimedia is one of the most important parts. It goes hand in hand with film-making, because digital film-making is now much more reasonable to produce. At the moment my son is making a film in Texas and they are using digital technology because it is so much cheaper. Multimedia is an important part of film-making for young film-makers. While major overseas film productions are still using traditional film, it will not continue for long because the costs will overtake that.

There is also the issue of cross-pollination of the industry with digital film-making. Actors are moving from the screen into more television. There is much happening in the production of new television sets where digital equipment will be used to view all productions on the same computer screen at home.

Why would you split up the two areas? Much has been said today about this industry, but basically the major problem is the limitless number of people wanting to make films. It is in production and direction where Australia seems to need that improvement as we lose our producers and directors overseas because we are not accommodating their needs here in Australia.

I do not think anyone on this side of the house wants to see this bill fail — we are hoping for great success from it — but we do not see that by dividing the two we are actually advancing the industry. We believe the economies of scale would be evident in one group, but when you divide them there are less chances for a good result. Victoria has every opportunity to be the best in the world. I wish the bill a speedy passage and a successful outcome.

**Mr SPRY** (Bellarine) — I appreciate that we in the Liberal Party will not be opposing the Film Bill. I also appreciate as a movie fan that film and cinemedia play a very big part in the entertainment and arts industry in Victoria.

For just a couple of minutes however I wish to shift the focus away from the city and into regional Victoria to congratulate a local youth theatre company in Geelong, Doorstep Productions. It is an incorporated not-for-profit organisation that attracts no external funding, and it is fair to say that it lives on the edge and depends on the excellence of its productions to gain local support. Doorstep Productions was founded in 1993 by a talented performer, Darylin Ramondo, who is dedicated to the arts industry and who happens to also be my electorate officer.

In its brief nine-year history the organisation has engaged in 15 productions. It is also involved in music, theatre, drama, theatre sports, workshops and general theatrical productions for 16 to 25-year-olds. A recent production called *Chicago*, which was performed in Geelong in January 2000, has just been nominated for a record 16 of the Victorian Music Theatre Guild's 2001 awards. These are amateur awards, but they are regarded as having close to professional status.

It is interesting to note that two or three outstanding graduates have come from Doorstep Productions. One is Natalie O'Donnell, who is also a graduate of the

Western Australian Academy of Performing Arts. She has been and still is the star of a production just over the road at the Princess Theatre called *Mamma Mia!*, which many of us have been to. I understand that that production has been booked out until the end of June next year, when it will go on tour throughout Australia. Two other performers in *Mamma Mia!* are from Doorstep Productions. It is fair to say that the company's achievements are outstanding.

The company's production of *Chicago* has also been nominated for the following awards: best production; best director; best musical director; best choreographer; best settings; best lighting; best technical achievement; best wardrobe; best leading actor; best leading actress — two nominations; best supporting actor; best supporting actress; and the dancers award — three nominations. That is an outstanding performance by a tiny local organisation!

In conclusion I commend Doorstep Productions for its outstanding contribution to the arts in Geelong. I acknowledge the efforts of Mark McCabe, the president of the company, who is 21 years of age and illustrates the youthfulness of the company; Peter Wills, the producer of *Chicago* and secretary of the company; and Darylin Ramondo. As I mentioned earlier, Darylin is my electorate officer. She constantly tells me that she would much prefer me to be engaged in the arts directly rather than through what she euphemistically calls 'smelly old transport'.

**Ms DELAHUNTY** (Minister for the Arts) — I thank honourable members for their contributions on and their support for this significant bill, the Film Bill. I am delighted that the honourable members for Mooroolbark, Rodney, Footscray, Brighton, Clayton, Bayswater, Springvale, Doncaster and Bellarine supported it with such intelligence and such obvious knowledge of the film and television industry, and I am heartened by their belief that this will enhance the renaissance of film, television and multimedia in this state after its savage decline under the Kennett government, particularly in film and television. I wish this bill a speedy passage.

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## ACCIDENT COMPENSATION (AMENDMENT) BILL

*Second reading*

**Debate resumed from 1 November; motion of Mr CAMERON (Minister for Workcover).**

**Government amendment circulated by Mr CAMERON (Minister for Workcover) pursuant to sessional orders.**

**Debate adjourned on motion of Mr CLARK (Box Hill).**

**Debate adjourned until later this day.**

## VICTORIAN INSTITUTE OF TEACHING BILL

*Second reading*

**Debate resumed from 21 November; motion of Ms DELAHUNTY (Minister for Education).**

**Government amendments circulated by Ms DELAHUNTY (Minister for Education) pursuant to sessional orders.**

**Debate adjourned on motion of Mr BAILLIEU (Hawthorn).**

**Debate adjourned until later this day.**

## ACCIDENT COMPENSATION (AMENDMENT) BILL

*Second reading*

**Debate resumed from earlier this day; motion of Mr CAMERON (Minister for Workcover).**

**Mr CLARK** (Box Hill) — There are rare moments in my life when I wish that I was a socialist true believer. This is one of those rare moments because if I were a socialist true believer I would say to the house that if ever the working men and women of Victoria wanted proof that the pigs were in the farmhouse and consorting with the farmers then this bill provides them with that proof.

We saw Napoleon out last night consorting and ingratiating himself with the farmers, and now we see this government proceeding with a bill that will send Boxer to the knackery in order to show off to the farmers his alleged skills in farm management. The only potential Snowball in sight has been driven into exile by Napoleon's predecessor. That is what I would say to the house if I were a socialist true believer. I am

surprised that there have not been socialist true believers in the caucus or in the community making those very points to the government about this bill.

However, I am not a true believer in socialism, but I am a believer — and, I hope, a true believer — in many other things. Among them is treating all men, women and children with dignity and respect regardless of their backgrounds and not treating genuine, sincere and suffering people as pawns to be manipulated to win votes and then dumped when no longer needed. This bill fails on that test also. It provides a pittance to seriously injured workers, who may be driven by financial desperation to seek to cash in their entitlements to weekly benefits.

I do not suggest for one minute that this is due to malice. It is probably not even due to a conscious decision to abandon seriously injured workers in difficult financial situations. However, I believe it is due to a lack of commitment towards those workers in the first place and due to a government and a minister who do not properly understand these matters, who do not understand the financial implications of what they are doing and who want to pretend to the world that they are financial sophisticates and end up proceeding with a scheme that is a dangerous sham.

I turn to the details of the bill and the reasons for those consequences. In its opening parts the bill provides a number of regimes under which seriously injured workers may cash in their entitlements to future weekly benefits for lump-sum payments. Such provisions in the Accident Compensation Act are not new; the act contains section 115, which in fairly limited circumstances provides for the potential for these settlements of entitlements to future benefits to be granted. However, at least until around November last year those settlements were provided on a much more generous basis than is currently contained in the key provisions of the bill before the house, and they were largely confined to circumstances where workers wanted to take those entitlements in order to establish an income-earning business.

One of the key provisions in part 2 of this bill is for a scheme that provides a mere pittance to very seriously injured workers who want to cash in their future entitlements to weekly benefits for lump-sum payments. In particular I refer to subdivision 3 of proposed new division 3A of the Accident Compensation Act, which applies in general to injured workers who are either over the age of 55 or have no work capacity and are likely to continue indefinitely to have no current work capacity and who have been receiving weekly payments for at least 104 weeks. Alternatively, it applies to workers of any age who have serious injuries, which means that they have been assessed under the American Medical Association Guides as having a whole-person impairment of 30 per cent or more, and have been receiving weekly payments for at least 104 weeks.

I should add that in that second category, although there is no specific requirement that such workers be likely to continue indefinitely to have no current work capacity, injured workers are only able to continue to receive weekly payments beyond 104 weeks in most if not all circumstances if they are likely to have no future earning capacity. In the vast majority of cases these are workers who are going to be dependent on these weekly payments to receive income support through to age 65 and who are unlikely to be able to work again in future.

What is the scale of lump-sum payments that the government is offering to seriously injured workers in these circumstances? I refer honourable members to the proposed insertion into the act of schedule 1, which sets out such a table. If honourable members turn to that schedule they will see that against the various ages that injured workers may be about to turn at their next birthdays are the corresponding multiples of the weekly income entitlements they are to receive under this scheme. It is proposed that a seriously injured worker who is about to turn 18 at his or her next birthday will be given a lump-sum payment equal to 75 times their weekly entitlement. I should go further, Mr Speaker, and say that it is proposed to be 75 times the after-tax equivalent of their weekly benefit. The weekly benefit will be reduced on account of the pay-as-you-go taxation that would be applicable to it. That is the sum that a seriously injured worker aged from 18 up to 38 on his or her next birthday is proposed to be offered.

The scale then tapers off as a worker's age increases down to a point where, if they are to turn 64 on their next birthday, they will be offered 19 weeks worth of payments — in other words, 19 weeks payments in exchange for giving up the right to receive 52 weeks or more of payments. That is not a particularly fair deal.

If you take the case of a seriously injured worker whose weekly after-tax income as a result of Workcover payments was $500 a week, a worker about to turn 20 at their next birthday would receive the princely sum of $37 500. A worker about to turn 55 at their next birthday would be offered $34 000. In exchange for that they would lose all of their rights to future weekly payments right through until they turned 65.

These are outrageously low amounts to be proposing to pay to injured workers in those circumstances. They are so outrageous that the vast majority of injured workers who may qualify to apply for such a payment are likely to treat it with the contempt it deserves. The likely consequence is that it will be mainly financially desperate workers who are prepared to accept even these outrageously small sums in exchange for surrendering their future rights who proceed with this offer.

The government may and probably will turn around and say, 'It's not something that workers have to take. They are not being forced to take up this offer. It is available to them if they want it, and there is a requirement in the legislation that they need to get financial and legal advice first'.

But to that I would say, Mr Acting Speaker, that there are a lot of situations in the community where the government does not take that sort of attitude. Honourable members know that the Minister for Consumer Affairs has been running a vigorous campaign about pay-day lending schemes. The proprietors of those schemes may well say that such services are there for those who want them and that they are not compelling anyone to take them up if they do not have to. The government, however, does not say, 'Fair enough, they are only there for those who want them'. The government believes that members of the public need to be protected against the potential to be misled or duped into accepting unfair deals.

I go further and say that there is an even more serious onus on a government than on a private sector organisation not to go forward with deals that are exploitative rip-offs. Most people are aware that in a private sector business people are at the end of the day looking to make a profit, so they approach the deals they are offered on that basis and scrutinise them closely. On the other hand, even these days people tend to have a degree of trust in the institutions of government and expect that they are not going to be dudded or ripped off by a government or a government institution.

Nevertheless here we have an outrageous rip-off of seriously injured workers whom the present government has been telling so loudly and for so long that it is here to help. It is rather like a government having a standing offer to buy someone's home worth $200 000 and saying, 'We will pay you $50 000 for it any time you want to come along and sell it to us'. The primary reaction to such an offer would be to treat it with ridicule and contempt. But as I have said, there will always be that small minority who will feel they have no choice. They may have family expenses, including the expense of bringing up their children, and debts to pay, and in their desperation they will accept even that outrageous offer.

The government may also say, 'We cannot be more generous than that, because there is the risk that some people will end up taking our offer in a way that turns them a profit and turns a loss to the Workcover Authority'. My response to that is that those circumstances are extremely limited. As far as I can see there are only two possible circumstances in which someone could take up an offer of this scale from the government and come out in front. The first is if a person is terminally ill and does not have an expectation of receiving payments through to the age of 65, so it may make sense for them to accept 18 months worth of payments. The second possibility is if an injured worker wants to take the chance that, although the best medical examination has concluded that they are not likely to be able to work again at any time in the future, they will be able to return to work and therefore think they might come out in front by taking up the offer.

Those are extremely limited categories of people, and if the government wants to protect itself against even those very slim possibilities it should be looking at differentiating its scheme with other mechanisms to achieve that result rather than making this contemptuous offer to workers at large. The feedback I have received from all those involved in the area is scathing and dismissive of the so-called payout option being put on the table under this legislation. Perhaps the kindest thing being said about it is that it is a waste of space. Other descriptions barely bear repeating.

There are other aspects of the voluntary settlement part of the bill that derive from what the government said in April last year when it reintroduced the so-called common-law regime into the Victorian workers compensation system. I refer to what the government said at the time about the period between 12 November 1997, when the previous government moved over to a guaranteed no-fault compensation scheme, and 20 October 1999, the date to which the government backdated its new so-called common-law scheme. Honourable members will recall that last year the government said, 'We would love to be able to help you, but we cannot afford to reintroduce common law retrospectively back to November 1997. Therefore we have these alternative arrangements. We will make sure we look after you, and we will bring in a package of measures that will do that'. That package was the so-called intensive case review program.

The government published several documents that told the world what it would do to help workers injured between November 1997 and October 1999. One of those sets of promises was contained in the document entitled 'Restoring your common-law rights — going forward', and the other was in a question-and-answer sheet issued by the Workcover Authority, headed 'The intensive case review program'. In the first of those documents the government said the following in relation to those workers:

> The government is committed to helping these workers. It will do so through the establishment of an intensive case review program (ICRP).
>
> The ICRP will ensure that seriously injured workers are getting the maximum financial help to which they are entitled — including an opportunity for those who are seriously injured the chance, where appropriate, to access a lump-sum settlement of their benefit.

The government then went on to list the procedures it would offer, including ensuring that injured workers receive the correct benefit entitlements. It repeated that it would make sure:

> … that seriously injured workers who had been on benefits for over 104 weeks and have a WPI —

which is a whole-person impairment —

> of 30 per cent or more may be eligible where appropriate for a lump sum settlement of their future weekly benefits.

That was elaborated on in the question and answer sheet issued by the Victorian Workcover Authority. The government repeated some of the things to which I have referred and then posed the question, 'Will these seriously injured workers be entitled to any lump sum compensation?', and pointed out that those workers who have a whole-person impairment of at least 10 per cent can qualify for a permanent impairment benefit under the guaranteed, no-fault arrangements put in place by the Kennett government. The amount of that benefit is listed in the documents, ranging from $10 300 up to $309 100. The government then says:

> As well as receiving statutory lump sum benefits, some of these seriously injured workers may have the opportunity to convert their future weekly benefits into a lump sum settlement. To do this the injured worker must have a whole-person impairment of at least 30 per cent and have been on weekly benefits for at least 104 weeks. Other restrictions may apply. This change requires new regulations which are not expected to be finalised and become law until August 2000.

So that is where we stood in April last year. The government was going to look after workers who were injured in the 1997–99 period, and it would look to get the regulations in place to do that by August 2000. But as honourable members may realise, it is now November 2001. It has taken this long for this legislation to come before the house to give effect to the promises the government made in April 2000. In the meantime a lot of injured workers have been holding out, hoping that these arrangements will be put in place because of their need for the money that is being offered.

I have referred in this house previously to the case of Mr Lindsay Wong of Geelong who tells me, and has told the government, that he was assured by his Workcover agent that he would receive a payment by December last year. That payment has not come, and his family has been facing eviction by his bank. His wife phoned my office only yesterday to say that those eviction proceedings are continuing and he still cannot get any assurance from the Victorian Workcover Authority about what payout entitlement he might be eligible to receive. This 18 months delay has not been a painless process. It has not just been a mañana matter where we can simply wait around until things get sorted out. There are people who have been suffering because of their inability to get the payments that were promised back in April last year.

The consequences go further than that. It is not only those looking for a payment under the intensive case review program who have suffered from this delay. There have been others who have been seeking payment from the Victorian Workcover Authority under the existing section 115 of the act who have not been able to get an answer from the Workcover authority. It appears that what has happened is that for some reason in around November last year the Workcover board decided that the previous payout arrangements were too generous and put in place a far more restrictive scheme. It also put on hold all applications that were in the queue until the government worked out what it was going to do and introduced legislation into Parliament.

Again I have raised examples in this house previously of workers who have been waiting all of this time to get a decision from the Workcover authority about what is happening to their applications. Only recently have they been told by the Workcover authority that the payments are being held up pending legislation rather than simply because they were in the paperwork pile in the Victorian Workcover Authority office. I have cited the case of Mr Geoffrey Clague of Bruthen, a married man with three children, who has been seeking these benefits. He was given a payout figure of around $250 000 in September 1999 and has been waiting ever since. Mrs Fiona Chaplin of Lang Lang was told in September last year that her solicitor had received an

offer from Workcover to pay her out of the system. That also has been stuck in the pipeline.

We are entitled to ask: why these delays? The government told the people of Victoria in April last year that it was going to introduce this regime. Subsequently it is saying it has discovered it does not think the current provisions of the act allow these programs, and thus it needs legislation. I have my doubts as to whether that is correct. I cannot see why the regulations could not be made in a way that would have enabled this payout regime to go ahead last year. But even if that were the case, why was that not something the government worked out before it went to the public, before it went to the injured workers of this state in April last year and made these rash promises it could not keep? Even given that it discovered subsequently that it needed legislation, why has it taken 18 months to get this legislation to the Parliament — 18 months in which all of these injured workers have been left in limbo?

Now at last the legislation has made it to the Parliament. Let us look at what it provides. Workers injured between 12 November 1997 and 20 October 1999 who have been on weekly payments for at least 104 weeks, who are likely to be unable to work indefinitely into the future and who have an impairment rating of 30 per cent or more, are being offered a scale based on their age which provides a maximum 427 times the after-tax value of their weekly benefit payment.

There is a second category of injured worker for whom a separate scheme is to be established. That is for workers injured between 31 August 1985 and 1 December 1992 who have been on weekly payments for at least 104 weeks, are likely to be unable to work indefinitely or who have an impairment rating of 30 per cent or more. They are to be made a separate offer, but we still do not know what that offer will be because it is something the government still does not seem to have worked out and is going to promulgate by an order in council when it gets around to doing so.

The third category is the category that I have described previously for workers who have been on weekly payments for at least 104 weeks and are either over 55 years and likely to be unable to work indefinitely, or any age with an impairment assessment of 30 per cent or more. They are the ones who will be offered a scale based on age up to 75 weeks times the after-tax value of their weekly payment.

Then there is a final category in the bill, presumably for those who do not fit into one of the preceding lists, for other workers permitted by the regulations to obtain a lump sum payment. They will be entitled to an amount to be set by order in council. Again it shows that after 18 months of intense study and scrutiny the government has not been able to make up its mind about what it is going to offer to two of the four classes of seriously injured workers to which this bill relates.

Let us have a further look at the fairness and adequacy of these arrangements. One basis for comparing them is to contrast them with the way in which the courts calculate damages for loss of future income under common law legal actions. As I understand the way the system works, there is a discount rate of 6 per cent that is set for these future earnings under the legislation. If you take a seriously injured worker who would be aged 20 at their next birthday, if they were unable to work again for the rest of their working life, they would have 45 years of life in front of them, up to age 65, or about 2346 weeks of weekly income, and at a discount rate of 6 per cent, that would mean they would receive around $810 worth of damages for every one dollar of their after-tax weekly earnings.

Thus, if a person were on earnings of $500 a week after tax, the figure would come out at a lump sum of around $405 000. I understand that that would be subject to adjustments on account of superannuation payments and the possibility that that person would not have been able to continue working until age 65. As I understand it, the legal profession describes that as the vicissitudes of life, for which a 15 per cent discount factor is normally applied.

I should make the point that at common law the damages are calculated on after-tax earnings, even though if the damages were invested by the worker in an income-earning asset that was not an annuity they would pay income tax on the earnings that flow from those damages. The provisions of the bill follow that same principle of paying based on the after-tax value of the weekly benefit, although the legislation does contain a provision to change that to pay on the pre-tax basis if at any time the commonwealth income tax arrangements should change and make that appropriate.

If we compare the way a lump sum would be calculated at common law with the way it is calculated under the intensive case review program (ICRP) scale set out in column 2 of schedule 1 proposed to be inserted by the bill, we can see that in contrast to the approximately $810 worth of damages for every dollar of after-tax weekly earnings payable under the common-law regime, subject to adjustments for superannuation and the vicissitudes of life, under the ICRP scale the payout is to be $416. Thus, a worker on weekly payments of

$500 per week after tax would get $208 000 — barely half of what they would get if the settlement amount were calculated using common-law principles.

There is another way in which you can calculate how this payout operates — that is, you can put it in terms of interest rates. In comparison with the discount or interest rate of 6 per cent that applies to common-law damages, the discount or interest rate that applies under the intensive case review program arrangements is around 12.5 per cent. I should point out that that 12.5 per cent is before adjustment on account of the possibility that a worker would not receive weekly benefits through to age 65 if they did not take the lump sum.

This payout arrangement gets even worse for older workers. If a worker is aged 55 at next birthday, under the common-law rules they would get around $196 000 of payments subject to adjustments for superannuation and the possibility that they would not work through to age 65. Under the intensive case review program scale, they would be paid on a multiple of 139 and so would get a lump sum of $69 500, which is barely one-third as much. Again, subject to the possibility that the worker would not have stayed on weekly benefits until age 65, the implicit interest rate in this situation is an exorbitant 36.5 per cent. The worker is paid a lump sum of less than three years weekly benefits in exchange for giving up 10 years worth of benefits.

