PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

27 November 2001

(extract from Book 10)

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By authority of the Victorian Government Printer

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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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:
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Mr P. J. RYAN

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Jasper, Mr Kenneth Stephen	Murray Valley	NP	Thompson, Mr Murray Hamilton	Sandringham	LP
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Kilgour, Mr Donald	Shepparton	NP	Trezise, Mr Ian Douglas	Geelong	ALP
Kosky, Ms Lynne Janice	Altona	ALP	Viney, Mr Matthew Shaw	Frankston East	ALP
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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

CONTENTS

TUESDAY, 27 NOVEMBER 2001

Tuesday, 27 November 2001

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 2.04 p.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

Urban and Regional Land Corporation: managing director

Dr NAPTHINE (Leader of the Opposition) — Will the Premier inform the house if he discussed the Urban and Regional Land Corporation with his best friend, Mr Jim Reeves — —

Honourable members interjecting.

Dr NAPTHINE — I will start again, Mr Speaker. Will the Premier inform the house if he discussed the Urban and Regional Land Corporation with his best friend, Mr Jim Reeves, while they were on holiday together at Stradbroke Island in January this year?

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order.

Mr BRACKS (Premier) — I thank the honourable member for his question. It is a very easy answer: the answer is no!

Road safety: toll

Mr LANGDON (Ivanhoe) — I refer the Premier to the fact that the Victorian road toll is trending back up and causing misery to thousands of Victorians, and I ask him to inform the house of the government's new strategy to reduce the road toll.

Mr BRACKS (Premier) — I thank the honourable member for Ivanhoe for his question and for his concern, which is shared by many Victorians, about the road toll in Victoria.

It is important to note that as I stand here the road toll for this year is the same as it was for the whole of last year, which is totally unacceptable and something which we need to improve on in the future. The government has set an objective to reduce the road toll by 20 per cent over the next five years, and it is committed to ensuring that that happens.

Today, with the Minister for Transport, the Minister for Police and Emergency Services and the Minister for Workcover, who is the minister responsible for the Transport Accident Commission, I launched our campaign — the strategy is called Arrive Alive — and our 17 initiatives to reduce the road toll over the next five years by 20 per cent. This is a comprehensive strategy which attacks two areas. The first is the problem of speed and the correlation between speed and road deaths, which is established, clear and unequivocal; and the second is drink-driving and the particular problems of repeat drink-drivers on our roads.

The Arrive Alive strategy will see an increase in the scrutiny and detection of speeding motorists on our roads by increasing the number of speed cameras by 50 per cent. There will be 110 new speed cameras on our roads to do that very task. As well as red light cameras detecting people who go through red lights at intersections, in the future they will also be able to detect speeding motorists going through those intersections, which is another world-breaking innovation in this state.

We will have point-to-point speed cameras, and we will have new fixed speed cameras at high accident sites, including along the Western Ring Road, the West Gate Bridge and the Princess Highway to Geelong, with the aim of reducing the road toll by reducing speeding on the roads.

The strategy is clear: we want the community to work with the government and with all organisations to get the message across that it should be socially unacceptable to speed, just as it is socially unacceptable to drink and drive. That is the message we need for the future.

In the area of drink-driving I am pleased to note that the government will make available to Victoria Police new high-tech booze buses which will be better, more efficient and more effective and, with a bill to be introduced in this house this week, alcohol interlocks which will disable cars for repeat drink-drivers. As well as repeat drink-drivers, first-time drink-driving offenders who are three times over the blood alcohol level at .15 will have alcohol interlocks connected to their cars. There is a direct correlation here. Repeat drink-drivers cause some 22 deaths and something like 560 injuries and maims a year on the roads as well as loss of the lives of others not directly involved in road accidents.

The government is serious about the objective to reduce the road toll by 20 per cent over the next five years. Arrive Alive is a comprehensive 17-point attack on speeding motorists and drink-driving, and it will be our aim to reduce the road toll over the next five years.

Stamp duty: insurance premiums

Mr RYAN (Leader of the National Party) — I refer to the spiralling cost of insurance premiums, particularly in country Victoria, and the consequent windfall gain to the government through increases in stamp duty and I ask: will the Treasurer advise if the government is willing to at least grant some relief to country Victorians from the impact of this insidious growth in state taxation?

Mr BRUMBY (Treasurer) — I was just trying to recall the date on which the Minister for Finance held a public forum on the issue of insurance premiums and the impact they were having on country Victorians. My understanding is that it was convened on 21 September by the Minister for Finance and the Minister for Small Business, and the forum decided that a number of initiatives would be explored between the government and the Municipal Association of Victoria to look at reducing the impact of the big increases in insurance premiums, particularly on country Victorians.

We are all aware this is essentially a national issue and that there is a complete lack of national leadership on the issue — —

Honourable members interjecting.

Mr Ryan — On a point of order on the question of relevance, Mr Speaker, the Treasurer is now referring to a matter completely extraneous to the question, which related to Victorian state government stamp duty, and I ask you to have him return to the question.

The SPEAKER — Order! I was listening carefully to the Treasurer and I am of the opinion he was being relevant in answering the question posed by the Leader of the National Party. I will continue to hear him.

Mr BRUMBY — It is a fact that as a result of the collapse of HIH Insurance and the events of 11 September insurance premiums not only in Victoria but across Australia and the world have skyrocketed. The impact of that on the state's stamp duty take is yet to be seen — —

Honourable members interjecting.

Mr BRUMBY — I released the September quarterly report just a few weeks ago — the report, honourable members will recall, that was banished under the former Kennett government. This government has reopened the books in Victoria. We now provide quarterly financial reports. The Leader of the National Party is welcome to look through that to see if there is any change in stamp duty takes. I indicate to him that the budget update will be brought down by 15 January. If there has been any change in stamp duty it will be included in the budget update, and if the honourable member wants to suggest that ought to be a matter for the budget next year, then he can suggest it.

Drugs: court strategy

Mr CARLI (Coburg) — Will the Attorney-General inform the house of the latest action taken by the government to help get drug-affected Victorians into rehabilitation?

Mr HULLS (Attorney-General) — As all honourable members would know, new approaches are necessary to deal effectively with drug abuse and drug-related crime. That is why the Bracks government has implemented a comprehensive drug strategy to turn around the drug problem being faced in this state. As part of that strategy we promised to establish a specialist drug court, and this week we will deliver on that very important promise. Our drug court proposal fits our commitment to be tough on crime but also tough on the causes of crime, as well as our determination to break the cycle of crime.

The drug court will be piloted over a three-year period. It will be a division of the Magistrates Court rather than a separate court. The drug court will be presided over by a magistrate or magistrates with particular skills and aptitude and with a commitment to the concept of the court.

Each drug court magistrate will sit in the drug court on an ongoing basis and retain supervision and control of each particular case. This means the offender will be supervised by the drug court magistrate, in addition to specialist community corrections officers. The drug court magistrate will be supported by a multidisciplinary drug court team, including a clinician, case manager and community corrections officer.

Although the drug court will target more serious offenders, it is acknowledged that some offenders — because of the seriousness of their offences and their prior criminal history — will not be suitable for this program. We will introduce a drug treatment order, which is a new order containing a custodial part and a supervision part. When making the order the drug court will impose a sentence of imprisonment which can be activated in the event of a breach or cancellation of the order. It provides a very strong carrot-and-stick approach — incentives and assistance to break the drug cycle, and a big stick if people continually reoffend.

The offender will remain under judicial supervision at the drug court, and the court will have substantial

flexibility in how to deal with each individual offender. For instance, the offender could be required to undergo counselling, to provide regular urine samples for tests or to undergo detoxification.

However, if the offender fails to comply with any part of the order, a number of internal sanctions are available. They include things like a curfew, requiring the offender to perform community service work or attend a work camp, or ordering the offender to serve a short but sharp term of imprisonment — indeed, terms of seven days at a time.

If the offender successfully completes the DTO — drug treatment order — the drug court may cancel the order and no further action can be taken. But the court will still have the ability to reassess the successful offender.

Honourable members interjecting.

Mr Seitz — Mr Speaker, my point of order is that I am interested in this answer from the Attorney-General because it is a serious matter, but I cannot hear it with the constant noise level — particularly with the honourable member for South Barwon making interjections.

The SPEAKER — Order! I ask the house to come to order and quieten down to allow all members to hear the Attorney-General.

Mr HULLS — In conclusion, this is an exciting proposal. The drug court trial will initially take place in Dandenong. We have had a look at proposals from around the country and around the world, and we believe the drug court proposal that will be implemented in Victoria will ensure that we actually lead the world as far as drug rehabilitation is concerned. Indeed I believe it is yet another very important step in our strategy to deal effectively with drug abuse and drug-related crime.

Urban and Regional Land Corporation: managing director

Dr NAPTHINE (Leader of the Opposition) — My question again is to the Premier. I refer to the appearance of Mr Terry Moran, the head of the Premier's department, at the second selection procedure for the managing director of the Urban and Regional Land Corporation, and I ask: did the Premier ask or arrange for Mr Moran to be part of the second selection for procedure, and if not, who did?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. The second round of interviews, as I understand it from the minister, was raised at the request of the member of the original panel, and that was the head of the Department of Infrastructure. Department heads regularly, of course, involve other department heads in this process, and that occurs with a number of the appointments which are made across the public sector.

Hospitals: nurses

Ms BEATTIE (Tullamarine) — Will the Minister for Health advise the house of the success of the Victorian government's nurse recruitment and retention campaign?

Mr THWAITES (Minister for Health) — I thank the honourable member for Tullamarine for her question and her continuing interest, particularly in her hospitals, which include the Sunshine Hospital, which is an outstanding hospital that has benefited from the government's nurse recruitment policies.

We are very proud of the fact that the Bracks government has funded 2650 extra nurses into our public hospitals, a net increase of 12 per cent. One of the outstanding policies that we have adopted is the policy on the refresher and re-entry course, which has been made available to 1500 nurses who had been involved in nursing but left — many of them sacked by the previous government.

Honourable members interjecting.

Mr THWAITES — Many of them were taken from public hospitals.

I am very pleased to advise the house that around one-third, some 36 per cent, of those nurses have received their refresher and retraining courses in rural and regional hospitals. The success of this initiative has been such that we have been able to attract skilled and experienced nurses back to our hospitals. That compares to the previous government, which sacked the skilled and experienced nurses. It is extraordinary that last weekend you had the honourable member for Malvern, who is so desperate to get into the media that he criticised — —

Honourable members interjecting.

Dr Napthine — On a point order, Mr Speaker, the minister is commencing to debate the issue. I ask you to bring him back to answering the question.

The SPEAKER — Order! I will not uphold the point of order raised by the Leader of the Opposition. If the Minister for Health goes down the track of debating, I will pull him up.

Mr THWAITES — The government is determined to recruit back older and experienced nurses. It is not going to adopt the approach that some take, including the honourable member for Malvern, which is to criticise the recruitment of older nurses. He went out to the media and it blew up in his face, because the Australian Nursing Federation together with nurses from around the state came out immediately and made it very clear that they support the employment of experienced nurses. The reason they do that is because those experienced nurses not only have skills themselves but can mentor other nurses and provide the sort of assistance that will retain nurses. That is why the government has been so successful in retaining more than 2500 — —

Mr Doyle interjected.

The SPEAKER — Order! The honourable member for Malvern is being disorderly!

Mr THWAITES — The honourable member for Malvern keeps jumping up and down because he is desperate to get into the media to knock off his leader. He also criticised the rate of drop-outs from university nursing courses, but who is responsible for university nursing courses? It is the Howard government! The problem with the courses is that there are not enough places for all the young people who want to come into our nursing system now. Even then the honourable member for Malvern got his facts wrong, because most of the people he was talking about had not in fact dropped out, they had transferred to another nursing course.

The government is proud of the fact that not only has it put on more than 2500 nurses, it has also been able to attract the most skilled and experienced nurses through postgraduate scholarships. That is something the government needs to do if it is going to attract the sort of people to its hospitals with the extra skills that are needed to meet the patient demands of today.

Urban and Regional Land Corporation: managing director

Mr BAILLIEU (Hawthorn) — I refer the Premier to the admission of the Minister for Planning immediately before question time today that he had wanted Mr Jim Reeves as the managing director of the Urban and Regional Land Corporation since November last year. Does the Premier now agree with the former managing director, Mr Des Glynn, that the whole recruitment process was a sham?

Mr BRACKS (Premier) — The answer is quite clear: no.

Police: strength

Mr STENSHOLT (Burwood) — Will the Minister for Police and Emergency Services advise the house of current police numbers and the progress towards fulfilling the Bracks government's target of deploying an additional 800 police across Victoria during its first term of government?

Mr HAERMEYER (Minister for Police and Emergency Services) — I thank the honourable member for Burwood for his question and for the strong interest he has consistently shown in policing in Victoria.

As the house would be aware, the recruitment and deployment of 800 additional police on the front line was one of the headline commitments of this government upon coming to office. It was about undoing the severe damage that had been done to the police force by the previous government and restoring morale and confidence within the Victorian police force. I am pleased to advise the house that as of 26 November recruiting is well ahead of schedule.

Mr Wells interjected.

Mr HAERMEYER — I hear the honourable member for Wantirna and the opposition have been running around calling into question the government's target or its achievement in heading towards its target of recruiting those 800 police. That is a bit rich coming from the culprits who cut police numbers and then said that we could not reach the target. These were the people who caused the problem. Their claim that the government is unable to achieve that target is wrong, wrong, wrong. Their credibility is now in tatters, more so than it was when they lost office.

I am pleased to advise that as at 26 November we had 10 286 full-time-equivalent sworn officers and recruits in the academy, compared to 9532 as at 25 October 1996. That is 754 over the total when the last government was thrown out. They are making their presence felt on the front line as well, because I am pleased to also advise that the number of sworn police on the front line has gone from a miserable 9432 to 9946.

We are just over half way into the Bracks government's term of office, and we are nearly three-quarters of the way towards achieving our target of 800 additional police, which will enable the police force to get back onto the front foot in terms of fighting crime and

dealing with the road toll. It is testament, firstly, to the successful recruiting campaign — —

Dr Napthine interjected.

Mr HAERMEYER — Of course these things happen. You cut the police force! We are still undoing the damage.

The SPEAKER — Order! The Minister for Police and Emergency Services should ignore interjections. I ask the Leader of the Opposition to cease interjecting.

Mr HAERMEYER — It needs to be said that if the opposition were still in government today we would not have enough police to put together a game of solitaire!

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order, and I ask the minister to come back to answering the question.

Mr HAERMEYER — Achieving the target is testament, firstly, to a very successful recruiting campaign and to the fact that we have halved the attrition rate in the police force, we have improved morale and we are actually paying police what they are worth, rather than the miserable pickings that the previous lot were paying them.

The previous government treated police with contempt, and we are treating them with respect. It cut police numbers when it actually promised 1000 additional police. It cut police resources, and it took away police appeal rights on discipline. The Bracks government is undoing the destruction that the people on the other side did to our police force. Confidence and morale in the Victorian police force is now back at the sorts of levels they should be.

Urban and Regional Land Corporation: managing director

Dr NAPTHINE (Leader of the Opposition) — Given the significant stench surrounding the blatant political interference in the appointment of Mr Jim Reeves, will the Premier now undertake to hold a full independent judicial inquiry into this process, and if not, why not?

Mr BRACKS (Premier) — From the outset, I reject the premise of the question by Leader of the Opposition. Given that I reject that premise, the answer is no.

Volunteers: celebration

Mr LENDERS (Dandenong North) — Will the Minister for Community Services outline to the house the significant achievements of the International Year of Volunteers and indicate what activities will be undertaken in the final days of this special year to celebrate and encourage volunteering?

Mr McArthur interjected.

The SPEAKER — Order! The honourable member for Monbulk!

Ms CAMPBELL (Minister for Community Services) — I thank the honourable member for his question and for his interest in the matter of volunteers. In this the International Year of Volunteers (IYV) there have been countless global celebrations to encourage, strengthen and support volunteering. In Victoria over a million people have volunteered throughout the past year. That is an absolutely fantastic number. We have more volunteers in Victoria than the national average — one in three adult Victorians are volunteers compared with only 31.8 per cent nationally — and 200 million hours of volunteer work is contributed to the Victorian community. The Labor government and the Victorian community say thank you to every one of those people.

It is interesting to note that country Victorians volunteer more than their metropolitan cousins. Half of the adults in country Victoria volunteer compared with about one in four in the metropolitan area. This year, as part of our thanks to the countless number of Victorian volunteers, International Year of Volunteers certificates have been widely distributed through local government and community organisations. Next Sunday the grand finale for the International Year of Volunteers will be a volunteers thank you festival and picnic, a free thank you party for all Victoria's volunteers. The picnic will be held from 10.30 a.m. to 12.45 p.m. in the Carlton Gardens. There will be free food as well as entertainment and speakers from a large number of voluntary organisations, including Very Special Kids; Kids Under Cover; Oz Child; Foodbank Victoria; Aids, Hepatitis and Sexual Health; Wesley Central Mission; and Central Bayside Disability Services — a wide variety of organisations. In addition an IYV festival will commence at 1.00 p.m. in a large marquee at the Melbourne Museum. Volunteer Heroes awards will also be presented.

The Volunteer Heroes awards, for which honourable members have been encouraged to send in nominations, will be awarded in nine categories: arts

heritage/tourism; environment; young people; family and community support; pets/animals; sports and recreation; emergency services; older adults and disability; and of course, corporate volunteering. There will be stage and roving entertainment. I want to encourage volunteers to attend this wonderful IYV grand finale to celebrate and encourage volunteers. Congratulations and a big thank you to all volunteers who help grow Victoria together.

PERSONAL EXPLANATION

Mr SAVAGE (Mildura) — Last Thursday I made a comment to the Honourable Carlo Furletti, an honourable member for Templestowe Province in another place, in response to an offensive comment he made to me the day before. This remark was made in jest, but as the honourable member has taken offence, I unreservedly apologise.

With regard to the point of order raised recently by the honourable member for Bentleigh, I did not circulate the cartoon in the Parliament, but I did show it to the honourable member for Bennettswood. If this has caused offence, I unreservedly apologise.

Mr Ryan — On a point of order, Mr Speaker, during question time last Thursday the Minister for Transport, in the course of his answer to a question, indicated that he wished to have incorporated in *Hansard* the independent ACIL report regarding the fast rail links project. My point of order is that I strongly support that contention, and I — —

The SPEAKER — Order! On the point of order raised by the Leader of the National Party, the Chair resolved that issue on the day it was raised in that the request by the minister was not acceptable as he had not seen the Speaker in chambers, or indeed Hansard, as to whether it was technically feasible to include such report in *Hansard*. There is no point of order.

Mr Ryan — On a further point of order, Mr Speaker, since last Thursday I have made inquiry of Hansard in relation to the incorporation of the independent ACIL report. I have done so in the context of the Minister for Transport and I being in agreement that that would be the ideal situation to occur. I have been advised by Hansard that, although it is technically feasible, Hansard's preference is that it not happen. I simply ask that you use your good offices to achieve the result we — —

The SPEAKER — Order! I will hear the Leader of the National Party no further on his point of order. He well knows the procedure that is involved in incorporating material into *Hansard*. Part of the process includes seeing the Speaker in chambers to obtain such permission, and he has not done so. There is no point of order.

PETITIONS

The Clerk — I have received the following petitions for presentation to Parliament:

Courts: sentencing

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of certain citizens of the state of Victoria sheweth concerns over the leniency of sentencing of offenders that come before our courts.

With the increase of breaking and entering, car thefts, muggings, bag snatching, burglaries, bashing of our elderly people and general disregard for public properties.

Your petitioners therefore pray that our government come up with one law that covers all perpetrators, not just some.

And your petitioners, as in duty bound, will ever pray.

By Mr INGRAM (Gippsland East) (298 signatures)

East Gippsland: shire offices

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of Residents and Ratepayers Association of East Gippsland and other citizens of East Gippsland in the state of Victoria sheweth:

That the community's major concerns have not been addressed by the East Gippsland council in the council's continuing intention to sell a major community asset.

Your petitioners therefore pray that a deferment of 18 months be implemented to the proposed sale by the East Gippsland shire of the property at 55 Palmers Road, Lakes Entrance, so as to provide residents and community organisations the opportunity to fully explore and present options for community use of the property.

And your petitioners, as in duty bound, will ever pray.

By Mr INGRAM (Gippsland East) (1709 signatures)

Eastern Freeway: extension

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens in the City of Manningham sheweth that there is a prospect that the Eastern Freeway extension to Ringwood crossing beneath Park Road may, upon direction of the relevant minister, include vehicle ramp connectivity with Park Road.

Your petitioners therefore pray that: there be no vehicle ramp connectivity by reason that:

Park Road is unsuitable in terms of both design and topography for use other than as a local collector road, traversing as it does the Whitefriars Secondary College, Mullum Mullum Creek valley via steep grades, Park Orchards Village, comprising primary school, community house, kindergarten, recreation complexes and local shops, all abutting Park Road, bisecting the Park Orchards residential community and also connecting with the equally unsuitable Heads Road, both being on maximum steep grades, with narrow and bending road pavements, resulting in poor sight distances.

Park Road is already amongst the few roads in Manningham with one of the highest casualty rates, although presently carrying below 6000 vehicles per day, 24 hours two-way count.

The community and environmental amenities of both the Donvale and Park Orchards areas will be forever adversely affected by through traffic seeking to exit and enter the freeway via the aforesaid unsuitable roads, particularly given the lack of clear run exit on the Ringwood bypass end of the freeway and in the absence of any connection to Maroondah Highway and the proposed Scoresby freeway.

The honourable Minister for Infrastructure and the honourable Minister for Transport take all necessary steps to ensure that there is no vehicle connectivity between Park Road and the Eastern Freeway extension beneath.

And your petitioners, as in duty bound, will ever pray.

By Mr HONEYWOOD (Warrandyte) (478 signatures)

Rural Northwest Health

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria express their objection to the restructure of aged care services at Rural Northwest Health and express concern at the downsizing by six beds at Landt Hostel in Warracknabeal.

Your petitioners therefore request that the Minister for Health intervene and instruct the board of Northwest Health to stop the removal of six beds from the Landt Hostel.

And your petitioners, as in duty bound, will ever pray.

By Mr DELAHUNTY (Wimmera) (552 signatures)

Laid on table.

Ordered that petition presented by honourable member for Wimmera be considered next day on motion of Mr DELAHUNTY (Wimmera).

NATIONAL ROAD TRANSPORT COMMISSION

Annual report

Mr BATCHELOR (Minister for Transport), by leave, presented annual report for 2000–01.

Laid on table.

AUDITOR-GENERAL'S REPORTS

Response by Minister for Finance

Ms KOSKY (Minister for Finance), by leave, presented response to the Auditor-General's reports for 2000–01.

Laid on table.

DRUGS AND CRIME PREVENTION COMMITTEE

Crime trends

Mr WYNNE (Richmond) presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget estimates 2001–02

Mr LONEY (Geelong North) presented report, together with appendices, extracts from proceedings and minutes of evidence.

Laid on table.

Ordered that report, appendices and extracts from proceedings be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Summary Offences Act

Ms GILLETT (Werribee) presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

PAPERS

Laid on table by Clerk:

Auditor-General — Public Sector Agencies — Report for the year 2000–2001 — Ordered to be printed

Ballarat Health Services — Report for the year 2000–2001

Consumer and Business Affairs Victoria — Report for the year 2000–2001 — Ordered to be printed

East Wimmera Health Service — Report for the year 2000–2001

Edenhope and District Memorial Hospital — Report for the year 2000–2001

Financial Management Act 1994:

Reports from the Minister for Health that he had received the 2000–2001 annual reports of the:

Chiropractors Registration Board of Victoria

Physiotherapists Registration Board of Victoria

Podiatrists Registration Board of Victoria

Legal Practice Act 1996 — Practitioner Remuneration Order pursuant to s113

Mildura Cemetery Trust — Report for the year 2000

Nurses Board of Victoria — Report for the year 2000–2001

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

Banyule Planning Scheme — No. C9

Horsham Planning Scheme — No. C2

Victoria Planning Scheme — No. VC14

Stawell Regional Health — Report for the year 2000–2001.

JUDICIAL REMUNERATION TRIBUNAL (AMENDMENT) BILL

Council's amendments

Returned from Council with message relating to amendments.

Ordered to be considered next day.

ROYAL ASSENT

Message read advising royal assent to:

Health Services (Conciliation and Review) (Amendment) Bill
Legal Aid (Amendment) Bill
Marine (Further Amendment) Bill
Melbourne City Link (Further Amendment) Bill
State Taxation Legislation (Amendment) Bill

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I move:

That, pursuant to sessional order no. 6(3), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 29 November 2001:

Energy Legislation (Miscellaneous Amendments) Bill

Fair Trading (Unconscionable Conduct) Bill

House Contracts Guarantee (HIH) (Further Amendment) Bill

Liquor Control Reform (Prohibited Products) Bill

Audit (Further Amendment) Bill

Second-Hand Dealers and Pawnbrokers (Amendment) Bill

Country Fire Authority (Miscellaneous Amendments) Bill

Livestock Disease Control (Amendment) Bill

Auction Sales (Repeal) Bill

This government business program procedural motion outlines the formal government business that we seek to achieve by 4.00 p.m. on Thursday. This, as honourable members would know and appreciate, is our last week of the Parliament, and the legislative program sought to be achieved this week is of similar dimensions to that which was dealt with on the last sitting week.

I place members on notice that to achieve that task we may sit a little later tonight and Wednesday. This week the opposition will be using time for opposition business, as is its entitlement, and the government is not seeking or asking that it forgo that. In fact this week during that period part of that time may even be set aside to deal with a private members bill.

In addition to that the honourable member for Gippsland West may, by leave, give the second-reading speech on her private members bill later this week. So honourable members can see that there is a variety of unusual and different occurrences this week — —

Mr McArthur — What about the royal commission?

Mr BATCHELOR — I have been asked about the royal commission. The report is likely to be tabled in the house tomorrow, and it would be appropriate to set aside some time tomorrow to debate that.

In the circumstances the government will try to make some additional time available to provide flexibility, and to achieve that we will sit past the normal close tonight and possibly tomorrow. However, we will advise the various whips as to the likely outcome. It is only fair that we put honourable members on notice about these contingent possibilities. We will seek to work with the other parties to ensure that neither of those nights is late and that we are able to keep to the 4 o'clock adjournment on Thursday.

Mr McARTHUR (Monbulk) — I ask honourable members to cast their minds back about two and a half months — and all I can say is, 'I told you so'. This has been going on for three or four sittings under this ineffectual and lacklustre government, which cannot manage its business program effectively. When we get to the end of the sittings the government wants to jam multiple bills through — some of them quite important — in three days with minimal or no debate. That is an outrageous way to approach a government's responsibilities and an outrageous way to approach the Parliament.

We have just heard the Leader of the House warn honourable members that we might sit late tonight and tomorrow night. Perhaps the Leader of the House might like to warn the staff of that too. I imagine the staff have homes they would like to go to in the normal course of events. If the Minister for Finance were here, we could ask her what the hell happened to family friendly hours! We still have finishes at midnight and later, and we have come forward to 9.30 a.m. starts. Where are the family-friendly hours? They have disappeared — and for no reason. The only thing we have is a cluttered business program in the last two weeks of every sittings.

We now have a statement by the minister that finally, another day after an extended deadline, the government is planning to table the Metropolitan Ambulance Service Royal Commission report and that it wants to debate it during the course of these three days, as well as debating nine bills to their conclusion. Clearly most of those nine bills will never be debated to their conclusion. One or two members from either side will get an opportunity to contribute, and any other interested members will be gagged. This is the sort of thing that the Honourable Tom Roper, a former Labor minister and manager of opposition business, and the minister, when he was opposition business manager, used to scream about loud and hard. These are the things the *Age* complained about, including the Kennett government supposedly jamming legislation through late at night. Yet, we will be doing it this week.

We also did it last week under the jolly, smiling Premier. The slightly mobile robot who can grin and utter platitudes but who cannot manage expects us to deal with legislation in this truncated way. He expects us to sit late and jam through legislation in the dead of night. He also expects the community to swallow that, just like he expects the community to swallow the favourable jobs for his best mates, at $250 000 to $300 000 a year. The way the government is approaching this is an absolute outrage! Government members have no remorse. There is no apology. There is no attempt to correct it between one sittings and the next.

Look at what the government has just given notice of today! The opposition has been given notice of four more bills. After the conclusion of the business program we will have only two other bills on the notice paper, one of which is the Commonwealth Powers (Industrial Relations) (Amendment) Bill. That bill will never see the light of day. People in the Premier's department are saying to me, 'We're never going to debate that one. That's gone for all money'. So we have only the Wildlife (Amendment) Bill on the notice paper, which will lie over until the next sittings. As I said, the government has given notice of four more bills, so we will start the next sitting with five bills on the notice paper.

Mr Batchelor interjected.

Mr McARTHUR — I am sorry, the Leader of the House has said we have one up the back which comes in on Thursday, so we will have six bills to start with next time. If they have the standard two-week adjournment period, we will have six bills to deal with for a whole two weeks. Well, hell! We are going to deal with nine bills this week, as well as the royal commission report. Members will come back and sit for two weeks in February or March next year, when they will have only six little matters — they each have the importance of a minnow — to deal with. This is appalling management of the house! It is lacklustre, and it is a contemptuous approach to the Parliament and the people of Victoria by an ineffective Premier who has no leadership and no vision. The house should not need to put up with this. The minister should have the house sit another week.

Mr MAUGHAN (Rodney) — The National Party will not oppose the government business program, but we are very concerned about the fact that this week we have nine bills to debate. Many of them are important pieces of legislation, on which many members on this side of the house would like the opportunity to express their points of view. Last week we were denied that

opportunity, when eight bills went through. Yes, we did get the lead speakers up, and yes, a number of members were able to express a view, but there were many members who wished to speak but who were denied the opportunity of doing so.

This week we have important legislation, including, for example, the Energy Legislation (Miscellaneous Amendments) Bill. I am sure many members on this side of the house would like the opportunity of explaining how the former government's reform of the electricity industry has been delivering a competitive environment for Victoria and how, in spite of the fact that electricity prices are going up, it has delivered benefits for all the people of Victoria. We would like a bit of time to speak on that, but I am sure we will not get it.

Likewise, the House Contracts Guarantee (HIH Further Amendment) Bill, which relates to the HIH collapse, is important legislation. I am sure there are many members on both sides of the house who want to speak on that one.

One bill that members of the National Party have been looking forward to debating for some time — it has been sitting on the notice paper, and I am pleased it has come forward for debate this week — is the Country Fire Authority (Miscellaneous Amendments) Bill. The honourable member for Bellarine and a number of other honourable members, including the honourable members for Mornington and Dromana, my colleague the honourable member for Shepparton and I — you can go right around the house and pick the members representing country Victoria — have a real interest in this piece of legislation, because the Country Fire Authority, which has 60 000 volunteers, is such an important body. This is very important legislation that we would all have liked the opportunity to speak on, firstly, to express our appreciation of those 60 000 volunteers, and secondly, to make some criticisms of some of the things the government is doing in this area.

Another bill of interest is the Livestock Disease Control (Amendment) Bill. If ever there were a matter important to country Victoria it is livestock disease control. One has only to look at what has happened in the United Kingdom recently with the outbreak of foot-and-mouth disease to appreciate that. In the last month I heard a distinguished speaker, a veterinarian by the name of Dr Bill Sykes, who was involved in the campaign in the United Kingdom, telling a horrific story about the problems experienced there largely because there was no adequate trace-back system. The United Kingdom did not have a workable system, certainly not as good as the one we have in Australia right now.

The disease control bill would certainly improve that, which the National Party would support. But it is very important legislation, and those of us who represent country areas and have some affinity with the livestock industries would like the opportunity to speak on it. I know the honourable member for Gippsland East has an interest in this legislation, and I am sure he would like to make his contribution too.

Then there is the debate on the report of the Metropolitan Ambulance Service Royal Commission, which has been hanging around for a long time. I am sure we could spend a whole week debating that if we had the opportunity. The report will be tabled tomorrow, and we will have very little opportunity to talk about it.

The Leader of the House has alerted members to the fact that we may be sitting late tonight and tomorrow night. I just say to him that I think it is unacceptable that we might be sitting past midnight because of the poor organisation of government business. It is totally unreasonable to expect those of us who have travelled 3 or 4 hours or more to get here to have to be here all week, sitting after midnight, and then hop in a car and drive another 3 hours or so back home.

Mr McArthur — What about the staff?

Mr MAUGHAN — As the honourable member for Monbulk said in his contribution, we do not pay sufficient regard to the effect such long sittings have on staff. It is hard enough on members, but it is even harder on staff. I am talking specifically about the Clerks and the Hansard staff, who have to be here, alert and always on the job. It is particularly unfair to them.

I think these late night sittings are unacceptable. I wish the Minister for Finance were here so I could hear what she had to say about the suggestion that we will sit late tonight and tomorrow night. Where have these family-friendly hours gone? We have a lot of legislation to get through this week, and I think we are being sold short.

Mr COOPER (Mornington) — This government business program shows that the government could not organise a banana cart. The reality is that we started off each of the early weeks of these sittings with four bills. Last week we went to eight bills, and now we have nine to get through. The opposition issued warnings to the government that it should start getting its act together and organise a decent business program so the house would not end up in the situation it is now in, with the

government trying to force-feed nine bills through this house this week, with a couple of private members bills as well, as the Minister for Transport has advised.

That means this government wants to see nine bills go through the house in two and a half days. It will mean the same thing as happened last week: debates will be truncated and members will find they cannot make contributions on bills in which they have a particular interest. Every debate on each of the bills dealt with last week was truncated. On eight bills there were the lead speakers from the opposition and the National Party and a speaker from the government benches — and that was it. That is what will happen again this week.

There are many bills among these nine in which honourable members have a particular interest. I have a particular interest in the Energy Legislation (Miscellaneous Amendments) Bill, the Country Fire Authority (Miscellaneous Amendments) Bill and the Auction Sales (Repeal) Bill, but I doubt very much that under this program I will get to speak on any of them. My constituents will be left wondering why this government cannot organise a business program that allows as many members as possible to contribute to important debates in which they have an interest and on which they expect their parliamentary representatives to voice an opinion.

This government is now dependent on trying to force-feed these bills through the house, yet it has not addressed the obvious question of sitting an extra week. Why will it not have an extra sitting week? Why will it not bring members back next week or the week after? The opposition would be prepared to return for another week to deal with these bills, but this government is clearly running away from the scrutiny of this Parliament. It does not want to face any more question times. It is more interested in trying to shovel its legislation through at the last minute, while expecting to be able to stand up and say it is an honest, open, accountable and transparent government. That is certainly not the case.

We will also have the situation tomorrow, which I am sure my colleague the honourable member for Malvern will address, of the house dealing with the report of the ambulance service royal commission. How are we going to deal with that? Do not tell me this is simply an interesting piece of timing that nobody in the government party has had anything to do with! The government has brought the report forward in this last week to avoid scrutiny and to try to get away with sliding things under the carpet. The opposition is very interested in having a long and fulsome debate on the report of the ambulance royal commission, but we will not have that opportunity.