In the vast majority of cases that will be a windfall gain to the Victorian Workcover Authority and will go straight towards reducing the bottom line of its accumulated losses, which have become so high over the past two years. The only cases in which the Workcover authority is likely to lose under this deal will be those involving workers who have a life expectation which is seriously reduced below age 65 and workers who prove correct in expecting that they will be able to go back to work at some stage in the not-too-distant future even though they have been assessed as likely to be unable to work indefinitely.

How does the government have the nerve to come to this Parliament, the public and injured workers and try to justify this regime? There are two reasons, one the government has stated on the record and one I think may be implicit. The government has said that it supports the weekly benefits system and it does not want to encourage people in the quest for a lump-sum payout. In fact, the government says that that would be counterproductive. In the second-reading speech on this bill the Minister for Workcover said:

> The government is committed to a system of weekly benefit payments for workers compensation which focuses on creating strong incentives for rehabilitation. The government believes that, for the vast majority of injured workers, an indexed weekly payment is the most appropriate compensation for economic loss.

The irony is that that is exactly the argument put against the so-called common-law regime, a regime which this very government reintroduced. How can the government say to this house and the public that it is introducing such comparatively small benefits under the intensive case review program on the grounds that it supports weekly payments for economic loss and yet reintroduce common law, which pays far higher lump-sum benefits? It is an admission that the opposition's arguments about the impact of common law on rehabilitation and return to work were correct. The government does not want to pay more, because that would impede return to work for workers injured between November 1997 and October 1999, yet it is impeding return to work even more for workers injured after October 1999.

The second justification that may underlie this scale is one that the government has not stated — that is, this regime may still be attractive to some injured workers because they will not be forgoing a weekly income stream completely but will only be forgoing a difference between their Workcover weekly payments and the social security payments they can obtain from the commonwealth if they deploy their lump sum payout in a way which minimises the impact on their social security rights. Therefore, it may be that in some cases an injured worker will be able to gain by taking a lump sum under the ICRP scale and subsequently claiming social security benefits. The Workcover authority will also gain through the massive implicit interest rate of earnings on the future payments that it will no longer be liable to pay.

However, the loser, if that is the way it works, will be the ordinary taxpayer, who will have to pick up the tab for an increased commonwealth social security bill. The government should remember that fact when in future it is minded to start attacking the commonwealth government over alleged cost shifting. If this works out in the way I have foreshadowed, it will not be alleged cost shifting but some very real cost shifting from the state government to the commonwealth government.

That is the situation when we look at the scale of the intensive case review program, but it is certainly not the situation when we look at the scale for a worker being offered a lump-sum payout under the non-intensive case review program scale. As I have said, apart from the terminally ill or the congenital punter, the only people who are likely to take up this offer will be the

financially desperate, and they will take it up on the most disadvantageous terms.

I need to place on record the opposition's view of these lump-sum payouts. The opposition believes the 1997 system provided very good benefits for seriously injured workers. It provided benefits that were far higher than commonly thought because of the tendency of people to undervalue the receipt by them of a future series of weekly payments and to psychologically attach more value to an immediate lump-sum payment. It is the opposition's view that if the government wanted to enhance benefits it should have looked to enhance the guaranteed no-fault benefits, particularly weekly benefits, rather than impose a costly, inequitable, time-consuming and anti-rehabilitation so-called common-law system. It could have got a great deal of improved no-fault benefits for the same cost as the common-law regime.

Even though it may be possible for the state government to shift a lot of the costs to the commonwealth, the opposition holds that view because it cares for seriously injured workers and believes weekly benefits and an active return-to-work regime are the best measures that can be put in place for them.

The opposition also takes the position that because the government has gone around making a whole series of promises to seriously injured workers it needs to deliver on those promises. The way the government has delayed the intensive case review program scale has been disgraceful. In relation to the non-intensive case review program scale, the government needs to seriously look at the ludicrous regime it is proposing to put in place. It will be treated as a joke by most injured workers and their advisers, but it will exploit that small minority of seriously injured workers who are desperate enough to take up what is being offered by it. We call on the government to revamp this second set of arrangements either in this bill or in another bill brought urgently before this Parliament in the next sittings.

I turn now to another crucial aspect of this bill — that is, the aspect that relates to premium reviews. That aspect is set out in part 5, which amends the Accident Compensation (Workcover Insurance) Act 1993. It is worth outlining briefly to the house how the premium-setting regime works under Workcover. There is a system of industry classifications to which each employer is assigned. The industry classification to which the employer is assigned is the one to which it is believed the nature of that employer's business or activity most closely relates. The premium rate that is charged to the employer is a shandy, or mixture, of the industry rate to which that employer is assigned and a factor based on the claims experience of that particular employer.

For small employers that shandy, or mixture, is weighted in a way that attaches the greater bulk to the industry classification and the premium rate that is assigned to that industry classification and a smaller component to the employer's claims experience. It is the opposite for a large employer: the bulk of the weighting comes from the employer's claims experience and a small component comes from the industry rating. The logic of that is that the larger the employer the more one can believe as a matter of statistics that the employer's own claims experience is an accurate reflection of the risk that exists in the workplace concerned.

The employer is given its industry rating by it providing information to its insurer or agent, or in the case of employers who have been in business for many years they will have given an estimate to an organisation called the Levy Collection Agency under the regime that applied prior to the current Workcover legislation. On the basis of that information a judgment is made as to which industry classification the employer's activity most closely relates to, and that is the rating assigned to it. I understand that in some cases further inquiries have been made by the insurer or agent or the Levy Collection Agency before a decision was made. Once the industry classification has been assigned to an employer it will remain as such unless a change is sought by the employer, the insurer or agent or the Victorian Workcover Authority (VWA).

To back this regime up the Workcover authority has a program of auditing employers. A panel of auditors is assigned to look through the books of an employer to make sure that all aspects of the premium calculation have been correctly determined, including the industry classification to which the employer is assigned. It appears from anecdotal evidence that the VWA audit program has become a lot more vigorous in recent years. That may simply be because of a policy decision made in abstract by the VWA or it may be driven by an increasingly desperate need for cash under the burden of the reignition of the compensation culture that has been triggered by the present government. Under this audit program incentive payments are apparently paid to private sector auditors based on the amount of underpayment of premiums they are able to identify in the course of their audits. The audit program is becoming the subject of ever-increasing criticism by employers, who call the auditors bounty hunters or similar descriptions.

Two court cases have given rise to the provisions contained in part 5 of the bill. The first is the *Victorian Workcover Authority v. I. R. Cootes Pty Ltd* (2001) VSCA 85. This was a case in which an employer had been reclassified under one industry classification — namely, petroleum products wholesaler — and subsequently it was determined by the Victorian Workcover Authority following an audit that it be classified under long-distance intrastate freight transport. The company was billed not only for an adjustment of premium in respect of the year in which the audit took place but also for adjustment in respect of prior years. It paid those prior year adjustments under protest and then took the case to the County Court, where the judge held that it had been wrongly reclassified and that even if it had been rightly reclassified Workcover was not entitled to obtain premium adjustments in respect of prior years. Workcover then took that case to appeal, and the Court of Appeal unanimously held that the employer was entitled to be refunded the adjustments for prior year premiums that it had paid under protest, although two out of the three judges held that the change of classification was correct and that therefore the insurer was entitled to retain the adjusted payment for the current year of insurance.

The second case — the *Victorian Workcover Authority v. SBA Foods Ltd* (2001) VSCA 276 — was tried by a single judge of the Supreme Court, Mr Justice Gillard, and was decided on 10 August 2001. This case related to the transmission of business from a vendor of a business to the purchaser of the business and was about whether the premium rate which should be applicable should be based on the one that applied to the vendor of the business or whether the premium rate should be as it would be if the purchaser were starting afresh and therefore should start at the industry rate. Mr Justice Gillard held that the provisions of the Accident Compensation (Workcover Insurance) Act operated in a way that allowed arrears of premiums to be recouped. He held that you had to read the provisions of the act and the provisions of the various premium orders separately in relation to each premium year, that they did not expire once the premium year or the policy year was over and that therefore you could collect arrears of premiums.

This has thrown the legal position and the issuing of adjustments based on the audit program into some disarray. I understand that no adjustments have been issued by the Workcover authority since the Cootes decision was handed down and that there is a High Court appeal pending. It is likely to take some time until that matter is decided, assuming — and I do not know — that the High Court will grant leave for the appeal to proceed. So the government has chosen to come to the house to seek agreement to legislation that will give the Victorian Workcover Authority, with retrospective effect, the right to collect prior years premium adjustments.

The assessment of the legal position is in some senses a secondary issue, but I make the observation that a large part of the Cootes decision was based around provisions that applied when there were separate Workcover insurers and where there was a back-to-back arrangement between the insurers and the Workcover authority, whereas in 1988 what are commonly referred to as Workcover insurers ceased to be insurers and became agents of the Victorian Workcover Authority. A number of the provisions referred to in the Cootes case have subsequently been removed from the act. My own view is that they may lead to a different conclusion based simply on the application of section 17(1) of the Accident Compensation (Workcover Insurance) Act as it now stands.

However, the question is what the best way forward is and what the house thinks about the scheme the government is putting forward in the bill. There are two aspects to assessing this part of the legislation. The first is to ask what is good and appropriate policy as to the way classifications are assigned to employers and about the way premiums are calculated generally.

In favour of the current system it can be argued that it is a relatively low-cost way of assigning classifications to employers. It is a classification that is done by an agent or by Workcover itself, usually based on information provided in a form submitted by the employer. The minister said in his second-reading speech that this is a system of self-assessment, but that is not completely correct. While the employer provides the information, the decision on the assessment and classification is done by the agent or by the Victorian Workcover Authority. Probably in the vast majority of cases the system works quite well and there is no dispute. Everybody accepts the correctness of the classification, which is then backed up by an audit program that is designed to ensure accuracy and to deter misstatements by employers.

If you have that regime you need to have going along with it rules that allow for adjustments of prior years premiums in favour of both the employer and the Workcover authority. If you do not do that both the employers and Workcover will need to put an enormous amount of effort into their audit program and into seeking reviews, appeals and the examination of classifications, because if that is not done in one year

then the parties will lose their rights in relation to that year. It can also be said in favour of this regime that in many respects it is similar to the regime in the Taxation Administration Act, which for a range of taxes allows both the State Revenue Office and the taxpayer to obtain recovery either way for up to three years into the past, if there is a reassessment. The bill before us provides for a period of four years prior recovery.

That is the case in favour of the regime. Against that it is argued vigorously by a number of employers that it is too uncertain. Employers make their pricing decisions based on one premium rate. They issue their quotes, they determine the bill-out rates to their clients, et cetera, and when the rate is changed later they have no opportunity to factor that into their pricing or quoting decisions. It is too late to get it back from their customer or client; it is a direct loss going to the bottom line. Furthermore, it renders employers liable to subjective decision making by the agents or the Workcover authority, or by a simple change of policy. A decision that is made and communicated to the employer by an agent one day may be overturned a few months later by the Workcover authority or as a result of an audit or a drive to raise extra cash.

The adjustments that are involved are not necessarily trivial. One numerical example provided to me by someone who specialises in this area shows that if an employer is reclassified from a 2 per cent industry rate to a 5 per cent rate, and if they have a higher claims experience they could end up going from a 4.97 per cent premium rate to a 12.44 per cent premium rate.

The concern is particularly strong in relation to policy-based decisions to change classifications. An example that has been given to me relates to in-house companies that provide support services to offices of lawyers. Some honourable members will know that often law firms have a typing pool, some support staff and other non-legal staff employed by a separate company that then sells the services of those people to the law firm itself.

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

**Debate interrupted pursuant to sessional orders.**

## QUESTIONS WITHOUT NOTICE

### Urban and Regional Land Corporation: managing director

**Mr BAILLIEU** (Hawthorn) — Will the Premier advise the house what qualifications Mr Jim Reeves has to be the managing director of the Urban and Regional Land Corporation?

**Mr BRACKS** (Premier) — I thank the shadow minister for his question. Jim Reeves went through an exhaustive selection process. He was selected as the best person for the job, and I refer the shadow minister to key developers such as Mirvac. He should ask them, because they think it is an outstanding choice. Mr Reeves wants to come here because the Victorian building industry is going so well and because development is going so well. Why wouldn't he, when we have such a vibrant building industry! He is a great outcome for this state, and all he needs to do — —

**Mr Baillieu** — On a point of order, Mr Speaker, my question goes to the issue of Mr Reeves's qualifications

**The SPEAKER** — Order! The Chair is not in a position to direct a minister to answer a question in a particular way. I am of the opinion that the Premier was relevant in his answer, and I will continue to hear him.

**Mr BRACKS** — In addition, of course his skills will be very useful to us in Victoria. I can understand why he wants to come here. Part of his eminent qualifications for this job is his work on SEQ 2001, which was the development between the New South Wales–Queensland border and Brisbane, at that time one of the biggest growth areas in the state. He managed, planned and developed that area. As well, he has overseen significant developments in the city of Brisbane. We welcome him. He will be a great addition to the state.

### Ovine Johne's disease

**Mr STEGGALL** (Swan Hill) — My question is to the Minister for Agriculture. Given that the minister received his bovine Johne's disease working group report in November last year, will he advise the house when he intends to implement it?

**Mr HAMILTON** (Minister for Agriculture) — I thank the honourable member for his question. We could have a succinct answer, which this will be, of course. The nature of ovine Johne's disease in this state, and throughout other states, has been under significant examination by the national ovine Johne's working party.

Within the last week that party has reported its national findings and it would have been improper and inappropriate for the Victorian government to pre-empt the findings of a national working party on this important disease. The government has been very closely monitoring the developments at the national

level. As I am sure the honourable member for Swan Hill would understand, there is no simple catch-all or one solution to this problem. The Victorian government will be making a recommendation on its approach to dealing with this disease and will be announcing that before the end of this year.

## Manufacturing: fast trains

**Mr LIM** (Clayton) — Will the Premier inform the house of the boost to Victorian manufacturing secured through a contract to build new fast trains for Victorian fast rail projects?

**Mr BRACKS** (Premier) — I thank the honourable member for Clayton for his question. Today with the Minister for Transport, the Minister for Manufacturing Industry and other key members of Parliament I had much pleasure to be with National Express and Bombardier from Dandenong to endorse an agreement for a contract which has been signed for the delivery of 29 fast rail speed trains to go from Melbourne to Ballarat, Bendigo, the Latrobe Valley and Geelong.

The 29 trains will travel at speeds of up to 160 kilometres an hour. New investment of $410 million in the Victorian economy will create 860 new jobs in Victoria. Importantly, as a distinctive policy between this government and the former government, it required local content to be employed for this contract so those jobs could be created in Dandenong.

I am sure the honourable members for Clayton, Dandenong, Dandenong North and others will be pleased to know that 160 of the 860 new jobs will be manufacturing jobs in Dandenong itself, which is very good news! It has only been achieved as a result of the new local content rules which the government has applied. It has only been achieved because the government wanted an enhanced rolling stock requiring an investment from the state of $55 million out of the total $550 million program to upgrade the trains to travel at 160 kilometres per hour.

This is an important step in delivering fast trains to regional centres. It is not a policy supported by the other side of the house: it is opposed by the opposition parties. If the opposition parties gain government again they will not be committed to the project. The Labor Party will assist the Leader of the National Party and the opposition by making sure that their policies are well known in regional centres and in country Victoria. The rail policy is known somewhat, but we will assist the National Party and the opposition by making sure it is well known. Country Victorians want to know that the National Party's new policy, the new report it commissioned — —

**Mr Ryan** — On a point of order, Mr Speaker, on the question of debating, while I appreciate the free publicity, the question is unrelated to the issues to which the Premier is now referring and I ask you to have him return to the question he was asked.

**The SPEAKER** — Order! I ask the Premier to come back to answering the question and to cease debating.

**Mr BRACKS** — It means that 29 new fast trains supplied as rolling stock will be built in Victoria under the government's local content policy. There will be 860 new jobs and $410 million in new investment in the Victorian economy. Contrast that to the opposition's policy which was to run down the country rail system. It is in the National Party leader's report. He opposes standardisation; he opposes fast rail; he wants to run down country rail.

**The SPEAKER** — Order! I have asked the Premier to come back to answering the question. Has he concluded his answer?

**Mr BRACKS** — Yes.

## Urban and Regional Land Corporation: managing director

**Mr BAILLIEU** (Hawthorn) — Will the Premier inform the house whether he sought to influence the selection of Mr Jim Reeves as managing director of the Urban and Regional Land Corporation?

**Mr BRACKS** (Premier) — As I understand it, the interview process was conducted in two stages, one by the board and one by key department heads. It was a proper and appropriate process. The good news is that we have selected a fantastic candidate for the job. He is someone who wants to come to Victoria and bring his expertise. Why would you not come to Victoria? It is the place to be!

## Rail: regional links

**Ms ALLEN** (Benalla) — Will the Minister for Transport inform the house of the impact on regional and rural Victoria of the deliberate running down of country rail services as recommended to the government by the ACIL report and the National Party?

**Mr BATCHELOR** (Minister for Transport) — It is ironic that on a day when we are making such fantastic announcements about the delivery of new rolling stock

that the real truth of the ACIL report, which the National Party commissioned, is beginning to come out. Honourable members would be aware that the National Party report has put forward a number of proposals for Victoria's rail system, not just the abandonment of the fast rail project — the National Party stands alone in opposing that — but a whole raft of other initiatives that it wants to see implemented.

Surprisingly the National Party report shows that the National Party is opposed to the standardisation of our intrastate freight network — absolutely outstanding! — and the report also calls on the government to deliberately run down some of the country rail lines. This is unbelievable! The report — —

**Mr Leigh** — On a point of order, Mr Speaker, question time is about the questioning of the activities of government and not the other way around. After all, this is the state secretary of the Labor Party under the Cain government — —

**The SPEAKER** — Order! The honourable member for Mordialloc well knows that that is not a point of order.

**Mr BATCHELOR** — It is of great concern to the government what the impact of this National Party report would be if it were ever implemented. Even the suggestions that are contained in it undermine the confidence in our rail network, indeed in rural Victoria. Here is the National Party report. You can see for yourself, Honourable Speaker, that it says 'others deliberately run down' when referring to alternative options for use of this money. The National Party wants to spend the money on other things and deliberately run down the rail network.

**Mr Ryan** — On a point of order, Mr Speaker, on the question of debating the point, the standards of this house require that quotes have to be made in a complete sense rather than selectively. I invite the minister to read the whole of the paragraph from which he is quoting rather than the part that he has selected.

**The SPEAKER** — Order! The Leader of the National Party has raised a point of order on quoting to the house. Quoting to the house is permitted provided the person who is quoting identifies the document they are quoting from. I am of the opinion that the minister has done that.

**Mr BATCHELOR** — Thank you, Honourable Speaker. If it would assist the National Party and the Liberal Party I will seek leave now to have this ACIL document incorporated in *Hansard* so everybody — —

**The SPEAKER** — Order! That has not been cleared with the Speaker's office and is clearly inappropriate.

**Mr BATCHELOR** — I will take it up with you at a later date, Honourable Speaker. This report ought to be in *Hansard* for all to see. We will see if the National Party and the Liberal Party oppose its being incorporated in *Hansard* because we want to know all the answers to the many questions that arise from this report. We want to know if they are going to deliberately run down rail lines what the consequence of that will be — that will be that train lines are going to be closed under the National Party report.

**Dr Napthine** — On a point of order, Mr Speaker, chapter 31 of *Rulings from the Chair — 1920–2000*, headed 'Questions to ministers and members', provides guidelines which make it clear that questions must relate to matters of government administration. I put it to you, Mr Speaker, that this question relates to a report commissioned by the National Party and not to matters of government administration. I therefore ask you to rule the question out of order and ask the Minister for Transport to address issues of government administration.

**The SPEAKER** — Order! The Chair allowed this question because it sought information that was contained in the report, which was a recommendation to government. However, that was the question that was posed to the minister. I ask the minister to come back to answering that question.

**Mr BATCHELOR** — This report has been recommended to us by the Leader of the National Party, and we, in the government, are concerned about its implications. If these proposals are implemented by any government in Victoria we believe that the people of Victoria, and certainly the Parliament of Victoria, ought to understand what the consequences of them will be. If you deliberately run down rail lines that will lead to the closure of rail services, so what is going to happen to the train services to Swan Hill?

Under this government we will keep the train services to Swan Hill, Echuca, Warrnambool, Sale, and Shepparton open, but if you were to implement this report you would see the destruction of those rail services. We want to know what the National Party is going to do about these rail services right across country Victoria. It is worth observing that Jeff Kennett is still the guiding light for National Party policy. It wants to close down rail lines — —

**The SPEAKER** — Order! I am of the opinion that the minister is now debating the question. I ask him to immediately come back to answering and to conclude his answer, because he is now not being succinct.