This business program, like all the business programs of this government during these spring sittings, is nothing short of disgraceful.

Mr DOYLE (Malvern) — I only partly heard the remarks of the Leader of the House while I was in my office, but my understanding is that he made an offer that, because the Metropolitan Ambulance Service Royal Commission report was to be tabled first thing tomorrow morning, the house might consider debating that report later in the day by some sort of by-leave arrangement, thereby having the opposition forgo its opportunity to have its matter of public importance debate first thing tomorrow. I may have misheard that, and I am happy to be corrected. I am sure we can work these things out before the debate is brought on.

It seems to me that the debate on the ambulance service royal commission is expected. It has been anticipated by the public and by Parliament for two years. It will be a crucial debate, one of the most important this house will have. I must say I was expecting the report to be tabled today. That was the promise in the Premier's press release on the final reporting dates of the royal commission. It was my understanding that if it had been tabled today we would have had the opportunity to nominate it as the subject of a matter of public importance debate tomorrow morning to give it the gravity it deserves.

The report has not been tabled today, which I regret. I cannot understand why, if it was available to the government at midday or early in the afternoon, it could not have been made available to the Parliament at the beginning of parliamentary business at 2.00 p.m. today. However, that has not been the choice of the government. As I said, that is a matter of regret.

However, it is important that there is thorough public and parliamentary scrutiny of this important report. I am sure that people of goodwill and good intent can make this work for this Parliament. It is certainly the wish of the opposition that the report be debated in an appropriate forum and in an appropriate manner — that is, in the manner it deserves. Even if I did not get the suggestion by the Leader of the House quite correct, I am sure that after this debate he and the manager of opposition business, the honourable member for Monbulk, can sort out exactly how that could happen.

I make the commitment that the following would be acceptable to the opposition if the government were to make time available to debate that report appropriately.

It would seem to me to be a reasonable thing that, if the government having tabled the Metropolitan Ambulance Service Royal Commission report first thing tomorrow wished to deal with government legislation in the morning and were prepared to make a by-leave arrangement, immediately after question time that report could be debated in the matter of public importance debate. That may well be a bending of the forms of the house, but I am sure the abilities and wits of our Clerks and the Leader of the House and his opposition number could make that work.

Honourable members interjecting.

Mr DOYLE — I must make the point that, yes, I would not wish to give up a private members bill that seeks to represent the school which two former leaders of the Labor Party attended. I am happy to do that on behalf of the Labor Party, and I would not want to give up that opportunity. That aside, I would be very pleased if the house could make accommodation for an appropriate debating forum for this important report. I am sure that could be done in a by-leave arrangement.

I will strike this note in this contribution: one would hope that if that report is made available this afternoon to the government it will not go the way of the Auditor-General's report into teacher work force planning and be made available to members of the government as a means of their preparing for the debate before opposition members see it first thing tomorrow morning. One would hope that the integrity of that report will be held to very closely by the government and that it will be made available to all members for the first time tomorrow morning at the sitting of the Parliament. The Parliament can then make a sensible arrangement for the appropriate debating of this most important report immediately following question time tomorrow.

If that can be guaranteed by the government I am sure the opposition can make the accommodations required in the business of the morning so that that debate can take place. I believe that this is a real test of the intent and will of the public and this Parliament to have proper scrutiny of important reports.

Mr RICHARDSON (Forest Hill) — What we have just heard is a very sensible and reasonable proposition from the honourable member for Malvern to enable the house, and through the house the public, to consider a matter of great importance, a report from a royal commission which has cost at least $20 million, and probably around $80 million, but I will guarantee that his proposition will not be taken up because this government will do anything to run away from scrutiny and accountability.

This is what the proposition from the government today is all about: it is all about running away. Why? Because the wheels on this cart of government are beginning to wobble and the government will do anything to avoid having those wheels examined properly by the people to see why they are wobbling. That is what this is all about: it is to close down this place and try to put the lid on everything that is now starting to make the government come unstuck.

The one thing that members of the government have not thought through — and the Minister for Transport is supposed to be the clever person in all this — is that all bills might not go through the Legislative Council without amendment. Where does that leave those bills? Do they come back here, just go into the ether and sit until the house resumes, or will the government decide to bring them back to this house? What are they going to do? They have not thought that through. There is absolutely no guarantee that these bills will pass through the other place without amendment.

Like everything else this government does, it has gone only half way — it has not thought it all through. Government members could not manage a chook raffle in a suburban pub. If they tried to do it in a pub out in Sunshine, for example, because they are so dodgy and twisty they would make a mess of it and then the mates of the honourable member for Sunshine in the pub would do them over, in the same way as the western suburbs of Sydney did over the Beazley mob just a couple of weeks ago.

Honourable members interjecting.

Mr RICHARDSON — This is a government that is panicking. Panic, panic, panic — you can see the little lights flashing all over the place. Government members are panicking; they have to close this joint right down. They are going to run away from accountability and responsibility, but they cannot run forever — eventually the people will catch up with them. It is the people who are going to knock off this lot — and the opposition is going to help them. We are going to continue to publicly raise matters about how this lot are trying to close it all down.

Where are all these family-friendly hours? Where is the Minister for Finance, who kicked up such a fuss? I want her to come in here and tell me to have a cup of tea, a Bex and a nice lie down, but she won't because she is running away as well. This is a disgrace. This government is exposing itself for what it is: a

government with no plans, no program, no ability and no capacity. There is not a minister with a ministerial brain amongst the lot of them. They could not run anything. They certainly cannot run the state.

Ms DAVIES (Gippsland West) — This is the last sitting week. As with every parliamentary sitting I have ever been in, this week there are more bills than usual to be debated. As well as that there is a very important report to debate. However, if we are talking about family-friendly hours, as a mother and rural member of Parliament I would prefer to sit later in the evening than an extra day. I do not like sitting late. I hope that the lead speakers this week will restrain themselves from wasting more time than necessary and legitimately speak for only the amount of time they need to speak.

There are nine bills to be debated. That is not an extraordinary number of bills, but it is more than I would be happy with.

Mrs Peulich interjected.

The SPEAKER — Order! The honourable member for Bentleigh should cease injecting.

Mrs Peulich interjected.

The SPEAKER — Order! I have asked the honourable member for Bentleigh to cease interjecting.

Ms DAVIES — I have very clear memories of there being divisions on up to 21 bills in any one week of the previous Parliament, so although 9 bills is quite a few it is not quite as many as we used to debate on a regular basis.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Bennettswood is behaving out of character today. I ask him to cease interjecting. He is being disorderly.

Ms DAVIES — One of the reasons debates take more time in this Parliament than they used to is because the lead speakers of both the Liberal Party and the National Party have unlimited time to speak. I have resisted attempts from various directions to make changes to sessional orders which would restrict that unlimited time, because I see it is a tool that is used by oppositions, whichever Parliament they are in, for exerting some kind of control over government. I respect the fact that the lead speakers have unlimited time to speak, but as I said, I ask that in this week they exercise some restraint on that.

I am somewhat concerned, as I said, and it is very important, that we have adequate time to properly debate the ambulance royal commission report. We have all waited a long time for this report and it is important that it be given time for discussion. I ask the Leader of the House to take note of the honourable member for Malvern's suggestion that honourable members might debate it during the time used for matters of public importance. I ask the government to consider allowing it to happen in the afternoon if the report is tabled in the morning. I understand that the time when the report is tabled is not totally within the government's control because the ambulance royal commissioner determines when it is given to the Governor.

I ask the lead speakers this week to take note of the fact that there are a reasonable number of bills to debate. However, I remember times when honourable members had 20 bills to get through in a shorter sitting time. I am prepared to support the government's business program within those limitations.

Motion agreed to.

MEMBERS STATEMENTS

Regulator-General: postal address

Mr SPRY (Bellarine) — As a member whose hearing is rapidly in decline I share the frustrations of a constituent living in St Albans Park. Like many others, this older Victorian cannot stand modern technical devices such as computers, emails, faxes and — because he is deaf — even telephones.

A couple of weeks ago a document was delivered to his home from the Office of the Regulator-General telling him that he is about to enjoy the option of choice of his electricity retailer. He was not too happy about losing his $60 winter power bonus under the Labor Party, but I am sure he is ecstatic about being able to choose his retail provider, courtesy of the former coalition government.

The document has plenty of information, including a paragraph telling him how to get more information. He was given a phone number — he hates phones, people just yell at him; he was given an email address — he does not have a computer nor does he intend to get one at his age. He was given a web site, but he does not know what that is. He was given everything but the address of the Office of the Regulator-General. He does not want much, he just wants to know that he can communicate in writing the old-fashioned way — he and thousands like him. In this case I implore the

government to make sure that these mainly older Victorians are not ignored or neglected.

He asks, 'Please give me, in addition to all the whizzbang stuff on all government and semi-government brochures and correspondence — a simple bloody address!'

Institution of Engineers Australia awards

Mr KILGOUR (Shepparton) — I advise the house of the Institution of Engineers Australia excellence awards and in particular the environmental engineering award, which recognises achievement in sound environmental practice and in the sustainable use of natural resources.

I congratulate Goulburn Valley Water, the water authority in my electorate, for winning first prize in the award for the Tatura Wastewater Management Facility, which provides an environmental, sustainable and long-term means of managing waste water from domestic and industrial customers in an area equating to a city of 250 000 people. It is an outstanding example of an innovative total community solution to a challenging environmental problem.

It solves the problems of a deteriorating and, in some places, corroded sewage system and certainly the worst ever seen waste water plant, complete with foul odours. Goulburn Valley Water worked with the community and industries to develop an innovative, comprehensive zero-discharge waste water management strategy. The result was a facility that uses innovative covered high-rate anaerobic lagoons, the first applications of such a system in the Southern Hemisphere.

It has been a tremendous success. Congratulations to Laurie Gleeson, the chief executive, and the board of Goulburn Valley Water on their achievement. It was well deserved.

Racial and religious tolerance: Vietnamese community

Mrs MADDIGAN (Essendon) — Concerns have been raised with me by my local Vietnamese community about the increasing amount of religious persecution in Vietnam. It relates to both Catholic and Buddhist people.

There is a strong Vietnamese community in my area with a strong social welfare organisation run in conjunction with the Catholic church, particularly the Jesuits. Kim Nguyen and Son Nguyen are two local Vietnamese people who are active in supporting their community.

In October this year Father Nguyen Van Ly was sentenced to 15 years in prison after a one-day trial without a defence lawyer or independent witnesses present because he had issued public statements calling peacefully for religious freedom and democracy in Vietnam.

In addition a number of senior Buddhists have also been placed under house arrest, one for 20 years without any charges being laid against him. His name is the Most Venerable Thich Huyen Quang, who is a Patriarch of the Unified Buddhist Church. These are only two instances of an increasing degree of religious persecution in Vietnam.

My local Vietnamese community has asked for our support, as it has of each Parliament in Australia, Amnesty International and other bodies, including the European Parliament, to lobby the Vietnamese government on behalf of these people to ensure that they are treated in a just and humane manner.

Public sector: leave entitlements

Mr KOTSIRAS (Bulleen) — A leaked document from the Department of Premier and Cabinet (DPC) states that under this government more public servants are taking time off for sick leave and recreation leave.

I am advised that in November 1999 approximately 566 hours were lost in total sick leave while in August 2000 approximately 676 hours were lost in sick leave. Why are more public servants taking recreation and sick leave? Perhaps they are confused and stressed from this government's lack of clear vision and failed objectives. Another leaked document entitled 'Review of processes aligned to DPC corporate planning' showed that the government has failed the people of Victoria.

The section headed 'Achievement of whole-of-government and other departments' objectives' states:

> Although whole-of-government outcomes are part of the policy statements of the new government, lack of specificity to date of what is intended across the board has made identification of whole-of-government objectives difficult …

The OWP (Office of Women's Policy), the Victorian Multicultural Commission and the Victorian Office of Multicultural Affairs have concerns regarding their ability to influence the work of other departments to achieve the government's policy objectives.

This shows that the government has failed the people of Victoria. The whole-of-government approach is a total

farce and a sham; it is not working. The Premier has failed and he has failed Victorians.

Lebanese Independence Day

Mr LANGUILLER (Sunshine) — I place on record that I have recently represented the Premier at the celebration of the 58th anniversary of Lebanese independence.

I was honoured to be in the company of Dr Tannous Auon, consul general for Victoria; Mr Badwi Hhoury, president of the Australian Lebanese Association of Victoria; and many hundreds of distinguished guests of that community.

Lebanese Independence Day is a day when the Lebanese community comes together to celebrate its history and unique culture. The anniversary marks the birth of modern Lebanon. Over the years the Lebanese people have experienced hardships and tragedy brought about by war and armed conflict. These conflicts, however, have failed to dampen the spirit of hope and peace within the hearts of the Lebanese people.

The Lebanese presence in Australia has evolved over three waves of migration in 120 years. The Lebanese community is very proud of the fact that the Premier is of Lebanese descent. We in the Bracks government recognise that Victoria's culturally diverse communities are among its greatest assets. We are determined that each of our culturally and linguistically diverse communities are as successful as the Lebanese community has been.

The Lebanese Association of Victoria made a significant contribution to the centenary of Federation celebrations. The float titled 'Lebanon's gift to the world' featured the words of the Lebanese philosopher Kahlil Gibran. In the words of Kahlil Gibran, I wish the Lebanese community hope, peace and reconciliation!

Member for Gippsland East: petitions

Mr INGRAM (Gippsland East) — Today I tabled a petition which was circulated in areas of my electorate regarding the increasing number and the violence of crimes against individuals and property.

In addition I have received 257 letters over the past couple of months from concerned citizens regarding the incidence of those crimes and the sentences received by their perpetrators. I will forward those letters to the Premier to make him aware of my constituents' concerns.

The debate about the factors to be taken into account when sentencing is complex. Nevertheless, our courts need the confidence of the community to discharge their responsibilities effectively. Consequently they need to remain conscious of the community's expectation that deterrence will figure significantly in the courts' thinking about sentencing.

I also tabled a petition regarding the East Gippsland Shire Council. On behalf of my electorate I have organised a meeting with the department to discuss the sale of the shire offices at Palmers Road, Lakes Entrance.

Tecoma Primary School

Mr McARTHUR (Monbulk) — I raise the plight of the Tecoma Primary School. Last Friday I visited the school at the invitation of its school council president, Dennis Yeats. The school is on a sloping site. Over recent years it has suffered severe erosion damage because of that slope, and as a result it has some occupational health and safety problems and issues relating to the safety of the students.

I have written to the Minister for Education and to the department about this issue, but I urge the minister to take rapid action. As a result of advice from her department the school commissioned a report by Civil Design Solutions into the damage and some recommended options for redressing the damage. CDS estimates that it will cost the school — or someone — over $38 000 to properly redress the problem. The school is seeking funding from the department's minor works grants program.

I understand that announcements are to be made on funding from the program in the very near future. I urge the minister to take this up as a matter of urgent importance, because children could get out under the school fence and onto a busy road through an area that has been eroded underneath the fence. It is a safety issue that needs to be addressed urgently, and I ask her to ensure that the school gets proper funding to enable it to address this problem.

Gold discovery anniversary

Ms ALLAN (Bendigo East) — The year 2001 has been important in commemorating the 150th anniversary of the discovery of gold in this state. From the moment that gold was discovered by James Esmond in Clunes on 28 June 1851 it has played a pivotal role in the political and economic development of Victoria, largely on the back of the wealth generated from the central Victorian goldfields. I congratulate the

community members, groups, numerous councils and the goldmining industry for their efforts in organising the many community events and commemorative infrastructure that was put in place to celebrate this important historical milestone.

The Bracks government worked in partnership with communities around the state to assist the celebrations through the allocation of $1 million from the Community Support Fund that was administered by the Country Victoria Tourism Council. Along with my colleagues the honourable member for Ballarat West and the honourable member for Ripon, who sat on the funding steering committee, and also the many other honourable members and ministers who participated in the events held during the year, I am very proud to have been associated with the large number of special celebrations across Victoria.

The Bracks government believed it was very important that this historical milestone be celebrated throughout Victoria, particularly in regional and rural Victoria where gold has been mined for many years, its being very important to the development of country Victoria. I acknowledge particularly the Bendigo community, the Bendigo City Council and Faye Buerger for their special efforts in Bendigo in making sure this event was celebrated through the year.

Gunnamatta: sewage outfall

Mr DIXON (Dromana) — At Gunnamatta in my electorate the equivalent of three Melbourne Cricket Grounds full of secondary sewage is discharged into the ocean every single day. Melbourne Water Corporation is about to decide on a major works program for the eastern treatment plant for approval and licensing by the Environment Protection Authority. I commend the recent work by the Surfriders Association and the Clean Ocean Foundation in raising both the public's awareness of the outfall and the level of public debate.

The state government has been strangely silent on this issue, which is important not only to the people of the Mornington Peninsula but to all Victorians, and I would like it to state its views on what should happen with the eastern treatment plant and the outfall and to become involved in the debate. The works program has the potential to improve the quality of the discharge at the outfall and therefore reduce the quantity of effluent leaving the outfall. The ultimate and attainable goal is to have no outfall at all. I call on the government to become involved in this issue and to state where it stands so that a positive outcome can be achieved.

Andrew Hamilton

Mr HOLDING (Springvale) — I pay tribute to Mr Andy Hamilton who retires at the end of this year after 11 years as principal of Heatherhill Secondary College in my electorate of Springvale. Andy transferred to Heatherhill in 1988 and in 1991 was appointed principal after being acting assistant principal in 1990. His leadership at Heatherhill has focused on improving teaching programs, facilities and community partnerships. In 1999 the Australian Drug Foundation presented Mr Hamilton with an award for outstanding leadership for school-based drug education. In 2000 the college received second prize out of 61 entries for the Dowd Family Trust Award for Excellence in Community Awareness. On 28 June 2001 Mr Hamilton received his 40 years teaching service award from the Minister for Education.

Honourable members would recall that Andy Hamilton was one of the speakers invited to address Parliament during the joint sitting on drug policy held earlier this year. He is respected throughout the state as an educationalist and innovator in the area of school-based education. I wish him all the very best in retirement. I know that he will continue to contribute to community discussion on the issues that he has pursued as principal of Heatherhill Secondary College.

Freedom of information: Justice

Mr WILSON (Bennettswood) — I raise the issue of the politicisation of freedom of information, particularly a current FOI application of mine to the Department of Justice regarding crime and safety surveys in the cities of Monash and Whitehorse. The department has advised me that it intends to deny my FOI request on the basis that it is too voluminous. The request goes to surveys conducted in the City of Monash and the City of Whitehorse during March 2001. The department is telling me that my application will unreasonably divert its resources. I am also told that the City of Whitehorse requested an extended survey on crime and justice in the city and that is a reason for the possible denial. This is not a question of cost. I am willing to pay for any information which the department provides to me, because my constituents in both cities have the right to know what these surveys contain.

FAIR TRADING (UNCONSCIONABLE CONDUCT) BILL

Second reading

Debate resumed from 1 November; motion of Mr HAERMEYER (Minister for Police and Emergency Services).

Mrs PEULICH (Bentleigh) — The opposition supports the Fair Trading (Unconscionable Conduct) Bill, which basically aims to prohibit persons from engaging in unconscionable conduct in business transactions by replicating the provisions of section 51AC of the commonwealth Trade Practices Act in the state Fair Trading Act. The bill applies to the supply of goods and services in trade and commerce where the cost of the goods or services is less than $3 million. The federal legislation applies only to corporations whilst the intent of the legislation before the house is that it will apply to unincorporated businesses and individuals. In particular the intent is to make this provision accessible to small business.

The amendments substantially lift section 51AC of the Trade Practices Act and insert it into state legislation. For the purposes of research I visited the web site of the Australian Competition and Consumer Commission to find out a bit of the background of the Trade Practices Act. I noted on the web site a document that is basically a guide that is intended to provide those who deal with small business with guidelines and information as to what is deemed to be unconscionable conduct or unscrupulous dealing. Most of the research from New South Wales, and certainly quite a few of the articles in newspapers and such, shows quite clearly that a lot of businesses, large corporations in particular, sometimes find it difficult to distinguish between driving a hard bargain and engaging in unconscionable conduct.

The Trade Practices Act contains two sections dealing with unconscionable conduct and commercial transactions. The first, section 51AA, is a very broad prohibition which requires a number of things to be proven to establish that unconscionable conduct has occurred. For example, one must establish that one was in a position of special disability with a stronger party, that the stronger party knew or should have known about that and that the stronger party took unfair advantage of that position. In the absence of any of those the unconscionable conduct would not be proved under section 51AA even if the weaker party suffered substantial loss.

Section 51AC, the second provision of the Trade Practices Act dealing with unconscionable conduct, is more precisely focused. It was introduced as part of legislation specifically designed to improve the legal protection and remedies available to small business at the federal level — that is, small businesses dealing with corporations. It applies to conduct from I July 1998, when it was passed by the federal Parliament.

Although neither section defines unconscionable conduct, section 51AC provides guidance to the courts in the form of a non-exhaustive list of factors which must be taken into account. This is replicated in the act. I will go through them so the house will understand that although some of these provisions already exist under common law, two or possibly three new conditions that have been added could offer small business a slightly higher degree of protection.

When introducing the new unconscionable conduct provisions the then commonwealth Minister for Employment, Workplace Relations and Small Business said that section 51AC would mirror for small business consumers the legal rights available to consumers under section 51AB and would incorporate a range of additional matters to ensure that the new provision achieved its intended purpose of protecting small business in its dealings with larger businesses. I briefly diverted to that because as I mentioned before this section is specifically lifted from the federal act — consciously and quite deliberately — and inserted into the bill to give greater protection to small businesses, especially those that are not incorporated, and to provide not only open access to the courts but a cheaper and more accessible form of mediation and resolution through the Victorian Civil and Administrative Tribunal, which has slightly more of an open-door policy and lower costs, and therefore the cost of taking an action as a complainant under the provisions of this legislation would not be as prohibitive to small business.

The non-exhaustive list of factors which the court may take into account under the Trade Practices Act includes the relative bargaining strength of the parties, whether as a result of the stronger party's conduct the other is required to meet conditions not reasonably necessary to protect the stronger party's legitimate interests, and whether the small business could understand any documentation used. Obviously this is particularly applicable to people who may be illiterate or whose command of the English language is not sufficient to allow them to appreciate the contents of the documentation.

It is a known fact that a very significant proportion of Victoria's small business community is comprised of people from migrant backgrounds. My own parents

owned and operated a small business, and although my mother reads and writes she achieved only compensatory education following the Second World War, so that certainly could not be considered to be adequate for dealing with business documentation. By contrast my father had a couple of degrees, so they had a good complement of skills. Nonetheless many of the small business traders I know are migrants, and they may be functionally illiterate, but they still run very good businesses. It is therefore good to know that both the federal government and this parliament are interested in making more robust the provisions to deal with some of the more unscrupulous dealings that small businesses may be subjected to as a result of their inferior strength in the marketplace.

Also to be considered under this provision, either by the court or by VCAT, would be whether there was any use of undue influence, pressure or unfair tactics by the stronger party; how much the small business would have to pay or charge and under what circumstances to buy or sell identical or equivalent goods or services from or to another supplier; the extent to which the stronger party's conduct was consistent with its conduct in similar transactions with other small businesses; and the requirement of any applicable industry code or any other code if the small business acted in the reasonable belief that the stronger party would comply with it.

The adoption of industry codes seems to be the direction our marketplace is taking. Australia recognises that the marketplace does not tolerate unwarranted interference. However, at the same time there are certain practices and codes of conduct that we expect and that we expect will protect consumers. Many may be voluntary codes of conduct generated by industry itself as a symbol of being a responsible industry. I think these work better than involuntary codes or codes imposed by the government of the day.

Other factors that may be considered are the extent to which the stronger party unreasonably failed to disclose any intended conduct that might affect the interests of the small business, or any risk to the small business arising from that conduct that a stronger party should have foreseen would not be apparent to the small business; the extent to which the stronger business was willing to negotiate with the small business the terms of any supply contract; and the extent to which each party acted in good faith. As I said, that is a fairly comprehensive list, and certainly the Fair Trading (Unconscionable Conduct) Bill directly lifts section 51AC from the Trade Practices Act and places it into state legislation.

The bill contains provisions for the determination of the price of goods if a specified price was allocated or if the acquisition of the goods was other than by way of purchase. The bill also includes the obtaining of credit or acquisition of a loan facility. It sets out 12 considerations that can be taken into account by the courts or by VCAT as part of the elements which are to be considered in determining whether unconscionable conduct exists. While there is no definition in the Trade Practices Act or the Fair Trading Act of unconscionable conduct, case law has developed and will continue to develop to establish the nature and boundaries of that conduct which breaches the act.

The development of general legal principles of unconscionable conduct has taken place over many years, and the principles have been broadened significantly by the courts in recent times. In general the courts in Australia have tended to be cautious in applying what is known as the equitable doctrine because it intrudes into a presumption that parties who sign contracts are aware of what they are doing. For this reason the equitable doctrine was seen as having a somewhat limited application in business-to-business transactions. However, in the Farrington Fayre shopping centre case of September 2000 the Federal Court of Australia extended the doctrine to a further type of unconscionable conduct, in particular an irrelevant and harsh concession — that is, abandoning a separate legal claim that had nothing to do with the matter under dispute was extracted from the small business tenant as a condition of a renewal of a lease. Within the parameters of this legislation, that would be deemed to be unconscionable conduct.

The development of a special statutory remedy for small business goes well beyond whether a party was able to read a contract. Obviously small businesses invest a lot of time and money in ventures and place themselves in some fairly vulnerable bargaining positions in dealing with suppliers, landlords and others. As I have said, for this reason a set of criteria is provided to assist a court in determining whether that occurs. This was broadened by the Simply No-Knead case, as reported in *Australian Competition and Consumer Commission v. Simply No-Knead (Franchising) Pty Ltd* (2000) 178 ALR 304.

Simply No-Knead was a franchisor that signed up a number of small business franchisees. The business involved making bread and related products. Some disputes developed between the franchisor and the franchisees. The operation of a franchise depended on the supplies of products from the franchisor and group advertising for the franchise as a whole. As a result of a series of demands and counterdemands, the business

relationship between the franchisor and some of the franchisees deteriorated, and the franchisor deemed that no joint meeting with the franchisees was acceptable. When this matter was taken to court, it was found that the conduct of Simply No-Knead was unreasonable, unfair, harsh, oppressive and wanting in good faith. Simply No-Knead had refused to supply some of the franchisees with products because they disputed either the content of the advertising material or the supply of double the quantity of flour they requested, and so on. That is an example of how the definition of unconscionable conduct has been broadened by a recent case.

In summary, given the conduct engaged in by the franchisor, the court found overwhelmingly that its unreasonableness, unfair bullying and thuggish behaviour amounted to unconscionable conduct under section 51AC.

In all there were four cases, of which two went to court and two were settled out of court. Obviously these are matters that those in the marketplace — be they large corporations or medium-sized or small businesses — need to become aware of. As I mentioned earlier, it was interesting to note that a survey undertaken in New South Wales found that an overwhelming number of businesses did not know their rights and obligations. That is a responsibility I see for Consumer and Business Affairs Victoria. It needs to make sure that that sort of knowledge is communicated to those covered by this legislation, being mindful of the fact that there may be some communication problems because some participants in business are not functionally literate due to English not being their first language.

Unconscionable conduct occurs when a big business — or any business — takes advantage of its size to damage the competitiveness, profitability or survival of smaller businesses. The National Party has some interest in these provisions, especially when large chains such as Woolworths, Safeway and the like engage in predatory practices against their smaller competitors. I do not suggest that the companies I have named are engaged in such practices, but certainly other businesses like them are. It is precisely this legislation — and the federal legislation — that is intended to deal with such matters.

Without prolonging the debate beyond what is necessary, given that there are nine pieces of legislation to be debated this week, I say that this is a sensible piece of legislation that replicates the provisions of the federal Trade Practices Act. It further extends the protections offered to small business and makes available a cheaper form of dispute resolution via the Victorian Civil and Administrative Tribunal.

The definition of monetary transactions under $3 million is a provision that could apply not just to small businesses but to any unincorporated business that could be a multimillion dollar business — for example, where there may only be a sole owner. Therefore we should not just sell this legislation or look upon it as being for small business. The provisions could be taken advantage of by other businesses. I do not know many small businesses that have $3 million transactions. My husband's engineering business does not even have a turnover of $3 million.

Mr Delahunty interjected.

Mrs PEULICH — No, it's a very humble business! He only started it some three years ago, so we are far from having a $3 million annual turnover, let alone having $3 million in transactions!

The bill has been dressed up in the government's propaganda and press releases as a small-business initiative, but as it catches transactions that are less than $3 million — they could be $2 999 000 — it is more broadly applicable than just to small business.

The legislation has general support from such organisations as the Australian Competition and Consumer Commission (ACCC) and the Australian Retailers Association. The shadow minister for small business and consumer affairs in another place, the Honourable Carlo Furletti, consulted with the Consumer Law Centre Victoria Ltd, the Council of Small Business Organisations of Australia, Family Business Australia Ltd, the Housing Industry Association, the Law Institute of Victoria, the Master Builders Association of Victoria, Micro Business Network, the National Independent Retailers Association, the Property Council of Australia, the Property Owners Association of Victoria, the Real Estate Institute of Victoria, the Small Business Advisory Network, the Victorian Automobile Chamber of Commerce, the Victorian Employers Chamber of Commerce and Industry, and many others. Generally, it was supported and seen as further extending the reaches of the federal legislation, and it is for those reasons that the opposition supports this consumer-protection legislation, which ostensibly protects business operators from predators.

As I said before, only four cases have been brought under the unconscionable conduct provisions of the Trade Practices Act by the Australian Competition and Consumer Commission. Some have received fairly

good coverage in the media. The cases certainly make interesting reading. It is good to see the ACCC taking a proactive role in taking the message out to the business sector so there is a clear understanding that there is a very real difference between driving a hard bargain and engaging in unscrupulous and unconscionable conduct, such as predatory pricing.

The legislation will also provide retail tenants with an opportunity to have some of their disputes resolved through the Victorian Civil and Administrative Tribunal, although I understand a further review will be dealing with this matter through the relevant legislation.

It should be noted that recommendations in the government's recently released discussion paper on the Retail Tenancies Act to include this type of provision will have been satisfied and the bill will relate across the board to all trade and commerce, which will include retail tenancies. Without any further ado and with those few words, I offer the opposition support for this legislation, which is, as I said before, modelled on and extends the provisions of the Trade Practices Act.

Mr DELAHUNTY (Wimmera) — I am pleased to speak on this bill on behalf of the National Party and to follow the honourable member for Bentleigh. Her electorate covers about 19 square kilometres — and I know she has had a bit of a dicky knee — but no doubt there are a lot of small businesses and franchisees within that 19 square kilometres. Reading through her history we find that in the 34 years she has lived in Australia she has run a family business for seven years for the first go and now she is having another run at it. We wish her the best there.

The purpose of the Fair Trading (Unconscionable Conduct) Bill is to amend the Fair Trading Act 1999 to prohibit persons from engaging in unconscionable conduct in business transactions, and therefore to enable persons to litigate disputes of this nature before the Victorian Civil and Administrative Tribunal, commonly known as VCAT, under that tribunal's fair trading dispute jurisdiction under the Fair Trading Act 1999.

As has been outlined by the honourable member for Bentleigh, this covers unincorporated as well incorporated businesses and also individuals, so that broadens this act to cover just about everyone in relation to this bill.

The National Party has consulted widely in relation to this. I will not list all the parties we have consulted with, but the Victorian Employers Chamber of Commerce and Industry (VECCI) has written, saying:

> Thank you for your letter of 1 November …
>
> We understand that these changes will permit traders to take their grievances to the Victorian Civil and Administrative Tribunal as an alternative to the federal and state courts —

as we know, that is always a more expensive way of doing things —

> and that there will be a strong emphasis on mediation.

And I think all of us in this chamber would strongly support trying to resolve these disputes before they get into court. VECCI goes on to say:

> We also understand that these provisions will expand the coverage in the Trade Practices Act to apply to both incorporated and unincorporated traders.
>
> VECCI welcomes these provisions on the basis that they should increase protection for a broader range of small businesses and lower costs for businesses in the event of a dispute.

The National Party will not be opposing this bill. It is commonsense legislation, and it is pleasing to see it come forward. It piggybacks on the federal legislation.

I was speaking to a number of people about the term of the bill — the unconscionable conduct bill — and I thought I needed to go back to the Collins dictionary to be able to read into *Hansard* what unconscionable conduct is. 'Unconscionable' means 'having no principles, unscrupulous; excessive in amount or degree'. The honourable member for Bentleigh has outlined some of these concerns.

The National Party believes the proposed changes are good because they introduce a fairer practice in relation to unfair and unconscionable trading clauses in the Fair Trading Act 1999. We believe the bill will effectively replicate section 51AC of the federal Trade Practices Act 1974, which prohibits unconscionable conduct in business transactions of $3 million or less.

Under the changes proposed in this bill, small traders, including retail tenants, will be able to take their disputes to VCAT, as it will come under the Fair Trading Act as a fair trading dispute. As an alternative to the courts, the tribunal has cheaper application fees, less formal procedures and mediation emphasis.

I have been in the Parliament for just over two years and VCAT gets a lot of mentions. It has a lot of work to do. My big fear, and the fear of the National Party, is that the government needs to make sure that VCAT has adequate resources to achieve a speedy passage through the VCAT process. It plays an important role. This is no criticism of VCAT, but we seem to be loading it up

with a greater workload every week with different bills going through this house.

The honourable member for Richmond, who is going to speak after me, may make some comment about that, but it is important that VCAT has adequate human and financial resources to ensure these disputes and other disputes that come through its doors are processed in adequate time.

We are not opposing this bill. We believe the commonwealth Trade Practices Amendment Act (No. 1) of 2001 which commenced operation on 28 June 2001 will allow state versions of section 51AC to concurrently operate with section 51AC of the commonwealth act. So from that point of view the National Party will not oppose this bill.

I did some research in relation to this bill and received some information from the federal level. I will read an extract from federal *Hansard* of a speech by the Minister for Financial Services, the Honourable Joe Hockey, who said — —

An honourable member interjected.

Mr DELAHUNTY — Thank you very much — the former Minister for Financial Services, who said, on 19 June 2001:

> We are putting through this bill with one particular issue in mind — that is, to provide protection against unconscionable conduct, as well as the range of other sanctions in place. This bill will allow the states to draw down section 51AC of the Trade Practices Act dealing with unconscionable conduct. It will possibly overcome a constitutional inconsistency which invalidates state legislation. It will provide greater access to remedies for small business under state retail tenancy legislation. The limit on damages with regard to unconscionable conduct and business transactions will also be increased to $3 million, providing greater compensation for small businesses that have experienced such conduct.

It is pleasing to see that the states and, importantly, the federal government are working in cooperation on this matter. At the end of the day the businesses out there do not really care what government it is. They want legislation that protects them in these unfortunate circumstances, which too often arise. It is pleasing to see that this is a draw-down on section 51AC of the Trade Practices Act at the federal level.

We were pleased on 10 November to receive a briefing from the department and other government staff. We requested some details of the cases that were outlined in the second-reading speech. Patrick L'Estrange from Consumer and Business Affairs Victoria, who is in the chamber today, provided that to us, and we appreciate that detail.