**Mr BATCHELOR** — Under the policies of the Bracks government we are committed to upgrading rail, rolling stock and infrastructure. If this sort of policy were implemented, tens of thousands of country Victorians who depend on comfortable, accessible public transport would be denied access. The government is looking after the farmers, the businessmen, the rural communities and the agricultural producers. It wants country Victoria to get its products to market. You have to have transport links and connections, a rail network and freight connections, and you have to have those connections to the port.

That is what is at jeopardy here. That is what is so horrendous and dangerous about the National Party's recommendations. We have been asked on a number of occasions by the Leader of the National Party to implement these report recommendations, but we are not going to. We are going to stick up for regional Victoria and deliver improvements to country Victoria, in keeping with the big announcement today of the regional fast rail service on which millions of dollars is going to be spent for the benefit of Victoria. We will ignore the rubbish from the National Party.

## Aged care: HACC funding

**Ms DAVIES** (Gippsland West) — My question is for the Minister for Aged Care. To provide even basic levels of home and community care (HACC) services, in some cases offering less than an hour a week of care when 5 hours a week is recommended, Bass Coast Shire Council is having to top up state and federal government funding for around 47 per cent of its home and community care program budget.

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to come to order; the Chair cannot hear the question. The honourable member, coming to her question.

**Ms DAVIES** — South Gippsland Shire Council tops up to around 30 per cent of its HACC program budget. I ask the minister whether she will start factoring in carers' travel costs — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The house is not permitting the honourable member for Gippsland West to ask her question. The honourable member for Gippsland West, asking her question.

**Ms DAVIES** — Will the minister factor in those costs and ensure adequate funding for these vital services for frail, aged and disabled people in our community?

**Ms PIKE** (Minister for Aged Care) — I thank the honourable member for her question and particularly for her interest in the needs of frail older people in her community.

*Honourable members interjecting.*

**Ms Davies** — On a point of order, I ask for your assistance, Mr Speaker. I cannot hear the minister, and I am interested in her answer.

**The SPEAKER** — Order! I have asked the house to quieten down a number of times already.

**Ms PIKE** — At a recent Wonthaggi community cabinet I met with representatives from the Shire of Bass Coast and heard and shared their concerns about the ageing population in their community and the ongoing demand for aged care services. It is true that since the mid-90s Bass Coast and other shires in that area, and in fact shires right across Victoria, have been increasing their contribution to services for older people and people with disabilities. The government is acutely aware of this demand and of the fact that local government is having to ration its resources in some cases and make difficult choices about the allocation of those resources.

In the past two years the government has gone over and above its responsibility as a state government in matching commonwealth funds. It has contributed an additional $40 million worth of unmatched funds. Unfortunately when I have asked the commonwealth government to match that additional, state-only money it has consistently refused to do so. These additional funds have expanded home and community care (HACC) services for older people in the honourable member's electorate, particularly in adult day care and other services.

At a recent meeting with mayors from right across the state, at which mayors from the honourable member's electorate were present, a joint communiqué was developed between the Bracks government and local government because we share genuine concerns about home and community care. Two areas that state and local government have in common were identified in that communiqué. The first was the recognition that a shortage of 5000 residential aged care beds is putting

enormous pressure on home and community care. The Gippsland area is one of the most underbedded regions in Victoria.

The second area we shared was about the two major policy decisions that were taken by the Howard government. The first of those was the decision to claw back HACC growth funding to Victoria. Victoria receives less growth funding than any other state in Australia, and anybody who is concerned about HACC funding, about listening to their local community and about hearing what municipalities are saying will add their voice to ours to demonstrate to the federal government that this policy decision is totally inappropriate.

**An honourable member** interjected.

**Ms PIKE** — The opposition indicates that the figures are rubbery, but the reality is that the national growth in home and community care is over 6 per cent yet Victoria receives less than 4 per cent. So if those figures are rubbery then I would welcome some input from the opposition — and in particular for it to use its considerable influence with Canberra to ensure that Victoria gets a fair share of that growth.

The second major policy decision is also of grave concern and also has an impact on the provision of home and community care, and that is the decision by the commonwealth to stop indexing funding in line with real movements in wages and other costs. We have an absolute crisis in home and community care staffing. We acknowledge that there are significant challenges for home and community care and that local government is picking up the lion's share of these costs. We are doing everything we can to ensure that Canberra looks again at its policies and stops discriminating against Victoria.

In the meantime the Bracks government has shown its absolute commitment by providing additional, unmatched funding out of the state's budget to begin to address this very serious and challenging issue.

## Urban and Regional Land Corporation: managing director

**Dr NAPTHINE** (Leader of the Opposition) — I direct my question to the Premier. Given that the Urban and Regional Land Corporation appointed international headhunters Heidrick and Struggles to help find a new managing director, that their recommendation to the board, supported by the board's employment subcommittee, was for Mr Mark Henesey-Smith, not Mr Jim Reeves, and that the board adopted this recommendation and advised the government of its decision, can the Premier advise the house how his best mate, Mr Jim Reeves, has got this $300 000 job when the board and independent headhunters recommended somebody else?

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of the Opposition has asked his question. Opposition members will cease interjecting!

**Mr Perton** — Johnny Thwaites should be — —

**The SPEAKER** — Order! The honourable member for Doncaster!

**Mr BRACKS** (Premier) — That's interesting! I must have tonnes and tonnes of best mates, as distinct from the Leader of the Opposition, I suspect.

**Dr Napthine** interjected.

**The SPEAKER** — Order! The Leader of the Opposition should cease interjecting!

**Mr BRACKS** — I refer in particular to the media release of the Urban and Regional Land Corporation on 19 October. This appointment was announced — —

**An Honourable Member** — That was a month ago!

**Mr BRACKS** — I have just realised that this was announced on 19 October. What is it now? A month later? The chair of the Urban and Regional Land Corporation said:

> Mr Reeves is a very competent, talented and successful operator who has played a very significant role in creating a sense of cohesion, developing strategy and delivering outcomes for the City of Brisbane.

I agree wholeheartedly with the chairman, Mr Speaker. Jim Reeves will be an outstanding chief executive of this board. He will make a great contribution.

## Superannuation: state scheme entitlements

**Mr MAXFIELD** (Narracan) — I ask the Minister for Finance to inform the house of the impact on Victoria's finances of the government's reforms on superannuation?

**Ms KOSKY** (Minister for Finance) — I thank the honourable member for his question about what is a fantastic result for the state of Victoria. As many honourable members will remember, legislation for the beneficiary choice program went through this house

late last year and has now been concluded. It has been an outstanding success, with more than $2 billion having been paid to Victorian public sector superannuants under Australia's largest ever pension conversion and transfer program.

It has been a win-win outcome for Victoria and a win for approximately 28 000 members of the state's public sector superannuation schemes who have taken up the option, either as pensioners or as deferred beneficiaries, to take up to 100 per cent of their superannuation entitlements. So more than $2 billion has been provided to those 28 000 members in the scheme.

The beneficiary choice program (BCP) gave state superannuants a one-off opportunity to convert all or half of their pension to a lump sum. Prior to the BCP program pensioners could only take up to 50 per cent of their entitlement as a lump sum, having to take the rest as a pension. I am pleased to announce that 35 per cent of pensioners took up the offer resulting in a government payout of over $2 billion, including one-third of the deferred beneficiaries who took up the opportunity to roll over their lump sum or their deferred benefit into a superannuation fund of their choice. It has been a fantastic response. It is also a fantastic result for government and for the state's unfunded superannuation liability — $500 million being wiped off the state's unfunded superannuation liability over a two-year period, with $20 million ongoing off the bottom line.

In addition, it has been a win for the Victorian economy. Victoria retained 90 per cent of those funds, which were going to pensioners resident in Victoria or to corporations active in Victoria. It is worth noting the top five areas to which payments were made: Ballarat received $27 million; Bendigo, $24 million; Frankston, $21 million; Ararat, $21 million; and Glen Waverley, $17 million. Those funds will go to Victorians, but they will also be invested within the Victorian economy; so it is a win for the superannuants, a win for the unfunded superannuation liability and a win for the Victorian economy.

I wish to place on record my thanks to the Government Superannuation Office (GSO), which has done an outstanding job in making sure that what is a very difficult financial and logistical exercise has been an absolute success. The government had anticipated about a 20 per cent take-up rate on the basis of what had happened in other states, but we have had a 35 per cent take-up by pensioners and by almost one-third of deferred beneficiaries. What an outstanding success for everyone concerned! I place on record my thanks to the GSO and to all who participated in the scheme. It has been an outstanding result.

## Urban and Regional Land Corporation: managing director

**Dr NAPTHINE** (Leader of the Opposition) — I refer the Premier to the fact that Ms Angie Dickschen, a former board member of the Urban and Regional Land Corporation and one of two members of the board's subcommittee involved in the search for a new managing director, has recently resigned. Is it a fact that Ms Dickschen resigned in absolute disgust over the government's blatant political interference in the appointment of the Premier's best mate, Jim Reeves, to the job ahead of the board's independently selected and preferred candidate?

**Mr BRACKS** (Premier) — I again refer to 19 October and to the chairman of the Urban and Regional Land Corporation, who goes on to talk about the role in south-east Queensland's regional planning project, SEQ 2001, of — —

**Dr Napthine** — On a point of order, Mr Speaker, the issue is related to relevance. The question related to a resignation and the reasons for the resignation of a board member. I ask that you bring the Premier back to answering that question.

**The SPEAKER** — Order! I do not uphold the point of order. The Premier was relevant and I will continue to hear him.

**Mr BRACKS** — As I have indicated, the position has been welcomed by the industry and by the chair of the board, and it is an outstanding appointment done absolutely according to due process and the act.

## Film and television: production

**Mr MILDENHALL** (Footscray) — I ask the Minister for the Arts to inform the house of the latest blockbuster film to be filmed in Victoria as a result of the Bracks government's campaign to make Victoria a major centre for film and television production.

**Ms DELAHUNTY** (Minister for the Arts) — As honourable members would be aware from the televising of the Australian Film Institute awards in the magnificent Royal Exhibition Building last Friday night, the Bracks government has brought the AFI awards back home to Victoria. And not only did we bring them back home to Victoria, Victorian productions picked up 13 AFI awards!

There is no doubt that production in Victoria is booming. It has been estimated that the financial benefit of the productions being shot in Victoria for the rest of this financial year is $80 million — and that is just so far. There is also another $80 million in benefits from productions to be shot in the next six months.

We have had some great films, haven't we — sensational films like *The Castle*, *The Bank* and *The Dish* — and we are now shooting *The Dork*! Now I am delighted to announce a major new film about to be shot in Victoria. A film about Ned Kelly, which will be one of the largest Australian productions ever in this country, will be shot in Melbourne and regional Victoria from April next year. This is the first feature film made by the United Kingdom based Working Titles Australian subsidiary, and it is based on the life of that sensational Aussie icon character Ned Kelly. I can hear the noise from the opposition. Probably they would like to audition for parts as members of the Kelly gang. I do not think that is a good idea because the members of the Kelly gang were loyal to their leader! This is a great coup for Victoria. It follows the Premier meeting with the producers in Los Angeles last June. He met with Tim White in Los Angeles, and we can see that the Premier swung the deal.

As far as film and television is concerned, this government can deliver, unlike the decline in film and television production which we saw plummet under the last government. With the investment that the Bracks government is making, we can see the renaissance in film and television in this state.

## ACCIDENT COMPENSATION (AMENDMENT) BILL

*Second reading*

**Debate resumed.**

**Mr CLARK** (Box Hill) — Before the luncheon break I was giving an example of the classification of legal services provided to law firms by specialist companies and the way they apparently used to be classified as legal services bearing an industry rate of 0.59 per cent and subsequently have been classified generically as business services not elsewhere classified at 1.26 per cent. Many employers believe this sort of policy change is most unfair when it is applied with retrospective effect, and that is a concern they have about the way the current system works.

There may well be opportunities for the premium system to do better than it does at present, even though I think the present system can work reasonably well if treated fairly by all concerned and if not pushed to the limit by aggressive revenue-raising strategies by the Victorian Workcover Authority. However, many employers would like to have far greater certainty, no retrospective changes and no split between initial and confirmed premium rates. They want it to be like private sector insurance — you get a quote, you haggle over the quote, you decide the premium and you write the cheque, subject only to adjustment for payroll levels.

If there is claims experience adjustment they argue that should be reflected in next year's premium, not this year's, and certainly without backdating of adjustment except in cases of fraud or failure to make proper disclosure. They would like to see an appeal venue if there is a dispute about the classification, but once that appeal has been resolved there should be a fixed premium rate. Employers, at least according to one employer group, are probably willing to accept the fact that there would be no retrospective adjustment able to operate in their favour if this degree of certainty were available.

There is probably a lot to be said for that approach, but the question is whether it is practicable, both in terms of the aggregate revenue raising of the Workcover authority and the assignment of classifications to individual employers. We certainly do not want a massive annual bargaining session having to be engaged in by large numbers of employers. However, if this can be avoided, for example, by having a good faith disclosure obligation for employers to reveal changes in their individual circumstances from year to year, the system may well be able to work.

A lot of the dissatisfaction of employers with the current premium system has come from the government's bungled handling of premium setting over the past two years leading to a panic reaction of frozen premium rates this year with no opportunity for employers to earn rewards for improved safety. An example has been referred to me where an employer has successfully argued for their classification to be revised downwards and they have been told, 'Yes, that has happened, but you cannot get any adjustment in your premium rate because of the government's freeze'. I also understand the Workcover authority is in disarray at the moment as to whether it calculates the freeze by reference to initial premiums or confirmed premiums.

This comes on top of the bungled premium review program which initially was to lead to a revised premium system for this year but the government could not get it sorted out in time, so we have had this freeze instead and premiums opened up to a far wider review.

Hopefully that may all work out for the best in the end because step by step the government has been dragged kicking and screaming to agree that a wide range of issues can be considered in the premium review, including in the minister's response to the Economic Development Committee report the setting of industry rates, pricing signals for small employers and the so-called F factors.

Certainly what should now happen is the government should take on board all the issues that have arisen out of the Cootes case, including the model for a far more certain premium setting regime which a number of employers are asking for, and make sure this is all considered thoroughly in the current review. I can assure the house that if the current premium review and government do not fix the situation, an incoming Liberal government will do the job properly and make sure that any beneficial and feasible reforms are implemented.

In addition to the future policy, there is the question of what is going to happen to those employers who want to claim the benefit of the Cootes ruling but will lose that possibility retrospectively as a result of this bill. Again, this issue has been bungled by the government with only part of the intended regime included by the minister in his second-reading speech. However, I understand the minister has now agreed to put the position on record, which is highly desirable, so that what has been said to the opposition and to employer groups privately can be known to the world.

As I understand the situation, there are a number of employers who have been billed for recalculation of premiums for prior policy years who have either refused to pay and have objected or appealed against being required to be paid or else have paid under protest. Decisions on these appeals or objections have been held in abeyance pending the legislation. However, my understanding is the intention is that if the legislation is passed these cases will be decided under the Cootes principles in that employers will not be required to pay for recalculated premiums or penalties for prior policy years.

Furthermore, I understand that no new demands for payment of recalculated premiums for prior policy years have been issued to employers since the Cootes decision, nor will any be issued pending the legislation. Where employers have been audited and assessed to have their premiums recalculated for prior years the issue of a demand for payment has been held in abeyance pending the legislation. I understand it is the government's intention that those employers will have a reasonable opportunity to seek the benefit of the moratorium and, if they do so, they will not be charged for recalculations of premiums or penalties for prior years.

I also understand that any employers audited between now and the expiry of the moratorium period will have a reasonable opportunity to seek the benefit of the moratorium and will not be billed for prior years premium recalculations or penalties before having such reasonable opportunity. I also believe it is important for the government to put on record the fact that there will be a right of employers to obtain refunds of premiums for prior policy years where the recalculation runs in the employer's favour. At the moment there is a common belief among many employers that that right does not exist despite strenuous arguments by the Workcover authority to the contrary. I certainly hope the minister can confirm all of those things and also clarify that if reclassification is to take place it will only be factored into the system from the start of the current year in respect of those employers I have referred to previously rather than being factored in for prior years and manifesting itself in the premium in the current year.

I also understand that given the current premium rate freeze for employers with payrolls under $1 million, if there is a change in classification in their current year as a result of audit or as a result of a review sought under the moratorium, it will not affect the premium rate for better or worse until the freeze ends. Employers have also argued that the Victorian Workcover Authority should adopt a policy of not charging employers for prior year premiums where reclassification comes about due to a policy change such as the reclassification of legal support services that I referred to earlier, and it would be highly beneficial if the government or the Workcover authority were to agree to a policy such as this.

I should mention in concluding that there are a number of other sundry provisions in the legislation, including a provision requiring injured workers to seek as far as possible all impairment or table of maims benefits in one application unless an injury is manifest at that time or has not stabilised and they disclose it in writing to the Workcover authority.

There are also provisions for the extension of the time lines for lodging certain applications and issuing court proceedings under the legislation. These are intended to deal with cases of genuine hardship, such as when there has been a death in the family and the injured worker has not been able to give instructions to lawyers about issuing proceedings. The government needs to be careful that through attrition less and less meritorious

cases get the right to issue out of time under this provision.

Other miscellaneous provisions include the transfer of the jurisdiction for mine safety from the Department of Natural Resources and Environment to Workcover. I understand from my colleague the shadow minister that the Victorian Chamber of Mines was not informed of that move until it was contacted by the opposition. Nonetheless, it seems to be an acceptable move. The bill also contains regulation-making powers for dangerous goods.

In conclusion, I look forward to the Minister for Workcover confirming on the record the various assurances about retrospectivity which have been given to employer organisations and the opposition. I also urge the minister to reconsider the grossly unjust scale for the settlement of lump sum benefits for seriously injured workers perpetrated by this bill.

**Mr RYAN** (Leader of the National Party) — To put not too fine a point on it, this is a bill which has some complexity about it. I am the first to say that it takes a while to work your way through and get your head around what is contemplated by the legislation. I thank the government for the briefings and the Minister for Workcover for participating in some of them. The end result is that although the National Party has some misgivings about some elements of the legislation, which I will refer to in a moment, it will not oppose the bill.

The debate offers the opportunity to deal with a few of the urban myths which have grown up about this legislation and the area of law it encapsulates. I refer particularly to the notion of common-law rights. I will use as my starting point what is contained on page 2 of the second-reading speech, where it says:

> First, the government honours its April 2000 commitment to make voluntary settlements available to certain workers injured during the non-common-law period. These workers are those who were seriously injured between 12 November 1997, when access to common law was removed by the Kennett government, and 19 October, after which access was restored by this government under the Accident Compensation (Common Law and Benefits) Act 2000.

The truth is that the words ‘remaining common-law rights’ should be inserted into the second-reading speech. The further truth is that back in 1985, under the then Labor government of Premier John Cain, the first moves were made in this Parliament to restrict common-law rights to injured workers — and, a little later, to people who were injured in motor vehicle accidents. The bill is another aspect of the evolving legislation introduced into this place in the years since 1985, when John Cain made a start and common-law rights were reduced.

The same process unfolded from 1987, when the Transport Accident Commission (TAC) was created. That happened because similar pressures were being placed on the claims system for motor vehicle accident victims, which were influential in relation to the victims of work-related accidents. So it was that in 1987 the TAC was created, and a similar scheme of reducing common-law rights has run since that time.

I say again that all this drivel about the former government having removed common-law rights is exactly that — drivel. The Cain government started the process in 1985 in relation to work-related accidents and motor vehicle injuries. What we have now is a further aspect of the subsequent legislative processes.

I will talk about the question of reinstatement, because the other urban myth is that the Labor government has reinstated common-law rights in Victoria. Of course that is as much a furphy as the first one. We now have a situation which I believe will mean that a lesser number of people will be able to access common-law rights than were able to access what remaining common-law rights existed prior to 1997. In some senses it can be fairly said that something is better than nothing. If you are of a mind, as the government is, that there should be common-law rights per se, then I suppose that argument is valid as far as it goes.

However, I emphasise that that is not the way the government has framed the argument. That is illustrated by the way this second-reading speech is constructed. Someone who did not know the background to the common-law rights story in this state would read what is contained in the second-reading speech as meaning that common-law rights had been returned in their entirety to people who had been injured in workplaces in Victoria when in fact that is an absolute fiction.

I refer to some material I obtained some time ago from Mr Pat Dalton, a leading Queen’s Counsel in the common-law area of the Victorian bar. He is a warrior on behalf of those who suffer the misfortune of being injured in the workplace, in motor car accidents or otherwise. He specialises in doing difficult plaintiffs cases. He is one of a number of very able barristers who pursue this difficult course, and I have the privilege to know a lot of them. When I was in practice I had the pleasure of briefing people such as Terry Casey, QC, Jack Keenan, Paul O’Dwyer, the late great Martin Shannon, QC, and many of the current judges of the County and Supreme courts. Pat Dalton is among that very able team of people who make it their life’s

mission to look after those who have the misfortune to be injured in the work environment.