We received details of cases against section 51AC. We received various ACCC media releases on the Simply No-Knead case, the Leelee case, the Cheap as Chips case and the CG Berbatis Holdings case. The Leelee and Cheap as Chips cases were settled out of court before trial. We also asked during that briefing if Consumer and Business Affairs Victoria would provide a flow chart to assist small businesses, particularly small traders, in setting out the various options or steps they could take, whether to VCAT or through the court process. I am pleased to see in the information provided back to us that Consumer and Business Affairs Victoria and Small Business Victoria will cooperate in providing such a chart as part of the advice they will give to small business in relation to the provisions of this act.

Many businesses are small. As the honourable member for Bentleigh has highlighted, they are often single-person operations or with very few staff and very little support. Often these small business operators not only work behind the counter but obviously do their books at night or at weekends, and they have difficulty following some of the processes that we in these chambers make. It is important that those small business operators can look at a chart which sets out various steps and be made aware that some options will be more costly and take more time than others but that they could be more successful than others at the end of the day.

I do not want to hop into lawyers, but every time you walk into a lawyer's office the meter is switched on and ticks away. The legislation the government has brought into the house giving small business operators the option to go to the Victorian Civil and Administrative Tribunal is very logical, but various flow charts and other steps are needed to assist that process. As I said, the National Party will keep the government to its commitment that it will provide that information.

In preparation for my contribution today I read through the second-reading speech, where I saw that the minister stated that:

> … a dispute under the bill will be a fair trading dispute under the Fair Trading Act 1999. This means that small traders, including retail tenants, can take these disputes to the Victorian Civil and Administrative Tribunal. The tribunal is an alternative to a court and has less formal procedures, cheaper application fees and a strong emphasis on mediation.

All honourable members would agree with that process. Members of the National Party in particular strongly agree with it, because many of our small businesses are very small and their operators do not want to go through a lengthy process which could cost them a lot

of money. Often in these sorts of cases big operators deliberately take small businesses to court, knowing that they cannot afford the process and will run out of dollars before they get an outcome. For that reason the National Party strongly agrees with this legislation.

In the second-reading speech the minister also stated that:

> The combination of section 51AC and the bill should increase the competitiveness of small businesses by providing the full range of remedies under the Trade Practices Act 1974 and the Fair Trading Act 1999. These remedies are available to them to combat unconscionable conduct that destroys their business or damages their competitiveness. Small businesses will also have access to the full range of courts and tribunals.

Again, the flow chart I spoke about before will be important to help that process. It has been interesting to follow the reporting of this issue in the media. An article by Mathew Charles in the *Herald Sun* of 5 November under the heading 'Fair trading reform — bid for protection' states:

> Small business reform advanced last week with new laws aimed at stopping big business treating small businesses poorly.
>
> The state government moved to beef up its Fair Trading Act by borrowing key parts of the federal Trade Practices Act.
>
> …
>
> Similar moves have already been made in Queensland and New South Wales.

I have no doubt that other states have also acted on this type of legislation.

The article reports the Minister for Small Business as saying that:

> … unconscionable conduct happened when a business used its size to 'damage the competitiveness or profitability, and possibly the survival, of a small business'.
>
> As part of the change aggrieved small business, including retail tenants who have long pressured for such laws, will take their grievances to the Victorian Civil and Administrative Tribunal.
>
> In the past it was a matter for federal and state courts.

Obviously that was a costly process.

The article also reports that:

> The executive director of the Australian Retailers Association Victoria, Timothy Piper, welcomed the bill.
>
> Mr Piper said it would especially help small retailers' relations with bigger landlords.
>
> …
>
> 'It will help to ensure small retailers are treated with respect by landlords', Mr Piper said.
>
> 'And we fully expect it will cause landlords to adopt a more reasonable approach towards retailers'.

For that reason we in the National Party will not be opposing this bill.

As I said, National Party members asked for examples of cases such as those outlined in the second-reading speech, and I will quickly touch on some of them. I refer to a media release from the Australian Competition and Consumer Commission (ACCC) on the Simply No-Knead case under the headline 'Federal Court finds franchisor's conduct unreasonable, unfair, bullying and thuggish':

> In a stern warning to the franchising sector the Federal Court has made it clear that it will not tolerate conduct towards franchisees that shows no regard for conscience or is clearly unreasonable or unfair.
>
> Following a trial where the Australian Competition and Consumer Commission … alleged unconscionable conduct in breach of the Trade Practices Act 1994 … the conduct by Simply No-Knead (Franchising) Pty Ltd disclosed 'an overwhelming case of unreasonable, unfair, bullying and thuggish behaviour' against five franchisees that amounted to unconscionable conduct by SNK for the purposes of section 51AC of the act.

The ACCC identified categories of conduct which would contravene the act, including:

> … refusing to deliver franchised products …
>
> deleting the telephone numbers of … franchisees;
>
> unreasonably refusing requests from the franchisees to negotiate matters in dispute …
>
> producing and distributing advertising and promotion material which omitted the names of the franchisees …
>
> selling and offering to sell products in the territories of the franchisees …

As you can see, Mr Acting Speaker, these large companies were using their power to really kerthump small business operators. It is pleasing to see the ACCC using its teeth in those matters.

I will quickly touch on another media release which, under the heading 'Court declares landlord's conduct unconscionable', states that:

> The Federal Court of Australia has granted a declaration against Leelee Pty Ltd, landlord of Adelaide International Food Plaza, that it engaged in unconscionable conduct towards one of its tenants.
>
> …

> The court declared that Leelee engaged in unconscionable conduct by:
>
> > consenting to, or giving approval for, another tenant to infringe on the exclusive menu entitlements conferred by Leelee on one of its tenants; and
> >
> > specifying the price at which its tenants sold their dishes in a manner which unfairly discriminated against, or inhibited, the tenant's ability to determine the prices at which its dishes were sold in competition with another tenant.

I have two other media releases dealing with similar cases; however, in the interests of time I will not go through them. No doubt other members also have that type of information.

Turning to the bill, clause 2 relates to the commencement date of the act being after royal assent, and that is only commonsense. The major clause is clause 4, which inserts proposed sections 8A and 8B. The explanatory memorandum states that proposed section 8A(1):

> … prohibits conduct, in trade or commerce, which is, in all the circumstances, unconscionable, and which is connected with the supply or possible supply of goods or services to a person other than a listed public company or with the acquisition or possible acquisition of goods or services from a person other than a listed public company.

Clause 4 is very extensive in its application, and for the sake of time I will not go into the detail of it. But I will say that the National Party sees small businesses as a very important sector of our community, particularly in rural and regional Victoria. Small businesses are vital from the point of view of providing not only goods and services but importantly employment to our rural people.

Small businesses are under enormous pressure these days, and a lot of small business people are saying to me, 'We wonder why we are in business given all the pressures governments of all ilks have been putting on us'. The pressures those people are really upset about — I will not use the words 'savage about', because that might offend you, Mr Acting Speaker — are increasing Workcover costs and various other charges like that.

The National Party again calls out to the state Labor government to positively discriminate in country areas to help these small businesses, particularly in relation to payroll tax. I again put on the record the National Party's support for that in country areas.

Small businesses have raised other concerns with me, in particular following what happened last Thursday, when the government brought in the bill relating to industrial manslaughter. Statistically some of our industries in country areas are more unsafe than those in metropolitan areas, but they are very important from the point of view of employment and input into the gross domestic product. Legislation can have a major impact on those things.

The Wimmera electorate has many franchisees. There are the larger ones, as there are in many other areas, such as McDonalds, KFC and various bakeries, but there are also various smaller ones. The Acting Speaker and I have been doing some work on Hannafords, which is a company that franchises to people who often run small, single-person operations and who have sometimes gone into them without fully exploring the pitfalls.

There is one in my area, run by Mr Darren Saunders and his wife, who are very upset about the way Hannafords are treating them as franchisees, and I call on Hannafords to take a more cooperative approach and not engage in what I believe is unconscionable conduct in the pressure it applies to some small businesses. I believe the legislation will assist, and the only problem with this — perhaps the honourable member for Richmond, who is following me, can cover this point of view — is that this franchisor is a South Australian company but the franchisees are located in Victoria. I am not sure how they operate in relation to this legislation and to the federal law. I am not sure whether this law will protect those franchisees who are under extreme strain in Victoria when it is a South Australian franchise company, Hannafords in particular, that is involved. I would love to hear the comment of the honourable member for Richmond on that issue, if he has time.

These people are coming to me, and I know other franchisees have spoken to other members of Parliament about the way Hannafords have operated. The operation of Hannafords is important to the community, but it is also important that the company treats its franchisees in a respectful way and that at the end of the day the community gets a service that is vital to the grain industry.

Other franchisees that are important in our area are the stock and station agents, Elders, Wesfarmers and so on. There are many that play an important part in small business transactions.

We do not have many large shopping centres in the Wimmera, but there are some at Shepparton, and I know extreme pressure is sometimes placed on some of those lessees. There are other smaller shopping centres in the towns around the Wimmera, and the legislation

will help them. The National Party believes the legislation will improve the conduct of business operations and transactions, and for that reason we support it.

I conclude by saying that I know of cases where in relation to running services such as child-care centres large shopping centres sometimes place onerous pressure on smaller operators and small lessees. I only hope this type of legislation will help these smaller operators because the small operators are the engine room of our community from the point of view of creating employment and providing services and goods, and they are particularly a vital part of rural and regional Victoria.

The National Party will not oppose the bill, and we trust it will improve the conduct of business operations and transactions in Victoria. We wish it a speedy passage.

Mr WYNNE (Richmond) — I rise to support the Fair Trading (Unconscionable Conduct) Bill and I thank the honourable members for Bentleigh and Wimmera for their contributions and support of the bill.

The purpose of the bill is to amend the Fair Trading Act 1999 to prohibit persons from engaging in unconscionable conduct in business transactions, and to enable persons to litigate disputes of this nature through the Victorian Civil and Administrative Tribunal (VCAT).

This meets the Labor Party commitment to small business as stated in our 1999 election platform, Taking Care of Small Business. The platform identified the need for change to the Fair Trading Act and other legislation to provide a safety net against predatory trading practices. To fulfil this commitment a section of the Trade Practices Act 1974 is being drawn down into the Fair Trading Act. Section 51AC was inserted into the Trade Practices Act in 1998 and prohibits unconscionable conduct in business transactions of $3 million or less. Prior to the amendment the prohibitions on unconscionable conduct only related to consumer transactions and to what is termed the unwritten law. The Trade Practices Act now provides access to remedies wider than those under the unwritten law. The unwritten law refers to the equitable doctrine of unconscionable conduct which was developed by the courts. This doctrine requires that a complainant had to establish that they suffered from a special disability such as drunkenness or other incapacitating condition, or, for instance, lack of English, and that the other party unconscionably took advantage of that disability.

The amendment of section 51AC of the act and the draft of state legislation before the house provides that a court can have regard to any matter, including 12 listed matters, and the case law indicates that the complainants do not have to establish that they suffered from a special disability. Significantly, in a case brought under section 51AA of the Trade Practices Act, the unwritten law provision, a retail landlord who forced a tenant to drop legal action against it as a condition of reviewing their lease won the case, but the judge said that the result may have been different under section 51AC. The case the honourable member for Bentleigh referred to in her contribution was the *Australian Competition and Consumer Commission v. CG Berbatis Holdings Pty Ltd* (2000).

There have also been some significant victories for small traders under section 51AC of the Fair Trading Act; however, they are limited to corporations that supply products to or acquire products from persons and persons who supply products to or acquire products from corporations. As has been indicated by other speakers on the matter, there were a couple of significant cases. The first main case so far was the Simply No-Knead case. The *Australian Competition and Consumer Commission v. Simply No-Knead Franchising Pty Ltd* (2000) 178 ALR 304 where the Federal Court referred to the franchisee's conduct as 'bullying and thuggery', exceeding the meaning of unconscionable conduct to include such actions as a franchisor authorising an incursion into a franchisee's territory, omitting of names of dissenting franchisees from advertising material and refusing requests to negotiate disputes over the terms of the franchisee's agreement.

As was indicated by other speakers, there have been two cases which were settled before trial with the Federal Court entering consent orders against the Cheap as Chips franchisor who terminated or suspended a dissenting franchisee's franchise agreements rather than negotiate in their disputes about money owed to them.

Another case was that of a food court landlord who attempted to destroy the business of a tenant by authorising other stores to sell food of the same kind as that exclusively reserved to the tenant and to sell food at prices lower than their leases permitted while insisting that the tenant adhere to the lease prices. That was the June 2000 case of *ACCC v. Leelee Pty Ltd*.

During my preparation for the debate on this bill the honourable member for Mitcham directed to my attention a case in which he had been involved since 1998 concerning a panel beater in Vermont, Mr Gerry

Raleigh, who alleged that pressure was placed on him by a competitor in the Vermont area, a Royal Automobile Club of Victoria (RACV) franchise, in relation to the referral of work to him. The honourable member for Mitcham took up the panel beater's case and the matter was referred to the Australian Competition and Consumer Commission. I understand a meeting was organised in 1998 to settle the matter and that ultimately a couple of months ago the dispute between the very large organisation — the RACV — and Mr Raleigh was resolved in a satisfactory fashion.

However, it became clear through that case that the problems are widespread. Through this legislation the government is providing a much cheaper and hopefully more streamlined option for complainants to take matters before the Victorian Civil and Administrative Tribunal as an appropriate judicial tribunal to settle such disputes. As we know, people invest an extraordinary amount of money in trying to set up and run their businesses, and being subjected to unconscionable conduct by a competitor can ruin them. In many cases they are sole operators or family businesses that have been operating for many years, and such unconscionable conduct can destroy not only the lives of the proprietors but those of their families as well.

The Victorian legislation is drafted to apply to all persons, effectively bringing into the net any unconscionable conduct by an unincorporated trader against another unincorporated trader. It provides improved access to justice for traders, including retail traders. Under the provisions of this bill disputes will be fair trading disputes which can be taken to the much lower cost VCAT with its less formal procedures and stronger emphasis on mediation. This is one of the hallmarks of the Bracks government: it is very committed to the philosophy of access to justice for all parties.

The honourable member for Wimmera raised a couple of matters. In relation to his concern about pressure being placed on VCAT in managing a potentially increased workload, the early advice I have received from departmental officers is that the retail tenancy list is probably the area where VCAT will potentially be under some pressure from an increased case load. It is clear that the minister will be closely monitoring that to ensure VCAT operates smoothly as the appropriate forum. The government suggests to the honourable member for Wimmera that it will probably be within the retail tenancies list that there will be a demand, but we give the commitment that VCAT will be closely monitored. My advice is that the Department of State and Regional Development is the funding source for that area of VCAT, as opposed to the Department of Justice per se. I hope that satisfies the honourable member's initial concern.

The second matter the honourable member for Wimmera raised relates to a franchisee whose parent company is in South Australia. My understanding from the advice I have received from departmental officers is that if the unconscionable conduct occurred in Victoria that case can proceed under the bill now before the house. We welcome the opportunity to have further discussions with the honourable member outside the house to provide him with further and more detailed clarification of what remedies are available to his constituents who have raised that concern. I hope that satisfies those concerns.

As I said, currently VCAT cannot hear section 51AC disputes, because unlike Victorian courts it has no jurisdiction conferred on it under the Trade Practices Act. With the passage of this bill small traders can litigate either in the Victorian courts under section 51AC or in VCAT under the provisions of this bill. The full range of remedies will then be available to small traders to combat unconscionable conduct that destroys businesses or damages their competitiveness. Access will be available to the full range of options that have been indicated in the bill.

Legislation is being amended in other states as well. Queensland is replicating section 51AC in its retail tenancies legislation. It has a specialist retail tenancy tribunal, not a general tribunal. New South Wales also has a specialist retail tenancies tribunal and is replicating section 51AC into the relevant legislation. It also has a fair trading tribunal for disputes under the Fair Trading Act and is currently considering replicating section 51AC as part of its review of that act.

The introduction of the bill in Victoria has been delayed pending the commencement of the commonwealth legislation to clarify the state version of section 51AC so it can operate within the commonwealth legislation. The trade practices legislation had its genesis under the former Keating government, which drafted a bill in 1995 to prohibit harsh or oppressive conduct in commercial relationships, but which was not passed before the 1996 federal election. Subsequently the Howard government introduced legislation, with the insertion of section 51AC in 1997.

On 28 June 2001 the Trade Practice Amendment Act (No. 1) 2001 commenced and we are now in a position of having legislation that clarifies that federal legislation. Obviously this state legislation can now

operate concurrently with section 51AC. Without this clarification — it is important to point this out — we had the potential for legal challenges to the state's version on the basis that it was inconsistent with the commonwealth legislation and therefore potentially invalid under the constitution.

Basically we now have a commonwealth act and mirror legislation in Victoria. Queensland and New South Wales are also essentially acting within state versions of that commonwealth legislative cover. It is important to indicate that the legislation offers the opportunity for small traders to seek a remedy through VCAT, which is a very important initiative. VCAT is a level of judicial process which for many people is far less intimidating than going through higher courts, and it is certainly less costly. We believe it is the appropriate venue in which these matters can be addressed. One focus of VCAT is attempting to mediate these matters rather than getting into lengthy legal arguments, where the parties inevitably seek the support of lawyers to argue their cases. The government hopes that VCAT, with its very strong emphasis on mediation, may be a very appropriate venue which many small traders may seek to use to remedy their situations.

I certainly welcome the support of the Liberal and National parties for the bill. All honourable members have had constituents come to our electorate offices with what in this context would be regarded as examples of unconscionable conduct in trading between businesses. The case law that has been outlined in the contributions made today has detailed situations where people's livelihoods are being destroyed.

All honourable members know the effort and the major contribution that small business makes as a major employer of people in this state. By enacting the legislation we send a very clear message that small business has an appropriate remedy through appropriate legislative cover. Given the support from both sides of the house that has been shown in the debate today, I sincerely wish the bill a speedy passage.

Debate adjourned on motion of Mr THOMPSON (Sandringham).

Debate adjourned until later this day.

HOUSE CONTRACTS GUARANTEE (HIH FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 1 November; motion of Ms KOSKY (Minister for Finance).

Opposition amendments circulated by Mr CLARK (Box Hill) pursuant to sessional orders.

Mr CLARK (Box Hill) — This is a bill that seeks to amend legislation which was debated in this house in May and came into operation on 8 June. The bill seeks to effect some changes to the scheme contained in the earlier legislation, which was a scheme to provide support and assistance for some holders of building insurance policies issued by HIH or companies in the HIH group.

The legislation that was debated in this Parliament in the autumn sittings was passed with the cooperation of all parties, and it was designed to achieve objectives that had bipartisan support. Again, in most respects the opposition is prepared to facilitate the passage of the bill currently before the house because we accept that a number of its provisions are designed to assist people who have been affected by the HIH collapse.

However, there is one area that causes concern to the opposition, and that is the aspect of the proposed retrospective operation of some of the provisions that are being altered in a way that is adverse to the interests of citizens: in particular, provisions that exclude building owners or other persons for whom three or more homes were proposed to be built on any one building site or under the one major domestic building contract; and, secondly, a provision that proposes to confine the coverage given under the indemnity scheme strictly to the matters that were required to be covered by the insurance policies under the terms of the ministerial order that was applicable. Members of the opposition are concerned because those provisions take away with retrospective effect rights that were conferred on people by the June legislation and on which people may well have relied in good faith.

Overall this bill could be described as a 'We goofed' bill. It is coming back to this chamber to fix up a number of problems with the legislation that went through the Parliament earlier. We can if necessary get into the issue of responsibility and culpability for those errors or mistakes. The government may well say, 'We were trying to legislate in a hurry', but nonetheless some of the errors that have now appeared are fairly fundamental, and one wonders how they came to be made in the first place.

However, from the point of view of the citizen being adversely affected by the retrospective operation of some of these proposals, in the end it does not matter a great deal whether the error is one for which the government should be regarded as culpable or whether it is one that is understandable in the circumstances in which the original legislation was prepared. The bottom line for citizens in these instances is that they have relied on the June legislation in good faith and now they find it is proposed that their rights be taken away from them by amendments that operate back to the date of the original legislation.

Turning to the provisions in the bill, I point out that there are five main sets of provisions and they can be described fairly succinctly. The first set of provisions is to prevent building owners or other persons who were having three or more homes built on any one building site or under a single major building contract from obtaining coverage. These people are described in the legislation as developers and there is a qualification on the proposed exclusion in determining whether or not three or more homes were being built. Any home which was or was to be the principal place of residence of the building owner or other person is to be disregarded.

I should point out as an aside that that seems to have the consequence that if the person concerned crosses the threshold of three or more homes they are also denied indemnity coverage for the home which is their principal place of residence. I will be interested to know if that is the effect the government intends the provision to have.

Be that as it may, the bill proposes to add to the list of exclusions already put in the legislation by the June act. The indemnity under section 37 of the principal act is to be excluded by paragraph (aa) in proposed section 38(1) by adding a reference to the developer covered by the HIH policy. The intention is that even though the person described as the developer would be excluded from the policy, anybody who acquired that home from the developer would not be so excluded. I should also point out that the coverage that these people get at present is not unlimited coverage. My understanding is that there is a monetary limit on the coverage they get in respect of any one home, just as there is a limit in respect of other parties on their homes.

It is also worth making the point that the issue relating to developers arises almost exclusively in insurance policies that were issued up until late 1998, because after that date a new ministerial order was made under the 1993 Building Act which allowed insurance companies not to provide insurance to persons defined as developers. My understanding is that in most if not all policies issued after that ministerial order came into effect the developers were not provided with coverage. However, up to that point they were not excluded from the definition of 'building owners', so they were given the benefit of insurance policies that were issued under the scheme of builders warranty insurance. Therefore they fell within the terms of the legislation passed in June, which extended an indemnity to any person who was entitled to it under an HIH policy, to the extent of the indemnity under that policy. That indemnity is provided in section 37 of the existing legislation.

There is a definition of an HIH policy that refers to a contract of insurance underwritten by HIH other than as a reinsurer before the relevant date and which at the time was insurance required by an order under section 135(1)(a) and (c) of the Building Act in relation to the carrying out of domestic building work or managing or arranging the carrying out a domestic building work, or insurance required by an order under section 135(1)(b) and (c) of the Building Act and which relates to building work for which a building permit was issued under the Building Act before the relevant date.

In all those respects a person who had insurance under a policy issued in accordance with the terms of the ministerial order as it applied prior to late 1998 fell under the terms of the legislation and was entitled, on any fair, honest and open reading of the legislation, to take it that it was the intention that they be covered by the legislation, but they now find that the bill before the house proposes to exclude them from that coverage.

I could probably spend some time going over second-reading speeches, news releases, other contributions to debates and what the government said publicly at the time, highlighting words and phrases that might shed more light on the government's intentions. But rather than go down that course I will simply say that on my reading of the material to hand there are various turns of phrase that, it could be argued, count one way or another but say nothing that gives a clear indication that there was no intention that people who fall into that category would not be covered. Having read the legislation, the second-reading speech and other material I believe that people would assume that they were being given coverage.

The second area in which the bill proposes to restrict rights that were given in the June legislation relates to the scope of losses that are indemnified under a HIH policy to which the state indemnity scheme applies. From the second-reading speech it appears that the

government is concerned that there have been what the minister referred to as bundled policies in which other types of insurance such as public liability were provided, as well as builders warranty cover.

To address this perceived problem the government proposes to insert paragraph (ba) into section 38(1) of the existing legislation to say that an indemnity under section 37 does not apply:

> to any loss indemnified under the HIH policy that is not a loss of a kind required by the relevant order under section 135 of the Building Act 1993 to be indemnified …

The government is saying that regardless of what your policy covered or whether the policy issued to you covered building work in a way that was not required under the ministerial order or was something ancillary to building work or possibly covered something altogether different to building work, the state scheme will only cover strictly what was required to be covered under the relevant ministerial order.

I have some doubt as to whether the government has a problem in this area anyway, and the reason for this doubt stems from the way that HIH policy is defined in the legislation as it came into force in June. There has to be an existence of an HIH policy, as defined in the June legislation, before an indemnity arises. I described to the house earlier the terms of this definition of HIH policy. It seems that the definition is fairly restrictive. It has to be insurance that is required by an order under one of the relevant sections of the Building Act and it has to be in relation to the carrying out of domestic building work or managing or arranging the carrying out of domestic building work or else other insurance required under the relevant sections of the act. On top of that it has to relate to building work for which a building permit was issued under the Building Act 1993 before the relevant date.

Although in the second-reading speech the minister used the example of public liability insurance, it is hard to see how that falls within the scope of HIH policy in the first place, unless perhaps there is some nexus between the public liability element and the builders warranty cover. I hope that the minister or another member opposite speaking on this bill, possibly the parliamentary secretary, will address this point, because subject to any further light that they might be able to shed on the issue it is difficult to see how there could be an extensive problem.

Be that as it may, the government's solution is quite radical. Its solution is not to make sure that the HIH policy and the indemnities relate just to building work in a way that appears to be expected and intended under the June legislation. Its solution to this issue is to cut right back to only the bare bones of what was required under a ministerial order.

Again we in the opposition have concerns about this being made retrospective, because people could have taken the June legislation, the second-reading speech, the other contributions to debate, the various news releases, et cetera and quite honestly and sincerely without any degree of artifice concluded that they were being indemnified for coverage under an HIH policy which related to building work on the assumption that the other requirements of the legislation were complied with. Again, in this area the government is proposing with retrospective effect to take away these rights.

The third area of legislation that I mention is one which is intended to benefit people who were intended to come under the scope of the June legislation but where the June legislation did not cover them. These were people whose HIH insurance policies had what can only be described as an extraordinary provision that the coverage provided by that policy ceased if HIH ceased to carry on business. As I said, it is an extraordinary provision and it is hard to see how it came to be included and accepted in insurance policies. The government can probably be forgiven for not having realised that there were these very unusual provisions in some HIH policies, and therefore can be forgiven for having overlooked this matter in May and June. It is perfectly fair and reasonable for the government to come to this house to rectify that problem and ensure that the people who were intended to be protected are protected under the scheme.

The next provision I refer to is again one that operates with retrospective effect, but it is one where on balance the retrospective operation is justifiable because it is intended to exclude what might be described as a loophole and exclude people from making a windfall gain in that no-one who looked to the merits of the legislation and what it intended to achieve could claim on a reading of what had been said that they were people who were intended to be necessarily covered. This is a provision which deals with the situation that appears to have arisen under some HIH insurance policies — that is, a claim under that policy was lodged with HIH and because it was not responded to by HIH within a particular time period specified in the policy then liability was deemed to have been admitted.

It appears that from late 2000 HIH's internal administration fell into considerable disarray. Claims that had been lodged with the company were not being processed properly and therefore some of the time lines were being missed. This provision intends to say that

there is no automatic liability of the Housing Guarantee Fund scheme to pay under these policies simply because HIH did not deal with the paperwork. That is an amendment that is designed to deal with a genuine loophole and therefore the opposition considers it is acceptable.

The final area I mention is one that also runs in favour of building owners. It deals with a category of insurance policy which was written in favour of the builder rather than in favour of the building owner. In those circumstances it appears if the amendment were not made it would have the effect that because the builder would be excluded from indemnity the subsequent building owner would not have the benefit of a policy which would give them the right to lodge a claim under the indemnity scheme.

I am not in a position to pass judgment on whether the government should have been aware of this type of policy at the time. I understand that some of the details of HIH insurance policies were not in front of the government at the time the provision was put into the legislation. Clearly the important thing is that these people were intended to be covered by the scheme introduced in May and June, and this legislation will ensure that they are.

Some other points should be made about this legislation. Despite a lot of what the government said back in May and June, this legislation still does nothing to help those builders who have been unable to obtain replacement insurance following the HIH collapse. I and many other members of Parliament have been contacted by a number of builders who are experiencing real difficulty because they are unable to get replacement cover. The government has been saying to the world, 'We have this scheme that will restore confidence and stability to the building industry and remove doubts', yet the builders who need insurance cover to keep on working have not been assisted in any way.

I know of a number of people who to all appearances are reputable and respectable and who have operated successful businesses in the building industry but who have had to give up their careers and cease trading because they have been unable to find that replacement cover. The government has simply buried its head in the sand as far as those people are concerned, which has resulted in a number of builders having their registration suspended — and the problem is still not resolved. That is months after the government told the whole world it would all be resolved and the various deadlines would be met.

That situation is linked to another issue — namely, the regulation of the building industry and the question of whether improved regulation could reduce the risk exposure of insurers and thereby lower costs and make insurance cover easier to obtain. The present scheme relies on the private sector to provide insurance cover, but it is not feasible to expect the private sector to necessarily be able to manage and regulate the industry, certainly not predominantly on its own. It is analogous to the argument that because people have private contracts there is no need for a government tribunal to adjudicate on disputes or for a government agency such as a police force to enforce certain obligations.

The government therefore needs to take a good hard look at issues relating to the regulation of the building industry. Several builders have put to me a number of sensible suggestions on what can be done to reduce risks in the industry — in particular, the potential for a large gap to open up between the value of the building work that has been done and the payments that have already been made or, indeed, the cost of completing a project should the builder undertaking it go out of business. The government has been hastening extremely slowly on this issue, consistent with its general approach. It needs to display some vigour to work these issues through and put some changes in place.

I return to what I believe is the main issue that needs to be addressed, and that is the retrospective operation of the two provisions I have flagged that exclude claims in various respects. I have circulated amendments that I propose to move in committee to limit the retrospective operation of the two provisions by providing that the exclusion of those areas from the bill does not apply to claims that have been lodged with the Housing Guarantee Fund Ltd (HGFL) before 1 November 2001, which is the date of the minister's second-reading speech. In other words, a claim that has gone into the system prior to that date will be determined under the legislation as it was passed in June. The opposition accepts that for the future the government can set the terms on which the indemnity scheme operates and make a judgment as to the extent of the coverage that is to be provided.

The government's argument, and it is one that the minister devoted considerable time to in her second-reading speech, is that while it accepts that in general retrospective legislation is undesirable, there are cases where it is justified. In this case the government freely conferred a benefit on people back in June that it is now freely taking away. That is very easy for the government to say, but it does not take into account the impact it will have on those who are losing their rights.

It is true that these people did not have a right of indemnity up until the legislation was passed in June, so if the government had not passed that legislation and if it had never introduced this rescue package, these people would have had to rely on their rights against HIH and line up in the liquidation process for a very small payout. Had the government chosen from the beginning not to extend coverage to these people, there would be a debate on the merits of who should be covered and who should not, but people could not have complained about having their rights retrospectively taken away.

However, once the legislation was passed people were entitled to pick it up, read it, assess whether they were covered by it and honestly and sincerely form the conclusion, in the two cases we are talking about, that they had that coverage and that they could order their lives and their business affairs around that conclusion. Now, five or six months later, along comes the government, wanting to pull the rug out from under their feet.

The opposition is very concerned that in effect people's rights are being taken away from them to cover up the mistake the government made back in June. As I said, if needs be we can go down the path of determining the degree of culpability involved in that, but for the moment it is sufficient to make the point that, so the government now says, an error was made back in June. Certainly the government decided back in June how it would frame the terms of the cover it offered. People have acted on the June legislation in good faith, and now the government wants to undo it.

The government has at various times raised some other arguments about this, and although they do not really go to the point of retrospectivity, they should be addressed anyway. The first is the argument that the coverage should not be provided in the terms it was in June because the commonwealth government does not provide coverage to people in those categories. However, the reason the commonwealth government does not provide coverage to those people is that under its HIH rescue package it does not provide cover at all to insurance that is mandated by state and territory governments, such as compulsory third party motor vehicle insurance in some states, workers compensation, builders warranties or professional indemnity for legal practitioners, to the extent to which it is compulsory. That is why the commonwealth legislation does not cover the people proposed to be excluded. It also does not cover the people proposed to be added or those who are already covered, so that argument does not bear a great deal of weight.

The second argument is that as the commonwealth government scheme provides cover for limited categories of people, it is not reasonable to expect the state legislation to provide coverage to everybody. I suppose the quickest response to that is to say it is a policy argument that could be had in the future, but it does not go to the question of retrospectivity. The second response that can be made is that the commonwealth government's scheme allows claims by a range of various Australian businesses as well as individuals, and I refer to the information provided on the web site for the commonwealth scheme, which is at www.hihsupport.com.au, which states:

> The government will pay 90 cents in the dollar for other claims where the insured is subject to an income test as follows …

It then describes the income test and goes on to refer to:

> … claims where the insured is an Australian small business that has 50 employees or less.

According to information on the web site, the commonwealth government extends coverage under its scheme to a range of Australian businesses that have up to 50 employees. So if the state government wants to run an argument about parity with the commonwealth scheme, I emphasise that a range of business activities are covered under the commonwealth scheme. And if anything, that lends weight to the argument that people who read the June legislation should not automatically be expected to have assumed that it applied only to individual home owners, because the commonwealth scheme gave coverage to a considerable range of Australian businesses.

We all know the statistics about the number of small businesses, the number of employees they have and the proportion of the economy they take up, so if anything this adds weight to the conclusion that it was not unreasonable for people reading the state legislation back in June to think, 'Oh well, this coverage is intended to extend to people in business having homes built for them as well as to people who are having homes built for their own occupation'. That therefore adds to the argument that these people had a legitimate expectation that that would be the case. Certainly organisations that are active in the building and property-owning industries, such as the Urban Development Institute of Australia and the Property Council of Australia, have quite rightly expressed considerable unease at the notion that some people are now being singled out to have the rights granted to them under the June legislation retrospectively taken away from them.

In conclusion, as was the case with the June legislation the opposition is prepared to cooperate with the government as fully as it can in getting the worthwhile provisions of this legislation through the Parliament. We are willing to sit down and talk with the government about how the issues that we have raised can be resolved. Having not heard to the contrary from the government we remain hopeful that the government will accept our amendments, in which case the legislation can go forward, be passed and come into operation in other respects retrospectively. Even if the government is not prepared to deal with or reach a decision on these aspects of the legislation and wants to take more time, that could be achieved by excising those provisions to get the rest of the bill through this Parliament and into operation so that the beneficial effects that are sought through the rest of it can be achieved as quickly as possible.

The opposition hopes that the government will accept these amendments and the merits of the argument that it is not justified in taking away people's rights retrospectively in the way that this legislation proposes so that the bill can proceed swiftly through the Parliament.

Mr RYAN (Leader of the National Party) — I will make a couple of comments at the outset. The first is that the government is the point of last resort and ultimate indemnity with regard to these claims. Despite what one's first instincts might otherwise be, as a matter of general public policy that has to be borne in mind. The National Party believes that is an imperative that has to be observed in relation to all of this legislation. As I have said, despite what one might do, if all things were equal it must always be borne in mind that as legislators we have a responsibility to accommodate the needs of those affected by crises that come before the house in a way which pays responsible regard to the taxpayers who elect us. That might sound terribly pompous; nevertheless it is a fact and is a central point in this debate.

My second comment is to point out what an absolute shambles this whole business has been. It is not the government's fault that this legislation is before us. The original legislation, which came before the house in June, came as a result of a sequence of events in which no-one can take any pride. The HIH collapse and its consequences continue to cause problems in Australia, and to some degree internationally. No-one can take any joy from the events that transpired. When the original bill was before the house in June there was cooperation between the parties in an endeavour to deal with the crisis that had emerged. The National Party was briefed fully, as were the other parties involved. Nevertheless, to a greater or lesser degree things were done on the run. One of the consequences of that was that inevitably holes developed, and the practical experience of the operation of the legislation means that those holes have to be plugged.

With those two general comments in mind, I turn to the legislation now before us. The most controversial element of the bill is its retrospective impact. Perhaps it will be easiest to turn to that as the final issue under consideration. There are five matters represented by the terms of this legislation and it will be easiest to deal with the other four first and then come back to the first, which is really the most important. In relation to the other matters, there are provisions which mean that the indemnity provided is to go to owners of properties as opposed to builders, and that is a sensible intent. After all, the aim is to make sure that owners of property should be the beneficiaries of this fundamental principle of the government's being the last resort. Inasmuch as the HIH policies contain provisions that say otherwise, it is fair and reasonable that indemnity applies to the owners of the properties in question as opposed to the builders. The National Party supports that amendment.

The second element to address relates to the provisions concerning the claims that are being made within 90 days. This is an interesting area, because the design of the legislation is such that if there was a problem, claims lodged within 90 days were deemed to have been accepted in the event that the relevant insurer had not determined the claim in that time frame. That provision was introduced very sensibly, because with due respect the insurance industry's track record with regard to the observance, acceptance and processing of claims is perhaps not the best in the world. In a sense the onus was reversed for the purpose of the law, so that if the insurer had not made a determination within 90 days of the claim being lodged that claim was deemed as having been accepted.

It is all very well in general practice to see that what is all very well in theory should apply, but the question arises as to whether that should apply in this instance. If you take it to its logical conclusion what could happen is that a particular individual or individuals could use the current state of turmoil surrounding HIH and the mopping up that is going on in regard to it to lodge a claim safe in the knowledge that there is no way in the world it would ever be processed within 90 days, and to thereafter presume that the provisions of the law would apply and that the claim would be regarded as having been accepted. On the 91st day these people could go off seeking indemnity from the state government to pay the amount represented by that claim.

That sort of deemed acceptance, if you like, is set aside by this bill so that the government, through the Housing Guarantee Fund Ltd (HGFL), is not regarded as being the final port of call and the HGFL is not in the circumstances treated as having accepted the claim. That again seems to the National Party to be fair and reasonable in all the circumstances.

The next issue relates to what are termed the cease-to-trade provisions in the HIH policy. In effect, on a literal reading of the policy this means there are clauses which say that in the event of the insurer ceasing to trade, indemnity is not available to the person who has taken out the policy in the first instance. In this instance HIH ceased to trade on 28 August this year. It might be said therefore that if in accordance with the terms of the policy you lodged your claim before 28 August you have made it through the gate, whereas if you have tried to lodge your claim after 28 August, you have missed out. It has been determined that that is an unfair way to view those policies and that accordingly indemnity ought to be provided to the people who would otherwise have come within the ambit of what is intended. Again the National Party supports that position.

The fourth area relates to the builder, not the owner, being the insured. The National Party supports the notion that the owner should be the proper person to be the beneficiary of the scheme.

That takes us back to the major issue, and that is retrospectivity — and what a vexed issue it is. I cannot help but smile, even in these difficult circumstances, at the approach of the Labor Party. My smile comes about because of the complete lack of policy consistency on its part when you consider the approach it wanted to take to the Ansett situation.

Before the last federal election — and it is only two or three weeks ago that the conservative parties achieved that magnificent outcome — the government was in here arguing that we ought to be throwing buckets of money at the Ansett issue. The public policy position it wanted to advance was that we ought to just throw open the vaults and let everybody have a feeding frenzy. It argued that, for the purpose of propping up Ansett, whatever it took was what ought to happen. Day after day after day we had the Premier in here bleeding all over the table about what ought to happen. Honest to goodness, it was an extraordinary performance!

Of course this all happened in the face of a federal coalition government that was trying to sort through the terrible mess that had occurred as a result of the Ansett collapse. It was trying to do the right thing by those whom everybody first thought of — they being the people employed by the organisation. The federal government was doing everything it conceivably could to balance the responsibilities that go with administering taxpayers funds while being forever mindful of the dreadful impact the collapse was having on those caught in the middle of that disaster. But what did the state Labor government of Victoria have to say about this? Honest to goodness, Mr Acting Speaker, there were absolutely no limits. Whatever the amount of money that had to be thrown at it, it was a case of writing out the cheque. It was an extraordinary display.

Although the federal coalition government was trying to adopt the appropriate principles and do the best it could do by all the players, it was getting baked day after day. In his role as the transport minister the federal Leader of the National Party, John Anderson, had the very difficult task of trying to work his way through all of this. He was subjected every day to vitriolic and critical comments by the Victorian Labor government. When you look back now, I think even the Labor government smiles at it all. There is this silly season thing that applies in the lead-up to elections, and of course Labor was very hopeful at that time that a bit of bombastic behaviour would get it over the line. I would say its hopes and aspirations in that regard were not only dashed but destroyed!

It has now been left with a legacy, a good deal of which is in *Hansard*. I am sure that when those who are to be impacted on by the bill — namely, the developers to whom this retrospective provision applies — look at what this Labor government proposes should happen, all in the name of protecting the public purse and doing the right thing by the taxpayers of Victoria, I doubt there will be smiles on their faces.

This bill essentially says that developers are out. What is to be done about this? It is a very vexed issue, and you cannot make a judgment on it having regard to the conduct of this government, because it does not come to the argument with clean hands, for all the reasons I have been talking about. If you go back to first principles and look at what ought properly be done so far as the administration of taxpayers money goes, it is there that the best guidance is to be obtained. When the original legislation was passed in June, there was nothing in the definitions which related to the expression ‘developer’. That could be read in a variety of ways. I heard the honourable member for Box Hill speak quite reasonably of this issue not having been accommodated in the first instance, which can be read in favour of the amendment the honourable member has laid on the table. On the other hand, it could be said that when you look at the definition provisions in the

House Contracts Guarantee Act 1997, which in turn incorporates those June amendments, you see that there are various definitions which would give cause for the opposite argument. For example, there are in the principal act definitions of 'building owner' and 'owner builder'. On the other hand, there is no definition of 'developer'. That would suggest, on one reading, that the act does not contain that definition because its terms were never intended to apply to a developer.

One can also look at the definition of 'developer' in the bill before the house. I understand this definition is modelled on the definition of 'developer' in the ministerial order which was issued pursuant to section 135(4) of the Building Act 1993, which in turn was gazetted on 30 October 1998 and came into effect on 1 December 1998. So we have consistency, if you like, around those definitions.

One can have regard to the second-reading speech given on the bill passed in June, which contains the expressions 'house owners' and 'home owners', the latter appearing throughout. It talks about the bill establishing an indemnity from the state in favour of a home owner; it states that the indemnity did not apply to a builder or owner-builder; it states that there was to be a levy to raise $2 million a year; and it contains discussion about home owners' rights. On that basis it could fairly be said that the original legislation passed in June was intended to apply to home owners in the sense that that colloquialism is expressed in Australian terms.

It is interesting that my colleague the Honourable Roger Hallam spoke about these issues in the course of the address he made on the bill in the other place on 5 June. Of course, the standing orders preclude my making specific reference to what was said by reading it out and — heavens to Betsy! — that is the last thing I would consider doing. However, in his commentary on the bill on 5 June Mr Hallam made reference to four aspects of the bill then before the house which were the bases upon which the National Party was prepared to support it.

The first of those issues he raised was to do with the fact that without this bill, builders would not be able to build; the second was that HIH had secured a substantial share of the market, that its absence from the market would cause problems and that the very nature of the collapse of that substantial share would in turn have a significant impact upon all its policyholders; the third issue about which he spoke was the fact that the consumer could hardly be blamed for all this upheaval because, after all, the poor old consumer had done nothing more than take out a policy, which was regarded as being fair and reasonable; and the fourth point was probably the most interesting, because on a number of occasions Mr Hallam referred at length to the fact that Australians place great store in home ownership: they have a lifetime interest in their family homes, and many still regard their home as being an appropriate investment for their lifetime savings.

Out of all that it can properly be said that Mr Hallam echoed the sentiment that National Party members brought to the debate when we were involved in the discussions on the original bill back in June. In the course of our commentary on the bill during the debate, our basic thought was that the legislation applied to people who were home owners in the way in which that term has been defined and in the way in which it is usually understood within Australia.

That brings me to how this bill ought properly and fairly to be interpreted and how someone looking at it on its face would interpret it and, in a clinical sense, see it applying to them. That is where the very vexed aspect of this bill comes in. The National Party is conscious of the basic intent of the Liberal Party to bring developers under the ambit of this legislation. National Party members have agonised about the fundamentals of that intention. Not long ago we received the terms of the proposal by the Liberal Party, but that has not precluded our being able to consider the import and intent of that proposal.

Difficult as it is, National Party members have problems with the proposal in the sense that we have concluded that the original legislation in June should, for the reasons I have spoken of, properly be regarded as having been of application to home owners as opposed to developers, using those expressions more in the colloquial sense than in the strict definitional sense. So I must tell the house that the National Party does have problems with the amendments proposed by the Liberal Party.

Before going to the final aspect of what I want to say about this bill I will return to the points I was making at the outset of my contribution. I suspect, having looked at my notes — brief as they are — that I doubled up on one of the points. I should have made reference to the fact that a lot of people who took out HIH policies were in receipt of what are generally termed bundled policies. In time to come they may be regarded as bungled policies, but for the purposes under discussion these bundled properties represented indemnity across a wide range of prospective liability. The bill before us has unbundled them in the sense of ensuring that the indemnity provided under the terms of the scheme will apply only in relation to builders warranty issues; in

other words, it will not apply to public liability — and heaven forbid that it should, having regard to the very parlous state of public liability indemnity across Victoria, but that is another story. The intention behind this legislation is that the indemnity goes only to the builders warranty issue.

That takes me to my closing comments about some of the general aspects of this bill. Very importantly — and in a sense as an indication of the intent behind the legislation passed in June — the second-reading speech states that the indemnity being extended by the original bill will not be impacted upon by the terms of this amending bill. The rationale behind that statement is that when the actuaries had a look at the extent of the prospective liability of the state back in June, assessments were made as to what could reasonably be regarded as coming within genuine claims made by family home owners. That figure, as I read this, was put at $35 million, and it seems to me as a matter of consistency that logic says that if developers were also to be included within the ambit of the scheme, by definition the extent of the potential liability would have been much greater. It would surely have been the case, as a matter of logical consistency, that the actuaries' calculations in this regard would have gone far and away above $35 million.

I do not know whether the government has figures available for what the extension of the indemnity to include developers might mean in terms of further exposure, but if it were, for example, another $10 million, $15 million, $20 million or whatever, it seems to me that of itself would carry the message that the government did not intend the ambit of the original undertaking put into effect by the June legislation to extend as far as that.

The National Party thinks that point can legitimately be regarded as indicating that the indemnity should be confined in the way that is now proposed. If that is the case, then logic also says that that most repugnant aspect of legislation — retrospectivity — should reasonably apply as a matter of consistency and, tough call though it is and albeit that it makes an absolute and utter mockery in many senses of the stance taken by this government over these issues, the National Party has very reluctantly come to the conclusion that retrospectivity ought to apply.

There is properly comment at the end of the second-reading speech about the Housing Guarantee Fund Ltd, and the way it is operating and has operated to deal with the flood of claims that have come in. I see they number in the order of 800 so far. Everybody is beavering away trying to keep the industry going and to look after the people who at the end of all of this are the most important — that is, those poor families who found themselves stuck between a rock and a hard place after the disgraceful performance of HIH Insurance materialised.

It reminds me of another time in another place. Back in the early 1980s insurers involved in workers compensation collapsed because they got too hungry. They were trying to compete in a market where the premium pool simply did not accommodate the claims being made on them. They fell over and we saw the same sort of debacle we see here, where the mechanism of record keeping and the processing of claims was an utter disgrace. All of that is emerging now in the HIH scenario. That is what the people involved in the Housing Guarantee Fund have to contend with for the purpose of processing the claims they are dealing with.

It is one of those difficult positions where, hard as it is to be philosophical and be giving apparently patronising advice to people who are stuck in the grip of this, the fact is that the staff involved are doing their best to accommodate the pressures on them. I think that needs to be taken into account in assessing the way the indemnity is being given effect to. Those are the points I wish to make on behalf of the National Party.

Mr LENDERS (Dandenong North) — I rise to support the House Contracts Guarantee (HIH Further Amendment) Bill. I rise to support it for a number of reasons. As the house is aware the original act was developed and passed rapidly by the Parliament in June to minimise disadvantage that home owners would otherwise have suffered through the collapse of the HIH Insurance group. Both the honourable member for Box Hill and the Leader of the National Party acknowledge it is not surprising that as a consequence of the rushing of the legislation through the Parliament some time later further amendments are needed to tighten up the act.

The proposal agreed by the government in May was based on due diligence of the available HIH claim files. Now that the scheme has operated for several months it is clear that some of the insurance policies issued by HIH between November 1996 and December 1998 contain clauses that in different cases benefit property developers and disadvantage home owners. The bill is intended to rectify these anomalies. Honourable members should be under no allusions that the bill was designed to deal with home owners and not with property developers.

The second-reading speech on the original bill and the parliamentary debate make clear that the scope of the

state scheme was to include all home owners with defunct HIH policies. The minister's speech made no reference to property developers and explicitly excluded builders as beneficiaries of the scheme. This reinforces the view that the social policy objectives of the schemes were not intended to assist property developers.

The bill amends the House Contracts Guarantee Act 1987 to exclude claims by property developers, to exclude claims unrelated to builders warranty insurance, to enable claims by home owners whose policies lapsed when HIH ceased to trade, to preclude the Housing Guarantee Fund Ltd from being obliged to accept claims simply because they were lodged with HIH more than 90 days previously, and to enable direct claims on HGFL as agent of the state by home owners under HIH policies where the builder was the insured. On the advice of the Chief Parliamentary Counsel the bill contains an explicit provision that it is intended to affect proceedings currently before the courts in respect of claims by developers. The bill also contains an explicit provision that the rights to claim under the scheme of subsequent owners of homes originally owned by developers will not be affected.

Denying claims by developers will save the fund at least an additional $8 million that would otherwise have to be paid fifty-fifty by taxpayers and applicants for new home building permits over the life of the scheme. As was announced by the minister in her concluding remarks on the last bill, and as is clear, it is not good public policy to extend the payment period or fees to fund the scheme simply so developers are cross-subsidised by home owners.

There is no offsetting increase in costs to taxpayers and building permit purchasers from these amendments as the actuarial estimates assumed that all such home owner claims would be paid under the scheme.

There is criticism from some developers with current claims against HGFL and from their solicitors. The government's intention was to protect individual and family home owners, not commercial operations. The amendments reinforce this intention in a manner comparable to the restrictions in the commonwealth scheme. I note that the honourable member for Box Hill tried to distance the state from the intention of the commonwealth scheme in this aspect, but it was never the intention of the commonwealth scheme or the commonwealth generally to apply the scheme to developers. There was no intention to do that. This is again a consumer-orientated scheme to look after home owners. The government supports the grounds of the legislation and the effect of its retrospectivity to the disadvantage of developers and the advantage of individual home owners. The government has no intention of providing a cross-subsidy from developers to home owners.

The issue of retrospectivity is the final one I will touch on given the short time available on a busy day. The issue of retrospectivity is a moot point to debate. The honourable member for Box Hill expressed concern as to what he sees as the retrospective elements and his amendments attempt to deal with them. When we are looking at whether an issue is one of retrospectivity we also need to look at what entitlement or benefit is effected by it. I put a case to the house that the amendments deal with a right that was only issued midway through this year — that is, a right dealing with the issue of the rights of home owners. The right that this is arguably extinguishing is a right which existed from 1996 to 1998 and which was then removed by government action. What is there does not retrospectively remove the rights of developers.

This is simply retrospectively clearing up a definition. Those rights were extinguished in late 1998. The principal legislation came into effect in June 2001. Therefore this bill is not actually removing something — because, arguably, those rights of developers went in 1998. We can spend a lot of time talking about definitions of what is and what is not retrospective.

I certainly understand the traditional position of the Liberal Party, which is concerned about retrospectivity — as all parties are — but there are good public policy grounds for dealing with some of these issues. I listened to and respect the comments of the Leader of the National Party on this, but this is not retrospectivity; this is an issue dealing with a right that in my view was extinguished in 1998.

I urge the house to support the bill, and I wish it a speedy passage.

Debate adjourned on motion of Mr THOMPSON (Sandringham).

Debate adjourned until later this day.

AUDIT (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 1 November; motion of Ms KOSKY (Minister for Finance).

Opposition amendments circulated by Mr CLARK (Box Hill) pursuant to sessional orders.

The ACTING SPEAKER (Mr Phillips) — Order! Prior to calling the honourable member for Box Hill, I advise the house that I have been told by a very reliable source that the bill requires to be passed by an absolute majority of the house.

Mr CLARK (Box Hill) — The bill contains a range of provisions to amend the Audit Act to change the way various aspects of the audit process operate. There are two aspects in particular which require careful consideration and in relation to which the opposition proposes amendments. However, I shall firstly deal with some of the other miscellaneous amendments that are being proposed.

The first amendment to which I refer will require the Auditor-General to indicate in his or her annual plan, which under the Audit Act is required to be given to each house of Parliament, the nature of any changes to the plan which have been suggested to the Auditor-General by the Public Accounts and Estimates Committee but have not been adopted by the Auditor-General. The intention of these changes is to give somewhat increased weight to the recommendations that may be made to the Auditor-General by the Public Accounts and Estimates Committee.

The relationship between an Auditor-General and the Public Accounts and Estimates Committee, or a similar committee by another name, always needs to be carefully balanced because on the one hand it is valuable and productive for the Auditor-General to have a relationship with a parliamentary committee — the members of which specialise in financial matters — that can develop a close working relationship with the Auditor-General. In that capacity the Auditor-General would deal with the committee, which in effect represents the Parliament to which the Auditor-General is answerable, on day-to-day matters. It is therefore appropriate that the Auditor-General also have a relationship with the Public Accounts and Estimates Committee under which the committee is responsible for the appointment of a person to conduct a periodic performance audit of the Auditor-General. That relationship has, by and large, worked well over the years.

However, it also needs to be borne in mind that, as with all committees of the Parliament, the Public Accounts and Estimates Committee comprises members of different political parties and that the majority of the members of the committee, including the chair, are traditionally members of the government party of the day. That means that there needs to be a degree of sensitivity in the relationship between the Public Accounts and Estimates Committee and the Auditor-General and the rights and obligations that are given to the respective parties in that relationship.

The annual plan provision changes that balance somewhat in that it adds a degree more weight to suggestions that may be made to the Auditor-General by the Public Accounts and Estimates Committee. That change of weight is probably a reasonable one that, hopefully, will not run into difficulties. Were the Public Accounts and Estimates Committee to commence to act in a political, partisan way in terms of the recommendations that it made to the Auditor-General, the Auditor-General could disclose in his or her annual plan those recommendations that were made but not adopted and it would be open to Parliament as a whole and — perhaps more importantly in this context — the public to pass judgment on those recommendations.

The second change proposed by the bill is to increase the size of the audits which the Auditor-General may allow a contracted auditor to sign off on in the contractor's own name. This is an amendment which the Auditor-General considers important for ensuring that the contracted auditor assumes greater personal responsibility for the audit outcome; and the Auditor-General is therefore less under an obligation to check and second-guess the contract auditor's work on account of the fact that the Auditor-General has to put his or her own name to the report.

Again this is probably a reasonable proposal. It is perhaps ironic that it has been brought into this house by the present government, because when it was in opposition it made such an issue of the contracting out of audits, and it may well be considered somewhat incongruous that in government it is giving greater scope to contract auditors to sign off on audits. It needs to be made clear that the contracted auditor is the one that the Auditor-General has chosen and is therefore presumably one in which the Auditor-General has confidence — as, indeed, was the situation under the previous legislation, which provided for contracting out. It was always a matter for the Auditor-General to determine whom he or she engaged.

The next provision to which I refer is one which will allow the Auditor-General to give to relevant persons information which the Auditor-General considers warrants their urgent investigation or attention. This is to deal with situations where, in the course of his or her auditing activity, the Auditor-General comes across material that raises issues about potential fraud, misfeasance or similar difficulties which should not simply wait for the Auditor-General's public report — or indeed a report that is given at the end of the audit —

but rather should be forthwith drawn to the attention of the responsible person so that they can act on it immediately. These provisions are set out in proposed section 16F, to be inserted into the act by clause 18, which provides:

> At any time during the conduct of an audit, the Auditor-General may give written information to a person or body referred to in sub-section (2) concerning any matter that the Auditor-General considers warrants urgent investigation or attention.

That information may be given to a minister, the Chief Commissioner of Police, an authority or member, officer or employee of an authority, or the holder of an office established by or under an act to which the right to appoint is vested in the Governor in Council or a minister. If the Auditor-General gives such information, the Auditor-General must notify the Premier and include a statement in the audit report that the Auditor-General has given information to a person or body under this section during the conduct of the audit. That appears to be a reasonable provision to allow these sorts of issues to be tackled expeditiously.

The next provision provides a statutory indemnity to the Auditor-General and the Auditor-General's staff for anything done or omitted to be done in good faith in the exercise of their powers or in the reasonable belief that they were exercising their powers. This provision is contained in clause 23, which inserts proposed section 94D in the Constitution Act 1975. The argument in favour of this provision is that it is unreasonable to expect an Auditor-General to have personal exposure for things that the Auditor-General or his or her staff do in what they believe is the exercise of their powers or the performance of their functions or duties and that therefore the state should provide an indemnity to them.

This provision does not remove liability from the various people to whom the indemnity applies. Rather it provides that the state must indemnify those persons against liability. So they may still be sued and have legal proceedings commenced against them, but the state will indemnify those persons except to the extent to which they are entitled to be indemnified against liability by a person other than the state, whether under a contract of insurance or otherwise.

I turn now to the provisions of the bill which give rise to the most difficult issues and to considerable concern on the opposition's part about what the government is attempting to achieve. I refer in particular to the provisions that relate to the transmission or, as it is colloquially referred to, the tabling of Auditor-General's reports with the Parliament outside parliamentary sittings. I refer to the provisions which propose fines for people who disclose information contained in an Auditor-General's report under the act, other than in the course of performing their official duties, prior to the information being made public in a report by the Auditor-General.

Turning to the first of those provisions, the bill proposes a most terse and limited regime for the transmission of reports to Parliament when it is not sitting. It is a regime which gives the public and the media no right to be notified of or to obtain copies of the Auditor-General's reports which are lodged with the Parliament when it is not sitting. The provisions simply say that the Auditor-General must cause the reports which he or she intends to make under section 16 or 16A of the act to be transmitted to each house of Parliament as soon as practical after it has been completed or, in the case of a report under section 16A which relates to reports on the annual financial report of the state, on or before 24 November following the end of the financial year.

The Clerk of each house of Parliament must cause that report to be laid before the house on the day on which it is received or on the next sitting day of the house. When the Auditor-General has transmitted a report to a house under this section, whether or not it has been laid before the house, people may read, make copies of, take extracts from or take notes from it — and people will not incur any civil or criminal liability for doing anything that the provision permits them to do.

The question that has to be asked is how on earth this is expected to work in a satisfactory way. The bill is saying that the Auditor-General will send the report off to Parliament; and if the house is sitting, fine, it will be laid before the house in the ordinary course as it is at present and thereby become publicly known. But there is a deathly silence about the expected consequences if it is sent to the Clerks when the house is not sitting. The report can, as far as the section is concerned, just simply sit on the Clerk's desk until the house next sits. If somebody happens to find out that the report has been transmitted, they will be permitted to read, copy, take extracts from or take notes from the report, and they will not incur any civil or criminal liability for doing so. But they will be given absolutely no right to know that the report is there and no right even to access the report that has been lodged with the Clerks.

As far as the bill is concerned, it would be a matter of grace on the part of the Clerks to allow someone to read or make copies of the report. The bill generously says that they will not incur any civil or criminal liability for doing so, but there is nothing in the bill about people's

rights to get copies of the report and nothing in the bill about telling the world that this report has been lodged. It can simply, as far as the bill is concerned, lob on the desk of one of the Clerks of the Parliament and sit there until the Parliament next sits.

This is an extraordinarily limited provision from a government that claims it wants to be open and accountable. What is particularly worrying is that in the circumstances it gives the government a clear run at itself stage-managing and orchestrating the way information about an Auditor-General's report comes to the public.

Under the legislation or by traditional practice the government will be given copies of the reports, so it will either know or have a pretty good idea that the report has gone to the Parliament and that therefore people can read it and make copies and take extracts of it. The government is in a position to let the world know this fact, but it is also in a position to let the world know in the way and on the terms that best suit it, which is a completely unsatisfactory situation for the public, the press and the Parliament to be in.

Mr Lenders interjected.

Mr CLARK — The honourable member for Dandenong North interjects to ask if the opposition is expecting the Clerks to do nefarious things. It is not a matter of expecting the Clerks to do anything nefarious, it is just that there is absolutely no regime in the bill to say what the obligations of the Clerks are. On reading the bill it would seem to be quite open for the Clerks to assume that it is entirely up to them what is to happen, and that perhaps at most if people come and knock on their door those people are allowed to sit down and read the copy of the report received at the Clerk's office, but that that is the end of it. It is an appalling regime to be brought to the house. At best it is slack and at worst there is a covert intention on the government's part to have such a slack regime in order to give itself an advantage in the way it allows information about Auditor-General's reports to go through to the public.

Just last week we saw that issues can readily arise about an Auditor-General's report becoming known in the press prior to the report coming before the Parliament. This is not just an academic issue; it is a live issue about how the information is handled. People can always argue, put various propositions and draw various conclusions about how the information comes out, but what is clear is that people do have an interest in putting particular interpretations on Auditor-General's reports and that is a fact of life. We need a regime which is robust and in which the public and all members of this house can have confidence. That is certainly not something that is contained in this very flimsy provision in the bill.

I turn to the provisions relating to fining people who disclose information contained in proposed reports or parts of reports of the Auditor-General. Again this is an extraordinary provision to come from a government that claims to be open and accountable without any foreshadowing or intensive public debate. With very little scrutiny the government is trying to slip this open-ended provision through the Parliament. Anybody in sight who receives a proposed report or part of a report and discloses information in it would be fined. This is a government that claims to be open and accountable, and yet it has this extraordinary provision that a wide range of people, including journalists, who publish information they obtain through leaks or other means would be subject to fine for doing what is in effect the sort of job that journalists traditionally do.

If the government wants to go down that course let it stand up and say so. Let it tell the whole world that this is what it wants to do and let it make a case for doing so. It has done nothing of the sort. It has just let this provision come forward, and then it has tried to brush it off as something that is minor and not something to be concerned about. With the interview the Premier gave to Mr Neil Mitchell on 3AW this morning we saw the way the government judged this matter. The Premier referred to what he described as a 'second wave which is greater transparency and capacity for his office' — namely, the office of the Auditor-General.

The Premier went on, 'He requested quite rightly that in the preparation of his reports in order that the integrity of the report be kept that there should be sanctions against any leaking of information during their process — and it is not principally aimed at journalists I have to say — that is a minor point'. The Premier then commenced talking about what he referred to as the principal aim and the debate went on from there. So the Premier has dismissed the whole notion of fining journalists as being a minor point and one that should not be quibbled at because it is too small to be given a great deal of consideration. I think that is a strange attitude for the government to take. Indeed Neil Mitchell pressed the Premier on the extent to which the present members of the government when they were in opposition, as he put it, lived on leaks.

Sitting suspended 6.30 p.m. until 8.02 p.m.

Mr CLARK — Before the dinner break I was discussing the proposals that the government has in this bill to impose fines on people who disclose any

information contained in proposed reports of the Auditor-General, and I was referring to the Premier's remarks on the Neil Mitchell program this morning in which the Premier said that the issue of imposing fines on journalists was a minor point and therefore implicitly not one to get concerned about.

I was further making the point that that was an extraordinary attitude for a government to take about an approach which is very radical, breaking new ground; surprising in particular from a government that claims to be open and accountable, and raising a concern about what sort of precedent it is going to set if the government is going to say, 'Now journalists can be fined for publishing information that comes from Auditor-General's reports'. What will the next thing be? Will it be information that journalists might happen to obtain that relates to annual reports? Will it be information from other government documents? Will journalists be fined if they happen to find out the contents of a cabinet discussion? This is a provision that has just arrived in the system unannounced, unconsidered, unjustified.

Now we are finding that the government is taking a different tack on the issue from the Premier having said, in effect, 'No, don't worry about it; it's a minor point'. I understand from speaking to a journalist on the issue and from other sources that the government is attempting to mount the argument, 'No, it was never intended in the first place that this legislation be legislation that could impose fines on journalists. It was only ever intended to apply to people who receive information in an official capacity'.

Courtesy of the minister's staff I have been shown a copy of a piece of legal advice, which I understand the minister intends to have incorporated into the debate, which attempts to justify that position. The document is provided by two in-house legal officers within the Department of Premier and Cabinet. I know both of the officers concerned, and I respect both of them.

But I make two points in relation to this line of argument, looking first of all strictly at the legal issue: firstly, this is in-house Department of Premier and Cabinet advice; it is not advice that comes from any external or independent counsel; secondly, it is something that turns on an interpretation of the provision that I find at very least to be quite strained.

The line of argument is that when in section 20A inserted by clause 21 of the bill it says:

> A person who receives a proposed report, or part of a proposed report, of the Auditor-General under this Act must not disclose any information contained in it …

the reference under this legislation is intended to apply not to the reference to 'proposed report, or part of a proposed report' — which to me is the perfectly natural and reasonable reading of the provision — but is instead intended to apply to the word 'receives', so the person who receives, under this legislation, a proposed report or part of a proposed report must not disclose any information contained in it.

Quite frankly that is a very difficult way in which to read the legislation. The natural way to read it, and the way in which I think most people have read it, is that it refers to reports under the act and the provision applies to anyone who receives a proposed report or part of a proposed report. We have the government on the one hand with the Premier saying, 'We intended to cover the journalists but it is a minor point', and on the other hand we have the minister saying, 'No, we never intended to cover journalists'. I hope the minister will shed some further light on what the government's line is later in the debate. In any event, it is unacceptable for the government to put forward legislation that creates the risk that journalists and non-official persons who receive this information might be liable to fines. The opposition certainly does not support this proposal, and believes the provisions need to be amended to clarify it and to remove any such possibility from this legislation.

There are other aspects to this provision which are rather strange and which the opposition also proposes to move amendments to redress. Firstly, the amendment only applies to proposed reports or parts of proposed reports and does not apply to actual reports — in other words, it does not apply when ministers or people in departments or others are given copies of actual reports.

The ACTING SPEAKER (Mr Kilgour) — Order! The two honourable members for Bendigo might like to carry on their conversation outside the chamber. It is very hard to hear whilst there is so much audible conversation.

Mr CLARK — This provision does not cover or at least raises a grave doubt about whether it covers actual reports, advance copies of which are provided to various parties. That is clearly a deficiency. It also does not cover the situation where people receive information derived from Auditor-General's reports or proposed reports knowing it is derived from such documents, but they have not received a copy of the whole or part of the document. Again that seems to be a significant weakness in the legislation.

The opposition believes that the principle of who is subject to these sanctions should be that the sanctions should only apply to people who receive the

information in what may be described as an official capacity or in the course of the official activities of the Auditor-General. It should apply to the people to whom the Auditor-General is required to provide documents under the act and people who are actually given copies of such documents, because in some instances the Auditor-General may give copies to people who are referred to, implicated in or involved in the proposed report even though the Auditor-General does not have a legal obligation to do so. It should also apply to authorities — that is, to departments and government business enterprises and similar entities as defined in the Audit Bill — and to employees, officers, contractors and professional advisers of such authorities, and for completeness it should also apply to people involved in the printing of Auditor-General's reports.

To do that is acceptable because it reflects and reinforces the position that anyone in those official capacities should not dispose of information they receive in that capacity. To go further than that in the way that the legislation currently proposes without extensive public debate and consideration of such a proposal is unacceptable.

In relation to the tabling or transmission of reports to Parliament, it follows from what I said earlier that the opposition believes significant alterations need to be made to these provisions to establish a regime under which everybody knows what is going on, so both members of Parliament and the public are given guaranteed rights of timely access to documents and so the potential to manipulate the disclosure of information by government is excluded.

The opposition therefore proposes a regime under which the Auditor-General gives advance notice to the Clerk of each house of the intention to transmit a report to Parliament, indicating the subject matter of the report and the date on which the Auditor-General intends to transmit it; and having given that notice to the Clerks, the Auditor-General will also make the report public.

Throughout our proposals we are looking to take advantage of the opportunities provided by new information technology for near-instantaneous communication and the potential to make copies of documents quickly available electronically to the world at large without necessarily incurring the expense and delays associated with printed documents. We therefore propose that when the Clerk of each house receives advance notice from the Auditor-General of the intention to transmit a report, he immediately notifies each member of his house by electronic communication, which would principally be by email, so that they then know the report is about to come forward.

The opposition then proposes that on a day he or she nominates the Auditor-General would give a copy of the report to the Clerk of each house and then forthwith publish that report on the Internet — that is, if it is transmitted in a sitting week, as soon as it is laid before the Parliament in the way it is done at present. If the report is transmitted in a non-sitting week or arrives too late in a sitting week to be laid before the house, the Auditor-General should make the report public as soon as it has been given to the Clerks, and he should then tell them where on the Internet the report has been published. The Clerks would then in turn notify all members of the house that the report had been lodged and where it could be accessed electronically, and in that way everybody could speedily access it. If it is lodged during the sittings and is laid before the house in the normal way, members could also continue to access it as they have done to date.

We also believe the Auditor-General should make it clear that when a report is laid before the house or when it is given to the Clerks in a non-sitting period, it should be taken as having been published by order under the authority of the houses of Parliament. It should then be made clear, which the bill does not, that the publication of a report in this way is absolutely privileged and that the normal provisions for the publication of reports of the Auditor-General apply to it. We believe this would be fairer and far more comprehensive, open and accountable than the scheme — if it can be called that — that is in the legislation. It would provide a far more satisfactory regime for handling the tabling of reports of the Auditor-General.

Subject to these very significant changes, which the opposition believes are necessary, we do not oppose the legislation. The opposition hopes the government will accept the thrust of the amendments it is putting forward.

Mr RYAN (Leader of the National Party) — It is my pleasure to join the debate on the Audit (Further Amendment) Bill. I must say at the start that I have had the opportunity of listening to the honourable member for Box Hill both prior to and after the dinner break, and I am able to say on behalf of the National Party that in essence I support the points he made. I therefore do not have to raise many of the issues I would otherwise have raised at some length.

Mr Hamilton interjected.

Mr RYAN — I resist the urgings of the Minister for Agriculture to speak at length. Of course if he wishes to discuss these issues across the table, I will be only too pleased to oblige, because I know this audit legislation is a matter of great concern to him. The minister has a broad and extensive knowledge of it, and I would welcome the opportunity to debate it with him. However, subject to whatever he might say, I intend to make my contribution shorter than might otherwise have been the case.