In May last year I sought Mr Dalton's advice on the Accident Compensation (Common Law and Benefits) Bill. It is pertinent to refer to the response I received from him in the context of the bill before the house, which makes some amendments to that previous piece of legislation.

I will quickly go through some of the points made by Mr Dalton, because they are pertinent to this fallacious notion that the Labor government has returned common-law rights to injured workers. Without going through the totality of it, in a letter to me dated 25 May 2000 Mr Dalton first recounted the history of the common law. I readily say that I copped collateral damage along the way, but such is life. In the course of his letter Mr Dalton said of the Accident Compensation (Common Law and Benefits) Bill, the one that supposedly returned common-law rights:

> If this bill becomes law, the situation will deteriorate even further.

He was referring to the circumstances which applied prior to 1997.

> This is because although the government purports to restore common-law rights to workers, the fact is that under its proposed legislation both the number of workers who will be entitled to recover damages and the amount of damages which will be recovered will be significantly reduced.

On page 2 of his letter Mr Dalton talked about the narrative test imposed in the new legislation. He said:

> In relation to the narrative test there are a number of changes proposed, almost all of which are designed to make it harder for an applicant worker to obtain leave to proceed.

He then went through a series of examples which demonstrate why that comment is so. He referred to the substitution of 'permanent' for 'long-term' in the definition of 'serious injury'. He referred to the insertion of the language contained in the Supreme Court decision in *Humphries v. Poljack* into the legislation. He referred to adding a requirement that a court should not grant leave unless the worker establishes that he or she has and will continue to have, presumably permanently, a loss of earning capacity of 40 per cent or more. He observed on this point:

> This will prove to be a formidable obstacle for applicant workers, made even more so by the imposition of the onus dealt with in 6.1.4 below.

Paragraph 6.1.4 of his letter refers to the imposition of the onus of proof on the worker as to the inability to retrain, rehabilitate or undertake suitable employment under the relevant sections of the act. He talked further of the provision of a direct right of appeal on serious injury decisions. I might say we were able to get rid of that. He talked also of his concerns about the giving of reasons for decisions on serious injury applications — we were also able to deal with that. He talked further of the right of a worker to be granted a certificate or leave in respect of pain and suffering only and the problems that that is likely to create.

He went on to say:

> It must be acknowledged that in its second-reading speech the government makes no bones about the fact that it is concerned to confine the costs of restoration of common-law rights and that the various restrictions discussed above are directed to that end … My complaint is that it is misleading to speak of this bill as 'restoring common-law rights'.

He went on to say:

> But the requirements which are now to be met to obtain such permission —

that is, permission to institute proceedings —

> are such that the class of injured workers who will obtain it will be a very select band indeed — considerably smaller in number than that class which was allowed the right to sue under the previous scheme.

He went on to talk about the cost provisions and the impositions which they represent. He talked about the unfairness of the ordinary offer-of-compromise system, which used to apply, as opposed to that which has been imposed by this current government.

He concluded:

> I hope these thoughts are of some use to you, Peter. I know that if anyone has the guts to state it as it is, it is you. Of course I recognise there are political imperatives which you must consider. Knowing me, a bit of vehemence here and there should not frighten you off. However, you are entitled to wonder why I am so critical of a measure which after all is a great deal better than no common-law system at all. I suppose what I am concerned to ensure is that the ordinary working people do not labour under false illusions about the effect of this legislation. I think it is important that they understand that only the most seriously injured will benefit and that by far and away the vast majority of workers injured by the negligence of their employers will not have access to the common law. Secondly I think they should be made aware that cost penalties are being used to force workers to settle their cases.

I rest my case against the absolute furphy this government continues to perpetuate: that it has reintroduced common-law rights. In practical terms I would expect that something in the order of 5 per cent of people who have been severely injured in the workplace will now be able to access common-law rights. By way of a comparison I note that in the

two-year period which is pertinent to the group termed the intensive case review program personnel, there were 761 cases constituting the people who might generally be regarded as being seriously injured. It will be interesting to see in time to come how many of those people will be able to claim common-law rights in the event of their suffering an injury at a point in time which brings them within the operation of this new common-law scheme.

Given for the moment that Mr Dalton is correct — and by Jove, if you were going to believe anybody you would believe him — there are several things that flow from what he has had to say. The first is, as he has already observed, the workers and the unions who represent them have had the wool pulled over their eyes. Even to this day they really do think that common-law rights have been reinstated. It is a fiction. What they are going to see with the passage of time is that they will be bitterly disappointed by this government. It is yet another area where the people of Victoria will eventually be able to demonstrate their disappointment, because the people out there in the workplace have been sold a pup, and Mr Dalton ably illustrates the deficiencies in the government's often-stated comment that it has restored common-law rights.

To the extent that the government has done anything about it, it has done so in a very miserable fashion. As a corollary to that, I cannot help but wonder about the premium levels which are being struck across Victoria to accommodate this so-called return to common-law rights. I wonder about the sort of instruction being given actuarially and whether it is understood actuarially that the extent of future liabilities is going to be far less than what the government is putting before the injured workers of the state of Victoria. I wonder whether the actuaries understand the operation of this legislation as it is supposed to occur.

If we are going to see premiums being overcharged, then of course employers will be being made to suffer the consequences of that directly. Another consequence in turn is that it gives the scheme the capacity to apparently demonstrate improvements in its performance, when in fact no damage was being done in the first place. You cannot help but wonder whether the recent announcements made by the government about the improved performance of the scheme — albeit it was still terrible — had a lot to do with the write-down of the valuation of the exposure to common-law claims.

Of course, a cynic could suggest that that degree of exposure was not there in the first place and that actuarially they are just catching up with what is the reality, as reflected in the comments by Mr Dalton. I think it is important that when working people in Victoria are considering the terms of this legislation they understand that they have been sold a pup and that employers are being made to pay premiums at a level that perhaps should not be the case, on the basis that it is anticipated that there will be a blow-out in the damages area that employers are supposed to meet when in fact the reality might tell another story in due course.

I turn to the bill. From the perspective of the National Party this bill deals with four essential areas. When you sort through the complexities of the bill you find they reduce to these four issues. The first is with regard to what I might call the Workcare claimants — I will refer to them as group one within the legislation. On page 3 of the second-reading speech they are described in these terms:

> In addition the government has decided to legislate to allow the Victorian Workcover Authority to make voluntary settlements available to workers who were injured before 1 December 1992 and so did not generally have access to common-law damages for economic loss. This allows for some policy consistency regarding injuries during periods when common-law benefits were not available. Again, this will only be relevant to those injured workers who choose not to exercise their right to continue receiving weekly payments. The Governor in Council is empowered to determine a suitable payments table for this group within six months of the commencement of the new legislation, with such determination being made on the advice of the VWA board.

The first point to note is that any application made under this provision is to be made by choice. The second point is that workers need to understand that this is not a redemption of payments. This is not the old workers compensation scheme or anything akin to it, whereby they are paid a present benefit value on a discounted basis for ongoing weekly entitlements over what would otherwise be a protracted period of time. That is not the case here. There will be an offer to them which is less than, and in some instances significantly less than, the figure that would otherwise be represented by redemption payments. I would go through that point in more detail were it not for the fact that the honourable member for Box Hill has done so and illustrated the mathematics of why that is so.

The practical result is that on this second point the figures have been deliberately discounted by the government to achieve an outcome which does not represent redemption. That in turn leads to the next point, which is that you would have to say to the workers who are subject to these payments, 'Stay away from this. Do not touch this because you will inevitably

receive a benefit which although it is in the form of a lump sum will in some instances be miserable in comparison with what your entitlement would otherwise have been over a period of time'.

All this is in the context of amendments to section 115, which I will come to in a few minutes. In any event the net result is that whatever the rationale behind the government's thinking might be, the workers concerned should stay away from this and should not engage in these sorts of applications, because they will be deliberately short-changed by the government.

The next point is a major one. The minister has confirmed to the National Party that, whatever the decision taken by this class of beneficiaries — and there are of the order of 3700 — there will not be any damage to the financial status of the scheme, regardless of how many of the injured workers take up the alternative. That was an assurance which the National Party sought from the minister, because we do not want any of these initiatives having the effect of blowing out the bottom line. That would only aggravate an already difficult position which has occurred under the scheme operated by this government.

The next group to which I refer I will call group 2. They are the intensive case review claimants. Those who are entitled to claim under this category are defined in the second-reading speech as people who:

> … are assessed as having a whole-person impairment of 30 per cent or more using the *AMA Guides* fourth edition; and
>
> have been on weekly payments for at least 104 weeks; and
>
> who are assessed as having no current work capacity indefinitely.

Further, they must have been injured in the period 12 November 1997 through until 19 October 1999.

The quantum they are able to obtain is different from the quantum available to the first group to which I have referred. This group largely will be able to redeem their payments in the sense that that expression has always been understood to be the case. So the payments they can receive as lump sums are likely to be more closely aligned with the benefits they would have received had they continued to take their payments over the longer term. Of course, calculations have to be made on a case-by-case basis. They can redeem those payments, and they can also take their section 98 benefits under the table — and I say that as an aside. They are not able to convert their medical and like entitlements under section 99, so they will be able to continue to enjoy the benefits offered by that provision. They will be in a different category than the first group to whom I have referred. There is again an optional provision for these people.

I quote from the minister's letter of 19 November, which he directed to me:

> The actuaries estimated that the likely number of ICRP claimants that would meet the criteria to apply for a settlement was some 761 workers. The actuaries advised that the average settlement is $120 000.

I should go on to say that despite the appalling mathematics that I demonstrated in a subsequent letter in response to the minister, the figure represented by those mathematics, if all were to take up the amount in question, is something of the order of $91 million. Again I am assured that there will be no impact on the bottom line of the scheme. I am also assured by the minister and his advisers that whatever the number of people in the category who elect to take the payment by way of a lump sum, it will not impact adversely upon the bottom line of the scheme. But again, that is an issue of grave significance.

The third group are what are termed current claimants, and they are described in the second-reading speech in these terms:

> Certain ICRP and Workcare claimants have applied to the VWA since 4 November 2000 or to a self-insurer since 28 November 2000 for settlements under section 115 of the act. Those claimants whose applications are pending may request VWA or the self-insurer to defer consideration of their application until the new provisions come into operation, as the ICRP and (if acted upon) Workcare-specific settlement tables may be more generous than the existing section 115 table.

The speech also refers to the other voluntary settlements claimants, who are described in the second-reading speech in these terms:

> In addition, existing opportunities to apply for voluntary settlements will remain for some claimants. However, the bill removes the existing requirement for some applicants to show that they require the settlement for an income-producing project. The existing power to extend opportunities to offer settlements by regulation is retained.

Again the same basic parameters apply: it is voluntary; you do not have to do it; and be careful and get advice if you are going to do it. Indeed you have to get some legal advice, and the Workcover authority will pay for it. In due course a scale will be produced that represents what is a fair fee for legal advice. I hope the minister makes it reasonable. At the end of the day it is in everybody's interests to get proper and accurate advice with regard to these things rather than repercussions flowing from someone getting inappropriate advice from those who perhaps ought not be giving it. I trust the government will have regard to those issues.

The second-reading speech sets out all the administrative processes associated with these three groups being able to make their respective claims. The observation has been made that no tax applies as things stand currently, although there is the further observation that the situation is under review. Historically the position has been that there has been no tax on these benefits, and I hope that remains the case. In summary, therefore: do it by choice if you wish, be very careful if you do, and get appropriate advice insofar as your proposed course of action is concerned.

The element that goes right across these three categories is the amendment to section 115, because that section does have to be amended. In the current act under section 115 there is a provision which has not worked in practical terms. If I remember the briefing correctly, there have only been around 30 payments throughout the history of the operation of section 115. When I was practising I remember trying to make half a dozen of them and hitting the wall because the requirements to satisfy the machinery provisions were onerous. It was often the claimant who had to bear the accounting fees or any other disbursements associated with being unable to get a claim through. For the record, I used to throw in my costs as a matter of course, because you cannot have the poor claimant being loaded up with even more worry than is otherwise being visited on him, sometimes with the best will in the world, by the Victorian Workcover Authority (VWA).

Be that as it may, section 115 needs to be amended. We are told it needs to be amended because it is under assault from the legal profession, which by various means is seeking to make applications so that people can obtain benefits by way of a lump sum. The legislation is in accord with the advice the authority has received that it ought to get in first and make the legislative changes we now see before us. So it is that we have the amendments to section 115. The existing section comes out and, through the operation of clause 3 of the bill, a new section 115 will be substituted. It will serve the practical, machinery needs where these applications occur, so with all those various qualifications the National Party accepts that the amendments to section 115 are appropriate, and it does not oppose them.

The fourth area of concern is with regard to employers. At the end of the day this scheme is funded by employers. It is the employers who bear the brunt of the premium rates. It is the employers around Victoria, country Victoria in particular, who are bearing the brunt of the exponential growth in rates. I travel the state a lot, and I see a lot of people in different forums and in a variety of businesses. Unfailingly, no matter what sort of industry you are talking about, whether it be manufacturing, the service sector in any one of its many designs, people complain about the increase in premiums. It is an issue the government will have to continue to contend with over the passage of time.

At the core of the difficulties is the issue of workplace industry classifications. This is what this fourth area of concern relates to, because at the moment confusion reigns. As a result of the Cootes decision a certain understanding was created in the minds of employers. That decision is set out in the second-reading speech, which states:

> On 6 June 2001, the Court of Appeal handed down its decision in the case of the *Victorian Workcover Authority v. I. R. Cootes Pty Ltd*. In that case, the court read down a number of key provisions in the Accident Compensation (Workcover Insurance) Act 1993 and the premiums order made under that act. In effect, the Court of Appeal determined that VWA cannot recover recalculated employer premium prior to the current policy year, except in very limited circumstances.

That decision was made in circumstances where employers since 1993 have been involved in self-assessment. They then go through a process of audit by the authority, and in the event of that audit determining that their workplace industry classification has for whatever reason been inappropriate, historically the authority has been able to claw back the amount of money that should otherwise have been payable. The decision in Cootes restricted that capacity for clawback to a year.

We then had another decision that is also referred to in the second-reading speech, in the case of *SBA Foods v. Victorian Workcover Authority*. The speech states:

> Further uncertainty about the extent of the decision in Cootes arises from the later decision of the Supreme Court of Victoria in *SBA Foods v. Victorian Workcover Authority* where Justice Gillard found that VWA did have sufficient statutory power to recalculate and recover employer premiums in respect of past policy years.

I pause to say that in giving my run-through of those whom I was fortunate enough to brief over the years, I regularly briefed Mr Bill Gillard. There is one thing about Bill Gillard: if ever you were in doubt about the facts of the matter you only had to wait around long enough and he would give you the benefit of his views. I say that with the greatest of respect. I often used to say to him, 'Billy, you look after the law and I will look after the facts'. It was a pretty deadly combination too. Now that he fulfils the venerable role he does I am not allowed to say those things any more, so I will not.

Mr Justice Gillard's decision has thrown things into turmoil, because on the face of it there are two contradictory provisions and they have to be resolved. We are after a fair outcome, so there have been discussions with all and sundry to try to achieve that. That outcome is reflected in the terms of this legislation. What it gets down to is this: employers have got to pay their fair share of the obligation, because if they do not the part they do not pay has to be borne by someone else in the system who is doing the right thing. In that sense it is not unlike the taxation system.

On the other hand, there is the question of this retrospectivity and the fact that in principle employers are being asked to pay an amount of money back into the pot which they, for varying periods of time, with the best will in the world did not regard themselves in all honesty as having to pay. Of course, I set aside from that category those who deliberately engage in fraud. I am speaking of the person who does no more than exactly what he or she thinks he or she should be doing to meet their obligations and who later on through no fault of their own gets caught out because of the provisions of the legislation, particularly with the workplace industry classifications. It is a straight-up, innocent mistake. How do you reasonably deal with that?

The product of those factors is uncertainty in the operation of the scheme, and it calls for a solution to be found. That solution has been negotiated through and is summarised in the second-reading speech, where it states:

> Consistent with its desire to stabilise the operation of the Workcover scheme, the government would prefer to be proactive and provide definitive rules for the determination of premiums, rather than enter into a two-year period of uncertainty and extended litigation.

That seems to me to bring on a similar sort of frame of mind for employers to that which must apply as the axeman is taking the axe back over his head as the poor unfortunate has his head on the block and is awaiting the inevitable. But all is not lost, because as a result of discussions with industry a resolution has been achieved. I might say that those from industry to whom I have spoken believe it is an uneasy outcome in many senses. They are uneasy with the fact of it, but there is a recognition of the pragmatics. Basically the package is this: there will be a moratorium established by the government in relation to the potential for liabilities for this clawback provision. It is set out in the second-reading speech, which says:

> To this end, VWA will initiate a moratorium, other than where fraud is involved, on collection of incorrectly calculated premiums and penalties for prior years. The moratorium will run from the date of passage of this bill in the spring 2001 session until at least 30 May 2002.

During the operation of the moratorium — and I understand the dates will be flexible to accommodate the realities of the passage of the legislation, and more particularly its proclamation — employers around Victoria will be able to seek an audit. And I would urge them to do so, for all the obvious reasons that appear from the terms of this outcome. Employers will be able to seek an audit. If they do seek an audit and it is determined that they have not had the proper assessment of their obligations and they have to pay, the back payment to which they will be liable will be for the current premium year in which they are then engaged.

If they do not seek the audit in the moratorium period and it is discovered in a subsequent term that they do have an obligation, then under the terms of the legislation the authority will have a capacity to claw back for the previous four years. That is said by the government to be a compromise because the authority will be able to claw back four years back payment as opposed to what would otherwise be its entitlement under the Limitation of Actions Act — namely, six years. That is therefore said to be a concession.

A couple of things come out of the arrangement. Firstly, this is an administrative arrangement; it is not set out in the legislation or in regulation. It is being dealt with by the Victorian Workcover Authority and in effect it will be under the direction of the minister.

Secondly, it is absolutely imperative that the minister gives an assurance to the house that there will be a measure of flexibility in the way in which the administrative arrangements occur. I can envisage any one of a number of examples where if the six-month period were to be enforced literally, then absolutely and inevitably there will be the case that turns up at 9 o'clock the next morning and for whatever reason wants to be brought into the system. Or someone might come in a couple of months later and for whatever very good reason find that they now want to access the benefits offered by the moratorium. It is important and I understand that the minister will give an assurance that there will be a measure of flexibility in the arrangements and that people will be able to have their circumstances treated on their merits.

Thirdly, the audit teams will need to be funded and resourced appropriately. One of the concerns expressed throughout the operation of the legislation and the work of the authority is the worry about being able to fund audit teams. It is as plain as a pikestaff that if the moratorium period is to work effectively we will need

to make sure that we have people who have heads like mice looking at these audits, doing the right thing by the employers and getting the assessments undertaken. It would be a complete injustice if the moratorium were on offer and people could not access it. That deals with the third category of concern that the National Party has about the bill.

The National Party has received material from the Victorian Farmers Federation (VFF) which has expressed some concerns about the capacity to access voluntary settlements. The National Party shares those basic concerns and I have said a fair deal about them. As the VFF says, this is fundamentally a pinch-and-base scheme and the notion of being able to claim the lump sum seems to run contrary to fundamental government policy. The National Party, like the VFF, will await the outcome with much interest. The VFF have expressed a concern about the definition of remuneration in that it is expanded to include any amount paid or payable by a company to or in relation to a director or member of the governing body of that company

There is also a concern about time limits having been extended from 14 days to 60 days in some sections of the bill. The VFF also expressed some concern about what in effect means the extension of time limits that would otherwise apply to preclude the necessity for section 43A applications, as I interpret the bill, to enable people who are injured in that two-year period where the intensive case review program workers are located. In limited instances some of them will be able to access common-law rights.

A concern has been expressed about part 5 amendments to the Accident Compensation (Workcover Insurance) Act that have been amended in relation to the Cootes decision. I have already dealt with those and I do not need to go through them any further. If assurances are given by the minister then the very reasonable concerns of the VFF can be approximately satisfied.

Finally, there are various other amendments and there is no real need for me to go through them. I am conscious that time is of the essence and in all the prevailing circumstances the National Party does not oppose the bill.

**Mr SAVAGE** (Mildura) — I am aware of the time and will be very brief. I support the bill, but there is an issue on which I have had some intensive discussions with the Minister for Workcover and the honourable member for Box Hill.

In February 2000 a company in Mildura employing 20 people interviewed prospective employees who completed an application form. Part of the form was a declaration that a prospective employee had no prior Workcover claims. The position was awarded to a person who asserted that he had no prior claims history. Five months later the employee complained of a sore neck, which was diagnosed by the company's doctor as an aggravation of a pre-existing workplace injury. On being interviewed by the doctor he admitted to falsely answering the questionnaire, was dismissed for dishonesty and handed a termination notice and a termination pay-out. However, prior to the dismissal he lodged a Workcover claim and the Victorian Workcover Authority (VWA) accepted the claim, thereby forcing the company to continue paying the employee at the rate of $574 a week. The value of the claim as at October last year had risen to $67 682.40. The VWA further required the firm to continue a prepared return-to-work plan and to nominate a return-to-work coordinator and ultimately to re-employ the person.