The National Party does not oppose the Audit (Further Amendment) Bill, and as part of our approach we support the amendments which the Liberal Party has circulated. We think they are sensible, and I will move to them, albeit briefly, in a short time.

The legislation is appropriate because it is designed to clarify and expand the accountability, independence and reporting responsibilities of the Auditor-General. All the changes have been developed in consultation with the Auditor-General and the Public Accounts and Estimates Committee. We believe the Auditor-General accepts not only the proposals in the bill but also, and I stand to be corrected on this point, the amendments being proposed by the Liberal Party — and it is not surprising that such should be the case.

The other point to be made is that it is a great example of the way the parliamentary system operates when the amendments in this bill have in the main been the subject of work by the Public Accounts and Estimates Committee. That in itself is commentary enough, because that committee enjoys all-parliamentary status and therefore has the support of all sides of politics. It is incumbent on Parliament to have regard to that point for the sake of its consideration of the proposals in the legislation.

The next aspect to which the National Party is attracted is that the changes strengthen the assumption that the Auditor-General is to be responsible to Parliament, as opposed to being responsible to the executive government. For all the commentary that we hear from the other side of the house, it bears emphasising that it was the previous government which made the Auditor-General an officer of Parliament — something that is not generally recognised when these debates are undertaken.

The next feature of the legislation which the National Party supports is that all the changes as we understand them are consistent with what has occurred in other jurisdictions around the nation. Therefore they seem to us to represent a very sensible approach to the important work which is undertaken by the Auditor-General.

In essence there are five amendments of significance. The first deals with greater protection for the Auditor-General provisions, which is critical to the independence of the Auditor-General's office and the reports it produces. The amendments will provide the Auditor-General and his staff with statutory indemnity where they have acted in good faith.

By way of clarification the point must be made that this is a question of indemnity as opposed to immunity. A point has been raised with us that there is a misunderstanding in some elements of the public domain that the passage of this amendment would mean that the office of the Auditor-General and its staff would be immune to any proceeding that might otherwise apply in the event of their not acting in good faith or not undertaking their role in a manner that would normally draw some sort of punitive measure, particularly in the civil jurisdiction. This amendment does not do that. It confirms the issue of indemnity as opposed to immunity to make sure that anybody who brings a proceeding is able to enjoy the practical reality of having any obligation which in the first instance falls to the Auditor-General met by the state.

The Auditor-General's reports will be protected by new confidentiality provisions that will prevent a person disclosing information in a proposed report other than as part of their official duties. Last week there was a classic example of where the best laid plans of mice and men went awry — or did they? Perhaps it was an unknown person's intent that there be a deliberate leak to the media which produced a front-page article in the *Age*. The article was the subject of much debate in the house at the time. It concerned a report from the Auditor-General's office on education issues. It was a sad day that it materialised in the public domain, because it made a mockery of the work that goes into the preparation of such a report and is the sort of thing that tends to imbue in members of the public an understandable degree of cynicism as to the way in which a process that is lauded within these chambers can fall apart.

The practical fact is that the work should come into the Parliament, be tabled and considered by the Parliament first before it makes its way into the public domain. The fact that in that instance it happened in the way that it did was a sad day for this place. The National Party would like to think that the amendments before the house will overcome that unfortunate state of affairs. The penalties that prevail are substantial in that if there is a breach there will be a fine of $5000 for an

individual or $25 000 for a body corporate. These fines are significant; nevertheless they are timely for the reasons I have indicated.

The second major amendment relates to the scope of the Auditor-General's powers. For the Auditor-General to be effective he needs the power to audit all entities within the Victorian public sector and to trace the flow of public resources. The amendments make it clear that in conducting his work the Auditor-General has a clear mandate to have regard to any wastage of public resources or any lack of probity or financial prudence. That rather wide definition is probably best encapsulated in proposed new section 3A(2), which is substituted by clause 4:

> It is the Parliament's intention that, in pursuing these objectives, regard is had as to whether there has been any wastage of public resources or any lack of probity or financial prudence in the management or application of public resources.

As I said, that is a welcome addition.

The amendments also give effect to situations where the Auditor-General becomes aware of issues during the course of an audit. Through this legislation he will have the power to refer the matter to an appropriate authority — for example, the Chief Commissioner of Police — and also to advise the Premier of his actions. The Auditor-General will also be empowered to audit entities that are part of the Victorian public sector which have not previously fallen within the definition of an authority. There is an expanded version of that definition, which means the captive audience for the Auditor-General will be increased appropriately.

These amendments also clarify the situation concerning the examination of bodies outside the public sector that receive resources from government. That is an expanding field of consideration in the way in which the government and the Parliament now operate and will be a significant improvement on the status of things as we know them. Finally, the Auditor-General will be able to undertake other audit services for public sector entities at their request and with the approval of the responsible ministers.

The third major point covered by these amendments deals with the efficiency of the operations of the Auditor-General. To some degree this is a contentious issue, and is the major focus of the amendments moved by the Liberal opposition that are supported by the National Party. Under the terms of the legislation the Auditor-General will be able to transmit his reports to the Parliament when it is not sitting, and those reports will be made public at that time. However, the reports will still need to be tabled when Parliament resumes and may be debated at that time.

As part of the existing provision for the contracting out of his financial statement audits, the Auditor-General has requested the delegation threshold be increased to facilitate the signing off of audits by private sector service providers who are acting as his agents. That is an appropriate amendment having regard to the structure of the legislation as it now is and to the fact that so much of the work is being subcontracted out.

The increase in delegated thresholds is not a move towards greater outsourcing of the Auditor-General's work. About 70 per cent of the current financial audit work program is contracted out to private audit service providers. The main difference between the contracted-out work and the work coming within the delegated thresholds is that an audit service provider is required to sign the audit opinion under the delegated arrangements, thereby ensuring a greater level of accountability for their work.

On this point one cannot help but cast one's mind back to the age of the debates on the amendments to the Auditor-General's legislation when it first occurred in the public arena. Understanding to at least some degree the extent to which some of this work is contracted out, I think it is a sensible move that is done entirely in accord with normal commercial process, and it works well. This amendment will mean that in a sense those organisations that enjoy the fruits of undertaking that work will have an even greater degree of responsibility for what they provide. I agree, and the National Party accepts, that such should be the case. Provision has also been made for more practical time frames for the report the Auditor-General prepares on the state's annual financial report.

These amendments moved by the Liberal Party will in effect mean that the report can be lodged out of session and that those reports enjoy privilege. However, firstly, seven days notice must be given to all members of Parliament and, secondly, the reports have to be lodged on the web site as soon as they are handed to the Clerks. They are the essential points out of the amendment, albeit I appreciate they take up quite a number of clauses, but the practical effect of them is as I have outlined, and the National Party supports that point of view.

What it will mean is that the circus we saw unfold last week will be able to be addressed. That will happen in a couple of ways. The first thing is that people who might otherwise be tempted to do something stupid such as we saw happen last week, or indeed something

negligent, if it was, such as we saw last week, will have to have pause for thought. I think over and above that the fact is that the work can be tabled as we know the term and dealt with out of session in a practical way that does not do any injustice to anybody and ensures nevertheless that the processes of the work of the Auditor-General and the Parliament can continue even though the Parliament is not sitting at the time.

The fourth area of amendment relates to the greater accountability for the Auditor-General. As the Auditor-General is an independent officer of the Parliament, an effective accountability regime is necessary to ensure that he discharges his responsibilities to the Parliament. There are now new requirements for him to disclose auditing standards developed in house, and quality control processes apply in the conduct of his work. The Auditor-General will also be required to note in his annual plan any comments made on that plan by the Public Accounts and Estimates Committee that he has decided not to adopt.

It seems to me that all of that is self-explanatory on the face of it. They are sensible measures, and I believe it again highlights the trust which the Parliament and all aspects of politics increasingly place on the work of the Public Accounts and Estimates Committee.

I had the pleasure of chairing the Scrutiny of Acts and Regulations Committee in the last Parliament. It was a committee that functioned very well and I think increasingly was regarded by all parties as having the capacity to do what I believe in service on parliamentary committees is extremely difficult at times, and that is to take a position in an apolitical sense and have the courage to make judgments about what needs to be said and/or done over particular pieces of legislation, or aspects of them, and they are issues which certainly apply in the operation of the Public Accounts and Estimates Committee. I believe this amendment is reflective of the fact of the status of that committee in the Parliament insofar as it is viewed by parliamentarians from all sides of politics, and from the perspective of the three Independent members of this place.

The fifth amendment relates to the administration of the Audit Act. A number of amendments are being made to the act to clarify its operation. These relate to circumstances where the Auditor-General can charge a fee for his work, clarifying the difference between his reports and opinions, and in the scope of his narrative reports enhancements will also be made to ensure his current practice of providing relevant parties with copies of his proposed reports for comment rather than a summary and recommendations as currently required under the act continues to occur.

This amendment in no way affects the content of the reports provided by the Auditor-General to the Parliament. In the overall scheme of things, it is a relatively minor element of housekeeping which again the National Party supports.

In conclusion, therefore, the National Party believes this is a practical bill, it is consistent with concepts further empowering the Auditor-General to undertake the critical role that is his, and it ensures responsibilities to the Parliament rather than to executive government. I would have to say, in all the prevailing circumstances and bearing in mind the matters that I am sure are going to continue to arise in the public domain in the state of Victoria over the course of the next 12 months leading up to what I suspect will be the next election, that I think the work of the Auditor-General will be enhanced, and the National Party supports the bill.

Mr LENDERS (Dandenong North) — I too rise to support the Audit (Further Amendment) Bill. I will go first through some very general terms in leading up to the history of it. The detail of the bill has been very adequately covered by the Minister for Finance in her second-reading speech and also by the Leader of the National Party, who has stolen a lot of my thunder in what I was going to speak on in the debate on this piece of legislation.

I would like to go through some general terms on the legislation and a bit of the lead-up to it and later on in my remarks seek leave to have incorporated into *Hansard* an advice from the legal branch of the Department of Premier and Cabinet which we have spoken about to the Speaker and to the honourable member for Box Hill, but I will formally seek leave later.

Firstly I will outline the history of this legislation. The Bracks government was elected to office partly on a platform of more open, accountable and transparent government. A large part of that was enshrining and protecting the powers of the Auditor-General as an independent officer of the Parliament. Most of the legislative framework for that was introduced early in the days of this government and was something that I and a number of other members of this house spoke on with a fair bit of passion and conviction, so it is interesting to see some two years into the government as this amendment further enhances the powers of the Auditor-General, the transparency and accountability of the public sector and a range of other things that come

through this legislation. It is a very topical and timely occasion to reflect on the issues before us.

I cannot let pass without comment some of the statements of the honourable member for Box Hill leading for the opposition. While I think some of the issues that will be addressed in the legal advice will address some of the issues relating to journalists, I think the context of this legislation is that we can be concerned in a bill like this about issues dealing with penalties for leaking and those sorts of matters. Understandably in any house and in any review of this sort of legislation they are issues that should be discussed and debated here. But the issue that the honourable member for Box Hill took particular exception to — the report being made available to the Clerks when Parliament is not sitting, providing protection for people who look at the report, get access to it and deal with it, still going through the normal procedure of the report being tabled in the Parliament formally and debated — ought be seen in the context not of a diminution of rights, but on the contrary, a significant enhancement of rights, because this is moving Auditor-General's reports into the public domain, which is a very good thing when we want openness and transparency in government.

I would also say again in that context I would have absolute confidence that this in the hands of the Clerks of the Legislative Assembly would be material that any member of the Legislative Assembly who wished to have access to it would have full access to it, in a protected form. I believe it is very good legislation. It enhances the power of the Auditor-General and certainly the accountability and transparency of his or her reports as they come to this Parliament.

The second issue I wish to address raised by the honourable member for Box Hill was the issue of the legal advice dealing with information from Auditor-General's reports that may be leaked to journalists, and therefore whether there is a sanction against a journalist for further protecting that.

At this stage I would seek leave to have incorporated into *Hansard* advice to the government from Tony Walsh, principal legal adviser, and Ian Killey, the director of legal services in the Department of Premier and Cabinet, a document dealing specifically with this issue of sections 20 and 16 of the act as they would be amended.

Leave granted; see advice page 1991.

Mr LENDERS — That advice as incorporated contains seven points which essentially make the point that the phrase 'under this Act' in the bill imposes liability only upon those who receive information in accordance with the act rather than as leaked information. That distinction is quite explicit in the advice, so that should clarify that issue which was understandably raised in the debate.

As the Leader of the National Party very eloquently outlined there are five main areas that this bill is being put to the Parliament to amend. The amendments will provide greater protection for the Auditor-General provisions and provide the Auditor-General and his staff with statutory indemnity where they have acted in good faith. That is an important enhancement of the legislation previously passed by this place.

The scope of the Auditor-General's powers is another issue addressed by the bill. These amendments make it clear that in conducting his work the Auditor-General has a clear mandate to have regard to any wastage of public resources or any lack of probity or financial prudence. This will enhance the power of the Auditor-General and make it unequivocal that he has that clear mandate. The amendments also relate to the efficiency and greater accountability of the Auditor-General and to the administration of the Audit Act generally. Given the time I will not dwell on those amendments, but they are all logical amendments to the act and they relate to issues that are not new to the Parliament as they have been flagged before. These issues have been canvassed by the Public Accounts and Estimates Committee and in a good process that debate has continued before the Parliament.

The bill is good legislation which enhances our commitment to open and transparent government. It is an important bill for democracy. I commend the bill to the house and wish it a speedy passage.

Debate adjourned on motion of Mrs PEULICH (Bentleigh).

Debate adjourned until later this day.

AUDIT (FURTHER AMENDMENT) BILL

ADVICE

1. Advice has been sought concerning a proposal to amend the Audit (Further Amendment) Bill ('the amending bill').

BACKGROUND

2. The amending bill inserts a new provision, section 20A(2), into the *Audit Act 1994* ('the act') which provides a penalty for disclosing a proposed report of the Auditor-General under that act subject to the exceptions in that provision. A penalty of up to $5000 is prescribed in the case of a natural person and $25 000 in the case of a corporation.

3. There has been criticism that this amendment imposes the potential of fines for journalists and media outlets for publishing information from a proposed Auditor-General's report 'leaked' to them before the report is tabled in Parliament. It has been suggested that amendments are desirable to prevent this outcome.

ISSUES

4. The amending bill substitutes a new section 16 into the act which requires the Auditor-General, when preparing a report to Parliament on an audit, to first provide a copy of the proposed report to the authority concerned and seek the comments of the authority or department head. Any submissions or comments by the authority or department head are to be included in the Auditor-General's final report which is tabled in Parliament.

5. The proposed section 20A(2) prohibits a person who receives a proposed report of the Auditor-General *under this Act* from disclosing any information relating to it. As a precondition for the operation of section 20A(2) will be that the person liable for disclosing information, received that information under the provisions in the act — e.g. under the process established in the new section 16. That provision cannot apply to a journalist or media outlet as such a person or body is not provided information concerning proposed reports under the scheme of the act.

6. Parliamentary counsel agrees that by including the phrase '*under this Act*', section 20A(2) imposes liability only upon those who receive information in accordance with the act rather than as a 'leak'.

RECOMMENDATION

7. That you note that the proposed section 20A(2) of the amending bill does not impose a liability upon journalists and media outlets in respect of the publication of information from a proposed report of the Auditor-General.

Tony Walsh 10706
PRINCIPAL LEGAL ADVISER
LEGAL BRANCH
27 November 2001

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SECOND-HAND DEALERS AND PAWNBROKERS (AMENDMENT) BILL

Second reading

Debate resumed from 1 November; motion of Mr HAERMEYER (Minister for Police and Emergency Services).

Mrs PEULICH (Bentleigh) — The opposition does not oppose the Second-Hand Dealers and Pawnbrokers (Amendment) Bill and will not be proposing any amendments. That will probably be to the welcome relief of the honourable member for Richmond, who is very flustered because I understand the house has to get through six bills today. We may be on only our fourth, but so be it.

The Second-Hand Dealers and Pawnbrokers Bill is a very long and complex bill. It deals with an industry that requires careful legislative, enforcement and disciplinary regimes. The purpose of the bill is basically to distinguish pawnbrokers from second-hand dealers by introducing a further form of registration requiring endorsement of a registered second-hand dealers licence to permit a second-hand dealer to act as a pawnbroker. In effect an additional layer of vetting is being introduced. The motive for doing so stems from a fairly lengthy review of the act. I will refer to some of those review processes in a little while.

The bill also introduces inspectorate and seizure provisions similar to those contained in the Motor Car Traders Act and the Prostitution Control Act. Because of some fairly wide-ranging inspectorate and seizure provisions in the bill the opposition is not unreservedly supporting this legislation although it is not opposing it. The shadow minister for small business and consumer affairs, Mr Carlo Furletti, a member for Templestowe Province in another place, has some reservations about the very broad powers of inspectors in particular.

The bill also increases penalties for breaches of the act and requires pawnbrokers to pay to the person who pawned the goods a residual equity in pawned goods that have been sold. I understand that this concept of residual equity existed in 1958 and that the bill is basically reinstating that. The ramifications of that reinstatement will not be fully known for some time, when it will become clear whether the beneficiary is the person who has pawned the goods or whether the net effect of the new legislative regime will be that pawnbrokers may cease to exist and will instead become second-hand dealers.

Because of the need to pass on the residual equity pawnbrokers will clearly no longer be interested in hanging on to goods or trying to achieve a higher resale price than the price paid to the person whose goods have been pawned. I understand that among some players in this industry — perhaps not the big players — there is some concern that the changes to the legislation will force pawnbrokers to act as second-hand dealers and thereby hurt the people this bill is intended to protect.

The bill also introduces a disciplinary procedure enforceable by the Victorian Civil and Administrative Tribunal (VCAT) on the application of the Chief Commissioner of Police or the director of consumer and business affairs. It also prohibits the pawning of motor vehicles.

The bill implements the recommendations flowing from a review of the Second-Hand Dealers and Pawnbrokers Act 1989. The review examined the adequacy and effectiveness of the information provisions and other mechanisms in the act that are intended to protect the rights of people who pawn goods, noting that often these people are disadvantaged and susceptible to exploitation. I understand that representatives of consumer and pawnbroker organisations were consulted as part of this review. The review concluded that non-compliance by some elements of the pawnbroking industry has given rise to a need for better identification of who in the marketplace is conducting the business of pawnbroking. It also called for improved enforcement mechanisms to enhance compliance with the act, and in particular to respond to what can be a problem in the industry — that is, the trade in stolen goods.

The review recommended that a registration scheme be introduced to distinguish pawnbrokers from second-hand dealers, and as I said before, it strengthens the enforcement mechanisms. The bill provides for the separate registration of pawnbrokers by providing that those second-hand dealers who wish to also trade as pawnbrokers are to have an authority endorsed on their second-hand dealers certificate to conduct a business of a pawnbroker.

The bill also introduces powers of inspection for Consumer and Business Affairs Victoria. With these powers inspectors will be allowed to monitor compliance by pawnbrokers with the signage, notification and record-keeping requirements imposed by the act.

The major players such as Cash Converters and Tradeorama appear to be quite happy with this bill. However, the Honourable Carlo Furletti feels that the provisions of the bill are very broad and will obviously

need to be monitored over a period of time. The requirements will help in the tracing of stolen goods and ensure that consumers of pawnbrokers services are informed of their rights and responsibilities. The bill contains measures to strengthen enforcement. It increases penalties in relation to signage and other notice requirements under the act to improve compliance.

I understand a survey was done by the Financial and Consumer Rights Council (FCRC) which found that many of the existing requirements were not being complied with by many of the pawnbrokers, so clearly we need to improve on the current performance, along with the stronger enforcement code being introduced by the legislation.

The bill also empowers the Business Licensing Authority to impose conditions on second-hand dealer registration and pawnbroker endorsements. It enables the Victorian Civil and Administrative Tribunal to impose disciplinary measures on second-hand dealers and pawnbrokers in relation to their conduct and the conduct of their businesses. As I said, the bill reinstates the entitlement of a person who has pawned goods to claim any residual equity in their goods if they do not redeem them and the pawnbroker subsequently sells them. I understand that in her options paper the minister favoured the return of residual equity less costs where the value of the items pawned exceed $20, but in the legislation this amount has been brought down to $10. The opposition had some concerns at the very low minimum amount given that to notify a person would probably cost more — that is, putting a letter together, sending it, processing it and doing all the record-keeping. Nonetheless, that is what it is. The customer would have the right to claim the residual equity payable within 12 months of the goods being sold.

One concern with the legislation is that it is mute on establishing a mechanism for the holding of those funds. The pawnbroker, regardless of whether he or she continues the business, will need to be responsible for the holding of those moneys should they be claimed within the 12 months in which the persons who have pawned the goods can make a claim. I understand that other states have a system whereby those moneys are placed in a trust account. It will be necessary to monitor the changes to the legislation to ensure that it operates as intended and that the industry benefits rather than suffers from the changes.

The bill makes it an offence for a pawnbroker not to pay the residual equity to the customer upon request, and it empowers the court to order the pawnbroker to pay the residual equity to the person who is entitled to it. It also prohibits — I think it is an important prohibition — the pawning of motor vehicles to stop the practice identified in the review of pawnbrokers advancing a disproportionately small amount of money on a pledge of a motor car of a much higher value as security. The review concluded that it is inappropriate to allow the pawning of a motor car as it is one of a person's most valuable assets.

The core business of pawnbroking is the advancing of loans to customers who have pledged household goods or personal effects as security on loans. Loans vary between $10 and several thousand dollars, with the average loan being about $60. Their income is derived from the sale of second-hand goods, while some brokers are also involved with other activities such as payday lending. That is a fairly hair-raising industry which is on the increase, and I am sure we will probably be investigating that not too far down the track.

Pawnbroking chains such as Cash Converters and Tradeorama are supportive. Some pawnbrokers have several company names advertised at the same or different physical addresses, so the dual registration system, while it is reverting to a separate registration system that existed prior to the current system, will probably allow a strengthening of some of the provisions that are required.

The majority of advertised pawnbrokers are located in the Melbourne metropolitan area, with the City of Melbourne and numerous local government areas having more than three advertised pawnbrokers — and even my local municipality of Glen Eira has about the same. This observation confirms the findings of the Good Shepherd review, which noted that pawnbroking outlets tend to locate in areas where there are numbers of lower income residents. Clearly some of the inner metropolitan suburbs, although they are going through a period of gentrification, would still have a proportion of residents who fall into those low-income categories.

The bill implements the recommendations flowing from the review. In 1995–96 the Second-Hand Dealers and Pawnbrokers Act 1989 was reviewed in accordance with the state government's commitment under national competition policy. A key change resulting from that review was the deregulation of interest rates charged by pawnbrokers. Subsequent changes to the act introduced a new registration system for second-hand dealers and pawnbrokers and transferred responsibility for the administration of the scheme to the Business Licensing Authority.

The Second-Hand Dealers and Pawnbrokers Act 1989 was amended in 1997 and came into operation on 1 January 1998. In 1999 the Good Shepherd Youth and Family Service was funded from the consumer credit fund to conduct a study on the impact of the deregulation of the pawnbroking industry as a result of the new legislation, with particular reference to those factors influencing consumer protection. The subsequent report, called *Money Lenders or Loan Sharks — The Consumers' Perspective on the Impact of the Deregulation of the Pawnbroking Industry and Other Legislative Amendments to the Second-Hand Dealers Act 1989 which Took Effect in January 1998*, was released in April 2000. It has a catchy title, and I am sure it will be a best seller! The Second-Hand Dealers and Pawnbrokers Act 1989 came into operation in September 1990, and there were regulations made in 1997. What I want to do is outline the broad range of changes that have occurred over the past decade in response to changing practices — both those that are legal and those that are less so — as well as the changing trends and pressures in the community.

I imagine that over the next 10 years this bill will probably be amended many times over as we continue to struggle to respond to the needs of the industry. I understand the broad policy objectives of the legislation are to protect consumers, provide protection to clients of pawnbrokers and second-hand dealers and discourage trade in stolen goods.

Recently my mother's house was burgled and many prized pieces of jewellery she had received as gifts over many years, both from my late father and from other members of the family, were taken. The following day the policemen who attended the scene of the burglary provided her with a list of pawnbrokers and advised her to go around searching for some of the items that had been stolen from her home. Apparently it is very common practice for these items to end up in pawnbrokers shops. Quite clearly the mechanisms for dealing with tracing stolen goods need to be strengthened to facilitate and expedite the recovery of stolen goods from second-hand dealers and pawnbrokers.

The opposition raised a number of concerns during the departmental briefing and received a written reply from the minister's office and the minister's adviser. I thank them for providing all the requested information. It is probably a good example to many other ministers and advisers.

Mr Delahunty — Hear, hear!

Mrs PEULICH — It is certainly unusual, and very welcome. Some of the concerns raised by the opposition include the meaning of 'reasonable costs' in the calculation of residual equity. The opposition had some concerns that the concept of reasonable costs was undefined and therefore could be inflated, and that the residual equity could therefore be diminished and the person who had pawned the goods suffer financially as a result. The government responded by saying that prescribing what are reasonable costs of a sale would limit the costs a pawnbroker could claim; if they were prescribed in very general terms — for example, storage, advertising et cetera — this would not be a useful guide for pawnbrokers; and if the costs which could be deducted were strictly defined a pawnbroker could claim only those costs that fell within the definition regardless of what costs had actually been incurred in selling the goods.

The government claims that leaving the provision more general and allowing a pawnbroker to claim any reasonable costs will allow a pawnbroker to claim costs that are reasonable having regard to the nature of the pawnbroker's business, the type of item pawned and the method of sale; and further, that pawnbrokers generally factor overheads such as rent, electricity et cetera into the interest rates they charge on pawn transactions. It also noted that most of these reasonable costs are determined by the pawnbrokers when they set their initial interest rates — which naturally cover their operating costs and profit — so it is only the selling costs which must be added to these costs in order to determine total costs to be subtracted from the sale price received. Although there is a lot of leeway there the opposition certainly accepts that in the main some onus of proof will be required to substantiate what the reasonable costs of sale are if a matter should go to Victorian Civil and Administrative Tribunal.

Mr Peter Akie from the Australian pawnbrokers association has indicated he supports the proposed provision regarding reasonable costs. He agrees that prescribing what costs could be claimed by a pawnbroker would be difficult, and that it would be best to leave the provision as currently drafted and to revisit the issue if the enhanced inspection function reveals pawnbrokers are claiming unreasonable costs. That goes back to my previous point, which needs to be reinforced — that is, that the legislation pertaining to this issue is often amended and changed as we policy makers and those responsible for licensing, monitoring and enforcing the code and provisions of the act on this industry try to manage some of the issues, trends, concerns and challenges that emerge.

The opposition also expressed concerns about inspectors powers, particularly the Honourable Carlo Furletti from another place, who believes the inspectors powers are far too wide, particularly in relation to proposed sections 26C, 26O and 26V. The government's advice to the opposition was that the rationale for the powers was that they were necessary for effective monitoring of the legislation governing problematic industries, and that applicants for licences accept the powers as a consequence of taking out a licence. Basically the message is that you either accept the practices and the very wide inspectorial powers or you get out of business. I guess it is a tough industry and there is enormous scope for some fairly questionable activities to be taking place so not too much leeway needs to be allowed. But quite clearly this will need to continue to be monitored.

A number of other matters were raised by the opposition, but on the whole it understands that many of the reviews and changes to the legislation will improve the manner in which stolen goods in particular may be traced. The introduction of the payment of residual equity may on the surface appear quite appealing to people who are forced to pawn goods, but they may not end up being the beneficiaries. If pawnbrokers have to pay out a residual equity within 12 months why would they bother selling a good for any greater amount than they have pawned it if it has to be passed on? Quite clearly there is the likelihood that many pawnbrokers will merely become second-hand dealers, so on the first transaction it will be closed and that will pretty much be it.

A further matter raised by the opposition related to disciplinary actions of the Victorian Civil and Administrative Tribunal. The opposition asked why the bill did not provide that the application for an inquiry to the registered second-hand dealer or endorsed pawnbroker did not need to specify the grounds for the inquiry so that the second-hand dealer or pawnbroker was made aware of what those grounds were. I do not believe there was a response — certainly we did not get to see a sample of an application for an inquiry — but we were reassured subsequently by advice in the briefing notes that the rules of natural justice would be observed, that they require that a person is made aware of grounds for any proceedings including applications, and that VCAT had advised that the application requires the applicant to set out reasons for the application so that the grounds for the inquiry are clearly stated. VCAT has provided a copy of the application form, but I have not seen one as yet.

The principal objective of the bill is supported. However, the opposition has some reservations about the powers given to inspectors, and the means of determining residual value are questionable. It is for those reasons that the opposition is not opposing the bill rather than wholeheartedly supporting it. With those few words I look forward to ongoing monitoring of this legislation in a very important industry to a community of people who are fairly vulnerable.

Mr DELAHUNTY (Wimmera) — I am pleased to rise to speak on behalf the National Party on the Second-Hand Dealers and Pawnbrokers (Amendment) Bill, and I am happy to follow the honourable member for Bentleigh. I am sure there are many second-hand dealers and probably pawnbrokers in the area of 19 square kilometres that she represents.

As all honourable members know, the bill amends the Second-Hand Dealers and Pawnbrokers Act 1989 to provide for five key purposes. One is to provide for the separate regulation of pawnbrokers by means of endorsement on their registration as second-hand dealers — and I will come back to that. The second is to provide for improved enforcement by means of increased penalties, infringement notices and inspectors powers. The third is to provide for the payment of residual equity in pawned goods that are subsequently sold by a pawnbroker — and that is one concern we have, which I will come back to. The fourth key purpose is a prohibition on the pawning of motor vehicles. The fifth is to make miscellaneous amendments to improve the administration of the act.

The history of pawnbroking is very interesting. References to pawnbroking can be found in the Old Testament. In 15th century Europe many countries had pawnbrokers, established mainly by the Catholic Franciscans to provide low-cost loans to the poor. In the 17th century not-for-profit pawnshops expanded as churches and charities ran them in the major urban centres of Europe. However, as populations in urban centres grew, so did for-profit pawnshops. In 19th century England the poor used them to obtain credit.

In coming to its position on the bill the National Party consulted widely with Gippsland Pawnbrokers, Wellington Pawnbrokers at Sale, Castlemaine Pawnbrokers, Norms Pawnbroker at Mildura, Valley Pawnbrokers at Morwell, Acland Pawnbrokers and Second-hand Dealers at St Kilda, Cheap Cheap Second-hand Pawnbrokers at St Albans and Cash Converters at the state centre. I am pleased to say that the National Party will not be opposing this bill, although we have some concerns, particularly about clauses relating to residual equity.

In researching the bill, I looked at *Hansard* of 29 May 1997, when in the Legislative Council you, Mr Acting Speaker made a very passionate speech on this matter. I am not sure whether the bill will cover all the points you wanted, but part of your speech states:

> The next part of the bill deals with changes to the Second-Hand Dealers and Pawnbrokers Act that are absolutely disgusting. These changes are being made for a number of reasons, one of which is to help out the government's mates at Crown Casino — Uncle Ron and Uncle Lloyd —

do you remember these words? —

> and poker machine kings like Bruce Mathieson. The government has an absolute hatred of the working class — the poor — and their families. The bill will not assist them in any way.

I am sure you will take a lot of interest in this bill, Mr Acting Speaker, because that is its aim, and we wish it all the best.

In developing its position on the bill the National Party found that currently all registered second-hand dealers can operate as pawnbrokers so long as they declared their intention to do so in their initial registration. We believe there are approximately 6500 registered second-hand dealers in Victoria. However, there are no clear records or statistics of how many are operating as pawnbrokers. I will come back to that.

The bill will introduce an endorsement scheme for pawnbrokers with the intention of improving the identification and regulation of the industry. We support that strongly. Unfortunately this industry really does need some regulation to bring it into line with present-day thinking. The proposed changes will mean that the business of a pawnbroker will require a separate endorsement to its registration as a second-hand dealer. As I said, currently a second-hand dealer can operate as a pawnbroker. Currently the cost for a second-hand dealer is $150, consisting of a $110 application fee and a $30 annual fee. The new cost of a pawnbrokers licence will be $400 per annum, to be paid pro rata until the end of the first year. It is intended to cover the new costs of regulating the industry — namely, a full-time inspector from Consumer and Business Affairs Victoria.

As I said, the National Party consulted widely on the bill. I have a note about a phone call from Castlemaine Pawnbrokers, who rang the Honourable Ron Best, a member for North Western Province in the other place, stating:

> The only part of the legislation to cause concern is the residual equity. Many people bring things in that are damaged, broken and never come back to collect, then the pawnbroker has to pay to have it fixed. Most unfair, otherwise the rest of the legislation is fairly straightforward.

In the second-reading speech the minister said:

> The bill implements the recommendations flowing from a review of the Second-Hand Dealers and Pawnbrokers Act 1989.

The government is to be commended on going through a proper process. The second-reading speech also states that there was:

> Extensive consultation with representatives of consumer and pawnbroker organisations …

Some of the pawnbrokers we spoke to were very upset and concerned that the residual equity clauses were not part of the discussion paper but were slipped in at the last minute. They would have liked to have more to say on that matter before the legislation came into this house. We agree there needs to be better identification, improved enforcement and an improved registration scheme. As honourable members are aware, there are many clauses in the bill that strengthen the enforcement mechanisms of the act. The powers of inspection under Consumer and Business Affairs Victoria will be included. Importantly signage, notification and record-keeping requirements will be imposed under the new act.

In researching the matter I checked the Web in relation to a couple of things. On that matter of registering as a second-hand dealer or pawnbroker, on the Business Licensing Authority site I found that as at 7 August:

> Not everyone is eligible to act as a second-hand dealer or pawnbroker. Unless they obtain the Business Licensing Authority's permission, individuals are ineligible to be second-hand dealers or pawnbrokers if they or an associate are subject to:
>
> > Being found guilty or convicted of an offence involving fraud, dishonesty, violence or drug trafficking within the last five years …

Corporations are also referred to on the page:

> Corporations can also become registered second-hand dealers or pawnbrokers. In this case, eligibility criteria similar to that applying to individuals will apply to the corporation, its directors and any of their associates.

Under the heading 'Applying for permission to be registered' the following appears:

> In some cases, otherwise ineligible individuals and corporations can apply to the Business Licensing Authority to be registered, or continue to be registered as a second-hand dealer or pawnbroker —

that is, even if they have done some, say, minor wrongs. Some of the reasons for which the authority may give permission are:

1. It is not contrary to the public interest.

2. If ineligibility is due to suspension, cancellation or disqualification regarding a regulated occupation or business, that special circumstances led to suspension …

There are other things listed there. The following also appears on the page:

> If the authority gives an individual or a corporations permission to be registered, it may impose conditions to ensure ongoing protection of the public interest.

All honourable members would agree with that.