The reason the employer was burdened with this impost was that under the act an employer must not only obtain a prior history of work-related injuries in writing but under section 82(7)(b)(iii) of the act must also inform prospective employees in writing that the consequences of making a false statement for claims for pre-existing injuries will not be accepted. It is all very well to impose these conditions, but the vast majority of employers in Victoria would not be aware that unless they warn prospective employees that if they give a false statement to Workcover they will not be given opportunities under the Accident Compensation Act.

These burdens on small business are unreasonable. I understand that prospective employees do not declare prior injuries because their belief is that prospective employers may discriminate against them, and I think there is some element of reasonable concern about that situation. It is also ridiculous that employers must pay the price if a prospective employee chances his arm by risking another injury unless they put in writing what most people would consider the obvious — namely, that if you make false statements you should not be able to profit from them. This provision is a classic example of the excessive regulatory overkill to which small businesses are subjected.

Small businesses cannot be expected to familiarise themselves with the details of acts of Parliament. Many small businesses are not members of industry associations and do not have the time to read every association newsletter or journal from cover to cover, assuming they occasionally draw attention to this issue.

An alternative to this would be for the Victorian Workcover Authority to distribute, with the premium notices, forms which comply with the act or at least provide suggested wording and a format, so that on an annual basis the employer has a reminder that new employees would be required to sign these forms. It would give protection to the employer as well as to the prospective employee — that is, that if they were to make a false statement on Workcover they would be in some jeopardy.

I had prepared an amendment on this issue, but as a consequence of the discussions with the Minister for Workcover — and with the shadow minister, the honourable member for Box Hill — I have been assured that there are four contact points with employers every year and that at one point during the year — for instance, the annual renewals of Workcover — every employer will get the new advice. I am sure that that advice will eventually filter down through the system so that employers and employees will be protected.

I concede the fact that people declaring former Workcover injuries that are genuine have the potential to be disadvantaged, but if they make false declarations and claim for pre-existing injuries they are going to be denied that opportunity.

I thank the Minister for Workcover for his consideration in this matter. This resolution indicates that this Parliament is able to determine good outcomes for the people of Victoria. I realise that we have a time element here, so I recommend the speedy passage of the bill.

**Mr CAMERON** (Minister for Workcover) — I thank the honourable member for Box Hill, the Leader of the National Party and the honourable member for Mildura for their contributions on the Accident Compensation (Amendment) Bill.

There are many aspects of this bill around which there is broad support. Some parts of the bill reflect changes as a consequence of the contributions made by honourable members. As a whole the bill was worked through and taken to the Workcover advisory committee, which is made up of stakeholders, so it could have a broad understanding. The bill was developed along the lines that where there were huge objections to any part of it that that part would not proceed.

The main purpose of the bill, and the reason why it was brought into existence, revolves around section 115, as it was. The Leader of the National Party has already referred to the fact that section 115 had not worked over the years and that it had been under attack. There had been some question mark as to how long it would last before it was possibly opened up in the courts.

When the government announced its common-law package last year it intended to use section 115 to meet a commitment that it gave at that time concerning certain claimants who were injured during the period between 1997 and 1999, when there was no common law after it had been taken away by the Kennett government.

Honourable members may recall that at that time the government said that if a claimant met certain criteria, one of which was that they had to be more than 30 per cent whole-person impaired, an offer of settlement would be made to them. Of course, that was voluntary. Our legal advice was that to limit it to a certain period could potentially bring about an exposure to the scheme — as well as the general advice that section 115 as it was would have potential problems as we went forward, as I have already outlined.

The Leader of the National Party has already outlined that section 115 had been used very rarely, as it was virtually impossible to get a settlement. Certainly it had not been used on very many occasions at all, notwithstanding many applications. Indeed the Leader of the National Party referred to half a dozen unsuccessful applications when he was involved as a lawyer. As a consequence this legislation was developed with actuarial advice, putting in the table around those intensive case review program (ICRP) claimants, to meet the commitment it made in April last year.

It was also necessary to clean up the issue of settlements. To that end the government allowed the Workcover board to offer settlements to Workcare recipients. It has to be remembered that there is nothing new about that, because that is what everybody believed the board could have done in any event had it desired to do so under the pre-existing section 115 arrangements.

In addition there is the third category — that is, all the other claimants covered by column 3 of the table in the bill. The amounts in that column, as has been observed, are low. That reflects the existing administrative arrangements put in place by the authority and you would rarely expect that to be taken up. It simply reflects that the provisions are there for a later time should a Workcover board and the government want to consider a settlement-based scheme. As it has been clearly indicated in the second-reading speech, the

government in essence is committed to a pension-based scheme.

This scheme has had many changes over the course of 16 years. The previous government changed it significantly and the Labor Party introduced significant changes last year. What the scheme needs is a period of stability and for that reason the government is committed to a pension-based scheme. Any change in that would potentially change behaviours in the scheme, and given that substantial changes have already been made we want to bring about a period of stability so that we all have a better understanding of the scheme as we go forward.

The government's approach to Workcover has been fair and financially balanced, so much so that an actuarial release stated that the liabilities were estimated to be down. The Leader of the National Party thought that related to a new common-law arrangement but in fact the release related to old common law. If we are to have a common-law scheme — and the government introduced a new common-law scheme for serious injury workers last year — it has to be well managed so it can be sustainable for the future.

Some other matters have been raised during the debate. I would like to confirm that there will be a moratorium on penalising employers for errors in workplace industry classifications (WIC) until at least the end of May 2002. This administrative arrangement is part of this package as a result of the confusion created by the Cootes report and SBA Foods case because we seek to provide certainty.

The Leader of the National Party referred to some flexibility around that arrangement which can be extended if needed. I am sure that if someone came in very shortly after that moratorium that Workcover would consider their case. Critically, what we need to do is communicate that moratorium to employers and to that end there will be comprehensive briefings to peak bodies and employer organisations and by advertisements in the print media. Explanatory material will also be prepared to accompany the next mail-out concerning premiums during the moratorium. There will also be explanatory provisions on the Victorian Workcover Authority web site. During this period employers who want to have their industry classification checked without the risk of the usual penalty will be able to approach the VWA for a fresh assessment.

The effect of the moratorium will be that where the correct WIC is assessed at a rate higher than the current rate, then the higher rate will only be applied to the current year. In other words, the penalty payment that would have applied to previous years will not be required to be paid. This arrangement will apply to all employers except where fraud is involved. It will also apply to those who have outstanding objections over their workplace industry classifications and there are approximately 90 of those employers. It will also apply to anyone who has been audited and not billed. If an employer is found to be paying a higher premium than they ought to be, the employer will still be reimbursed for the excess paid in past years as per existing arrangements.

The honourable member for Mildura was going to propose an amendment to remove section 82(7)(b)(iii). I have had discussions with the honourable member and with the shadow minister, the honourable member for Box Hill. That amendment will not proceed. However, as part of that process I have advised the authority of those discussions, and the authority will now alert employers annually to the provisions in section 82(7)(b)(iii) and (iv) and also suggest a set of words for employers to put in their employment forms if they so choose.

The bill also does away with a 200 per cent penalty that applies to some people where they do not have an insurance policy. That might come about when a husband and wife or a partnership incorporate, but pay their Workcover insurance policy in the name of the partnership. It may be an innocent mistake on their part, but the existing act requires a penalty of 200 per cent. In that case discretion will be given to apply that penalty.

I trust this explanation clarifies the matters that have been raised.

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Clauses 1 to 6 agreed to.**

**Clause 7**

**Mr CAMERON** (Minister for Workcover) — I move:

> Clause 7, page 38, in proposed Schedule 1, in column 3, omit "67" where it occurs opposite "54" in column 1 and insert "68".

**Amendment agreed to; amended clause agreed to; clauses 8 to 37 agreed to.**

**Reported to house with amendment.**

*Remaining stages*

**Passed remaining stages.**

## VICTORIAN INSTITUTE OF TEACHING BILL

*Second reading*

**Debate resumed from earlier this day; motion of Ms DELAHUNTY (Minister for Education).**

**Mrs FYFFE** (Evelyn) — For the Victorian Institute of Teaching to work well and efficiently and be respected, it must meet the high expectations of the principals of the profession. It is important that it truly reflects the aspirations of the teachers and principals of Victoria. Its independence must be guaranteed.

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Clause 1**

**Mr HONEYWOOD** (Warrandyte) — In relation to clause 1, the opposition is pleased to note that the government, after some negotiation, has made progress in addressing some of the issues pertaining to the five major opposition amendments that have been circulated in my name. However, the principal amendment of the opposition, which seeks to ensure that the Victorian Institute of Teaching will have a majority of elected members on its governing board rather than having a majority selected by the minister of the day, is still a key sticking point.

Having said that, it is heartening to hear that the government has agreed with the opposition that all teacher representatives will be able to get their information out to teacher electors and other electors in the institute membership and that there will be a guaranteed number of words on each candidate statement when the ballot papers go out.

The government has also come part of the way on the issue of teacher representatives being voted for only by members of the sector to which they belong. However, we are not quite there when it comes to the concept that, for example, a Catholic teacher can only vote for a Catholic teacher representative, and a government school teacher can only vote for a government school representative.

The other major proposed opposition amendment on which the government has come some way, we are pleased to note, concerns ensuring that the independent school sector is recognised by the government when it comes to representation on the board of the institute. The government is examining the idea of having an independent teacher representative and an independent principal representative being either appointed or elected to the governing body.

Hopefully there is room for more movement by this government while the bill is between houses to ensure that we have what the government promised, a truly independent institute, rather than one which was promised as being independent but which in actuality through the legislation is actually controlled by the minister of the day.

**Ms DELAHUNTY** (Minister for Education) — I thank the shadow Minister for Education for his support for the bill and for his suggestions around the explicit nomination of a non-Catholic independent teacher and principal. We believe that would have been the outcome of the original bill, but are happy to make amendments to ensure that happens.

I am also happy to accept the amendments proposed by the opposition and the honourable member for Gippsland West concerning the inclusion of the ballot paper for election, which must list the candidates and make room for a candidate statement. I understand what the opposition is trying to prosecute in its amendments around limiting teachers and principals to an election within their own sector. Our advice from the Electoral Commission, however, is that that would be very expensive and not likely to achieve the outcome the opposition is looking for. Nevertheless, I welcome the opposition's constructive approach to the bill. It is legislation that has attracted a lot of community support, and the stakeholders are right behind the government's position on it.

**Clause agreed to; clauses 2 to 7 agreed to.**

**Clause 8**

**Ms DELAHUNTY** (Minister for Education) — I move:

1. Clause 8, page 10, line 18, after this insert —

"(5) The Minister, in nominating persons to be appointed as members of the Council, must ensure that there will be at least one each of the following persons elected or appointed to the Council —

(a) a teacher teaching in a school that is registered under Part III of the Education Act 1958 other than a school auspiced by the Catholic Education Commission;

(b) a teacher teaching in a school that is registered under Part III of the Education Act 1958 and auspiced by the Catholic Education Commission;

(c) a Principal of a school that is registered under Part III of the Education Act 1958 other than a school auspiced by the Catholic Education Commission;

(d) a Principal of a school that is registered under Part III of the Education Act 1958 and auspiced by the Catholic Education Commission;

(e) a representative of persons or bodies employing teachers in schools that are registered under Part III of the Education Act 1958 other than schools auspiced by the Catholic Education Commission;

(f) a representative of persons or bodies employing teachers in schools that are registered under Part III of the Education Act 1958 and auspiced by the Catholic Education Commission.".

**Amendment agreed to.**

**Mr HONEYWOOD** (Warrandyte) — I move:

1. Clause 8, line 11, omit "19" and insert "22".

**Ms DELAHUNTY** (Minister for Education) — Mr Acting Chairman, I am only agreeing to the amendments standing in my name, which the honourable member for Warrandyte is supporting. Those amendments have been circulated.

**The ACTING CHAIRMAN (Mr Richardson)** — Order! The minister has complicated things by not opposing the honourable member's amendment. However, the impasse is now resolved, because we have reached 4 o'clock. The time appointed under sessional orders for me to interrupt business has arrived.

**Amendment negatived; amended clause, clauses 9 to 94 and circulated government amendment 2 as follows agreed to:**

2. Clause 59, page 41, line 25, after this line insert —

"(8) A ballot paper for an election must list the candidates for the election by reference to a category referred to in section 8(4).

(9) A registered teacher may vote for a number of candidates not exceeding 6.

(10) The first 6 members to be declared as elected are those candidates who receive the most numbers of votes in the category in which they are listed and the remaining 3 members to be declared as elected are the remaining candidates who receive the highest number of votes at the election (disregarding the votes for the 6 candidates already declared to be elected).

(11) A candidate for an election may submit a printed candidate statement not exceeding the number of words fixed by the Electoral Commissioner (which must not be less than 50 words) to be distributed by the Electoral Commissioner with the ballot papers for the election.".

**Reported to house with amendments.**

*Remaining stages*

**Passed remaining stages.**

**The SPEAKER** — Order! Under sessional orders, the time being 4 o'clock, I am obliged to put the questions on the following bills.

## TRANSPORT (ALCOHOL AND DRUG CONTROLS) BILL

*Second reading*

**Debate resumed from 20 November; motion of Mr BATCHELOR (Minister for Transport).**

**Bells rung.**

**Members having assembled in chamber:**

**Motion agreed to by absolute majority.**

**Read second time.**

*Third reading*

**Motion agreed to by absolute majority.**

**Read third time.**

*Remaining* stages

**Passed remaining stages.**

## ANIMALS LEGISLATION (RESPONSIBLE OWNERSHIP) BILL

*Second reading*

**Debate resumed from 21 November; motion of Mr HAMILTON (Minister for Agriculture).**

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## ROAD SAFETY (FURTHER AMENDMENT) BILL

*Second reading*

**Debate resumed from 20 November; motion of Mr BATCHELOR (Minister for Transport).**

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## MARINE (HIRE AND DRIVE VESSELS) BILL

*Second reading*

**Debate resumed from 20 November; motion of Mr BATCHELOR (Minister for Transport); and Mr STEGGALL's amendment:**

> That all the words after 'That' be omitted with the view of inserting in place thereof the words 'this bill be withdrawn and redrafted to provide for a powerboat licence to only be required when operating a vessel that is propelled by mechanical power capable of producing a speed of at least 10 knots, and to resolve the present border anomaly which exists with New South Wales.

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

*Ayes, 80*

Allan, Ms
Allen, Ms
Asher, Ms
Ashley, Mr
Baillieu, Mr
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Burke, Ms
Cameron, Mr
Campbell, Ms
Carli, Mr
Clark, Mr
Cooper, Mr
Davies, Ms
Dean, Dr
Delahunty, Ms
Dixon, Mr
Doyle, Mr
Duncan, Ms
Fyffe, Mrs
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr
Honeywood, Mr
Howard, Mr
Hulls, Mr
Ingram, Mr
Kosky, Ms
Kotsiras, Mr
Langdon, Mr (*Teller*)
Languiller, Mr
Leigh, Mr
Leighton, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms
McIntosh, Mr
Maclellan, Mr
Maddigan, Mrs
Maxfield, Mr
Mildenhall, Mr
Mulder, Mr
Napthine, Dr
Nardella, Mr
Overington, Ms
Pandazopoulos, Mr
Paterson, Mr
Perton, Mr
Peulich, Mrs
Phillips, Mr
Pike, Ms
Plowman, Mr
Richardson, Mr
Robinson, Mr
Rowe, Mr
Savage, Mr
Seitz, Mr
Shardey, Mrs
Smith, Mr (*Teller*)
Spry, Mr
Stensholt, Mr
Thompson, Mr
Thwaites, Mr
Trezise, Mr
Viney, Mr
Vogels, Mr
Wells, Mr
Wilson, Mr
Wynne, Mr

*Noes, 6*

Delahunty, Mr (*Teller*)
Jasper, Mr
Kilgour, Mr
Maughan, Mr (*Teller*)
Ryan, Mr
Steggall, Mr

**Amendment negatived.**

**Mr Leigh** interjected.

**The SPEAKER** — Order! The honourable member for Mordialloc will find himself outside the chamber.

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## CRIMES (WORKPLACE DEATHS AND SERIOUS INJURIES) BILL

*Second reading*

**Mr HULLS** (Attorney-General) — I move:

> That this bill be now read a second time.

One of the Bracks government's highest priorities is improving workplace health and safety in Victoria. This legislation is an important part of the government's strategy to turn around attitudes to workplace safety.

When the Occupational Health and Safety Act was introduced in 1985, one of its key aims was to educate employers about their obligations to provide workplaces and work systems that are as safe as practicable. That goal has been pursued ever since. Sadly, however, avoidable workplace deaths and serious injuries are still all too common in Victoria. It is clear that the existing law needs strengthening.

The Bracks government's election policy on occupational health and safety committed the government to a comprehensive strategy that included:

- increasing the number of health and safety inspectors;
- improving the effectiveness of the Occupational Health and Safety Act by increasing the penalties for failing to provide and maintain a safe workplace; and
- introducing new criminal offences to effectively deal with workplace deaths.

The government has already increased the number of health and safety inspectors by more than 70 to approximately 235. This bill delivers on the rest of the government's election commitment and will send a strong signal that the government is serious about workplace safety. This legislation brings workplace health and safety into the 21st century.

Victorians want — and deserve — workplaces that are safe and productive. Victorian families have a right to expect that, when they see their loved ones off to work each morning, they will return home safely each night.

Improving health and safety is a sound investment for business — accidents are expensive in terms of much more than merely short-term direct costs. Of course most Victorian businesses already act responsibly and provide safe workplaces and systems of work. Those businesses that already observe their obligations under health and safety legislation have nothing to fear from this bill. Instead, this bill is designed to catch those rogue operators who think that they can get away with, or do not care whether they are, running an unsafe workplace.

**Workplace safety**

Reducing the incidence of workplace deaths, injuries and disease requires dedication and coordination by organisations and individuals across government, employers and employees. No-one pretends that we can remove every conceivable risk from all workplaces, any more than we could completely remove risk from other aspects of life. But we can all work together to do much more to identify potential workplace risks and remove or minimise them.

As with the actions taken to reduce the road toll, a concerted effort will need to be maintained and strengthened over the years ahead to ensure that the gains are enduring and increasing.

The government's coordinated approach to improving workplace health and safety includes:

- providing advice to employers and employees about improving workplace equipment, layout and practices to eliminate or reduce health and safety risks;
- ongoing education and training of employers and employees in workplace safety;
- increasing resources for inspection of workplaces to identify health and safety risks and seek to secure compliance with health and safety obligations; and
- ensuring that adequate offences and penalties are in place for those who persist in requiring or allowing employees to undertake unacceptable workplace risks.

The government uses a wide variety of approaches to improve workplace safety. The Worksafe division of the Victorian Workcover Authority conducts extensive media campaigns to carry vital messages concerning workplace health and safety to all Victorians. These campaigns reinforce on-the-ground initiatives targeted at particular workplace safety issues. Increasing the number of field staff has increased Worksafe's ability to educate and advise employers and employees about their occupational health and safety risks and responsibilities and secure compliance with health and safety obligations. Improvement notices and prohibition notices are used to require employers to act to prevent workers from being injured.

However, when education, advice and compliance activity fail to produce safe workplaces, enforcement is necessary. For criminal enforcement to work, we must ensure that there is a comprehensive range of health and safety offences. With the passage of this bill, Victoria will have that range.

Fortunately it is only the most evasive or irresponsible employers that require the imposition of penalties. For those corporations that do require the imposition of penalties, the occupational health and safety legislation is available. This legislation works effectively for most health and safety breaches. Penalties apply when a person is exposed to the risk of injury or death, regardless of whether anyone is actually injured.

However, enforcement penalties need to be strong enough to act as an effective deterrent on even the largest and most resourceful corporations if they fail to meet acceptable health and safety standards. With the amendments made by this bill such offences will work

much more effectively. I will outline these amendments later.

Sometimes it is necessary to invoke the full force of the criminal law where a corporation's grossly negligent conduct leads to death or serious injury. The existence of such offences is intended to deter people from committing the offences in the first place and then to punish any rogue operators who fail to observe their responsibilities in such an unconscionable manner. Offences are therefore required which focus on the culpability of the corporation and the harm caused by the corporation.

**The existing law is inadequate**

The full force of the law as it currently exists has been sought to be used in three contested prosecutions of corporations in Victoria for manslaughter and negligently causing serious injury. This is possible because a corporation can be liable for such offences under the common law. However, on each occasion the corporation was acquitted.

One corporation pleaded guilty to manslaughter. This is the only case in Australia in which a corporation has been convicted of manslaughter. However, that corporation was in liquidation. Consequently, the conviction and penalty were ineffective.

The main limitations of the common law are that it requires the identification of one person who is the directing mind and will of the corporation. That person in effect must commit the offence. If the person has committed the offence and is the directing mind and will of the corporation, then the corporation may be guilty of the offence.

Recent cases in Australia and England suggest that more effective tests may eventually be developed under the common law. However, it is important that liability is set in the legislation rather than developed by cases; this will enable industries to be clear about any potential criminal liability.

**The new offences of corporate manslaughter and negligently causing serious injury**

This bill will enable a corporation to be prosecuted effectively if its gross negligence results in death or serious injury of an employee or worker. This is not a new liability for corporations. What this bill will do is enable such prosecutions to be brought more effectively.

There are many similarities between the existing liability of corporations under the common law for manslaughter and the new corporate manslaughter offence contained in this bill. To be liable for either offence, the corporation must:

owe a duty of care to the person injured or killed;

have failed to act as a reasonable corporation would have acted in all of the circumstances; and

have been grossly negligent. That is, its conduct must have involved such a great falling short of the standard of care that a reasonable corporation would exercise in the circumstances, and such a high risk of death or really serious injury, that the conduct merits criminal punishment.

The prosecution must prove all elements of the offence beyond reasonable doubt.

The differences between the common law and the new offences stem from the fact that the corporation will be treated as an organisation. In an organisation, more than one person may be involved in making decisions and carrying out those decisions. It is the collective or organisational nature of corporate activity that will be included more appropriately in the new test by providing that:

when determining whether a corporation killed a person, the conduct of an employee, agent or senior officer acting within the scope of their actual employment must be attributed to the corporation; and

in determining whether the corporation has been grossly negligent, the conduct of the corporation as a whole must be considered.

**Level playing field for small business**

At the moment it is very difficult to prosecute large corporations, but less difficult to prosecute small business due to the fact that it requires the identification of one controlling mind and will of the corporation. It is easier to find one controlling mind and will in small corporations, compared with large corporations. In large corporations it can be difficult to find one controlling mind and will because many people are often involved in a decision and no single senior officer is responsible.

Under this legislation large corporations will be placed on the same footing as small business, levelling the playing field. The new offences enable all of a corporation's conduct to be considered to determine if it has been grossly negligent.

The offences are based in part on recommendations from the model criminal code committee concerning the need to make corporations liable under the criminal law. Those recommendations have been followed by the commonwealth and will form part of the commonwealth criminal law from 15 December 2001. Victoria is leading the way with new offences which will make Victorian workplaces safer.

**Who is a worker?**

This bill is aimed specifically at requiring corporations to provide a safe workplace and safe system of work so far as is practicable. The offences under the bill apply not only to employees of the corporation, but to other people who are seriously injured or killed when providing services to the corporation. This will ensure that the bill operates in relation to a range of different business structures. For instance, where a corporation's conduct leads to the death of a person employed by a subcontractor hired by the body corporate, the bill ensures that the new offence applies to such victims.

Negligence offences, both at common law and under this bill, apply where the corporation owes a duty of care to the victim, and this government recognises the special obligations that a corporate employer owes to its work force to provide a safe workplace and safe system of work so far as is practicable. The application of this bill specifically recognises the importance of those obligations.

The existing common law offences will of course continue to apply where the person injured or killed is owed a duty of care by the corporation but is not connected with the corporation by virtue of providing services to the corporation.

**What is gross negligence?**

In a civil case concerning negligence, a court decides whether on the balance of probabilities a person was negligent. These criminal offences are quite different. As indicated earlier, the prosecution must prove beyond reasonable doubt that the corporation was grossly negligent. Therefore, unlike a civil matter, with the new offences:

- the standard of proof is higher (negligence must be proved beyond reasonable doubt, rather than on the balance of probabilities); and
- the degree of negligence required is gross negligence, that is, criminal negligence, rather than negligence.

The offence is described in such a manner as to utilise the common law's approach to determining gross negligence. Basing criminal liability on negligence is not a new concept — it has been in existence for hundreds of years. It is a test that is currently used in Victoria for offences such as manslaughter; negligently causing serious injury; and culpable driving. It is a test that has been endorsed by the High Court and by the model criminal code committee when reviewing the operation of criminal laws in Australia.

It is a test that contains the necessary degree of flexibility to work fairly and effectively in the wide range of situations in which the offences contained in this bill could potentially operate. For instance, it can work in a building site where there may be a lack of safety equipment, a lack of training, and a lack of supervision.

The test enables evidence to be given concerning what a reasonable corporation would do in providing safety for its work force. It can also apply in emergency situations where the court would consider the context in which decisions were made including factors such as that an emergency service may not be in control of the 'workplace' (for example, where fighting a fire), but has some control over work systems.

Further, the context in which decisions are made is extremely important in determining what a reasonable corporation would do. There is an enormous difference between:

- making quick decisions (out of necessity) based on minimal information where the objective is to save lives (for example, when fighting a fire); and
- making long-term decisions in the boardroom (for example, not to purchase safety equipment and not to hire appropriately qualified staff).

A number of examples of negligence are contained in the bill. For instance, a corporation may be negligent if it:

- failed to adequately manage or supervise its work force;
- failed to convey safety information to its work force; and
- failed to remedy a dangerous situation that a senior officer knows about (for example, where an inspector has issued a prohibition notice on a workplace and this is ignored by a senior manager).

In each of these examples of negligence, if the negligence is found to be 'gross', the corporation may be guilty of manslaughter or negligently causing serious injury.

**Managing risk**

As in the Occupational Health and Safety Act, these new criminal offences are not based on the notion that corporations must guarantee safety. The degree of risk to health and safety will differ according to the nature of the corporation's undertaking (for example, there is a substantial difference between working in a retail shop and fighting fires). The Occupational Health and Safety Act deals with the issue of managing risk by requiring a corporation to provide a workplace that is safe 'as far as is practicable'. Under the new criminal offences, a corporation's conduct will be assessed by reference to what a reasonable corporation in such circumstances would have done.

Sometimes a corporation will engage an independent contractor to assist. Hiring an independent contractor does not absolve a corporation from all responsibility. It is important to contrast two situations in this context. A corporation may hire a recognised expert in a field to assist it in developing a project. Despite the expertise of the person engaged by the corporation, that person is grossly negligent [if] their conduct leads to the death of an employee. The question that arises in this context is whether the corporation was grossly negligent.

The relevant question is then what a reasonable corporation would have done in such circumstances. The negligence of the person engaged cannot be attributed to the corporation under the bill.

This situation can be contrasted with the situation where a corporation engages a person and does not check whether the person is suitably qualified (and in fact, the person is not). If in this situation the person also raises issues concerning safety matters and the corporation decides to ignore these issues, the corporation's conduct concerning the person engaged may be considered in determining whether the corporation has been grossly negligent.

Consequently the offences have been carefully constructed so as to ensure that the liability of a corporation is direct rather than vicarious. Whilst vicarious liability of a corporation is important in the context of civil liability, vicarious liability should not be used as a basis for determining liability for serious criminal offences.

**Penalties**

The possibility of a financial impact and adverse publicity are, sadly, great motivators for ensuring that workplace practices are safe. This bill will introduce substantial new maximum penalties of:

> $5 million for a corporation found guilty of manslaughter; and
>
> $2 million for a corporation found guilty of negligently causing serious injury.

Substantial maximum penalties are necessary because some corporations have enormous resources. To deter or punish such a corporation, these maximum penalties are necessary. However, I emphasise that these are maximum penalties. The courts may take into account the financial circumstances of the corporate offender and tailor any fine appropriately. The overall objective is to impose a sufficiently serious penalty when sentencing a corporation that has committed a very serious offence.

Sometimes it will be more effective to impose another sanction in place of a fine. Most corporations rely on their reputation and good name to operate effectively. Most businesses strive to be good corporate citizens. If a corporation is guilty of manslaughter, the most effective sanction may be to require the corporation to take action to inform others that it has not in fact been acting as a good corporate citizen.

The courts will be able to require a corporation to take action to publicise the offence, the death or serious injury or other consequences arising from the offence, and any penalty imposed by the court. Such penalties can have much greater effect in influencing a corporation to improve its behaviour than even the largest fine would have.

**Senior officer offences**

The government also wants senior company officers to take safe work practices seriously. Despite existing criminal offences of manslaughter and negligently causing serious injury, it can be difficult to sheet home liability where an individual officer risks his or her workers' lives. Currently a company may be convicted of an offence but then go into liquidation, leaving nobody accountable. This bill extends liability to those responsible for the management and operation of the corporation where, and only where, the corporation has been proved liable of an offence.

Health and safety legislation currently applies to officers of a corporation where the corporation has

committed an offence with the consent, connivance or wilful neglect of an officer. Whilst existing legal liabilities are important, this bill creates new offences for senior officers of corporations when the corporation has committed manslaughter or negligently caused serious injury and which target the particular level of extreme behaviour that the government is committed to eliminating.

**When can these offences be invoked?**

A senior officer may only be convicted of the new offence if it is proved beyond reasonable doubt that the corporation was guilty of the offence of manslaughter or negligently causing serious injury under this bill. Normally, the corporation and a senior officer will be tried together. In this situation, the jury could only find the senior officer guilty if it first decided that the corporation was guilty.

However if, for instance, a corporation has gone into liquidation, there may not be any point in actually prosecuting the corporation. The bill provides that at the trial of a senior officer if a jury is satisfied that the corporation was guilty, it may then determine whether the senior officer was guilty. This is an important step in ensuring the accountability of key individual people.

**Who is a senior officer?**

The bill provides that a senior officer is a person who is an officer under the Corporations Act 2001 of the commonwealth. This will include directors and secretaries of the corporation. It also includes a person who:

> makes, or participates in making, decisions that affect the whole or a substantial part of the business of the corporation; and
>
> has the capacity to significantly affect the corporation's financial standing.

This bill limits that definition by providing that it only applies to a senior officer who holds their position for a fee, gain or reward or the expectation of a fee, gain or reward. The government recognises the indispensable contribution made by those who volunteer by giving their time to assist in senior positions in charitable or other community sector corporations (for example, volunteers on a school council or hospital board). It is appropriate that they be exempted from these offences.

**When is a senior officer liable?**

If the prosecution proves beyond reasonable doubt that the corporation is guilty of manslaughter, a senior officer of the corporation may be guilty of the new offence if the prosecution proves beyond reasonable doubt that the senior officer:

> was organisationally responsible for at least part of the corporation's conduct concerning the commission of the offence by the corporation; and
>
> materially contributed to the commission of the offence by the corporation by performing or failing to perform his or her organisational responsibilities; and
>
> knew that as a consequence of their conduct, there was a substantial risk that the corporation would engage in conduct that involved a high risk of death or really serious injury to an employee; and
>
> was not justified in allowing that substantial risk to exist having regard to the circumstances known to him or her.

In determining whether a senior officer was organisationally responsible, the bill provides that the court may have regard to matters such as the extent to which the senior officer was in a position to make or influence decisions concerning the corporation's conduct and the degree to which the person participated in making decisions in managing the corporation. These factors recognise the fact that not all senior officers are responsible for all of the activities undertaken by a corporation.

Sometimes a person may wear two or more hats in the one organisation. Whilst being a senior officer, a person may also at times operate in a different capacity, such as an operational capacity, where the person is not a senior officer for that role. In those circumstances, in determining the person's liability as a senior officer the bill provides that consideration must be given to the person's conduct in their role as a senior officer. Their conduct in any other capacity is not relevant to the determination of a senior officer's liability.

The bill also requires that a senior officer must actually know that there is a substantial risk of death or serious injury to an employee. Like other serious criminal offences, it is important that the senior officer's liability be based on what the senior officer actually knows.

The offence is one of recklessness on the part of the senior officer. Where the senior officer knew of the risk and that it was not justifiable to proceed in the circumstances, it is appropriate that the senior officer be liable.

These criteria have been carefully developed to ensure that they appropriately target those senior officers who have behaved reprehensibly and who could have acted differently. The offences do not apply to people who have no power to change a dangerous situation, even if they know it exists. In this way the offences appropriately make accountable those people who are in a position to make a difference about safety issues and who choose to disregard them.

The proposed maximum penalties for these new offences are:

five years and/or $180 000 where a corporation has committed manslaughter; and

two years and/or $120 000 where the corporation has negligently caused serious injury.

**Application to the public sector**

The government's view is that the government sector should be treated no differently from the private sector. Accordingly the bill specifically provides that these offences apply to the Crown's statutory corporations. If a person is killed or seriously injured because of the gross negligence of a government statutory corporation, it makes no difference to the victim whether the corporation was a government or non-government corporation. By applying the offences to government statutory corporations, the government is demonstrating its commitment to improving health and safety in all situations and expects no more of private sector corporations than it expects of itself.

Not all of the government works through statutory corporations. However, the government considers that all of the government should be bound by these new laws. Because of the complex constitutional and Corporations Law issues that arise in determining how to bind the remainder of government in the most effective manner possible, the government has decided to refer this issue to the Victorian Law Reform Commission for advice.

**Health and safety amendments**

Occupational health and safety legislation covers all persons and all workplaces — all employers (from small family businesses to large corporations); all self-employed persons; all employees; and all who design, manufacture, import or supply certain materials for workplaces. This legislation requires all these parties to be actively engaged in eliminating or reducing workplace health and safety risks and encouraging safer work practices.

This bill will substantially increase the maximum fines that can be imposed for health and safety offences, so that they will be the highest in Australia. For example, the maximum fine for a corporation guilty of an indictable offence will increase from $250 000 to either $600 000 or $750 000, depending on the nature of the offence, while the maximum fine for an individual will increase from $50 000 to either $120 000 or $150 000.

Fines for offences against the Dangerous Goods Act will be increased by upgrading these offences to 'indictable', removing an anomaly in which these serious offences were previously classed as summary offences (which meant that they were dealt with in a Magistrates Court and attracted much lower penalties). In addition, the bill will enable the courts to impose a maximum of 12 months imprisonment for failing to provide a working environment that is safe and without risks to health. The bill also adjusts some provisions to make them consistent with penalties for the new offence of industrial manslaughter, and with modern penal practices.

The bill makes a small number of additional changes to the health and safety legislation:

first, it amends the privilege against self-incrimination so that it applies only to individuals and not to corporations, in line with common law;

second, it changes the basis on which an employer can be held liable for discriminating against an employee (that is, the employee's health and safety activities or the employee's intention to make a claim for workers compensation under the Accident Compensation Act 1985). It will now be sufficient to prove that the employee's health and safety or claim activity was a substantial reason for the employer's discriminating, rather than that it was the only reason.

**Conclusion**

It is not anticipated that there will be many corporations that will be prosecuted for corporate manslaughter. The government hopes that there will not be any need to prosecute any corporations. However, for those corporations that blatantly flout their obligations to their work force, it is essential that the full force of the law be able to be brought to bear. This bill will enable that to occur.

These offences will make employers more accountable for the safety of their work force, not more vulnerable to liabilities. It is expected that the new range of penalties will provide a strong additional incentive, for

those employers who need additional incentives, to comply with health and safety obligations, and so will contribute significantly towards making Victorian workplaces healthier, safer and more productive.

Safe workplaces benefit employers and employees alike. For employers, workplace injuries affect production time and costs, as well as keeping Workcover premiums high. A poor reputation for workplace health and safety can seriously affect, as it should, an employer's reputation with employees, including potential future employees, and with customers and potential customers.

However, it is the impact of injuries on workers, their fellow employees, their families and their friends that is this government's main concern. Injuries affect not only a worker's ability to support his or her family, but his or her self-esteem and family relationships.

For these reasons, punishing corporate offenders is vital, but it is not enough. As I have said, this government is committed to education campaigns and the promotion of workplace safety across the board. These new laws are part of a comprehensive strategy to educate the public and the work force about the importance of workplace safety. Worksafe will help all employers to meet their safety obligations.

Education, information, inspection, and the deterrents provided by criminal sanction are all measures that are aimed at providing safer, fairer and more confident Victorian workplaces. These are the workplaces that Victorians expect and deserve in the 21st century.

I commend the bill to the house.

**Dr DEAN** (Berwick) — I move:

That the debate be now adjourned.

My understanding is that this bill is going to lie over. On that basis a two-week adjournment is appropriate.

**Motion agreed to and debate adjourned.**

**Debate adjourned until Thursday, 6 December.**

**Remaining business postponed on motion of Mr HULLS (Attorney-General).**

## ADJOURNMENT

**Mr HULLS** (Attorney-General) — I move:

That the house do now adjourn.

### Commissioner for Ecologically Sustainable Development

**Mr PERTON** (Doncaster) — I raise a matter for the Minister for Environment and Conservation relating to yet another broken promise and another unexplained delay by the minister. In her election manifesto entitled 'Greener cities — Labor's plans for the urban environment' it was stated that Labor would legislate to establish a Commissioner for Ecologically Sustainable Development who would:

> … provide an Ombudsman-type role for considering public complaints;
>
> table a state-of-the-environment report in Parliament that will review the objective scientific information about environmental quality and the progress made on improvement strategies;
>
> audit compliance with environmental legislation, including the Flora and Fauna Guarantee Act and native vegetation retention controls …

There was a budget allocation in the policy itself. One million dollars was to be applied in 1999–2000 and $1 million in 2000–01. Instead a discussion paper was released in December last year, a year after the government was elected. Public consultation closed in February. We are about to enter the last week of the parliamentary spring sittings and no legislation has appeared in the Parliament.

Most people believe the reason for that is that the government does not want a state-of-the-environment report to be tabled in the Parliament before the next election, nor does it want an independent audit of compliance with environmental legislation.

The action I seek and demand of the minister is that she comes into the house and guarantees to the Parliament and to the public that there will be sufficient funding and resources for a Commissioner for Ecologically Sustainable Development, when created, to complete the state-of-the-environment report by the end of next year so that the public can judge this government's actions on the environment objectively and before an election prevents its being published and assessed by the public.

### Aged care: fall prevention

**Mr LIM** (Clayton) — I raise a matter for action by the Minister for Aged Care. I am terribly concerned for the frail aged in my electorate of Clayton. Injury as a result of falls is a major public health problem, and fall prevention among older people has been identified as one of the areas of injury prevention that requires attention by government. I therefore ask the minister to

take action accordingly. The environment in which the majority of falls among people over 65 years of age occur are in hospitals — 38 per cent — —

*Honourable members interjecting.*

**The DEPUTY SPEAKER** — Order! The honourable member for Mitcham and the Deputy Leader of the Opposition!

**Mr LIM** — Forty-nine per cent of falls happen in the home environment, 17 per cent of falls occur in the urban environment, and about 15 per cent of falls occur in the residential care environment.

I particularly draw attention to the incidence of falls in the home environment, where 49 per cent of injuries occur to people aged 65 and over. Most falls occur in and around the home because this is where older people spend a significant portion of their time. The most common hazards include steps and stairs, chairs, floors, flooring materials, beds and ladders. Contrary to popular belief, the majority of falls do not occur in the bathroom. Major sites include walkways, kitchens, living areas and bedrooms.

The primary site of falls in the urban environment or public space is a footpath, believe it or not. This is usually related to uneven surfaces, high gutters, poor edge definition, overhanging trees and poor lighting.

While it has been estimated that a third of older people living in private homes will fall each year, about half of those living in institutions will fall. Additionally it has been shown that not only do those living in institutions comprise about 40 per cent of all those sustaining a hip fracture, but also the risk of sustaining a hip fracture is about 10½ times higher among those living in institutions compared with those living in private homes.

In total about one in three older people living in the community fall each year. Even when no injury occurs, older people who have sustained a fall may develop a marked degree of fear of falling. This fear can lead to increased anxiety, loss of confidence, decreased activity and social interaction and increased dependence on community services.

I would be grateful if the Minister for Aged Care took action to assist the frail and aged in my electorate of Clayton so that they can live independently and with confidence that their risk of injury from falls is reduced.

**The DEPUTY SPEAKER** — Order! The honourable member's time has expired.

## Insurance: public liability

**Mr JASPER** (Murray Valley) — I raise a matter for the attention of the Minister for Small Business, and perhaps it also concerns the Attorney-General and the Minister for Finance. I am receiving continuing representations as a result of the huge increase in public liability insurance premiums for volunteer organisations, sporting organisations and small businesses that are involved in activities in my electorate of Murray Valley.

I raised this matter in Parliament earlier in the sittings after representations had been made to me, and I highlighted the Rutherglen Country Fair because the huge increase in public liability insurance brought next year's event into question. Since then I have had representations from sporting organisations such as the Wangaratta athletics club and the Burramine sports club. They run athletic carnivals early in the new year and have difficulty obtaining appropriate insurance.

While I understand that the government held a meeting here a couple of months ago, which drew a large number of organisations together and brought information to their attention and determined that public liability insurance was an issue that needed to be addressed by the government to try and assist these organisations in getting a fairer and lower public liability insurance, if the government does not act on this issue organisations will not keep operating and will go out of existence. It will be to our detriment, particularly those of us living in country Victoria.