Early in November we were given a briefing by the minister's advisers and Patrick L'Estrange, a legal officer with Consumer and Business Affairs Victoria. I quote from the note he provided to us:

> Our records of second-hand dealer registrations indicate that there are 264 pawnbrokers in country Victoria out of a total of 603 in the state. This is based on advice which applicants for registration as second-hand dealers gave when asked if they intended to trade as pawnbrokers and does not reflect the actual number who went on to do so.

We understand that the government has had difficulty getting the figures, but that is how the process worked. The note goes on:

> From our experience with the public consultation process, it appears that there are currently about 130 active pawnbrokers in Victoria of which about 40 are in country Victoria, but this is only an estimate.

There are many people operating as pawnbrokers around Victoria.

I turn to a letter from Cash Converters to the Honourable Ron Best, a National Party member in the other place. That firm gets some good publicity and also some bad publicity, although bad publicity travels faster. National Party members appreciate the fact that Cash Converters has reviewed the bill, as we have, and given us its comments. I quote from its letter, which states:

> Cash Converters welcomes many of the changes the amendments bring to the industry in offering consumers a higher level of integrity and protection in dealing with second-hand dealers and pawnbrokers.
>
> We welcome the separate registration scheme for pawnbrokers with the annual endorsement of the authority.

In relation to inspection powers Cash Converters states in its letter:

> The introduction of powers of inspection for Consumer and Business Affairs Victoria is the adoption of a recommendation of Cash Converters in their submission, which will create a level commercial playing field for all industry participants and provide additional consumer benefits.

So even Cash Converters supports that.

I turn now to the residual equity clauses. The letter from Cash Converters states:

> It is disappointing however, and of serious concern, that an unreasonable burden has been placed on the industry with the introduction of the entitlement of a person to claim residual equity and the obligation for the pawnbroker to contact the customer regarding residual equity amounts (over $10) after the sale.
>
> In examining the submissions by the stakeholders this entitlement of residual equity after the goods have been sold was never raised as a consumer need. There was never any data or evidence put forward as to consumers requesting the ability to retrieve any residual equity. In fact there was a degree of concern about protecting the privacy requirements of consumers.

Mr Wynne interjected.

Mr DELAHUNTY — This is from the letter from Cash Converters, and I am interested to hear it, too! The letter continues:

> It is claimed that this is a reinstatement of a section of the 1958 act. This may have been appropriate 42 years ago however in 2001 the pawnbroking industry is effectively only three years old under the current legislation. In this time there have been no complaints directly to the CBAV, Consumer Affairs or any other Victorian government body in regard to the residual equity on unredeemed pawns.

Cash Converters listed 15 concerns, and I will not read them all out because of time constraints, but I will list three of them. Firstly it was concerned that there would be an increased cost burden to the industry resulting in higher costs to consumers. Secondly, no other state in Australia has the requirement to contact the person who pawned the goods after the items are sold, and thirdly, there is no option for consumers in regard to privacy.

Cash Converters continues:

> Industry studies have concluded that if a pawnbroker were required to pay any surplus to the person pawning goods the impact on the industry would be detrimental to both the industry and consumers.

I will continue reading the letter because it is important to have it on the record:

> Bookkeeping, trust accounting and locating pawners for repayment would be an onerous responsibility.
>
> …

> The confidentiality of the contract with consumers who pawn goods is an integral part of the relationship that will be destroyed with the proposed changes resulting in confusion, frustration and a loss of benefits to consumers.

Those are some of the things that Cash Converters wrote in its letter.

I got a copy of the Cash Converters documentation and also the documentation from Instant Cash of Pall Mall in Bendigo. It shows the amount lent, the interest charged, the percentage rate per month and various other things. Schedules 4 and 5 of the Cash Converters documentation relate to notification and whether the person wishes to redeem their goods, so the information is already on the forms.

I will highlight a case where the residual protection could have a negative impact on consumers, which is different from what the government is portraying. The case concerns a person who brings a television set valued at $300 into the pawnbroker. The loan on the television set would be $100, because I am informed that most loans from pawnbrokers and second-hand dealers are usually about $50 to $100. The person takes out a loan of $100 with a 21-day turnaround time and the pawnbroker is entitled to charge 20 per cent interest on the loan. When the person comes back to get the television, they have to put down $120; that is no problem.

Now what could happen is that the pawnbroker could say that he wants to slow down his paperwork and save himself the trouble of contacting the person who brought in the television, so he might put the value of the loan at $200. The person would then be charged 20 per cent interest on a 21-day turnaround, so that he or she would then have to pay back $240 before 21 days had elapsed to get their television back. There would be less bookwork and the pawnbroker would get a cheaper item if the person did not come back. In fact the person would be better off to go to the second-hand dealer to get their loan. This will have a more negative effect than the government anticipated.

In concluding I turn to the clauses of the bill. Clauses 1, 2 and 43 come into operation the day after royal assent, and the remaining provisions come into operation no later than 1 December 2002.

Interestingly, clause 12 amends section 8A of the principal act covering consideration of application. Clause 12(2)(3) states:

> The authority may refuse —
>
> (a) to register an applicant; or
>
> (b) to endorse a registration
>
> if the applicant for registration or endorsement, as the case may be, does not provide the further information required within a reasonable time of the requirement being made.

Again the honourable member for Richmond might have to address a couple of quick questions. For example, what constitutes ‘further information’ and ‘reasonable time’ in proposed new section 8A(3)?

Clause 13 inserts proposed sections 8B and 8C into the principal act. The explanatory memorandum states:

> Section 8B provides that the Business Licensing Authority may impose conditions before or upon registration as a second-hand dealer or endorsement as a pawnbroker or at any other time … It creates an offence for non-compliance with the conditions (100 penalty points).

Clause 27 inserts proposed section 17, which creates two offences. I will not go through those because they are well detailed in the bill.

Clause 28 inserts proposed section 18A, which provides that the Chief Commissioner of Police may apply to the Victorian Civil and Administrative Tribunal — here is more work for VCAT — to conduct an inquiry into the conduct of a registered second-hand dealer. It also provides that the commissioner or the director of consumer and business affairs may apply to VCAT to conduct an inquiry into the conduct of an endorsed pawnbroker.

Again, I put on the record the fact that this is another thing VCAT will have further responsibilities for. We in the National Party call on the government to make sure it provides adequate resources, both the human resources and importantly the financial resources, to cover those matters. Proposed section 18B sets out a range of actions that VCAT may take after conducting an inquiry.

Clause 30 inserts proposed subsections (1A) and (1B) in section 23 of the principal act to make it an offence for a pawnbroker to receive motor vehicles within the meaning of the Motor Car Traders Act 1986 as goods in pawn.

Clause 31 inserts proposed section 23A into the principal act to entitle a person who has pawned goods but not redeemed them to claim from the pawnbroker the value of any residual equity remaining after the pawnbroker has sold the pawned goods. We in the National Party have some concerns about this, considering that no other state has this part in its legislation. Even though it sounds good on paper, in practical terms we do not believe it will have the impact the government anticipates.

Clause 36 inserts proposed section 26V(1) under proposed division 2 in part 5 of the principal act. The explanatory memorandum states:

> Section 26V provides that a person is not excused from answering questions or producing documents under division 2 on the ground of self-incrimination, although if the person claims before answering a question that the answer may be self-incriminating, the answer cannot be used in criminal proceedings, other than in proceedings in respect of the falsity of the answer.

Again I think that is a limitation on the privilege against self-incrimination under the act. We direct the attention of the Parliament to this provision.

Clause 41 inserts new regulation-making powers into section 31 to enable the prescription of offences under the act or the making of regulations in respect of which an infringement notice may be issued, as well as the penalties to apply to them. Infringement penalties must not exceed one-tenth of the maximum statutory penalty. A power to prescribe costs that are not reasonable costs of the sale of pawned goods is also inserted.

I know, Mr Acting Speaker, that you made a very passionate speech on this matter when you were a member of the Legislative Council, and I have no doubt that the government will give you adequate time later in the week to speak on this as a member of the Legislative Assembly.

An honourable member interjected.

Mr DELAHUNTY — I could go on for another half an hour! Having raised those concerns we in the National Party will not be opposing the bill, because we believe it gives consumers more protection — and we support that.

Mr WYNNE (Richmond) — In rising to support the Second-Hand Dealers and Pawnbrokers (Amendment) Bill I thank the honourable members for Bentleigh and Wimmera for their contributions. I do not choose to speak on the bill for a great length of time, and I certainly could not hope to match the length of your contribution in the other house, Mr Acting Speaker, which I understand was 2½ hours.

Nonetheless, second-hand dealers, pawnbrokers and payday lenders are a feature of many of our electorates, and my electorate hosts a disproportionate number of them. It would be no surprise to honourable members that there is a clear relationship between these organisations and people on low incomes. This bill seeks to strike a balance between providing for the legitimate operations of these organisations and, most particularly, adequately protecting the interests of consumers.

A review of the Second-Hand Dealers and Pawnbrokers Act 1989 examined the adequacy and effectiveness of the various information and other mechanisms in the act to protect the rights of people who pawn goods. This bill, which implements the final recommendations of the review, reflects a clear and unequivocal commitment by the government to protect consumer rights. It follows a raft of legislation that has sought to open up opportunities for citizens in this state, whether in the area of consumer protection or in access to the law generally.

The purposes of the act are amended in clause 4. The prime objective of the act will be to enhance the protection of consumers dealing with second-hand dealers and pawnbrokers. Following the recommendations of the review the bill introduces separate registration for pawnbrokers to provide those second-hand dealers who wish to also trade as pawnbrokers with an authority endorsed on their second-hand dealers certificate.

Clause 8 amends section 6 of the principal act to make it clear that the eligibility criteria for registration which currently applies to second-hand dealers will also apply to endorsed pawnbrokers. This clause also adds a category of person who is ineligible to be registered unless they obtain the permission of the Business Licensing Authority. This refers to persons who have been directors of a body corporate when it lost its licence, registration or permission to carry out its business while suspended, cancelled or disqualified during the preceding five years. From the debate that has ensued thus far in the house that is a reasonable clause which clearly is supported by both sides.

Clauses 12 and 13 make amendments to the registration of applicants provisions and provide the conditions that may be imposed on them before registration or when endorsing the registration or at any other time. The amendments introduce a penalty for the offence of not complying with the conditions imposed and also make it an offence for a registered second-hand dealer or endorsed pawnbroker not to produce their certificate for endorsement on a condition.

The review also identified the need for improved enforcement mechanisms to enhance compliance with the act because non-compliance was occurring in certain aspects of the pawnbroking industry. As the honourable member for Bentleigh has indicated in her contribution, honourable members could no doubt all attest to various examples that have come to their

attention of where in the past a stricter regime such as is suggested by this bill was clearly necessary.

The bill aims to improve enforcement by increasing penalties, infringement notices and inspectorial powers. The grounds for review by the Victorian Civil and Administrative Tribunal (VCAT) are extended in clause 17 to include decisions of the Business Licensing Authority about applications for endorsement, any imposition variation or revocation of the conditions of registration. Further requirements for pawnbrokers to comply with registration or endorsement provisions are outlined in clauses 21 to 26, and the honourable member for Wimmera has indicated in his contributions what many of those requirements are.

Further measures to improve the compliance of second-hand dealers and pawnbrokers are covered in clause 28. They include disciplinary procedures for those who fail to comply with the legislation or whose business is being carried out in a dishonest or unfair manner. Clause 30 makes a significant change in the act by stating that a pawnbroker may not receive a motor car from a person as goods in pawn. This now becomes an offence because a car is considered to be one of a person's most valuable assets. If you go to the heart of what clause 30 is about, it is an extraordinary state of affairs for somebody to turn up at pawnbrokers to pawn their vehicle. We know of examples where a pawnbroker has offered a paltry amount of money — perhaps $400 or $500 — taking away probably the second-biggest asset that anybody has after their home. In that respect this is a very important clause which will forbid pawnbrokers accepting a vehicle as security for the purpose of a loan. I very much commend this aspect of the bill to the house. The review found that pawnbrokers were clearly advancing disproportionately small amounts of money on the pledge of motor vehicles of obviously higher value than the amounts they were offering.

For the purpose of monitoring compliance with the regulations an inspector may without a warrant enter and search any premises where a pawnbroker is carrying on business and inspect or seize anything he reasonably believes to be connected with a contravention of the act. These improved enforcement mechanisms to enhance compliance with the act have been deemed necessary for the tracing of stolen goods and for the protection of those who are disadvantaged and clearly amenable to exploitation.

I am sure that, as other members have indicated, there have been circumstances where stolen goods have been passed through the mechanism of pawnbrokers and second-hand dealing organisations. Clause 30 therefore provides strict inspectorial powers to seize where necessary property which is reasonably considered by the authorities to be stolen goods.

Importantly, the bill reinstates the entitlement of a person who has pawned goods to claim any residual equity in those goods if they do not redeem them and a pawnbroker subsequently sells them. The honourable member for Wimmera seemed to suggest that this may not work in the interests of the consumer. The government is simply suggesting that where somebody pawns an item with a pawnbroker and receives a certain amount of money by way of loan for that item, and subsequently the item is sold at a much more significant price, it is not unreasonable that the consumer has the right to claim their equity within a relatively reasonable period, which the government suggests should be 12 months.

I am not clear whether the honourable member for Wimmera felt that consumer protection was not being adequately addressed or whether there was potential for a loophole in the bill by which the pawnbroker may seek to increase the cost of holding the item for a period. In that context it is clear that the residual equity is the amount remaining after the reasonable costs of selling the goods and the amount owing under the loan contract have been deducted from the proceeds of the sale. That will be clearly articulated by way of documentation.

The question is asked: what are reasonable costs? Certainly reasonable costs, administrative costs and so forth, are involved in the interest rate charged on the goods which are held. Clearly if a consumer feels that a pawnbroker is attempting to enact the scenario painted by the honourable member for Wimmera, remedies are available through the Small Claims Tribunal and other bodies. While we acknowledge there is the potential for that to occur it is generally accepted on both sides of the house that the opportunity for consumers to recover their residual equity is clearly supported.

Extensive consultation was undertaken with representatives of consumer groups and pawnbroker organisations as part of the review. The government argues that the legislation provides an adequate safety net and adequate enforcement procedures to protect the most vulnerable in our community.

As I indicated, it is clear that the concentration of pawnbrokers is disproportionate in areas of low income — there is no doubt about that. My own electorate of Richmond hosts an enormous number of such organisations. The government seeks through this

legislation to provide a balanced response to a very extensive review undertaken by all the stakeholders — consumer groups and pawnbroking organisations as well — and it is in that context that we feel an appropriate balance has been struck between enforcement and regulatory controls over the second-hand dealers and pawnbroking industry. Most importantly, we seek to protect the interests of consumers — in many cases often the most vulnerable consumers in our society. In that respect I welcome the contributions of the honourable members for Bentleigh and Wimmera, and I wish the bill a speedy passage with the support of those on both sides of the house.

Debate adjourned on motion of Mrs FYFFE (Evelyn).

Debate adjourned until later this day.

COUNTRY FIRE AUTHORITY (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Debate resumed from 19 September; motion of Mr HAERMEYER (Minister for Police and Emergency Services).

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

Opposition amendments circulated by Mr WELLS (Wantirna) pursuant to sessional orders.

National Party amendments circulated by Mr KILGOUR (Shepparton) pursuant to sessional orders.

Debate interrupted.

DISTINGUISHED VISITOR

The ACTING SPEAKER (Mr Nardella) — Order! While we are pausing I would like to welcome a distinguished visitor, Mr Ron Barassi, to the house today.

Debate resumed.

Mr WELLS (Wantirna) — The opposition does not oppose this bill. However, we will move several amendments to overcome concerns that have come about as a result of extensive consultation with key stakeholders who will be affected by the bill.

The groups we consulted with but have not necessarily received responses from are the Country Fire Authority — the chairman and the chief executive officer; the Victorian Rural Fire Brigades Association, the Victorian Urban Fire Brigades Association, numerous CFA brigades, rural and urban, the Insurance Council of Australia, the United Firefighters Union of Australia and other interested stakeholders.

The opposition welcomes the amendments, which are intended to improve organisational efficiency within the CFA to maintain its reputation as a world-class firefighting and emergency response organisation. However, the opposition has concerns about the bill, mainly the proposed move to increase ministerial influence over the CFA. In other words, the government is trying to stack the CFA board.

We have learnt just recently that the Premier is very keen to give his best friends plum jobs within his government. We have also seen former Labor ministers Mal Sandon, Neil Pope, Tom Roper and Evan Walker all being given very lucrative consultation work. We were surprised to read in the original Country Fire Authority (Miscellaneous Amendments) Bill that the minister rather than the insurance council, which was willing to move off the board, would make two appointments. I will address that matter shortly.

The other part that causes the opposition great concern is that we believe there needs to be a balance between urban and rural representation as part of the decision-making process of the Country Fire Authority board. Our proposed amendments, which have been circulated, are designed to overcome those concerns.

The main purpose of this bill is to provide for the manner in which members of the CFA board are chosen. The bill substitutes the Insurance Council of Australia nominees for ministerial nominees and changes the criteria for councillors nominated by the Municipal Association of Victoria (MAV). It allows copies of the CFA's declarations of total fire bans to be used as evidence in court proceedings. That makes sense because previously courts and clever solicitors have insisted on the original total fire ban certificate being given to a court in order for a prosecution to proceed. That did not make any sense and the opposition supports the amendment.

Another change is that municipal councils must now formally approve, maintain and action their municipal fire prevention plans, and councils will be audited as to the effectiveness of their actions in implementing the plans. Once again the opposition has no problem with that amendment.

The bill also clarifies the entitlement of all CFA volunteers, including those who have not formally

joined and trainees, to compensation for personal injury or damage of personal property. Once again the opposition has no problems with these amendments.

There is also the serious issue of how this government is trying to stack the CFA board. This is covered in clause 3 of the bill, which amends section 7 of the Country Fire Authority Act 1958. The first amendment substitutes Insurance Council of Australia nominees for ministerial appointments. The second amendment changes the criteria for councillors nominated by the Municipal Association of Victoria. Under clause 3 the government proposes to substitute the following paragraph in section 7(1):

> (e) 2 are to be appointed by the Governor in Council from a panel, submitted by the executive committee of the Municipal Association of Victoria, of the names of not less than 4 persons, each of whom, at the time of submission, is a councillor of a municipal council with a municipal district wholly or partly within the country area of Victoria.

To a lay person that may sound fine. However, the Country Fire Authority Act states in section 3:

> "country area of Victoria" means that part of Victoria which lies outside the metropolitan fire district, but does not include any forest, national park or protected public land …

The way the legislation is written at the moment the reference to any area outside the metropolitan fire district could mean that in areas such as Scoresby in my electorate and in Dandenong to the south you could have two people representing the MAV in Dandenong, Springvale, Scoresby, Boronia or Bayswater. To me that is not rural Victoria and that is the reason the opposition wants to rewrite this amendment. The way it is worded at the moment rural Victoria would be left out.

It is important to note the composition of the CFA board and how it is currently funded. The Victorian fire brigades are funded through the fire services levy imposed on domestic and commercial building and contents insurance policies topped up by direct government contributions. Section 76 of the Country Fire Authority Act 1958 details the respective contributions from insurance companies and the state government to the CFA's annual budget. Insurance companies put in 77.5 per cent of the CFA's budget and the state government puts in 22.5 per cent. The Insurance Council of Australia plays a very important role in the funding of the CFA.

When you look at the Metropolitan Fire and Emergency Services Board you see that the statutory funding formula as per section 37 of the Metropolitan Fire Brigade Act 1958 is that the insurance companies pay six-eighths, or 75 per cent; the state government pays one-eighth, or 12.5 per cent; and local government pays one-eighth, or 12.5 per cent. Since the CFA has a significantly larger proportion of uninsured fire property in comparison to the MFESB, the state government's percentage contribution of 22.5 per cent to the CFA budget is almost double what it gives to the MFESB at 12.5 per cent. To meet the statutory obligations insurance companies impose a fire services levy on policyholders of residential and commercial property insurance.

I turn now to the composition of the CFA board. Its 12 members are appointed by the Governor in Council: one to be the chairman, one to be the deputy chairman, and two to be appointed from a panel of not less than four names submitted by the minister administering the Environment Protection Authority Act 1970. So at the moment the minister appoints four of the 12 people. That has worked well in the past, and we expect it to work well in the future. The rest of the board is made up of two representatives from the Victorian rural fire brigades; two from the Victorian urban fire brigades; two from the Insurance Council of Australia; and two from the Municipal Association of Victoria, one from a rural area and one from an urban area. If the opposition allowed the government to go ahead with what is intended in the bill it would mean that the minister would appoint six people with the chairman having the casting vote and would mean that the minister would have direct control over the CFA board. That is totally unacceptable.

Several years ago the Insurance Council of Australia decided not to nominate representatives to government agencies throughout Victoria because it believed that it would have a conflict of interest, that there was a lack of influence and that there were some legal considerations. Mr Peter Jamvold, the group manager, southern division of the Insurance Council of Australia, wrote to me on 2 October saying that the council believes it has little or no influence on the board and that there are some other legal considerations. It also believes that the level of technical and professional competence and corporate governance responsibilities of nominees were relevant to this decision.

Under section 7(2) of the Country Fire Authority Act 1958, if any eligible group as defined in the act fails to submit a panel of nominees to the minister, currently the Governor in Council can make those appointments. This has meant the insurance industry has not been represented for a number of years at the instigation of the Insurance Council of Australia even though 77.5 per cent of the CFA budget is funded through insurance

policy levies. The Municipal Association of Victoria currently has two representatives appointed, one being a councillor who represents an urban ward and a council within the CFA boundaries, and one from a rural ward.

The main amendment of the bill is to substitute the ICA nominees for ministerial appointments. As provided in new section 7(1)(d) inserted by clause 3, the two CFA appointments previously eligible for nomination by the ICA will now become ministerial nominees.

With the Insurance Council of Australia having no representatives on the CFA board for several years, in effect, the government is proposing amendments that would bring into line what it thinks has been happening anyway. However, during our consultation with stakeholders and interested parties a number of concerns have been raised about the implications of enshrining those two further ministerial nominees in legislation.

I quote from a letter by Peter Davis, the secretary of the Victorian Urban Fire Brigades Association. He says:

> If the government removes the insurance industry from representations on the CFA board, this could strengthen the industry's argument for removal of the current funding arrangements. The association's position is for the continuance of the insurance industry representation on the CFA board. If, at some time in the future, the funding arrangements change and the industry no longer contributes to the operation of the fire services, then the act could be changed — but not before any funding alterations occur. I believe the government is putting the cart before the horse and presenting the insurance industry with a golden opportunity to successfully argue its case to cease contributing to the operation of the fire services.
>
> If the association is not successful with this argument, a fall-back position would be to reduce the size of the CFA board by removing the two insurance council representatives and not replacing them. This would have cost savings to the CFA and result in a smaller board which, I believe, was favoured by the previous government. We would not agree, however, to any suggestion of reduced volunteer representation as a consequence of a reduction in the size of the board. By not replacing the two insurance representatives we would ensure that the government did not appoint any party favourites or other persons who may not have any genuine interest in the organisation as such.

Those are very legitimate concerns.

The Victorian Rural Fire Brigades Association says:

> Further should the Insurance Council of Australia not wish to have representation on the board then the board should be reduced in number by two. Again we would prefer the representation to come from the insurance council as they are a key stakeholder and for them not to be on the board would strengthen their argument not to collect fire levies.

One of the volunteers in East Gippsland raised grave concerns. He believes that if you are going to get rid of the Insurance Council of Australia representatives you do one of two things — and I think both of them are sensible:

> Option 1 — The positions be abolished leaving only 10 CFA board members
>
> Option 2 —

If you are going to keep the board membership at 12 —

> The Victorian Farmers Federation be requested to submit a panel of two names, one to be appointed. The Victorian Employers Chamber of Commerce and Industry be requested to submit a panel of two names, one to be appointed.

I think those ideas are very good and our amendments actually reflect them.

Another volunteer is concerned that the government is trying to stack the CFA board with its union mates or Labor hacks. He goes on to state:

> For example, the current government, like the Cain government — —

The ACTING SPEAKER (Mr Nardella) — Order! The time has arrived for me to interrupt business of the house due to sessional orders.

Sitting continued on motion of Ms DELAHUNTY (Minister for Education).

Mr WELLS (Wantirna) — Thank you, Mr Acting Speaker. As I was saying, the number of concerns coming from the volunteers about this government trying to stack the CFA board with union officials or Labor Party hacks indicates grave concern right across the volunteer movement.

In another letter one CFA captain states:

> For example, the current government, like the Cain government, is indebted to the United Firefighters Union, a body which has much more influence within the Labor Party than its size would indicate. I am sure that the union will put immediate pressure on the minister to provide one, if not two places, for UFU officials.

Another volunteer states:

> The section substituting ministerial appointment for the insurance delegates may give you something to argue about. Perhaps another representative each from the urban and rural associations would be better than Labor's union hacks getting jobs.

The theme is very similar across these volunteers. The last one that I refer to is a concern from a volunteer in the north-east of Victoria, who writes:

> As you are no doubt aware the insurance council members have an enormous role to perform in the collecting of funds for the CFA. Whilst the funding is sourced by the present system I believe it should be an obligation, not an opportunity, for the council to participate in the management of the CFA.
>
> …
>
> Should the insurance council's wish be allowed, then I have genuine concern with increasing the influence of the minister, irrespective of the government's political persuasion. There are other organisations in the country area of Victoria which might well provide a non-political representation of Victorian communities …

This person suggested the Small Business Council and the Victorian Farmers Federation.

The Liberal opposition shares these concerns that the government is trying to bring forward ministerial nominees, and the government nominees will have the majority on the board with the chairman's casting vote at the expense of the volunteer associations and the MAV. With six ministerial or government appointees in total — the chairman, the deputy chairman, two DNRE representatives and the proposed two additional non-ICA ministerial appointments — the chairman's casting vote could implement government policies or directives. That has never happened in the entire history of the CFA board. The removal of the insurance council's right to nominate is a precursor for the government changing the funding sources of the CFA. I am not sure whether the government is working towards a rate-based levy for the CFA or not, but it is something we want to explore.

Many stakeholders believe quite rightly that if the insurance industries are the major beneficiaries of any firefighting service, you would therefore expect them to be the largest contributor to any funding arrangement. Insurance companies have a vested interest in ensuring that Victoria has the very best firefighting service because if we do not, it means extra costs for them somewhere along the line. I am of the view that the insurance council should be very much part of and be involved in the CFA and not try to duck and weave away from some of its responsibilities.

At the moment there is much discussion about the fire services levy in country Victoria. There has been considerable discussion — and anger — throughout rural and regional Victoria over the last few years because rural people pay a higher fire levy as a percentage on their insurance premiums compared to their city and urban counterparts. Not many honourable members in the chamber who are from the city would realise that is the case.

Rural Victorians are currently paying a 25 per cent fire services levy on house and contents insurance and 58 per cent on commercial property and farms. This compares to a 17 per cent fire services levy on house and contents insurance and a 41 per cent commercial property rate in Melbourne. There is a vast difference. Therefore, on percentage terms country Victorians pay a 47 per cent higher fire services levy on residential insurance and a 41 per cent higher fire services levy on commercial properties.

I read with interest an article in the *Weekly Times* written by Peter Hunt. It says:

> Country businesses are bearing an unfair burden of high fire insurance levies and taxes. While farmers and country businesses pay a 58 per cent fire services levy on commercial property, their business colleagues in Melbourne pay 41 per cent.
>
> And the situation is even worse for domestic property, with country householders paying a 25 per cent fire services levy on their house and contents insurance, while Melburnians pay 17 per cent in Melbourne.
>
> 'A tax on a tax on a tax' is how Victorian Farmers Federation president Peter Walsh described the burden.

As the honourable member for Brighton has mentioned on numerous occasions, for each $100 of insurance premium farmers pay to their insurers they must also pay a fire services levy of $58, a goods and services tax of $15.80, and then on top of all that they are slugged with a $17.38 stamp duty on the combined amount, bringing the total including the original $100 insurance policy to $191.18.

The *Weekly Times* editorial says the same sorts of things. When you live in country Victoria you are paying a higher fire services levy, then you are hit with the GST and stamp duty, and you are paying almost twice the cost of the original insurance levy.

An article in the *Herald Sun* of 27 February states under the headline 'State fire levy a burning issue':

> Insurance taxes in Victoria are Australia's highest and most in need of reform, the Insurance Council of Australia claims.
>
> Topping the list is the fire services levy, which the ICA said unfairly targeted only those who insured themselves, while all property owners enjoyed the benefits.

In other words, some are paying insurance premium fire levies, which have contributed to the CFA budget, while others who do not insure do not contribute anything.

It is interesting to note that a rate-based fire services levy is in place in South Australia and Queensland. The opposition is not sure about how successful that levy

has been, because it raises a number of other issues about who should pay the levy. Should it be the person who pays the rent; should it be the person who owns the property; should landlords pay entirely for the fire services levy; and what about the elderly who are asset rich but may be income poor? The opposition will be watching very carefully what the government does in regard to the fire services levy and whether it will move from the current levy based on insurance premiums to a rate-based levy.

The amendments proposed by the opposition will overcome the government's attempts, which I mentioned earlier, to stack the Country Fire Authority board. We are proposing to replace section 7(1)(d) of the Country Fire Authority Act 1958 with the following subsections:

> (d) one is to be selected by the Governor in Council from a panel of not less than two names submitted by the Victorian Farmers Federation;
>
> (da) one is to be selected by the Governor in Council from a panel of not less than two names submitted by the Victorian Employers Chamber of Commerce and Industry;

If the government wants to accept this very simple and straightforward amendment the minister could appoint only 4 out of the 12 members and there would be representation from the Victorian Employers Chamber of Commerce and Industry (VECCI) and the Victorian Farmers Federation (VFF). I believe that would give very good balance and expertise to one of the best volunteer firefighting organisations in the world. If the government does not accept these amendments it will be very clear that it is hell-bent on stacking the CFA board and making sure that it sings the same tune as the minister. I cannot understand why the minister would feel so insecure as to need to stack this board.

It is worth making it very clear that the minister appoints the two members from the Department of Natural Resources and Environment, he appoints the deputy chairman, he appoints the chairman and under this bill he would make two ministerial appointments with no regard to expertise or experience, and they would be union officials or Labor Party hacks. If the Insurance Council of Australia no longer wishes to nominate representatives to the CFA board the opposition believes that other key stakeholders should be provided the opportunity to nominate. Both VECCI and the VFF have substantial interests in insurable properties and contribute a significant proportion of the total funding received through the imposition of fire services levies so they have a vested interest in being part of this board if the Insurance Council of Australia no longer wants to be part of it.

The opposition is also moving an amendment to clean up the mess the government has caused by providing in the bill for changes to representation on the board by the Municipal Association of Victoria. As I mentioned, the opposition could not possibly allow that part of clause 3 to go through, because what it is saying very clearly is that if you are a member of a council outside the metropolitan fire district then you are eligible to go on the CFA board. According to the definition the country area is anything outside the metropolitan fire district, which means half of urban Melbourne. The situation could arise whereby the board would have representatives from Springvale, Dandenong, Scoresby, Bayswater and Boronia, and rural Victoria would miss out completely.

The opposition has approached the government on this issue, because if the government were to reword that clause opposition members would be happy to accept it. However, I notice that in the government amendments circulated it wants to omit clause 3.

The opposition's second amendment reads in part as follows:

> Clause 3, lines 8 to 16, omit all words and expressions on these lines and insert —
>
> (e) one is to be appointed by the Governor in Council from a panel, submitted by the executive committee of the Municipal Association of Victoria, of the names of two persons, each of whom, at the time of submission, is a councillor of a municipal council within a municipal district that is —
>
> (i) wholly or partly within the country area of Victoria; and
>
> (ii) within an 80 kilometre radius of the General Post Office…

That makes sense. The board would have a genuine urban representative. The other part of the amendment is to make sure we have a rural representative by providing that the person is a member of a municipal council outside an 80-kilometre radius of the GPO in Melbourne.

The amendments are straightforward and the opposition believes they make a lot of sense. The government should do the right thing and accept them.

It was interesting to note that the Victorian Urban Fire Brigades Association also believes there is a flaw in this part of the legislation. It said:

> With our two distinct cultures between brigades and volunteers i.e. 'urban' and 'rural' it is essential that the municipalities continue to have representation from an urban environment and a rural environment. There can be a vastly different outlook from an urban volunteer as compared to a rural volunteer and issues which may impact or cause concern to a rural volunteer (for example) may not cause the same concern or have the same impact on an urban volunteer. Of course, the opposite also applies. The association considers the act should reflect that one representative should be from a rural council and the other representative from an urban council. This should ensure that 'urban' and 'rural' issues are fully appreciated when being discussed by the board.

That is commonsense, and I am sure the association would be very supportive of the proposals and amendments that have been put forward by the opposition.

The Victorian Rural Fire Brigades Association has very similar views:

> Our preference would be that the membership of the authority remain the same. However, if this is not possible we would still like one of the representatives of the MAV to be from a rural area.

Our amendment addresses that.

There are also other parts of the bill that we strongly support. Other amendments allow, firstly, for prescribed devices as defined by regulation to be used during fire danger periods — and to that effect clause 5 inserts proposed paragraph (ba) in section 39 of the Country Fire Authority Act 1958. It is our understanding that this change has been proposed in consultation with the Victorian Farmers Federation to allow for the use of gas-fired scatter guns during days of fire danger, though not on days of total fire bans.

An honourable member interjected.

Mr WELLS — In East Gippsland we always called them scatter guns, but evidently those who have been to private schools believe they are called scare guns. I am not sure which term is right, but those of us who come from East Gippsland call them scatter guns. The opposition supports the legitimate use and regulation of such devices by the farming community, and the proposed amendment is certainly not opposed.

The second part clarifies the legality of the declaration of a total fire ban by allowing a certified copy of the certificate of declaration signed by the CFA's chief executive officer to be sufficient evidence for any court proceedings over an alleged offence. That makes it so much more practical than the current situation, which is that if you are caught lighting a fire on a total fire ban day you go to court. The defence lawyer will then claim that the court needs to see the original CFA certificate, which is totally unrealistic. A photocopy will now be enough, and the amendment is supported by the opposition. The third point is that municipal councils must approve, maintain and action their municipal fire prevention plans. It is a fat lot of good having a fire prevention plan if it is not acted on or audited.

Clause 7(1) clarifies that municipal councils only have to prepare a municipal fire prevention plan for that part of the council's defined area for which it has direct fire protection responsibility — that is, not land that is the responsibility of the Department of Natural Resources and Environment. Clause 7(2) expressly states what detail must be contained in the municipal fire prevention plan without reference to regulations. Proposed section 55A(3), which is inserted by clause 7(3), says that a municipal council will be obligated to promptly approve by resolution a municipal fire prevention plan after it has been prepared, amended and revoked. Under proposed section 55A(4) municipal councils will be obligated to promptly put into effect a municipal fire prevention plan.

Under clause 8, which inserts proposed new section 55B(2), a municipal fire prevention plan audit must assess the effectiveness of any action taken by the council to implement the plans. The opposition believes that any steps to improve fire prevention measures are welcome in ensuring that municipal fire prevention plans remain relevant and actioned if reported.

The bill clarifies the entitlements of CFA volunteers, including those who have not formally joined and trainees, to compensation for personal injury or damage to or loss of personal property. It adds a definition of 'member' to that of the current wording of 'volunteer officer' to ensure that all volunteers are eligible for compensation. The definition of 'member' includes persons who have applied to a brigade for membership or who are performing the duties of a member of that brigade although not formally enrolled.

Whenever I travel across country Victoria one of the main points raised with me by CFA volunteers is whether they will be covered if they take their tankers onto a fire ground and the wind turns and the tankers are damaged. The question of who picks up the tab is a grey area within the Country Fire Authority. The CFA chief executive officer is working hard to assure volunteers that they will be fully covered if they take onto a fire ground authorised and accredited tankers and the like. The experience of the Linton fires and other incidents where there have been injuries, death or destruction of personal property has brought the issue of appropriate and adequate compensation to the fore.

The amendments appear to improve the effectiveness of the compensation provisions of the Country Fire Authority Act by allowing for current non-members, including those who have not been formally accepted as members, and trainees to receive compensation. The opposition supports that strongly.

The final point is that clause 11 provides the power to make regulations by inserting new section 110(1)(ya) relating to the use and operation of prescribed devices as defined in new section 39. That gets back to the scatter guns. While the opposition does not oppose the bill, it has circulated those two amendments, which are important to the CFA board and volunteers. We are keen to have the government look at these two amendments. We will be happy to discuss them further, but we believe it is important that they are proceeded with and we will be keen to push these through in the upper house.

On that point, the Liberal opposition does not oppose the bill, but it will propose two amendments.

Mr KILGOUR (Shepparton) — I rise to speak on the Country Fire Authority (Miscellaneous Amendments) Bill — or, I might say after the amendments have been circulated, the gutted Country Fire Authority (Miscellaneous Amendments) Bill. As a result of what the minister wants to do, the major issues in the bill have been taken out and we will now be looking at a bill that is quite different from the one which was originally proposed.

The major issue is the membership of the Country Fire Authority, which the National Party had some major concerns about. In the first instance the National Party supported the thrust of the bill, but like the opposition it proposed some amendments. Those amendments are exactly the same as those proposed by the Liberal Party. We will move those amendments, and will continue to pursue them in the upper house. However, we now see that the minister has brought in a major amendment which takes out clause 3. I shall return to the membership of the authority a bit later.

The bill deals with a number of issues which the National Party supports and which need to be supported. One is the use of the prescribed devices during a fire danger period. There is no doubt that gas-fired scatter guns cause some problems by starting fires. They are not technically governed by restrictions, so this bill provides an amendment to the legislation to allow for the making of regulations to provide for safer use of these appliances at a time when the risk is greatest.

Another issue relates to municipal fire prevention plans. Of course the Municipal Association of Victoria has been involved in these plans for many years. Every municipal council has responsibility for bringing forward a fire prevention plan to show the Country Fire Authority how it would deal with fire prevention in the areas under its control. The CFA makes it reasonably easy for the councils because it has already prepared very comprehensive and appropriate guidelines. I think councils will understand those guidelines pretty well.

Provision will be made for municipal fire prevention plans to be prepared in accordance with those guidelines. Basically what the bill is saying is that you cannot prepare a municipal fire prevention plan that does not agree with the CFA's guidelines. That is not a problem. We must all be singing out of the one hymn book, particularly when we are looking at fire prevention in country Victoria.

The bill clarifies the existing responsibilities of councils in relation to land for which they have fire protection responsibilities. It also proposes to specifically exclude land which comes under the responsibility of the Department of Natural Resources and Environment. I think we can all agree that that is a fair outcome. You cannot expect the municipal council to be in control of a fire prevention plan when it is not in control of firefighting on that particular land.

In my own electorate there are areas along the Goulburn and Broken rivers where the Department of Natural Resources and Environment officers come in. They are responsible for putting out fires, although they are normally second on the scene. There is no doubt that the Shepparton fire brigade is first on the scene. Both the Shepparton and Mooroopna fire brigades are happy to act instantly: when the fire siren goes they do not look to see which land it is on and then worry about it later; they go and try to suppress the fire. And when the Department of Natural Resources and Environment truck comes its officers can do the mopping up et cetera, but in many instances it is the local fire brigade that does the putting out of the fire.

I return now to the main issue at hand in this bill, to which the National Party as well as the opposition have proposed amendments — the constitution of the Country Fire Authority. What do we see? The minister has absolutely wimped out. He wanted to take the places of the two representatives that were to come from the Insurance Council of Australia and appoint his own people to the board.

We have heard in recent days what happens with the appointment of mates in the Labor Party. We have

heard in recent days of the Jim Reeves affair. We have heard all about it in question time. We have heard that the Premier has had to admit that it was a job for a mate in the Urban and Regional Land Corporation. This is exactly the sort of thing we are concerned about happening in the Country Fire Authority. Looking at the Jim Reeves affair, as an old disc jockey I remember that I used to play the songs of that great country singer, Jim Reeves, on the radio. What was the best song that Jim Reeves ever sang? 'He'll have to go'. And this Jim Reeves should go from the position he is in, because he is not the best man for the job. This is the very issue we were talking about.

Mr Wynne — On a point of order, Mr Acting Speaker, the honourable member for Shepparton has been ranging far and wide during the start of his contribution to the debate on this rather important bill. I ask you to direct him back to the bill itself.

Ms Asher — That's useful.

Mr Wynne — About as useful as talking about stuff that is way off the bill!

Mr Wells — Mr Acting Speaker, I ask you to rule out of order the point of order just raised by the honourable member for Richmond. This bill is clearly about board stacking, and the honourable member for Shepparton was giving examples of what has happened in recent weeks with the Labor Party in government.

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member for Wantirna just lost his point of order. I do not uphold the point of order because the point of order raised by the honourable member for Richmond had nothing to do with the point the honourable member for Wantirna has just raised.

I have allowed the honourable member for Shepparton a bit of leeway at the beginning of his speech. I am sure he will come back to addressing the bill.

Mr KILGOUR — Thank you for your guidance, Mr Acting Speaker. I just want to say one thing to the honourable member for Richmond, who is a little bit tender about this issue. This is the thing that has really bitten the Labor Party this week — it has been found out about the jobs-for-the-boys issue.

This is the very issue we are talking about. We proposed these amendments weeks and weeks ago, and the minister has not even been game to bring the blooming bill into the house! The bill has sat there, and the minister has not been game to bring it in. We were able to simply say to the minister, 'Fair go for the 60 volunteers'. We do not want the government to get the opportunity to appoint its union mates. The Labor Party does it all the time. It has somebody from the union movement sitting on these boards — it did it on the Victorian Dairy Industry Authority and bodies like that. So we wanted to make sure that the volunteers did not see the very people that they have concerns about sitting on the board of the Country Fire Authority. Don't take it from me, take it from the president of the Shepparton fire brigade, who said in his annual report:

> … I felt it was my duty to, in the strongest way, say how disappointed and angry [I am] that the union would see fit to use the volunteers in a dispute with the CFA. It would seem that the reason the firefighters and volunteers exist in the community has been lost in an effort to extract wages and conditions from the CFA.
>
> I can only hope commonsense will prevail and this action does not alter the good working and social relationship between the professional firefighters and volunteers that has existed for decades.

He is saying, 'We have had enough of this problem with the union', yet if the minister puts the unionists on the board they will be the very people making the decisions about the brigade's future. We were fair enough in saying that if we are not going to have representatives from the Insurance Council of Australia we should have people on the board who have the major use of fire brigade services. Who are they in country Victoria? Who are the major users of those services? They are the farmers. The Victorian Farmers Federation is quite happy to provide somebody to sit on the board who has an understanding of firefighting in the country.

I went over to the Wimmera in the western part of Victoria to have a look at the results of the fires that had occurred in the area around Stawell. In that area the Department of Natural Resources and Environment is saying, for instance, 'You cannot put fire breaks alongside roads because there is grass growing there'. And why is it that crops worth millions of dollars get burnt? Because the fires jump the road because the grass is on the side of the road. So we have all these sorts of stupid things happening, and therefore we need people on the CFA board who understand how the authority needs to operate.

I think it is reasonable to say that a member of the Victorian Farmers Federation should be on the board of the authority. There should also be someone from the Victorian Employers Chamber of Commerce and Industry representing business. So many business people receive fire services, so it is only fair to ask that representatives of VECCI and the Victorian Farmers Federation should be on the board of the CFA.

What has the minister done? He has wimped out. He has pulled clause 3 from the bill, which made provision for the replacement of that membership. He is pretty good at that sort of thing. So what we have now is a bill that has been wrecked, a bill that will not make provision for people on the board who have a vital interest in the board and the way firefighting services will be provided in country Victoria. It is an absolute scam, and the minister should hang his head in shame.

The National Party would have been very happy to talk to the minister if he had somebody else in mind that we could see would be able to represent the relevant interests. I am not just talking about what this government might do or whom it might appoint; I am talking about future governments that will not see the appointment of mates but will appoint people from organisations that have a vital interest in fire services in Victoria.

The other issue is in regard to Municipal Association of Victoria representatives. Clause 3 substitutes proposed new paragraph (e) in section 7(1) of the Country Fire Authority Act, which states:

> … 2 are to be appointed by the Governor in Council from a panel, submitted by the executive committee of the Municipal Association of Victoria, of the names of not less than 4 persons, each of whom, at the time of submission, is a councillor of a municipal council with a municipal district wholly or partly within the country area of Victoria.

We believe that for good reason there should be an assurance that we will have representatives from a rural base and a country area and representatives from an urban type of area. When the CFA was originally set up many places such as Springvale, Dandenong and Mornington were really country areas but are now more metropolitan types of areas. The National Party believes we should see representation from someone within an area of 80 kilometres from Melbourne representing a council in a CFA area and somebody from outside 80 kilometres from Melbourne. I think it is reasonable to ask for that too, but the minister could not even bring himself to do that.

We want to know what is behind this. We know what is behind it now, because we have seen the jobs for the mates. The minister wants to put his own people into those positions. He wants to put union people into the positions. He has been caught short and will not even support the amendments that the opposition and the National Party want to make to the bill. Shame on the minister for bringing into this house a bill that will only go around the edges of what needs to be done. It will not go to the crux of finding the right people to be on the board.

I fully support the representatives of the urban association and the rural associations that do a magnificent job and give so freely of their time to make sure that the CFA continues to be the greatest firefighting force in the world. What we have in Victoria is the envy of the rest of Australia and the rest of the world — a great CFA. However, the minister will not help it in the future. He will help to wreck the CFA by not coming clean and by not agreeing to something that was very reasonable as was put forward by the opposition.

I support the amendments proposed by the Liberal Party and the National Party and condemn the minister for proposing to withdraw clause 3.

Mr WYNNE (Richmond) — I acknowledge the contributions of the honourable members for Wantirna and Shepparton, but I fundamentally disagree with much of what was said by both members, who sought to suggest that there is some conspiracy here about the appointment of people to the authority. In that respect all sorts of wild allegations have been made about the alleged motives of the minister. This is a quite extraordinary situation. The contributions really are not worthy of the shadow Minister for Police and Emergency Services or the honourable member for Shepparton on behalf of the National Party.

The original bill proposed to remove the current requirement of the Insurance Council of Australia to provide nominations for two positions on the board. The change was proposed as a direct response, as the honourable member for Wantirna knows, to the ICA's publicly stated policy position of not participating on the board in that context. To suggest that there is some conspiracy by the government in relation to that provision is just preposterous.

The bill would have replaced the ICA nominations with a power of direct nomination by the Minister for Police and Emergency Services. Ministers have already exercised that power under default provisions in section 7(2) of the current act since the ICA stopped making its nominations when the current opposition was in government. There is a decent dose of hypocrisy in the contributions from the other side of the house in relation to this. The system has worked well and has generated no significant complaint. The proposed change would simply have clarified what is already established practice.

The bill also sought to simplify board nomination procedures by removing the requirements for the Municipal Association of Victoria (MAV) to distinguish between rural and urban wards when

making nominations for two positions on the Country Fire Authority board. There is ambiguity on the urban fringe between what is metropolitan and what is rural. The proposed change was a direct response to the MAV's concerns that the current rural and urban distinction was difficult to interpret in practice. In both these circumstances the government sought to respond to direct requests — one from the ICA and the second from the MAV — seeking to clarify the situation. To come in here and seek to suggest that there is some conspiracy and say that this is about jobs for Labor mates is absolute nonsense.

Honourable members interjecting.

Mr WYNNE — Mr Acting Speaker, I am under significant duress here.

Honourable members interjecting.

Mr WYNNE — In its proposed amendments the government seeks to — —

The ACTING SPEAKER (Mr Seitz) — Order! There is too much audible conversation. The honourable member for Richmond is seeking the Chair's assistance.

Mr WYNNE — An amendment proposed by the government deletes clause 3, which goes to the question of the representation on the board. In discussions with the minister prior to the commencement of this bill he indicated that he is happy to have discussions with the Liberal Party shadow minister and indeed the National Party about appropriate representations on the board.

There are other important matters of a machinery nature which need to be dealt with to ensure that we have adequate fire coverage during the forthcoming summer season. As honourable members know, the CFA is an essential community resource, and its operations depend on an integrated team of volunteers and career staff. We all know the wonderful work done by the CFA when it responds to a wide range of emergency situations, including wildfires, structural fires, road and works accidents, cleaning up chemical spillages, hazardous incidents and other dangers facing the community. Country Victorians are all aware of the amazing courage and determination of those dedicated members of our community.

The Bracks government is committed to supporting this magnificent community service organisation. The bill contains several miscellaneous and machinery amendments to simplify and facilitate the operations of the CFA. These changes are in the form of a fairly small number of amendments to the Country Fire Authority Act 1958. The act already provides for the restricted use of some appliances in the country during a fire danger period. Other appliances, such as gas-fired scatter guns, which are gas-powered devices used by vignerons, orchardists and other farmers to deter birds, are not covered.

Clause 5 widens the definition of prescribed devices which are used on fire danger days to include scatter guns. An amendment allows for regulations to be made to provide for the safe usage of these appliances when the risk of fire is heightened. These regulations will be developed in close collaboration with the rural industries affected in order to provide the best and most appropriate means of reducing fire risk. It is anticipated that certain safety measures will have to be taken, such as restricted use in areas which have a minimum cleared area and proximity to a water supply with hoses and pumping facilities. The Victorian Farmers Federation has agreed to work with the CFA to develop these regulations.

The act currently makes it an offence for any person to light a fire or to allow a fire to remain alight on a day of total fire ban. In prosecution proceedings it is necessary to prove that a day of total fire ban has been declared. There have been logistical problems in producing the one original document signed by the chief executive officer to prove it, and the amendment in clause 6 allows for the presentation of a signed certificate as sufficient proof in court that a total fire ban was declared.

The act already requires municipal councils to prepare a fire prevention plan which identifies the risk of treatment strategies for use as a means of ensuring rapid community response to fires and to provide a safer community. The amendment in clause 7 requires each municipal council to formally approve the plan and any amendment to it. This change of requiring the municipal fire prevention plans to be formally approved by councils sends a positive message to local authorities of the importance of such plans. Consultation with the MAV has occurred, and the MAV fully supports the amendment.

Clearly identifying the responsibilities for managing the risks in both natural and developed environments will improve the effective control of the situations. The bill further clarifies the existing responsibilities of councils to prepare a fire prevention plan only for the land for which they have fire protection responsibility. Although the municipal fire prevention plan specifically excludes the land which comes within the area of responsibility of the Department of Natural Resources and Environment — —

Mr McArthur interjected.

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member for Monbulk!

Mr WYNNE — They will be involved in the planning process through their membership of the municipal fire prevention committees. The audit of municipal fire plans is provided for in clause 8. It is to be carried out by the Country Fire Authority every three years. This is aimed at ensuring that there is a preparedness of local communities and a knowledge of their fire prevention and response capacities.

Finally, clause 10 includes an amendment to overcome any possibility that people who are injured in the course of performing their duties as members of the brigade would be precluded from receiving compensation in the same manner as their fellow volunteer members. Importantly, the bill includes a definition for members of a brigade as well as for volunteer officers and members to overcome any of these anomalies.

The aim of the bill is to deal with some machinery matters which are important for the forthcoming fire season, which is fast approaching because summer is literally only a few weeks away.

As I indicated at the start of my contribution, the suggestion led by the honourable member for Wantirna and followed by the honourable member for Shepparton that there is some attempt by the government to manipulate the membership of the Country Fire Authority board is absolutely erroneous. I have already indicated that through his amendment the minister is going to withdraw the question of the membership of the board. The government is happy to discuss the membership of the board. The government has sought to respond to the concerns of the Insurance Council of Australia and the MAV, particularly those expressed by the MAV in relation to both urban and non-metropolitan representatives.

On that basis and on the advice of my colleagues at the table, I wish the bill a speedy passage. It is important to get the bill through the house. The government seeks the support of the opposition parties in withdrawing their amendments in relation to clause 3 so we can get on with the important machinery matters that are part of the bill and ensure that our community is properly protected against the ravages of fire this summer. I commend the bill to the house.

Debate adjourned on motion of Mr LUPTON (Knox).

Debate adjourned until later this day.

WATER (IRRIGATION FARM DAMS) BILL

Council's amendments

Returned from Council with message relating to amendments.

Ordered to be considered next day.

LIVESTOCK DISEASE CONTROL (AMENDMENT) BILL

Second reading

Debate resumed from 11 October; motion of Mr HAMILTON (Minister for Agriculture).

Mr McARTHUR (Monbulk) — It is a pleasure to welcome this bill into the house. I can advise the Minister for Agriculture that the Liberal Party certainly supports the passage of this legislation. I am sure the minister is aware of that, because I wrote to him last week saying, 'Please don't let this lie over until next year, because it's important for the industry that the legislation be passed through this place before Christmas'.

Mr Hamilton interjected.

Mr McARTHUR — And the minister, to give him his due, wrote back quickly and said, 'Yes, I understand how important it is'.

Ms Asher — He wrote back quickly? That's unusual.

Mr McARTHUR — He did write back quickly, unlike his colleague in that department. The minister was speedy with his correspondence, saying that the government understood the importance of this legislation and would not delay its passage. That was good, because a rumour was floating around — I think it generated from the Premier's department — that the bill was going to lie over and would not be debated until next year. I am pleased to see that the minister stepped into the breach and rectified that problem, and as a result we are now debating the bill.

It is a sensible piece of legislation. The minister is taking another step along the road that we in the Liberal Party started — how long ago?

An honourable member interjected.

Mr McARTHUR — It was maybe three, four or five years ago that we started talking about the national livestock identification system (NLIS) and the

permanent identification of livestock for trace-back purposes. I can remember as a junior member — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Seitz) — Order! I ask for less audible conversation in the house. It makes it difficult for Hansard to record and for members to follow the speech made by the honourable member for Monbulk, which I am sure it is important to correctly record.

Mr McARTHUR — Mr Acting Speaker, the Hansard staff do an extraordinarily good job of recording my speeches, so I am confident in their capacity tonight.

As I said, I can remember as a junior member of the agriculture committee some years back discussing with the chief veterinary officer the need for a permanent identification system for cattle which would give a discrete identifying number to the beast in question and identify the property of origin for trace-back purposes. It has taken some time for the technology to catch up with the intent and the vision, but nevertheless we finally have it.

The issue was never about whether or not we should do this. It was always about how soon industry would come up with a tag which met the purpose of permanently identifying cattle, gave the beast a discrete identification number, identified the property of origin, was permanent, had a very low loss factor, was easily readable, preferably by electronic means, and was largely indestructible and tamper proof.

It has taken a few years, but there is now one on the market, and I am sure the minister has seen it. He probably has a couple in his pocket, if the truth be known. I could suggest to the minister that perhaps using NLIS tags in Labor Party preselections could avoid some rorting. You would actually know whether or not the person voting for preselection was in the required branch or union.

Mr Steggall — They could use the rumen bolus and not the tag.

Mr McARTHUR — Perhaps the rumen bolus might be a better method. Chopper Read could get to the ears, Minister, but the rumen bolus would be a lot harder to remove. Enough of the frivolity!

This bill brings in a permanent identification process for cattle. It is about a staged implementation, and the method the department has devised requires that all cattle be permanently identified from the proclamation of the bill. It then gives the minister the power to exempt certain classes of animals or stock from that requirement. The minister intends to do this, as I understand, in order to provide for the phasing-in process. The aim is to have all cattle born after 1 January next year permanently identified with these new tags or with the rumen bolus.

For the benefit of people who do not know how this works, I point out that the tag and the bolus contain an electronic identifier which has a discrete number identifying both the beast and the property of origin and which is capable of being read by an electronic scanner similar to a supermarket scanner. As I understand it, the handheld scanner is worth about $800, but an up-market model that is permanently fixed to races or cattle-handling equipment in the saleyards or the stockyards will cost about $10 000. Saleyards will obviously be spending a lot more money than the average farmer.

Substantial benefits from the bill fall into four basic areas. The principal benefits to the industry and the country are in the form of disease control and trace-back mechanisms. We need to be able to identify all of our cattle, each individual beast, and tell where the cow came from in the event of an exotic disease outbreak. All Victorians, no matter how remotely connected to farming they are, will be well aware of the recent outbreak of foot-and-mouth disease in Britain and the problems that occurred because of the rapid spread of an exotic disease due to animals being transported around Britain and into Europe.

The trace-back system, while effective in Britain, was not used rapidly enough to intercept some of those movements. As a result, thousands of cases of foot-and-mouth disease occurred throughout Britain, and there were many in Europe. That has caused enormous loss and a lot of heartache in the community. Millions of stock will have been slaughtered by the time the matter is finally resolved, Britain's economy will have suffered a massive setback and Britain's farmers will suffer for years as a result.

Australia has not until now had the capacity to provide individual animal trace-back or property-of-origin identification for cattle. We have had a tail-tag system, an ad hoc system, where the farmer puts the tail-tag on the cattle when they are consigned to market. Often the tail-tags fall off, and truck drivers carry rolls of tail tags in their trucks. Stock and station agents have rolls of tail-tags in the boots of their cars — not many, of course, but the odd one. It is a mechanism that has worked well enough, but it certainly does not meet the needs of an outbreak of bovine spongiform

encephalopathy or foot-and-mouth disease. This system is far better and more secure, and it will offer a far better capacity to deal with an exotic disease should one occur — God forbid.

The second area of benefit is in trace-back for chemical residues or contamination. The initial impetus for this move came several years ago after contamination of a number of cattle on a New South Wales feedlot that had been feeding cotton trash to the stock. The cotton trash had chemical residues that contaminated the beef, which was then unfit for sale to a number of our export markets, including the United States of America and Japan. As a result large shipments were rejected and the export industry suffered a massive loss in the region of $100 million.

That was the impetus for this national livestock identification system which will allow a much better trace-back system. When it is fully implemented, not only will we know where the cow or the steer was born but we will also know every property it has visited and stayed at during its lifetime. We will know every saleyard it has been through during its lifetime and have a full picture of where that beast has gone. We will so be able to trace it back to a source of contamination should a contamination occur — again a very valuable system for us.

The third area of benefit is the property management area. While the general metropolitan view of farmers might be that they still have straw or grass between their teeth, speak in a slow drawl and really do not know what is going on in the world, that is far from the truth. Most farmers are now very effective and up-to-date business managers. Many farms have a better business management system than a lot of small businesses in the city. Many farms are computerised and work actively on the Internet, and many have very comprehensive and detailed livestock records. This identification system will allow any farmer to keep much more comprehensive, detailed and accurate records of the performance of every individual beast on the property and allow progeny testing to a far greater extent. Not only will farmers know the details of a particular calf, but they will know which cow it came from, and on many properties which bull it was sired by, so there will be a far better method of improving the performance of the property. This is particularly the case with dairy farms.

The system will provide an up-to-date dairy farmer with the capacity to electronically register the performance of the herd far more effectively than is currently the case. When that is combined with some of the advantages of equipment like the Ellinbank milk meter, the capacity of dairy farmers to improve their performance management and monitoring will be greatly enhanced. That is the third significant area of benefit this bill provides.

The fourth area is in security. As cattle prices go up cattle can become a more attractive article to lift. We have read a few stories about cattle theft in the metropolitan media in the last little while. Rustling a few of them call it, but they have obviously watched too many American movies. It is called cattle duffing in Australia, and it has become quite popular in recent times. When a beast is worth somewhere between $800 and $1200 in meat value, when you can fit $10 000 to $15 000 worth on the back of a small truck and when an accomplished operator can unload a temporary ramp and a temporary set of yards in the corner of a paddock and steal that $10 000 or $15 000 worth of stock in a couple of hours work and no-one is the wiser for some time, you can see why there is more cattle duffing going on. These permanent identification tags will provide much greater security for properties and will allow trace back should those cattle ever appear in an abattoir.

As I said earlier on, this bill has a phase-in process. The first date for phase-in is 1 January next year, when all newly born cattle will have to have the permanent ID tag. The second is 1 January 2003, when abattoirs and knackeries will have to have the capacity to read the tag. The third is 1 January 2005, when the abattoirs will have to report on the data they record when stock comes through their works. That will provide a valuable management tool as well as significant trace back for the industry.

The rumour mill told me that this bill was not going through because of the delay in the Auction Sales (Repeal) Bill. I see that that impasse has now been resolved with the Stock and Station Agents Association both here and in New South Wales, but I thought the reason was spurious because the only significant link between this bill — I suppose there were two links — and the Auction Sales Act was in clause 16 of this bill, which inserts a new section 96B in the Livestock Disease Control Act. That is copied from a provision of the Auction Sales Act to the effect that a stock and station agent — an agent selling livestock — has to satisfy himself or herself of the bona fides of a person who offers stock for auction at a sale. They have to know the person and know that they own livestock or they have to check on the bona fides.

The provision was intended to come into effect after the Auction Sales Act was repealed, and I understand the government was unwilling to proceed with this one

until the act was repealed. The simple solution was to deal with this bill and not proclaim clause 16 until after the Auction Sales Act was repealed, but apparently that did not occur to the government until very recently. I am glad to see that it has come to its senses and is dealing with this now.

The second area of similarity is in this issue of cattle. There is a definition of cattle, and it is worth noting for the record because the Auction Sales Act will be repealed this week. The definition of 'cattle' in the Livestock Disease Control Act states:

> … any bull, cow, ox, steer, heifer, calf or buffalo …

The definition of 'cattle' in the Auction Sales Act is wider and states:

> … means horses mares fillies foals geldings colts bulls bullocks cows heifers steers calves ewes wethers rams lambs and swine …

It is intriguing that two agricultural acts have different definitions of 'cattle'. That distinction will last for only a couple of days, because one act is about to be repealed and the other will continue. That novel situation, which was created in 1958 and lasted for 40-odd years, is about to bite the dust, and that is a good thing.

This sensible legislation deserves the support of all honourable members. It continues the good work that was started some years ago. I am pleased to see that technology has caught up with the desire of industry and Parliament to have a permanent identification system for cattle. I hope the cost of tags is kept at $2.50 per tag. That in itself will be a significant impost on some farmers. While vealers and young steers are bringing $800 a head, $2.50 per ear tag is probably not too much. However, I have sold vealers for $27 a head by the truckload, and the price might fall to that low level again — you never know with agriculture. Some $2.50 out of a $800-a-head sale price is not a hell of a lot to worry about, but $2.50 out of a $30-a-head sale price is a substantial percentage of your annual income.

I ask the minister if he can do his best to keep the price of the tags to $2.50 — please do not let them blow out! The market might be good at the moment, but anybody who has been involved in agriculture for more than 5 minutes knows that the sunshine in any livestock market does not last for very long, and the low prices seem to linger a hell of a lot longer. Nevertheless it is a good piece of legislation and it deserves the support of all honourable members. I wish the bill a speedy passage.

Mr STEGGALL (Swan Hill) — I rise to support the bill. It has a great deal of significance for Victoria and for Australia, because Victoria is the first state to start on this journey. It will take Victoria about four years to get a full national livestock identification system in place, and we on this side of the house are very pleased to support it.

We started on this journey in 1996 with the food scares and food safety worries. We then saw the devastation of Britain by the bovine spongiform encephalopathy (BSE) outbreak. Recently Britain has again been hit with foot-and-mouth disease outbreaks. We have looked very closely at how the countries that have been affected have handled those issues. If one adds up all the countries of Europe that have been picked up in the BSE scare and looks at how they have handled the issues, one realises that they are issues we have to address. We have to make sure that we give our industry and our producers the opportunity to tackle those issues if and when we get hit with them.

The legislation will take approximately five years to implement, but by early next year 80 per cent of Victorian abattoirs will be able to scan the tags of cattle processed for slaughter. The system will ultimately be recorded on a comprehensive database so a trace-back process will be in place right through the life of the cattle. Our marketing people will have a greater advantage than they have today, because the trace-back system in food marketing around the world is something that supermarkets, industries and people handling meat products are looking at to satisfy themselves about the safety of the product.

So cattle born after 1 January 2002 will require a national livestock identification system device before they can leave the property. The unit cost for the system will be about $2.50, and I understand that figure will stay as it is until the end of the 2002 financial year. We do not know where it will go at that stage, but I hope the cattle industry will adopt the process — and I am pretty sure it will. I do not believe the price should be a huge problem. Cattle ear tags of this nature are now being used right around the world, so I do not see why their price should go up very much.

The government has said it will make financial assistance available to the industry, mainly through abattoirs, and also to saleyards — and some saleyards already have the devices. That will advance the situation, particularly in municipal saleyards, where the advantages of these devices will flow through a lot earlier. The bill allows for exemptions, although the ultimate goal will be full implementation. When I challenged the exemption concept, the issue of bobby

calves was pointed out to me. I suggest to the minister that bobby calves will probably be the only exemption the system will allow.

By 1 January 2003 all abattoirs and knackeries will have notified details of cattle that are slaughtered, which will give us a great deal of knowledge and a considerable advantage. We have found that when these types of systems come in they virtually act as an addition to a quality assurance program, and the industry lifts. The extra knowledge that the industry gains in managing its operations is of great advantage.

We should be aware of just what this has meant to other countries, and in particular what foot-and-mouth disease has cost and is costing Britain today. As of now about A$6.1 billion has gone into the battle against foot-and-mouth disease in Britain. I believe the BSE cost is probably about the same if not a bit more — that is, around the A$10 billion mark, or UK£3 billion to UK£4 billion.

When something goes wrong in the food chain of an agriculturally intensive industry, then that nation has enormous troubles. If that impost were put on the Australian industry, I wonder how we would handle it financially and how our country areas would survive. Learning whether our government base and our metropolitan industries are strong enough to put in place the funding that other countries have would be a big test for us all.

To give you some idea of what happens to markets when things go wrong, in Japan this year one cow became positive to BSE. What happened? According to a newspaper survey in Tokyo on 13 and 14 October one in four people in Japan stopped eating meat. I am pleased to say that the figures are now going back towards normal, but 60 per cent of the Japanese people have either stopped eating beef or have reduced their beef intake, and 90 per cent of people felt unsafe because of BSE.

We must remember that BSE was right throughout Britain and Europe, but mainly Britain, and in Japan one animal with BSE was identified. If that happened in Australia the impact on our markets and our ability to export and supply these markets would be huge, and that impact would be felt right back to our communities. It is in our interests to ensure that we have that trace-back system in Australia to give confidence to people wishing to buy our product. That way we can give some form of guarantee about the safety and quality of our product.

In Japan at that time only 26 per cent of people had not changed their consumption of beef and 54 per cent had not changed their consumption of processed beef goods, so it was not just the meat that was affected. In brief, immediately after it happened 38 per cent of men but only 15 per cent of women were still eating beef; 35 per cent of men and 34 per cent of women were eating less beef; and 16 per cent of men and 34 per cent of women stopped eating beef.

We must understand that animal diseases in our food chain are very important. Had that happened with an Australian export product our total market would have been stopped instantly. I have some figures which I will not read about the impact of the problem we had with feedlots using cotton trash in New South Wales. It was quite devastating, with $2 million to $3 million of lost income being attributed to the fact that a feedlot was caught feeding cotton trash containing chemical residues.

It is important that as a nation, and a state in our case, we start pushing this issue. This legislation is the first part of the journey for it. It is something that members on this side of the house very much support. A voluntary trace-back system has been used in different places around the world, but it has been proved that when the chips are down voluntary trace-back just does not work in the long haul. We will have some battles. I have had people on the phone today who until this was explained to them were not very happy with the direction the government was heading in, with eventually a mandatory ear-tag process and the national livestock identification system. However, I think as people understand the importance of the scheme to us it will help enormously.

The bill has other benefits. I am pleased to say that the Charlton feedlot, a Coles Myer feedlot in my area — —

Mr Delahunty — It's still in your area, is it?

Mr STEGGALL — It is still in my area. It is using these tags and this system, and at a recent conference of feedlot operators throughout Australia its operators were very pleased to be part of a state that was introducing this system. Feedlot operators around Australia have been demanding that their states start getting this system going. I do not know the timing of the other states. When he responds to this debate in a couple of days time the Minister for Agriculture might tell us if he knows just where the programs in other states are, but Victoria is up there in front.

The other area is the performance management of our beef and dairy herds, not only through feedlots, for

which it has enormous benefits because of very accurate measurement and management processes, but also, as I mentioned, through food safety and the trace-back methods it leads to. As the honourable member for Monbulk mentioned, cattle duffing is back in business. I believe the government will soon have to look at bringing back the police force livestock squad, because the problem is starting to become very serious.

In an adjournment debate about a month ago, the honourable member for Wimmera raised the issue and quoted the figures in New South Wales and Victoria for sheep and cattle. The governments are going to have to reconsider the approach of the livestock squad. This system will help a lot to make sure that we give our industries and, in this case, the police force that opportunity. It would be very difficult for cattle stealers to operate legitimately through any abattoir or knackery with this system in place. There is no doubt that they will find a way around it and a few earless cattle will get through, but a lot of questions will be asked and this legislation will assist in that area as well.

Three key dates have been nominated for mandatory provisions. The first is 1 January 2002 for putting ear tags or devices on cattle born after that date. Before an animal leaves a property, which may not be for some time, it must have an ear tag or a device fitted. Abattoirs will be required to have readers on slaughtered cattle — and a lot of them already have them — by 1 January 2003. The mandatory requirement is that all tracking regulation be in place by 1 January 2005.

By way of example, the minister and I had a bit of a mix-up last week when I asked a question on bovine Johne's disease and he gave me an answer relating to ovine Johne's disease. Never mind! Life goes on. The minister assures me that he will make an announcement next week on bovine Johne's disease, and I am hoping that Victoria will agree to the Wisconsin-type model where properties with similar infection rates or percentages will be able to trade together and we will not have the nonsense we have at the moment.

If that happens — and I hope it does — then this type of ear-tag or livestock identification system will give a lot of confidence for that system to be able to take place. It makes it possible for properties with a 15 per cent or 30 per cent infection rate — or whatever rate it may be — to trade with each other and to have that recorded so that we all get a clear idea and so that no property will have an extra risk factor than it already has. I hope that there will be a better system for ovine Johne's disease as well.

This system will give us and our farming communities some relief if — and it is a big 'if' — the government tackles bovine Johne's disease along the directions which its working group came out with and which the minister said in January that he was going to implement immediately. 'Immediately' means a year. The impossible we can do immediately; miracles take us a little longer!