Of particular concern to me are representations that I received recently from Mr Terry Walshe, who operates Red Gum Horse Tours at Yarrawonga. He wrote to me because his public liability insurance last year was $3155 but this year the amount has increased to $10 175. Mr Walshe has operated his business for 10 years. He runs guided horse tours through the bush of Yarrawonga along the Murray River. These are mainly 1 and 2-hour rides, but he also offers day rides and beginners lessons. A large number of riders are involved. At the moment Mr Walshe has 20 horses; when running to full capacity in the high season he uses 16 horses, five times a day. In the off-season he operates at a smaller capacity. Mr Walshe has closed down his business for the time being because of the huge increase in public liability insurance. He is in receipt of Centrelink payments as he is out of work.

Red Gum Horse Tours is a very effective operation in the Yarrawonga area. Given the forthcoming tourist season over the Christmas period, I seek action by the government to actively assist this and other

organisations to get lower public liability insurance to enable them to continue their activities.

## Rail: regional links

**Ms ALLEN** (Benalla) — I raise with the Minister for Transport the very important issue of rail services in rural Victoria, particularly in my electorate of Benalla. I want the minister to take action to ensure that country people are not disadvantaged by the lack of consistent train services to country towns. As we all know, the previous Kennett government, aided and abetted by the haters of country rail services, the National Party, closed hundreds of train services across country Victoria. As a result the many people who live in these towns were literally cut off from any form of transport to access their regional towns and Melbourne. Anyone without a car was left stranded, and because of the exorbitant price of petrol in country areas people have found it extremely difficult to commute in any way, shape or form.

This is particularly the case in the beautiful little country township of Violet Town, which is in my electorate. It is one of those country towns that has extraordinary community spirit. The town pulls together to try to facilitate services, festivals and events. For instance, in March next year the town will host a men's health forum. The community of Violet Town strives to extend what it has in the town in the way of community spirit, and it holds festivals and tries to get issues out into the electorate.

Violet Town holds a fantastic country market on the second Saturday of every month. It is one of the biggest markets in country Victoria. To have train services coming into Violet Town would be an advantage to the township. Other people around the electorate and around Victoria would be able to access the market for a day trip. It would be absolutely fantastic.

Country towns in my electorate have a high population of older Australians and unemployed people who need to access the services that are offered in their nearest regional town or city, especially specialist medical services, employment and a larger variety of shopping facilities.

When the Kennett government, aided and abetted by the National Party, closed country rail services, it did not care that country people had no other form of public transport, that elderly people in these small country towns could not access their specialist medical services or that people in those towns could not access the employment services offered in larger towns so they might get a job. Just as the National Party is again showing it does not care about country Victoria — —

**The DEPUTY SPEAKER** — Order! The honourable member's time has expired.

## Public sector: office accommodation

**Ms ASHER** (Brighton) — I ask the Minister for Finance to advise the house of her processes and procedures in relation to who provides the government's leasing requirements for office space. On 9 October the Minister for Finance announced in this place that the government would advertise for the leasing of 100 000 square metres of office space, and advertisements were placed in newspapers on Wednesday, 10 October, to that effect. I note that in those advertisements the closing date for expressions of interest (EOIs) was 31 October.

It was a surprise for most people to read in the *Australian* of 16 November, approximately two weeks after that, that the government had already come to an arrangement for its office space requirements. The report in the *Australian* indicates that the government is on the verge of signing up for office space at the Southern Cross Hotel site. It goes on to say that the government plans an agreement with Multiplex for 'up to 65 000 square metres of office space', and we are informed that rent of around $300 per square metre will be part of this agreement.

Given that this government takes two years to make any type of policy decision — if indeed it can confine itself to two years — I find it extraordinary that in the space of two weeks, if this report is accurate, a lease deal could be on the verge of being signed. I would expect that any transparent and open expression-of-interest process would take a somewhat longer time. It is possible that the journalist is wrong, and I seek the minister's advice on that. However, it is equally possible, and perhaps more so, that the government has done a deal with Multiplex or someone else in relation to the Southern Cross site to lease office space to make it viable. That would mean the process of calling for expressions of interest has been a sham. Most corporate entities expect EOIs to be lodged and considered in good faith. I reiterate my request for the minister to explain this article and more particularly to explain her processes and procedures in relation to this leasing deal.

## Disability services: residential care

**Mr ROBINSON** (Mitcham) — The issue I raise for the action of the Minister for Community Services

concerns the needs of disabled citizens and, ideally, the provision of services for them in their own homes. I seek from the minister the provision of additional resources in this important field in the eastern suburbs, and in particular services for residents in the Mitcham electorate.

The Mitcham electorate has some excellent service providers in the disability field. We have the well-known Nadrasca institute, which has been running for 30 years under the tutelage of Frank Harris. He is doing excellent work and is shortly to move to the Australia Post warehouse in Rooks Road, Mitcham. We have the neighbouring Alkira organisation in Box Hill, another longstanding provider for the intellectually disabled. We have the former RAID group, which provides recreational activities for the intellectually disabled and where Tracey Ward did some fantastic work for a long time in running regular sporting activities. Blackburn Lodge, for the Adult Deaf Society, is another excellent provider, and Taralye in Blackburn is a world-renowned early intervention centre for children with hearing disorders where Shirley Denehy has done some excellent work.

In all cases of disability the key is to provide as much as possible by way of services for those people in their home environments. I acknowledge that last year the Minister for Community Services launched the Home First initiative, which aims to provide a comprehensive series of services for people in their own homes, particularly recreation, employment and personal care services. The minister is to be congratulated on that excellent initiative: she is doing a fantastic job.

However, I believe we can go further than that and ensure that services are expanded and targeted to provide the full range that is required. The needs of disabled Victorians do not diminish. In a recent members statement I paid tribute to Chris Jones, a long-term disability rights campaigner, saying that no-one deserved to be trapped in a disabled body. I doubt that many members in this place could speak on that subject from first-hand knowledge.

I encourage the minister to ensure that services like Home First are further developed so that we can provide for disabled Victorians to the extent that is absolutely necessary and appropriate, and in particular to help them with services in their places of first choice — their homes.

## Cheltenham Secondary College

**Mr LEIGH** (Mordialloc) — I raise a matter for the attention of the Minister for Education that concerns Cheltenham Secondary College and the problems that I believe it will have with its master plan, which started under the former Liberal government and is continuing to date. I believe the cost is in excess of $2 million, of which about $1 million will come from the school itself.

The school has insufficient space for its 1100 students. Behind the school is an oval that is owned by the City of Kingston. It is a former tip site, so it cannot be built on. The school council asked me on 17 July last year to see if a better arrangement could be made between the school and the local council on the use of that ground so that the school could alter its master plan. Given the extra playing facilities on the neighbouring site — and although it may not belong to the school — the use of the oval would enhance the school, allowing the school site to be redeveloped in a different way.

The council subsequently wrote back to me on 14 September last year, saying that it was happy to negotiate the use of the ground by the school under a free-of-charge arrangement, but the matter has been left at that until now.

I ask the Minister for Education to negotiate with the Labor-controlled council of the City of Kingston, and particularly its mayor, Cr Elizabeth Larking, to see if some long-term arrangement can be put in place that guarantees the school the use of this facility at a time when the rest of the community does not want to use it. I do not think anyone in our community would oppose such an arrangement being made. It would mean that the type of upgrade the school will have to make would be substantially different. It would benefit the 1100 students and the teachers. The school council is enthusiastic to expand and upgrade the facilities. It is a good school, under the leadership of Carol Morrison, its principal.

I seek some undertaking from the minister that she will negotiate with the City of Kingston to see what can be done so that a program is not started that overbuilds the site without leaving substantial space for the students. I do not think the residents care who owns the land — after all, they are all taxpayers or ratepayers. The proposed arrangement seems much more appropriate. I am disappointed that, to date, the City of Kingston has said the school can use the oval under a free-of-fee arrangement. When master upgrades are being done, the arrangement needs to be more solid.

**The DEPUTY SPEAKER** — Order! The honourable member's time has expired.

## Electricity: tariffs

**Mr HARDMAN** (Seymour) — I raise a matter for the attention of the Minister for Small Business in another place. I am concerned about the exorbitant claims by the electricity companies that were privatised by the Kennett government, especially those that service country areas in general and the Seymour electorate in particular.

I ask the minister to take all necessary action to ensure that country people, including those in the Seymour electorate, are treated fairly by the privatised electricity companies. These include Eastern Energy, now known as TXU, which services my electorate, and Origin Energy, which services a small part of it as well.

The cost of energy is one of the most significant costs for people living in country areas. In towns around the Seymour electorate many people do not have the option of using natural gas for their energy needs, and it is becoming very expensive and hard to find wood to use for heating purposes. Since the gas industry was privatised there have been enormous price increases for liquefied petroleum gas (LPG). I have heard stories of people putting up with the cold because they cannot afford to refill their bottles because LPG prices are so high.

The most worrying action by TXU is the foreshadowed substantial average price increase, which will come into effect when the domestic retail market moves to full competition from January 2002. TXU proposes a price increase of 20.2 per cent in the average annual residential bill for homes with off-peak hot water services. What that figure obscures is the substantial increase in off-peak tariffs. In the case of TXU, off-peak rates will rise by up to 115 per cent. That is totally unacceptable.

The Kennett government left this government with a legacy where it faces greater demands than it has the supply to meet, because apart from selling off our energy-producing companies the Kennett government did absolutely nothing to meet the future energy needs of Victoria. As is the case with health and education, this government has been left to clean up a mess, and it is taking a long time to do that.

The electricity companies have to pay more to purchase electricity, and it is in no-one's interest to see them go broke. However, it is in no-one's interest that my constituents and other people in country Victoria go cold or have to pay an extra slug when they do not deserve to do so.

As was seen under the previous Kennett government, privatisation experiments can go awfully wrong. The Liberal and National parties should be embarrassed and ashamed by the situation they have left the Bracks government to deal with.

I am aware that the Bracks government has legislated in relation to the Office of the Regulator-General, giving him greater powers. I am also aware — —

**The DEPUTY SPEAKER** — Order! The honourable member's time has expired.

## Housing: Parkdale tenant

**Mrs SHARDEY** (Caulfield) — I ask the Minister for Housing to take action to address the matter of tenants of the Office of Housing who are housed in spot-purchase or leased units. There is a lack of action taken by the Office of Housing when such tenants are troublesome and are accused of nuisance conduct, which becomes the cause of complaints by neighbours.

While I have had a number of complaints of this nature, the particular case I raise concerns a Mr Erskine, a public housing tenant living at unit 8, 158 Como Parade, West Parkdale. I appreciate that the Office of Housing cannot be involved in mere personal differences between neighbours, but this case has been ongoing for some two years and involves complaints by the body corporate and at least eight other owners.

One of the owners has become very frustrated with the lack of action by the Office of Housing and has taken some very strong action in terms of his communication with the department. However, after two years and numerous complaints, letters to the legal services branch of the Department of Human Services by the body corporate and finally a visit to the Cheltenham regional office by an 82-year-old complainant, the one and only action taken was that the Office of Housing tenant received his first breach letter under the tenancy act.

The person is accused of numerous things including filling owners' letterboxes with rubbish, writing defamatory letters about the body corporate and sending them to owners, physically attacking the body corporate chairman, destroying common garden areas, putting fish oil in owners' letterboxes, tampering with owners' mail, and so on.

I ask the minister to take the appropriate action in this case and the other cases that have come to my attention to ensure that neighbours surrounding areas where public tenants live are given the treatment they deserve,

and to see that the Office of Housing does its job at the direction of the minister.

## Autism spectrum disorder

**Ms GILLETT** (Werribee) — I refer the Minister for Community Services to the need for improvement in early intervention services for children with autism spectrum disorder (ASD). The action I seek from the minister is that she authorise some research into the service provision for the families of children with ASD.

I see with increasing regularity the parents of quite young children who have been diagnosed with ASD. They express to me their pain and frustration in not being able to access the services they feel they need for their children at the earliest possible stage of their development. Work has been done over the years by wonderful people like Dr Laurie Bartak at the Krongold Centre for Exceptional Children at Monash University's Clayton campus, who have worked hard and long on developing ways, means and methods of helping the community to understand what children with ASD may need. Children present with a very broad range of symptoms, from very mild to quite severe, so the approaches that need to be taken with various children need to be tailored for the individual.

One of the things my community finds disappointing is that service provision in the western suburbs of Melbourne, particularly early intervention service provision, is far more difficult to access and to maintain over the long term. I know the minister is very interested, committed and compassionate with families of children who have ASD. That is one of the areas in her portfolio that she seeks to address. I ask her to look at a range of research that might assist with the provision of better tailored early intervention services for families with children with autism spectrum disorder, which will allow us as a government to provide a fair, equitable, adequate and appropriately tailored response for each of the families with these special children.

**The DEPUTY SPEAKER** — Order! The honourable member for Bayswater has just under 2 minutes.

## Environment: diesel pollution

**Mr ASHLEY** (Bayswater) — I raise for the attention of the Minister for Health a problem which is going largely unrecognised — it certainly seems very hidden — yet which is happening every day in every street and certainly in every shopping centre of our community, and maybe in the major streets as well. The problem is diesel pollutants coming from food transport and food delivery vehicles.

This would not be too much of problem if it were not for the fact that the United States Environment Protection Agency has determined that soot from diesels is carcinogenic. The description of it is that diesel exhaust fumes contain more than 40 chemicals that are listed as toxic air contaminants, which are recognised as human carcinogens, reproductive toxins or endocrine disrupters. These materials are being belched by the diesel engines that run the refrigerators on food transport vehicles.

It is an irony that we have those vehicles to keep the food cool, yet at the same time the toxins are being pushed into the atmosphere. Because of the nature of verandahs and structures like that and the way those vehicles pull up beside shops, the pollutants are actually being pushed in through vents and under doors and so on into shops around the city all the time every day. It is strange that in cafes, for example, people sit down to breakfast and get a lung full of pollutants. I think it is a serious issue. Certainly the people near my office — —

**The DEPUTY SPEAKER** — Order! The honourable member's time has expired, and the time for raising matters in the adjournment debate has also expired.

## Responses

**Mr BATCHELOR** (Minister for Transport) — The honourable member for Benalla raised the matter of V/Line services to Violet Town. It is a great pleasure to be working with someone of the calibre of the honourable member for Benalla. She knows her electorate, and you could hear that in her contribution tonight explaining the needs of the community of Violet Town and its economy.

I understand the needs of that area because of the excellent representation made by the honourable member for Benalla, and I am pleased to advise that the operator, V/Line Passenger services, is prepared to conduct a trial of an extra train service in each direction each week day to Violet Town. This will be a terrific boost to the train services that are provided to Violet Town. The trial will start in January next year. People have been asking for this service so we expect they would participate in the trial by showing their support. It once again demonstrates the preparedness of this government to work with private companies, with V/Line Passenger, to provide the sort of service standards that are required.

**Mr Leigh** interjected.

**Mr BATCHELOR** — We see the shadow Minister for Transport speaking out against this proposal in the Parliament tonight

**Mr Leigh** — On a point of order, Deputy Speaker, that is not true. This man was the state secretary when the Labor Party was closing railway lines — —

**The DEPUTY SPEAKER** — Order! The honourable member for Mordialloc will not debate an issue under the guise of raising a point of order. He has been warned many times about this before, and I ask him to desist.

**Mr BATCHELOR** — The service will commence on 28 January as a trial. It will provide an additional service in each direction on week days. This is great news for the community. It will provide access from Violet Town to other places like Wangaratta, Benalla, Albury and Melbourne. It will make people's journeys much more convenient, whether they are coming towards the central business district or going further north towards Albury-Wodonga.

I thank the honourable member for Benalla for her hard work, in consultation with her local community, and in particular local resident, Chris Byrne. I thank them all for their tireless work in securing these additional services. We wish them well. If people get behind it in the way they have made representations to the government thus far it should be a great success.

**Ms PIKE** (Minister for Housing) — The honourable member for Clayton requested action to address the devastating consequences of falls among older people in our community. We know that preventable injuries such as falls are an area of great priority for this government, partly because we know that it not only keeps people out of the public hospital system but also enhances the quality of life of older people.

I am pleased to advise the honourable member that the government has added $200 000 to its existing $3.27 million program to focus on helping older patients in the public hospital system to avoid injury. We have provided $50 000 of this $200 000 to several Victorian hospitals, including the Monash Medical Centre. Among a whole range of initiatives, including for example the Foothold on Safety project, the $150 000 chair and injury prevention program and other programs, this program will help to minimise injuries to older people in our community and have a positive impact on keeping hospital admissions down.

The honourable member for Caulfield raised with me a matter concerning the impact of the behaviour of a public housing tenant on people within that person's neighbourhood. Clearly the Office of Housing wishes to ensure we have neighbourhoods where people have the right to enjoy access to their homes and have a good quality of life. We are concerned when actions are undertaken which threaten that and cause conflict within neighbourhoods. We work within the Residential Tenancies Act and acknowledge the opportunities and constraints that are there. I will certainly investigate that matter and get back to the honourable member with further information.

**Ms KOSKY** (Minister for Post Compulsory Education, Training and Employment) — The honourable member for Brighton raised a matter in relation to the government's advertisement about providing 100 000 square metres of office space and asked how that process was proceeding. She referred to an article in last week's *Australian* about Multiplex supposedly being close to an agreement with the government around that process.

I am pleased to have the opportunity to inform the house that that was incorrect. In fact we are not that far through the process at all. I am happy to explain what the process is. The expressions of interest closed on 30 October. I have been informed it was 30 October, but it may have been 31 October. Those expressions of interest are currently being assessed by a tender evaluation panel comprising departmental members and consultants, and including a probity auditor. They will shortlist all the expressions of interest. That process has to be signed off by a probity auditor. Then there is a report that will come to government for further consideration.

The government is still awaiting that report, and we cannot proceed to the next stage, which will be seeking a selective tender, until the report comes to government. So that is the stage we are at. No report about the process has come to me at this stage. I am currently awaiting that report, which I am assuming will come to me in the next few weeks. There is a lot of interest in this project in terms of leaseable space, which is very exciting for the government. It will lead to some terrific responses from around the Melbourne central business district, so I am very excited about it, but as I said, I have not received a report on it yet.

The honourable member for Murray Valley raised a matter in relation to public liability insurance, particularly in relation to small business, which is with the Minister for Small Business in another place. I did report to this house in relation to public liability and community groups, which I think picked up some of the areas the honourable member mentioned, such as

events within the community, recreational activities, not-for-profit recreational activity and the like.

A lot of work has been done by the Municipal Association of Victoria, Jardines Lloyd Thompson, and Our Community, which is an incorporated community organisation, to develop a new product to go on the market, which we believe should be available in the middle of next year. It will provide arrangements for community organisations for pooling public liability insurance and therefore spreading the risk across those organisations. That will be organised through local government or other organisations. That product is being developed in detail at the moment. I think there will be around 19 different types of insurance within that product, so that is a very exciting product for community organisations.

The Minister for Small Business met several weeks ago with those who were focused on small business and public liability insurance, and she will respond in detail about what has happened from that group in relation to small business.

**Ms CAMPBELL** (Minister for Community Services) — The honourable member for Werribee raised the importance of having quality services and research for people with autism spectrum disorder. The government is committed to the delivery of quality services that promise and promote the healthy growth and development of children. The honourable member for Werribee has advocated on behalf of many families with children in need of early intervention services. They have a fierce and strong advocate in the honourable member for Werribee.

I am pleased to provide the honourable member with the following information. I have endorsed a $70 000 research project to address the growing concern in the community about service provision for families of children with autism and the children themselves. This project will investigate the prevalence of the condition, the current research and the efficacy of currently used diagnostic tools. It will also identify demand management issues, service quality and service options. The results of this investigation will be used to inform future service development.

When I became Minister for Community Services I realised that the early intervention service system did not have a strong focus on autism spectrum disorder. The early intervention service received a considerable injection of funding from the Bracks government, but that was on the basis of the information available to Labor during the election campaign. Since the Bracks government came to power it has heard the concerns of parents of children with autism spectrum disorder, and it has acted to ensure that the Department of Human Services is better informed, so this research project is quite critical.

Government initiatives in this sector include an extra $1 million from the last state budget, in addition to the $6.5 million allocated over four years from 1999 to 2003 to further reduce waiting times for early intervention services. That was an election commitment Labor made, and the government is very proud to have delivered on it.

The government is also working to examine ways to strengthen the capacity of the specialist children's services teams so we are not just relying on the non-government sector. This will enhance access to a range of support services for families because the specialist children's services teams have a range of skills available should families wish to access them.

I pay tribute to the Western Early Intervention Association for its excellent networking and efforts to ensure that families in the west are more adequately cared for and their children get better services and get them more quickly.

The honourable member for Mitcham raised the important matter of services for people with disabilities in Melbourne's east. In September 2000 the government launched the Home First initiative. It is an excellent initiative that recognises the right of people with a disability to be included in their community. Home First is a new service, and it has an allocation of $10.4 million per year to meet the needs of 271 Victorians.

The honourable member for Mitcham is always ensuring that his constituents are well catered for and that their needs are met. Obviously he would be very interested in the funding allocated to the east. The government has allocated more than $2 million to the eastern metropolitan region, which will provide increased home and community support options for people with disabilities, their families and their carers.

Home First is currently supporting 54 people with a disability in the eastern metropolitan region; the government is ensuring that Home First is available. Fifteen of the people being supported by Home First in the eastern metropolitan region have acquired brain injuries. In addition, the budget will allow more than 25 people with ageing carers to access Home First. One young man with acquired brain injury living in the outer east with his family has commented on some of the gains he has been able to achieve personally as a

result of receiving Home First. They include increased physical strength, which assists him to be more independent and gives him more self-confidence, an opportunity to engage in community activities such as swimming and going to the gym, and a reduction in the day-to-day load placed on his carer.

In the current financial year the government has allocated an additional $500 000 to the eastern metropolitan region so 17 people with disabilities can be supported through Home First. I am sure the honourable member for Mitcham will be ensuring his constituents know about and can access that package.

**Mr PANDAZOPOULOS** (Minister for Gaming) — The honourable member for Doncaster raised for the Minister for Environment and Conservation a matter relating to a state-of-the-environment report, and I will refer that matter to the minister. I note that the honourable member for Doncaster is not in the chamber.

The honourable member for Mordialloc raised a matter for the Minister for Education in relation to Cheltenham Secondary College and its master plan works. The honourable member says the school has about 1100 students, so obviously it is a pretty big school. The honourable member raised the possibility of using a reserve behind the school that is owned by the City of Kingston. I will refer that to the Minister for Education.

The honourable member for Seymour raised a matter for the Minister for Energy and Resources in another place concerning TXU and Origin Energy, two domestic energy companies that focus on his area. The honourable member is seeking a fairer go for regional Victorians. Of course, it is a matter for the minister in another place, and I will raise it with her.

The honourable member for Bayswater raised a matter for the Minister for Health in relation to diesel pollutants from food transport delivery vehicles and scientific research that highlights the issue of toxic air contaminants. It is a very important and serious matter, one that highlights the contradictory approach we in the community take in relation to anything that is toxic. We are concerned about toxic dumps but toxic materials are in our workplaces, in the air we breathe and in our homes. Obviously we have to do something about them and manage them. It is a very important issue, and I will raise it with the Minister for Health.

**Motion agreed to.**

**House adjourned 5.40 p.m.**

# QUESTIONS ON NOTICE

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***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, 20 November 2001

### Transport: ministerial officers' pecuniary interests

**433(c). MR KOTSIRAS** — To ask the Minister for Transport whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

### State and Regional Development: ministerial officers' pecuniary interests

**433(e). MR KOTSIRAS** — To ask the Minister for State and Regional Development whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

### Local Government: ministerial officers' pecuniary interests

**433(f). MR KOTSIRAS** — To ask the Minister for Local Government whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

### Post Compulsory Education, Training and Employment: ministerial officers' pecuniary interests

**433(t). MR KOTSIRAS** — To ask the Minister for Post Compulsory Education, Training and Employment whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed as follows:

All staff working in my office are employed by the Premier. Therefore there are no ministerial staff officers employed by me.

## Gaming: ministerial officers' pecuniary interests

**433(v). MR KOTSIRAS** — To ask the Minister for Gaming whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed that:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Sport and Recreation: ministerial officers' pecuniary interests

**433(ah). MR KOTSIRAS** — To ask the Minister for Gaming representing the Minister for Sport and Recreation whether all ministerial officers currently or previously employed by the Minister have signed a pecuniary interest form; if so, on what date — (a) was the declaration signed; and (b) did the employee commence employment .

**ANSWER:**

I am informed as follows:

All staff working in my office are employed by the Premier. Therefore there are no ministerial officers employed by me.

## Education: school nurses

**442. MR PLOWMAN** — To ask the Honourable the Minister for Education with reference to the allocation of school nurses —

1. What are the components of the formula determining the educational, health and social needs of school communities, other than the Special Learning Needs (SLN) Index.

2. Why did those secondary schools in the electorate of Benambra, exhibiting the greatest education, health and social needs not qualify, if all components were considered.

**ANSWER:**

The Secondary School Nursing program is administered by the Department of Human Services and therefore should be referred to the Minister for Health.

## Education: school nurses

**443. MR PLOWMAN** — To ask the Honourable the Minister for Education — (a) when will the Secondary School Nursing (SSN) Program evaluation by Professor Gay Edgecombe be completed; and (b) when does the Government intend to implement the recommendations of the evaluation.

**ANSWER:**

The Secondary School Nursing program is administered by the Department of Human Services and therefore should be referred to the Minister for Health.

## Post Compulsory Education, Training and Employment: CAE television advertising

**461. MR KOTSIRAS** — To ask the Honourable the Minister for Post Compulsory Education, Training and Employment with reference to the Council of Adult Education — what are the details of all television advertising since July 2000 to date indicating — (a) the date of approval for each contract; (b) the cost of each contract; (c) the purpose of each advertisement; (d) the duration of each advertisement; (e) where each advertisement was broadcast; (f) when each advertisement was broadcast; (g) to whom each contract was awarded; (h) which individuals were paid to appear in the advertisements; and (i) the total cost paid to these individuals to appear in each advertisement.

**ANSWER:**

I am informed as follows:

There has been one TV advertising campaign since July 2000. This campaign focused on adult literacy and was titled "Acorns to Oak Trees". The television campaign ran during June and July 2001 and comprised more than 50 free Community Services Announcements which aimed to increase public awareness of the issue of adult literacy in the Australian community and to de-stigmatise illiteracy in the community, in addition to promoting the CAE's Adult Literacy and Basic Education program. Ms Hazel Hawke was the only person who appeared in the advertisements and she agreed to waive her usual appearance fee because of her long standing belief in and support for education and in particular, literacy, in Australia. Apart from creative costs of around $4000 which cannot be disaggregated, for an overall multimedia campaign, the only cost to the CAE for this extensive and high impact television campaign was the production cost which was minimal and was in the order of $20,000 plus GST. Look High Impact Advertising undertook the production under an agreement approved in March 2001.

## Transport: tram company concessions

**467. MR LEIGH** — To ask the Honourable the Minister for Transport — what are the various concessions made to — (a) Yarra Trams; and (b) Swanston Trams in regard to their commitments to the Operational Performance Regime.

**ANSWER:**

The requirements of the Operational Performance Regime (OPR) have been applied. Consistent with the Franchise Agreements, concessions are made to OPR penalties where, for example, services are interrupted by planned parades or special events which are approved in advance.

Other adjustments have been made to OPR arrangements as follows:

- Yarra and Swanston Trams are not penalised for service disruptions as a result of track works, which unavoidably impact on services. This step was taken to reduce the potential disincentive to undertake timely track maintenance.

- The Director of Public Transport has generally applied the Director's option to adjust OPR targets where scheduled journey times have been extended to better reflect achievable travel times under current traffic conditions. However, when Swanston Trams introduced new timetables last year which incorporated some small increases in scheduled journey times, the adjustment made to OPR targets was not fully proportional. This was a once only concession in recognition of :

  - the expectation at time of franchising that Swanston Trams would introduce an overdue timetable change after franchise commencement; and

– the consequent difference in targets that were given to Swanston. In the first year of franchise, all rail franchises except Swanston Trams were set targets for service delays and cancellations, which were 20% better than the benchmark year. This target had to be achieved in order for franchisees to avoid financial penalties. For Swanston the target was set at 30% better than benchmark.

– Adjustments were made to limit the impact on OPR penalties resulting from the initial impact on service performance of the withdrawal of W Class trams in mid 2000.

– Adjustments were made to limit OPR penalties resulting from severe disruptions to services due to last year's World Economic Forum protests.

## Transport: tram stop reductions

**472. MR LEIGH** — To ask the Honourable the Minister for Transport — what are the itemised details per tram route of proposed tram stop reductions and removals.

**ANSWER:**

There are no current proposals by either Yarra Trams or Swanston Trams to reduce the number of tram stops.

## Health: Southern Health Care Network specific-purpose funds

**483. MR THOMPSON** — To ask the Honourable the Minister for Health — what was the itemised amount of locally raised funds for specific purposes — (a) which was transferred from the old Southern Health Care Network to the new Bayside Health, effective from 1 July 2000; and (b) that Southern Health Care Network took over from the Sandringham and District Memorial Hospital upon its establishment.

**ANSWER:**

Twelve new metropolitan health services were created by the current government effective from 1 July 2000. Each new metropolitan health service has a clearer focus on the community to be served, with more local representation on their boards than the networks which they replaced. A review of the six former health care networks, undertaken by Professor Stephen Duckett, found that the former networks were bureaucratic, and did not respond to the needs of local communities. The Bayside Metropolitan Health Service was established from part of the former Inner and Eastern Health Care Network (i.e. the Alfred Hospital and Caulfield General Medical Centre) and the Sandringham and District Memorial Hospital, which was formerly a campus of the Southern Health Care Network.

To determine the commencing assets and liabilities of the new Bayside Health on 1 July 2000, the assets and liabilities of the former Southern Health Care Network were allocated to Southern Health and Bayside Health (similarly some of the assets and liabilities of the former Inner and Eastern HCN were transferred to Bayside Health). Property rights and liabilities associated with the Sandringham Hospital campus of the Southern Health Care Network were allocated by Order in Council to Bayside Health. Specific Orders in Council were made to designate Bayside Health as the legal successor of the Southern Health Care Network in relation to the right or eligibility to from [sic] trusts benefit of the former Sandringham and District Memorial Hospital and the Sandringham Hospital campus of the Southern Health Care Network.

I am advised that sufficient funds were transferred from Southern Health Care Network to Bayside Health to cover the net current assets, including the specific purpose donations of Sandringham Hospital. My department contracted an independent accounting firm to ensure an appropriate and equitable allocation of the assets and liabilities to the new health services.

The government's focus is to ensure that the new metropolitan health services are financially viable. A one off equity injection of $34.6 million was provided on commencement to four metropolitan health services, so that they would commence with adequate liquidity. They have also received adequate funding in the last two budgets. The budget for 2001/2002 provided $582 million over four years towards the Hospital Demand Strategy. This is in addition to the $242 million provided in the budget for 2000/2001.

## Transport: Melbourne Airport patronage

**515. MR LEIGH** — To ask the Honourable the Minister for Transport — what impact has the — (a) September 11 terrorist attack in the United States of America; (b) collapse of Ansett; and (c) downturn in the tourism industry had on each of — (i) Melbourne Airport passenger numbers; (ii) taxi industry patronage and revenue; (iii) Tullamarine Freeway use; and (iv) airport taxi charges.

**ANSWER:**

Taxi industry patronage and revenue, as reported by the Victorian Taxi Association (VTA), has decreased by some 15–20% overall as a result of the combined effects of the Ansett collapse and related effects on Air New Zealand and the September 11 attack in the USA.

The VTA reports that the number [of] taxi departures from Melbourne Airport have decreased by 20% (down from 3500 departures daily). Actual figures on taxi traffic and related airport charges are not available as this is commercial information held by Australia Pacific Airports (Melbourne) Pty Ltd, the operators of Melbourne Airport.

## Education: education history unit

**536. MR WILSON** — To ask the Honourable the Minister for Education with reference to the Education History Unit in the Department of Education, Employment and Training —

1. What decision has the Minister or the Department made about the continuation of the Unit.
2. Who made the decision about the continuation of the Unit.
3. What was the consultation process leading to the decision.
4. With whom did the Minister and the Department consult.
5. Has the Minister and the Department received correspondence or representations opposing the closure of the Unit.
6. What has been the cost of funding the Unit for — (a) 1996–1997; (b) 1997–1998; (c) 1998–1999; (d) 1999–2000; and (e) 2000–2001.
7. If the Unit is to be closed or altered, what arrangements have been made to protect and preserve the collection and records of the Unit.

**ANSWER:**

I am informed as follows:

The Department has no intention of closing the History Unit. It will continue to operate.

## Agriculture: national livestock identification scheme

**542. MR KOTSIRAS** — To ask the Honourable the Minister for Agriculture with reference to the National Livestock Identification Scheme video produced by the Department of Natural Resources and Environment —

1. What was the total cost of the production of the video.
2. How many dairy farms received the video.
3. What was the total cost of mailing out the video to dairy farms.

4. How many dairy farms have implemented the electronic tags at the government-provided rate of $2.50 each.

5. What was the total cost of the electronic tags to the Government.

**ANSWER:**

I am informed that:

1. The total cost associated with the production and copying of the video, 'NLIS — A leap forward in herd recording', was $49,691.13.

2. The video was mailed to 7,816 Victorian dairy farmers.

3. The total cost associated with distributing the video to Victorian dairy farmers was $33,093.48 consisting of $2,344.80 for envelopes, $1,595 for packaging and $29,153.68 for postage.

4. As of 26 October 2001, 3,596 Victorian beef producers and dairy farmers have obtained NLIS devices. Since the introduction of the $2.50 per tag charge in mid 1999, approximately 800 dairy farmers have ordered devices. Since the launch of the dairy industry NLIS initiative in November 2000, approximately 575 dairy farmers have ordered NLIS tags.

5. The difference in the price paid by farmers and the price charged by the tag supplier, Allflex Australia, is met by a combination of industry and government funding. Based on the estimated number of tags purchased by dairy farmers since the dairy industry initiative was launched in November 2000, the Government contribution towards these tags was about $50,000.

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## Thursday, 22 November 2001

### Planning: Eltham–Yarra Glen Road, Watsons Creek

**500(b). MR PERTON** — To ask the Honourable the Minister for Planning with reference to Vicroads' proposed redevelopment of Eltham–Yarra Glen Road at Watsons Creek, between Cemetery Road and Alma Road —

1. What advice has the Minister received on the environmental consequences of the development.

2. What flora and fauna assessments did Vicroads or any other Government agency make and — (a) what was the data collection criteria; and (b) have such flora and fauna studies been completed and have the community been advised of the results.

3. What flora and fauna will be adversely affected by the development.

4. Has the Minister considered — (a) asking Vicroads to redraw the redevelopment plans to the standards of the 'Windy Mile' roadway in Diamond Creek; (b) the request of local residents that the Road be classified as a 'Scenic Tourist Route'; and (c) the request of local residents and the Member for Yan Yean for the installation of a timber terminus/modal interchange, at either Lilydale, Coldstream or Yering for facilitating the transfer, by rail, of timber from the Yarra Valley area to Geelong, in order to remove logging trucks from the Eltham–Yarra Glen Road.

**ANSWER:**

In July 2000, Vicroads commissioned environmental consultants Biosis Research Pty Ltd to conduct an archaeological and biological assessment of the redevelopment site. At the request of the Department of Natural Resources and Environment (DNRE), Vicroads commissioned a further survey (which includes specific investigations to determine the existence of the brush tailed Phascogale) during the Spring 2001 to augment the findings of the July 2000 assessment.

The archaeological and biological assessment brief specified that the Consultants provide a description of the historic, archaeological and ecological values and biodiversity of the redevelopment site. The brief also specified:

– that implications arising from state and federal legislation and policy be assessed;

– that an objective assessment of the potential impacts of the development on regional historical and archaeological values and regional biodiversity be made;

– that any opportunities to avoid or mitigate potential impacts through design or management be detailed;

– that the likely resultant level of impacts if mitigation measures are adopted be assessed and;

– that any other information on the historical archaeological and ecological matters relevant to the development be provided.

The final report for the archaeological and biological assessment was completed in April 2001 and distributed to Nillumbik Council, DNRE and to members of the public upon request. The report has been on public display since 21 September at Nillumbik Council and the Kangaroo Ground General Store, as part of the documentation for the Nillumbik Council planning permit application.

The equivalent of approximately 0.8 hectares of habitat is affected by the current redevelopment proposal. This includes approximately 658 trees of a trunk diameter greater than 10 cm.

The July 2000 assessment recorded no flora or fauna species or ecological community listed under the Environment Protection and Biodiversity Conservation (EPBC) Act 1999 (Commonwealth) in the study area. Additionally, no flora, fauna or ecological community listed under Schedule 2 of the Flora and Fauna Guarantee (FFG) Act (Victoria) (threatened species and communities) was recorded in the study area.

Through the use of a landscape consultant, natural bushland revegetation specialist and environmental consultant, a revegetation strategy will be developed to address affected vegetation. In line with Nillumbik Council policy, the strategy will include the replacement of 3 trees for every tree removed.

The current proposal incorporates significant changes brought about through community consultation — for example, the proposal originally discussed with Council in late 2000 affected approximately 1404 trees of a trunk diameter greater than 10 cm compared with the current 658.

The Windy Mile consists of 2 x 3.8 m traffic lanes with no shoulders and is located close to urban development. Based on its locality, the standard of the Windy Mile is consistent with that used in urban areas throughout Melbourne. The Eltham – Yarra Glen Road however, although located on Melbourne's north east fringe, is situated in a rural setting and requires a road standard consistent with that situation – thus the plans provide for 2 x 3.3 m traffic lanes and 2 x 1.8 m shoulders. The standards adopted at the development site are also consistent with the abutting sections.

Tourism Victoria, Department of Infrastructure and Vicroads have guidelines for the establishment of Tourist Drives/Signing Schemes. It is understood that the Shire of Nillumbik is currently developing a proposal for the Eltham–Yarra Glen Road to be signed as a Tourist route, for presentation to Vicroads.

The Department of Infrastructure is currently investigating re-opening the Coldstream–Yering rail line as a freight line. If this line were brought back into operation, the amount of logging traffic on Eltham–Yarra Glen Road could be expected to reduce significantly.

## Planning: Eltham–Yarra Glen Road, Watsons Creek

**501. MR PERTON** — To ask the Honourable the Minister for Planning with reference to a letter to the Minister dated 8 August 2001 from the Save our Scenic Road group about Vicroads' proposed redevelopment of Eltham–Yarra Glen Road at Watsons Creek between Cemetery Road and Alma Road —

1. Why has the Minister not responded to the concerns of the group.

2. Will the Minister support the objections of the group.

3. Has the Minister considered the request of local residents that any road redevelopment be engineered to a maximum road speed limit of 70 kilometres per hour and that the whole of the road be rezoned to a maximum speed limit of 70 kilometres per hour.

**ANSWER:**

I responded to the concerns of the Group by letter dated 21 September 2001.

The concerns of the group were noted and sent to the Department of Infrastructure to be considered as part of the Metropolitan Strategy project. I indicated in my response that the Government is committed to the protection of the 'green wedges', and that the Strategy will give detailed attention to the protection and management of such areas.

I am unable to respond to Part 3 of your Question as speed limits are the portfolio responsibility of the Minister for Transport.

## Energy and Resources: Barwon Heads gas franchises

**544. MR PATERSON** — To ask the Honourable the Minister for Environment and Conservation for the Honourable the Minister for Energy and Resources — what are the details of departmental advice provided to the Government as to the applicability and relevance of the granting of exclusive gas franchises in Barwon Heads.

**ANSWER:**

I am informed that:

The Department of Natural Resources and Environment has advised that the responsibility for determining the applicability and relevance of the granting of exclusive gas franchises rests with the Office of the Regulator-General.

## Energy and Resources: recreational fisheries officers

**547. MR COOPER** — To ask the Honourable the Minister for Environment and Conservation representing the Honourable the Minister for Energy and Resources — how many recreational fisheries officers were employed in — (a) 1999–2000; and (b) 2000–2001.

**ANSWER:**

I am informed that:

(a) In 1999–2000 ten recreational fisheries officers were employed; and

(b) In 2000–2001 ten recreational fisheries officers were employed.

## Energy and Resources: Victorian greenhouse strategy

**549. MR PERTON** — To ask the Honourable the Minister for Environment and Conservation representing the Honourable the Minister for Energy and Resources with reference to the Government's Greenhouse Strategy Discussion Paper published in 2000 —

1. When will the Government release its 'Victorian Greenhouse Strategy'.

2. Why is there no operative link to the document 'Public Submissions on the Victorian Greenhouse Strategy Discussion Paper — Summary Report' on the Government's greenhouse publications page at http://www.greenhouse.vic.gov.au/pubs.htm.

3. How many submission were made in response to the Discussion Paper and — (a) who made the submissions; (b) what was the nature of the submissions.

**ANSWER:**

I am informed that:

1. The Victorian Greenhouse Strategy will be released when it is completed and endorsed by Government. It is being drafted having regard to the many submissions received in response to the Discussion Paper which was released last year.

2. The web site link to the document is now operative.

3. A total of 108 public submissions were received in response to the Discussion Paper and a summary of key emerging themes and a list of all submitters is posted on the Government's greenhouse web site. Some of these key themes include:

– acknowledgment of climate change as a serious issue
– the need for the government to lead by example
– discussions of possible economic and regulatory tools
– suggestions of research and development priorities.