This implementation promise that was going to be immediate on 17 January — I believe that was the date of the press release — hopefully will take place in January next year so that bovine Johne's disease and the cattle industry, which is mainly dairy but also dairy and beef, will be able to benefit from it.

The bill does a couple of other things. It empowers prosecution of those people who introduce diseased livestock, and those people who knowingly transport diseased livestock. I believe that at the moment only the owners of diseased livestock can be tackled, and not those people who are involved in transporting diseased livestock.

The bill frees up trade where disease risk can be managed, as is the case with bovine Johne's disease. It enhances controls on cattle grazing on sewage farms, which has always been a problem. I remember as a little boy going to Newmarket with my father and seeing all the wonderful cattle that had come off the Werribee sewage farm. They were always a picture; it was fantastic to see those. Now through the national livestock identification system it will be a lot easier for abattoirs and traders to identify those cattle. The bill also provides for the issuing of penalty and infringement notices for some offences.

This legislation will have a lot of implications for Australia generally and for the Victorian food industry in particular. We should remember that Victoria's red meat industry is the state's second-largest food export and constitutes about 20 per cent of its food exports. When people go looking at the increase they will see that when in government we set a target of $12 billion in food exports by 2010, but that when this government got in in 1999 someone cheated by adding 'fibre' to that.

This government has really missed the boat, and our food exports are now slowing down at a rate far greater than the figures are actually showing. Every time the government wishes to do a comparison it uses the term 'food and fibre'. I can assure the house that when I was in government fibre was not included in the $12 billion target. At the time of setting the target in the late 1990s the previous government had really moved the food

industry into a very strong area, and had it continued the growth rate in the industry would have shown an export figure of about $19 billion by 2010. Just so honourable members understand, we cut that back to a realistic $12 billion, which we believed was possible given all the things that could happen over that period. But this government has gone right off the pace and has added 'fibre' to the argument to make it sound better.

The point I am trying to make is that the beef industry, the dairy industry and the grain industry are very big food export items, and they play a very important role for Australia and Victoria. We hope this legislation will assist and encourage our industries to update and remain right at the forefront of food quality and safe food exports.

Mr Hamilton — It is not a bad insurance policy, either.

Mr STEGGALL — Yes, there is the insurance policy that goes with it. It will help the marketers of our products to go out and say to the world, 'We have a trace-back system not just to the farm but virtually right back to the paddock, and we have a method by which we can guarantee, with a fair amount of security, the quality of the product' — which we are marketing on an international basis.

I wish the bill a speedy passage. It deserves the support of all, not only in Victoria but in Australia.

Mr HOWARD (Ballarat East) — I am very pleased to speak on the Livestock Disease Control (Amendment) Bill, not just in my role as a member of Parliament representing a sector of regional Victoria but also because I happen to be a breeder of cattle. I have a herd running around my property at the moment whose paper value I am very pleased with. I can report that it has been a very successful breeding program this year, and I am pleased that all 11 calves are doing well.

This bill clearly aims to control and minimise the chances of disease development across this state. It is in line with the national livestock identification system and shows that Victoria will lead the way for other states in implementing this scheme.

Clearly, as we have heard from earlier speakers, some significant events have taken place in other areas of the world, most notably Britain and other parts of Europe, where foot-and-mouth disease has been of great concern over this last year. Certainly we would hope we can protect this state and the whole of Australia against the same sorts of things happening here. This legislation will help to ensure, through a scheme that will develop over the next five years, that all cattle that are sold and go through either our saleyards, knackeries or slaughterhouses are clearly identified and can be identified at any point along the way to establish where they come from in the state and who the owner of the property is, and so on.

As well as there being clear benefits in preventing disease movement around the state and being able to monitor the movement of stock, as we have heard the Victorian beef industry has significant economic input. We want to ensure that we protect both our domestic markets and our export markets. This system provides a great opportunity for this state to do that.

As we have seen around the country, if there are concerns about contamination — we have heard what took place with cotton trash being fed to stock in New South Wales and Queensland in recent times — we could quarantine Victoria and protect our export markets when it is clear that those sorts of things are not happening in Victoria. There are clearly benefits to cattle producers not just in ensuring that the market stays at the best possible level but also, as we have heard, in preventing theft, because of the cattle identification tags. This will also give cattle owners the means of providing a more effective monitoring system for their management programs and better control over diseases. It is going to improve the exchange of information between people in the cattle industry around the state and help assure the markets.

This legislation, like all legislation brought forward by this government, has been developed after significant consultation with the industry. It comes before us with the full support of all aspects of the cattle industry around the state. It also comes with appropriate financial support from this government both to assist saleyards and abattoirs in the purchase of the equipment that will enable them to read the cattle tags and to enable the cost of the tags per head of cattle to be kept to $2.50, which is at least $1 less than the cost in other states. So there is significant assistance coming from this government in enabling this legislation to be developed effectively.

As well as making significant improvements in cattle tagging, the bill will bring a number of other benefits to Victorians. It will, for example, enhance controls on the production of livestock on sewage farms to protect public health. It will enable the owners of diseased livestock to be required to adequately identify the livestock, and it will enable the prosecution of persons, including the owner or consigner, who introduce cattle to Victoria without following the regulations. As we have heard, this will be a staged development over a five-year period. The minister will be able to put

exemptions in place in special circumstances — for example, in cases of drought and in other circumstances where hardship would clearly be imposed on cattle owners if they had to put the identification tags on their livestock. The government recognises the need to put these safeguards in the legislation.

Overall I am pleased to hear that the opposition parties support this legislation. It is very significant legislation in ensuring that the Victorian beef industry is well protected and that Victoria is safeguarded against the possible outbreaks of diseases that we have been fortunate enough to keep out of this state to date.

I trust that other states will follow with national livestock identification system processes in the very near future. I am pleased to support the legislation.

Debate adjourned on motion of Mr VOGELS (Warrnambool).

Debate adjourned until next day.

Remaining business postponed on motion of Mr HAMILTON (Minister for Agriculture).

ADJOURNMENT

Mr HAMILTON (Minister for Agriculture) — I move:

That the house do now adjourn.

Latrobe Valley: asbestos-related diseases

Mr McINTOSH (Kew) — I refer the Minister for Finance to her recent announcement of a health review for workers of the former State Electricity Commission of Victoria in the Latrobe Valley. That review was the result of much fear and trepidation by a number of workers and community people in relation to asbestos-related diseases, which may have years and years of latency before the onset of any symptoms.

I ask the minister to immediately publish, not by way of media release, the full details, objectives and methodology to be used by such a review. Secondly, I ask the minister to appoint representatives of the local stakeholders to the panel. I am not criticising the eminence of some members of that panel, but many of the stakeholders who have already been publicly active over a number of years have seemingly been completely ignored by the minister. I refer to the agitation by a group such as the Gippsland Asbestos-Related Disease Support, commonly called GARDS. Also, I have heard from a doctor from the Latrobe Valley who says there are other local doctors down there who deal with this issue almost on a daily basis who have been left out.

Thirdly, there have been publications such as a book by a Mr Wragg called *The Asbestos Time Bomb*, and there has also been increasing press focus from such organisations as the ABC and the *Four Corners* program that went to air in February this year. They have said they do not know what the $200 000 will be spent on; they do not know when the panel will start; they do not know when it will finish; and they certainly do not know in any cogent way what the outcomes are likely to be.

The minister must insist on full publication of all details and appoint local representatives to allow the local people in the Latrobe Valley to have some ownership of this review.

Schools: Better Services, Better Outcomes

Mr KILGOUR (Shepparton) — I refer the Minister for Education to an issue that came to my attention yesterday when some school principals visited my office. They are very concerned about a new program that is being brought forward by the department and have asked me to ensure that the minister takes some action to allay their fears about what might happen in these programs. The department has developed a consultation paper entitled 'Better services, better outcomes', and one of its recommendations calls for the reallocation of moneys from some schools that they already receive as part of their student learning needs (SLN) funds. Schools receive these funds on the basis of the socioeconomic make-up of their students and families, and they use the funds for reducing class sizes, implementing social welfare programs and curriculum support programs such as reading recovery, and employing additional staff to support many students with particular needs.

In short, many if not all students in these schools benefit from the SLN funding in one way or another. This funding is formula driven and based on school needs. Currently some 60 per cent of all schools receive SLN index funding, but under the proposals in the Better Services, Better Outcomes project this money will be appropriated from these schools to be used by all schools to fund disability and impairment students.

Given that the schools which currently receive SLN index funding have already made long-term commitments to programs, staff and students, will the minister guarantee that these schools will not receive less direct funding to continue these programs separate from the further initiatives as outlined in the report?

The comments I have had made to me by these schools include the following:

> We already spend all our SLN funds on students. We do not run huge surpluses. We currently employ additional aides to support students who are not funded through DAI. We also employ two part-time literacy aides to support the 10 per cent of children the SLN is supposed to address. We also employ a school nurse who counsels the students and their families as well as employing a social worker for the same reasons.

These schools have grave concerns that because of this new program some of this money will be taken away. According to the principals I have spoken to, a public consultation meeting was held last Thursday but nothing was said about funding. The focus was on better practices and procedure, but no explanation was given about what will happen to the funding, whether the schools will have the funding taken away from them or what they are going to do. The schools want to know how they can pay the staff and implement the programs. I ask the minister to take action to ensure that their fears are allayed.

Police: Clayton

Mr LIM (Clayton) — I seek the assistance of the Minister for Police and Emergency Services in resolving the concerns of traders in the Clayton Road strip shopping area regarding the level of police presence along that section of Clayton Road. I have been contacted by representatives of Clayton Traders, a group which represents local businesses in the Clayton Road shopping centre. The traders expressed deep concern at the lack of street patrols by the police in that shopping precinct.

Criminal activity in that shopping centre is an issue of great concern to local traders and the wider public, with increasing reports coming to my office of crime and drug taking. During the past 12 months there has been a marked increase in a whole range of violent incidents previously unheard of in Clayton. There have been two kidnappings involving the forced withdrawal of money from local automatic teller machines; an increasing incidence of blatant drug dealings; chroming among teenagers; drunkenness; graffiti; and the robbery and murder of a local shop owner. Apparently these unfortunate events in the Clayton shopping centre came about, ironically, as a result of increased police activity in the neighbouring Springvale area.

I understand that the sad legacy of the neglect of the previous government still impacts on the police, as training of new recruits takes some time. Thankfully the current minister is committed to increasing the presence of police in our community by boosting the resources available to the police, and of course police numbers. I understand that the minister is quite rightly limited by the separation of powers between the executive, the judicial arm of the government and the operation and independence of the police. However, the minister can ensure that the gaps in resources resulting from the neglect of the previous government are redressed and raise with police command the concerns of the business community of Clayton.

I therefore entreat the minister to take action to ensure that the concerns of the Clayton traders are addressed accordingly by increased police activity in the Clayton shopping centre.

Alpine parks: grazing licences

Mr PLOWMAN (Benambra) — I refer the attention of the Minister for Environment and Conservation to a matter relating to the Friends of Wongungarra Trust, who wish to have transferred to the trust a grazing licence from the past owner of a property. The Leader of the National Party raised this question in the house in respect of five untransferred licences. The minister responded by saying four of those licences had now been transferred and one was awaiting further information on environmental issues.

The Friends of Wongungarra Trust have been involved for two years with the local Landcare group and catchment management authority. They have been awarded $12 500 under the Natural Heritage Trust, thus indicating their compliance with all conservation and environmental requirements. Mr Andrew Kee, the spokesman for the Friends of Wongungarra Trust, is a member of the Mountain Cattlemen's Association. The minister has kept this matter in abeyance for nearly 12 months. There has been no consultation between the minister and her department and the proposed transferee.

This matter has been going on for too long. I ask the minister to act on it and resolve it. Clearly the Friends of Wongungarra Trust, which consists of 10 families, purchased the freehold land owned by Mr Graeme Spaull. They were issued with a bush grazing licence held by Mr Spaull and sought to transfer the remaining section of the land, which was a grazing licence in the Alpine National Park. On 28 April 2000 Andrew Kee met with the Minister for Agriculture, who said that each transfer was judged on its merits. The minister stated it was Australian Labor Party policy to remove grazing from the Alpine National Park. I find this totally unacceptable. I ask the minister to review that policy, to grant the licence and to resolve the issue.

All About Cars

Mr LEIGHTON (Preston) — I direct a matter to the attention of the Minister for Consumer Affairs in the other place that concerns the experience of a constituent with a Preston motor car trader. I will provide the constituent's details directly to the minister.

The matter concerns All About Cars of 480 High Street, Preston. I request the minister to have her department investigate the actions of that dealer. My constituent purchased a Ford utility from All About Cars on 29 or 30 September 2000. The constituent lodged his side of the paperwork by hand within a couple of days at the Vicroads Greensborough office. However, it appears that the car trader failed to lodge its side of the paperwork until last Friday — that is, more than a year late.

When my constituent did not receive his registration renewal in the mail in April he went to the Vicroads office and paid it over the counter, providing the staff with a photocopy of the paperwork. He then received a letter from Vicroads dated 25 May 2001 saying the transfer was not complete. He took the letter to All About Cars. He saw a woman named Pauline, who took the original of the letter and said it would be attended to, but it was not. He received a second letter from Vicroads dated 20 July suspending the registration of his ute. Again he went to the dealer and saw a woman named Samantha, who said it was in the filing system, that it was an oversight and that it would be attended to.

A couple of months later he phoned Vicroads, which said it was okay. Unfortunately it was not okay, so I will also be writing to the Minister for Transport. My constituent then received a penalty notice dated 4 November for $500.

I spoke to Mr Lou Bougias, the principal of All About Cars. He claims they submitted the paperwork to Vicroads within 14 days. I believe Mr Bougias is lying, given his staff's acknowledging to my constituent that it was an oversight. In my conversation I pointed out to Mr Bougias that he had received a further two letters from Vicroads. Mr Bougias tried telling me they had also been attended to by his staff. I think that is an out-and-out lie. Therefore, I call on the Minister for Consumer Affairs to have her department investigate this matter.

Mr Perton interjected.

Mr LEIGHTON — I can only raise it with one minister. I will be writing to him. If the facts are as my constituent has advised me, I believe All About Cars and Mr Bougias should be prosecuted. My constituent has tried everything. He has phoned and visited Vicroads, and he has gone to the car dealer.

Hannaford Seedmaster

Mr SAVAGE (Mildura) — I raise an issue for the attention of the Minister for Workcover. For some years now I have been aware of and concerned by the unconscionable conduct of Hannaford Seedmaster Services (Australia) Pty Ltd of Regency Park, South Australia. There are a number of franchisees in Victoria with this company. Recently Mildura Worksafe inspector Bob Jones inspected a Hannaford seed-cleaning machine at Swan Hill. He issued a Worksafe occupational health and safety non-compliance notice. Mr Jones has unsuccessfully attempted to meet with Hannafords of South Australia to seek a resolution to the Worksafe safety notice issue. Under the franchise agreements the franchisees cannot alter the seed-cleaning machines. Therefore it is the responsibility of Hannaford Seedmaster.

The action I seek is for the Minister for Workcover to liaise with the Workcover Corporation of South Australia to ensure that Hannaford Seedmaster complies with the occupational health and safety provisions in Victoria.

The Hannaford seed-cleaning machines are inherently unsafe, and Hannafords must be directed to comply with the occupational health and safety requirements. Without a doubt Hannafords is the worst company I have had any dealings with. I would strongly urge any person considering taking up a Hannaford seed-cleaning machine franchise to be extremely cautious. The company frequently issues court proceedings and has driven many honest and committed franchisees to the wall. I am aware of two cases: one in South Australia and one in Western Australia where the franchisees have committed suicide because of the Hannaford way of doing business.

Two specific cases come to mind that I am aware of: Harry and Lorraine Shaddock of Ouyen have been victimised and pressured by Hannafords for 14 years. The company is evil and does not behave in a way that is indicative of integrity and fairness. The Shaddock case stems from a dispute relating to the failure of the Hannaford machine to perform the seed-cleaning task required. Recently, Hannafords again refused to involve itself with the Shaddocks.

Another franchisee, a couple, Lisa and Darren Saunders of Horsham, have contacted the honourable member for Wimmera and me with a similar story. Like many other franchisees they have been subjected to unconscionable

conduct. I ask the minister to assist in liaising with the Workcover authority in South Australia.

Community banks: Sandringham

Mr THOMPSON (Sandringham) — I raise a matter for the attention of the Minister for Transport. I seek his intervention in and approval for a process that will allow Victrack to invoke the exceptional circumstance provisions of the legislation under which it operates and negotiate directly with a Sandringham community group comprising traders and other members of the local community to enable premises on railway land that had been formerly leased to the Commonwealth Bank to be used by the Bank of Bendigo for a community bank being established in the Sandringham shopping precinct.

On 8 September last year the Commonwealth Bank ceased operation at its branch in Station Street, Sandringham. The result of an inquiry to the National Australia Bank, which is the only surviving bank in the area, was that it would be likely to cease trading in that business precinct as well. The local community, trading under the leadership of the president of the traders association, Terry Earle, developed a resolve to establish a community bank in the area to ensure the ongoing viability and prosperity of local business interests and also to provide an effective banking opportunity for the more senior citizens in the Sandringham area. It is notable that the commonwealth statistical survey a number of years ago indicated that Sandringham was the second-oldest electorate in Victoria as measured by the proportion of its constituents over the age of 65. That has important implications for banking, as many of those people are not connected to the Internet.

A number of negotiations have taken place to date but it is imperative at this stage that there be intervention to avert the more cumbersome process of a public leasing option where the premises are offered to the wider community, as this would delay the issue of a prospectus and delay the important establishment of a Bank of Bendigo in the Sandringham shopping centre.

Frankston: central activities district development

Mr NARDELLA (Melton) — I raise a matter for the attention of the Minister for Local Government. The action I seek is for the minister to read and consider an article on page 3 of this week's Frankston Hastings *Independent* newspaper headed 'Key city project figures were co-workers in '80s'. This article shed some new light on the controversy around the Frankston project, in particular the prior business association of Mr Bill Kerr, who was appointed as the council's chief negotiator on the project by the chief executive officer, and the key person putting the bid together for Grocon, Mr Steve Rothel.

Many matters have now been raised about this prior business relationship. Did Mr Kerr advise the probity auditor, the chief executive officer or the council of the conflict of interest? Has Mr Kerr been involved in other projects or business deals with either of the bidders or individuals in the Grocon or Gandel project teams? Have Mr Kerr and Mr Rothel continued to meet socially or, as has been suggested, at the races?

Given that Gandels, the other bidder, has complained that it was repeatedly misled by Mr Kerr, and given further information that at the council briefing Mr Kerr repeatedly referred to Gandels as arrogant and difficult to deal with, does the chief executive officer still have full confidence in him as his personally appointed negotiator?

Why did Mr Kerr not advise the council of the 500-plus shortfall in Grocon's car parking plans or the serious risk associated with the Grocon demand for a full legal indemnity? Why did Mr Kerr not tell Gandel that if it included a new municipal office in its plans it would get the nod, which he is reported to have told Grocon during private negotiations? If Crs Conroy and Priestly were able to see Mr Kerr's bias in his analysis, why were the council's highly paid professional staff on the working party, Peter Fitchet, Steve Dalton, George Modrich and Lidia Orsini, not able to see it? Will they indicate whether they were informed of these connections, and are they still confident of the advice provided by Mr Kerr, given the new information?

What does Mr Kerr's employer, the highly regarded firm Deloittes, think of one of its consultants failing to declare a conflict of interest? Will Deloittes remove itself from the project, or will Mr Kerr do the right thing and immediately step down? What do the other consulting firms involved in the project, including Maddock Lonie and Chisholm and Pricewaterhousecoopers, think about being caught in a scandal by the man who was incorrectly represented by Mr Edwards to the former mayor as helping with the financials, implying he was an accountant while all the time he was a real estate agent?

Were any of the three councillors, Parkin, Wilson and Fuller, who wanted to go into a hasty meeting on the night of the briefing to vote for Grocon, in contact with Mr Kerr during this time — —

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

Forests: woodchipping

Mr PERTON (Doncaster) — I raise a matter for the attention of the Minister for Environment and Conservation. This Labor government came into office with an election promise to better manage our forests and timber resources. Several of its members, including the honourable member for Gisborne, had been critical of the forest management of the Liberal government and were elected on a platform of reducing the level of forest going to woodchip.

However, under Labor Victoria has seen an increase in woodchip and pulpwood production from 1 080 000 cubic metres last year to 1 666 700 cubic metres this year — a 60 per cent increase. That increase is on top of a record 1.09 million tonnes in the first full year of the Bracks Labor government — an increase of 12 per cent on the last year of the Kennett government. This increase in woodchipping is solely within the control of the state government and is accompanied by a bizarre set of excuses made by the Minister for Environment and Conservation.

On 26 June this year, while appearing before the Victorian Parliament's Public Accounts and Estimates Committee, the minister responded to a question asking why there had been such a dramatic increase in woodchip production by saying, 'There has been a downturn in the building industry largely inspired by the GST'. In a speech on 8 November this year the minister again suggested that the GST was the cause for the slump in building activity in this state. The minister's excuse has been shown to be a lie by her ministerial colleague the Minister for Planning, who informed the house on 11 October that building activity in Victoria was up 75 per cent on the same time last year.

When she appeared before the Public Accounts and Estimates Committee the minister even roped in one of the departmental officers, who, speaking on behalf of the minister, justified the increase in woodchipping by suggesting that the weak Australian dollar made woodchip exports more profitable and more attractive. I might add that the poor department officer was one of the 50-odd posse of officers the minister brought to the hearings to help answer questions. If we accept the minister's arguments, it is very clear that she has no real concern for our forest environment. In fact it is quite the opposite — she is happy to sell it for a quick buck.

We all know the real reason our forests are being so badly managed. The minister is a wholly owned subsidiary of the Construction, Forestry, Mining and Energy Union, which is opposed to conservation and has taken over the management of her office. I ask that the minister come into the house, give the real reason and release the documents that demonstrate why the state's forests are being turned into woodchips for export.

Equine diseases

Mr ROBINSON (Mitcham) — The issue I wish to raise this evening is for the attention of the Minister for Racing. It concerns the very serious and long-term absence of a comprehensive management plan in this state across the racing and non-racing industries for the management of equine diseases. It is a very serious issue.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The honourable member for Bennettswood!

Mr ROBINSON — I seek the minister's assistance in developing a comprehensive management plan in this state. I recall that my first awareness of this issue was in the early 1990s, when there were media reports that the horse trainer Peter Gray in the Kilmore area, I think, had a small stable which became infected with a disease that was not identified. To this day I think no-one knows why his horses got sick and died. It was a rather bewildering experience for him.

What was more bewildering was the fact that there was no comprehensive management plan to stop the transmission of infection among the horses. In fact a number of different agencies are dealing with this as best they can. We have seen in more recent years outbreaks of equine disease in Queensland, Hong Kong and South Africa that can do enormous damage to the racing industry.

In the past 12 months I have spoken to both Dr John McCaffrey, the Victoria Racing Club's chief veterinary officer, and Dr Patricia Ellis, an eminent authority in the Department of Agriculture's Attwood facility. Both do excellent work, as do any number of vets across Victoria. However, there is still no comprehensive management plan which would allow people involved in either the department of agriculture or the racing industry to deal, in my opinion adequately, with an outbreak of disease to ensure that disease does not spread through the racing and horse industry in this state as quickly as it might otherwise.

I believe the industry and possibly Tabcorp would support firm action being taken by the government, which historically has been lacking up until this time. I seek the minister's active assistance in dealing with this problem. He is an excellent Minister for Racing, who is doing sensational work on the welfare of jockeys, bookmaker reform and the governance structure in the racing industry. I seek from him some application in this area of developing equine management plans to ensure that the racing industry in this state can continue to go from strength to strength and we can militate against the devastating impacts of equine diseases.

Women: Warrandyte refuge

Mr HONEYWOOD (Warrandyte) — I raise a matter for investigation by the Minister for Planning. I refer to a situation that has arisen regarding 65 Yarra Street, Warrandyte, which was the police house in Warrandyte up until 1996. In a very enlightened move the former Minister for Planning, the Honourable Rob Maclellan, purchased the house from the Minister for Police and Emergency Services as a home for battered women. Since July 1996 it has operated in the local area as a special-purpose home for women who have experienced domestic violence. It also operates a food bank from the same premises and provides an office for Warrandyte Housing Support Services.

Whereas the previous government was willing to provide a home for battered women for a peppercorn rent of $1 per year, this government wants to wash its hands of any responsibility for supporting such a venture. Despite the minister writing to me on 31 May this year, reassuring the community I represent that he would in fact provide an initial six-month extension of the former government's three-year by three-year $1 per year peppercorn rental, the current government is in fact about to dispose of the former police house. In other words it is about to wash its hands of the only facility for battered women in the entire Warrandyte and wider region. And why? Because this government wants to make money out of a former government-owned facility.

I call on the Minister for Planning to provide me with an explanation as to why the previous government was willing to provide a former police building as a home for battered women and to ensure that the Warrandyte housing and support service was able to operate a food bank. I might add that the organisation has provided 289 food parcels around the local area and distributed Christmas hampers and toys for 203 children from the facility. In spite of all that the Bracks Labor government, which is not committed to social welfare or to supporting battered women, is quite happy to dispose of the asset and the rights of battered women in my area in the pursuit of profit by selling the facility.

I call on the Minister for Planning to give the people at the house and me as the local member a good reason why the former government's support for battered women is about to be disposed of by the Bracks Labor government.

The DEPUTY SPEAKER — Order! The honourable member for Bendigo East has 10 seconds.

Ms ALLAN (Bendigo East) — In the time that is left available to me I raise for the Minister for Energy and Resources — —

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

Responses

Mr HAERMEYER (Minister for Police and Emergency Services) — The honourable member for Clayton raised the issue of policing and police patrols, particularly in the Clayton shopping centre in Clayton Road. He referred to a number of robberies and thefts that have occurred there, along with a number of other serious incidents. The police presence in Clayton, as in a number of other localities, has not been what we would ideally like it to be.

Mr Wilson interjected.

Mr HAERMEYER — The honourable member on the other side was noticeably silent when his party was in government and cutting police numbers to ribbons. The present problems relate to the fact that the previous government, despite coming to office promising — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The honourable member for Bennettswood is not in his seat. I ask him to desist.

Mr HAERMEYER — It promised 1000 police but in fact cut police numbers by 800 during its term of office. The honourable member for Clayton is quite right to raise the issue. I am assured that the staffing arrangements in Clayton are coming back up to speed and that as of 2 December all of the positions at Clayton police station will be filled, which was not possible under the previous government due to shortages. A full complement of patrols will be possible in the Clayton area and there will also be foot patrols, something Clayton has not had for quite some time.

I congratulate the honourable member for Clayton for being an ardent advocate on behalf of the traders and constituents of Clayton. When he was on the opposite side of the house he showed concern about policing in Clayton, unlike the members now on the opposite side of the house.

I might add that the issue is not just about police members at Clayton police station, it is also about policing in surrounding stations. What tended to happen previously was that larger, 24-hour stations soaked up police in large numbers so some of the smaller surrounding stations found their divisional vans and patrols were quite often preoccupied backfilling in other areas where there were significant shortages.

As we undo the damage done to our magnificent police force by the Kennett government — the Liberal and National parties when in government — such problems are being resolved. As of 2 December Clayton police station will be able to boast a full complement of police.

Ms KOSKY (Minister for Finance) — The honourable member for Kew raised a matter in relation to the progress of work we are doing in the Latrobe Valley with former State Electricity Commission of Victoria workers who were exposed to asbestos. As the honourable member will know, this has been a longstanding issue for former SECV workers. This government is committed to doing something for not only the former SECV workers but also their families and the community to really make sure that we improve the response to those who have health concerns and also improve the information that is going out to the broader community.

On Friday, 16 September, I announced a thorough and independent scientific review into the health status of former SECV workers who had been exposed to asbestos during their working lives. This review is an epidemiological study that will take into account around 3600 former SECV workers, looking at their health program over the last 20 years or so and at how they have responded to that program, as well as a comprehensive review of the different health responses that are now available to people who have been exposed to asbestos and have asbestos-related diseases. Then it will look at the best response, not only for people in the Latrobe Valley who have been exposed to asbestos but also for people in general who have been exposed to asbestos. Certainly, what was put in place in 1979, which was the lung function program — —

Mr Wilson interjected.

The DEPUTY SPEAKER — Order! The honourable member for Bennettswood has been asked twice not to interject from out of his seat. I ask him for the final time to be quiet.

Ms KOSKY — That program was the best of its type at the time, but we know there are newer technologies and we want to make sure that the best and most appropriate health program is in place in the Latrobe Valley.

The review will be conducted at the cost of $200 000. I would have hoped that the review would have commenced by this stage. It is actually an epidemiological study which involves a number of medical people from Monash and other universities who have a scientific or medical background. Unfortunately a concern has been registered with the ethics committee, which the committee is considering. It relates to the amount of consultation that has taken place on the program. As I understand it, the ethics committee is investigating that complaint. I have been informed that it will take up to a month for it to consider that issue. I am hopeful that it will be dealt with in a positive manner, that the research can be put into place and that therefore we can get the results as quickly as possible.

I should say that we have also put in place a reference group alongside the medical research group, so that the community is involved and engaged in the development of that research and can have ownership of that research. We have also provided funding for a community development officer, who will ensure that the community is informed about not only the research but also the steps people need to take in order to ensure that their health is being looked after and that they have proper access to the screening programs that are available.

As I said, I am hopeful that the research will take place. I understand the concerns of the community, and I understand the anger of the community about the exposure they have had to asbestos. It is a very sad issue. We need to make sure that we respond in a positive and sensitive way to make sure that the health needs of those who have had exposure, those who have health concerns and those who have concerns about exposure are dealt with in the best possible way.

Mr CAMERON (Minister for Local Government) — The honourable member for Mildura raised a matter concerning farm equipment and Hannaford Seedmaster Services, a company based in South Australia. Just to put the issue of farming into an occupational health and safety context: 5 per cent of the

work force is involved in farming and agricultural pursuits, yet unfortunately approximately one-third of the deaths in workplaces each year occur within that category.

The issue of occupational health and safety certainly needs to be promoted within that sector. The matter raised by the honourable member for Mildura referred not only to machinery but also to complicated franchisee arrangements. There is an additional complication, because the company is based interstate although the machinery is based in Victoria. I will take the matter up with Worksafe Victoria and ask if it can approach its South Australia counterpart, as requested by the honourable member for Mildura.

The honourable member for Melton asked that I read an article in a Frankston newspaper about matters involving the Frankston City Council. I will do that, and in addition I will refer the matter to my department, as it has also been making some investigations, as honourable members would be aware from previous comments in the house.

Mr HULLS (Minister for Racing) — The honourable member for Mitcham is as usual very quick out of the barrier when it comes to issues of racing reform. I am sure he is proud that the government has been at the cutting edge in the reform of the racing industry.

The devastating impact of foot-and-mouth disease in the United Kingdom should make us all very concerned about having a proper management plan for equine disease in the state. We are talking about a $1.2 billion industry, and that involves thoroughbreds alone. The industry is of enormous importance to regional and rural economies.

Yet again the Victorian government is leading the nation as far as this important issue is concerned. There needs to be a national approach to the risk management of equine diseases. As recently as last Saturday the government placed an advertisement in the metropolitan newspapers stating that together with the Victorian racing industry it is inviting proposals from appropriate people to put together a scoping study for an operational plan for dealing with equine diseases in Victoria. Yet again Victoria will lead the nation.

The government hopes the rest of the nation will follow its lead, but it is more than happy to again be at the cutting edge of reform when it comes to the important racing industry.

Ms CAMPBELL (Minister for Community Services) — The honourable member for Shepparton raised with the Minister for Education a matter relating to allaying the fears of some school principals who are concerned about their schools getting less funding. I will refer the matter to her.

The honourable member for Benambra raised a matter for the Minister for Environment and Conservation regarding the Friends of Wongungarra Trust. The honourable member requested action in relation to five untransferred licences, and I will refer the matter to her.

The honourable member for Preston raised a matter about All About Cars, and I will refer it to the Minister for Consumer Affairs.

The honourable member for Sandringham raised a matter for the Minister for Transport, to whom I will refer the request to have Victrack look at assisting the Sandringham business precinct establish a Bendigo Community Bank.

The honourable member for Doncaster raised a matter for the Minister for Environment and Conservation in relation to releasing documents on woodchipping. It is a great shame that the honourable member for Doncaster has not bothered to stay in the house.

The last matter, which is raised by the honourable member for Warrandyte, is in relation to — —

Mr Honeywood — On a point of order, Madam Deputy Speaker, if the Minister for Community Services is not prepared to answer my question, perhaps the Minister for Planning might be called to the chamber. Yet again we find with this government that ministers of the Crown cannot be bothered coming into the house for adjournment debates.

The DEPUTY SPEAKER — Order! There is no point of order. The Chair has no authority to call anyone to the house.

Ms CAMPBELL — The honourable member for Warrandyte raised a matter for the Minister for Planning, which he referred — —

Mr Honeywood interjected.

Ms CAMPBELL — Honourable Deputy Speaker, for any honourable member in this house to give the venue of a women's refuge defies belief. It has been standard practice for the last 20 years — —

Mr Honeywood — On a point of order, Madam Deputy Speaker, if the Minister for Community Services had bothered to listen to my statement she would understand that a police station operates right

next door to the former police house that is used for the battered women in question.

The DEPUTY SPEAKER — Order! Points of order are not an opportunity for honourable members to raise further questions. The Minister for Community Services, concluding.

Ms CAMPBELL — Enlightened honourable members in this house know that for the last 20 years venues of women's refuges have never, ever, ever been divulged. To give that venue — —

Mr Honeywood — You're flogging it off!

The DEPUTY SPEAKER — Order! The honourable member for Warrandyte!

Ms CAMPBELL — To give that venue when the honourable member for Warrandyte is requesting that action be taken to continue that address basically makes the address worthless. For him to divulge the address — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The honourable member for Springvale and the honourable member for Warrandyte!

Ms CAMPBELL — It simply means that even if the Minister for Planning decided that he could do something about continuing that venue it is basically worthless now because the address has been divulged. The honourable member for Warrandyte claims that because the women's refuge is next to a police station it will be safe. Well he should know that people in this community, regardless of where their home address or accommodation is, know that a women's refuge address is sacred. It is never ever, ever divulged. Never!

Mr Honeywood interjected.

Ms CAMPBELL — To enlighten the honourable member for Warrandyte, women who have suffered domestic violence, who have suffered family violence — —

Mr Honeywood interjected.

The DEPUTY SPEAKER — Order! The honourable member for Warrandyte!

Ms CAMPBELL — Not only is the honourable member for Warrandyte unaware of basic protocols that have been in existence for 20 years, he is now saying to women that they are battered women. In fact they are survivors of family violence.

Mr Honeywood interjected.

The DEPUTY SPEAKER — Order! I ask the honourable member for Warrandyte to stop interjecting.

Ms CAMPBELL — I am very pleased that the Minister for Planning is a far more enlightened person than the honourable member for Warrandyte.

Motion agreed to.

House adjourned 12.23 a.m. (Wednesday).