PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

10 October 2002

(extract from Book 2)

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By authority of the Victorian Government Printer

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Lady SOUTHEY, AM

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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

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

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

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

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
Mr R. K. B. DOYLE (from 20 August 2002)
The Hon. D. V. NAPTHINE (to 20 August 2002)

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. P. N. HONEYWOOD (from 20 August 2002)
The Hon. LOUISE ASHER (to 20 August 2002)

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Mr P. J. RYAN

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Mr B. E. H. STEGGALL

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Allen, Ms Denise Margret [4]	Benalla	ALP	Lenders, Mr John Johannes Joseph	Dandenong North	ALP
Andrianopoulos, Mr Alex	Mill Park	ALP	Lim, Mr Hong Muy	Clayton	ALP
Asher, Ms Louise	Brighton	LP	Lindell, Ms Jennifer Margaret	Carrum	ALP
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Baillieu, Mr Edward Norman	Hawthorn	LP	Lupton, Mr Hurtle Reginald, OAM, JP	Knox	LP
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Brumby, Mr John Mansfield	Broadmeadows	ALP	McNamara, Mr Patrick John [3]	Benalla	NP
Burke, Ms Leonie Therese	Prahran	LP	Maddigan, Mrs Judith Marilyn	Essendon	ALP
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Campbell, Ms Christine Mary	Pascoe Vale	ALP	Maxfield, Mr Ian John	Narracan	ALP
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Davies, Ms Susan Margaret	Gippsland West	Ind	Nardella, Mr Donato Antonio	Melton	ALP
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Delahunty, Mr Hugh Francis	Wimmera	NP	Pandazopoulos, Mr John	Dandenong	ALP
Delahunty, Ms Mary Elizabeth	Northcote	ALP	Paterson, Mr Alister Irvine	South Barwon	LP
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Haermeyer, Mr André	Yan Yean	ALP	Rowe, Mr Gary James	Cranbourne	LP
Hamilton, Mr Keith Graeme	Morwell	ALP	Ryan, Mr Peter Julian	Gippsland South	NP
Hardman, Mr Benedict Paul	Seymour	ALP	Savage, Mr Russell Irwin	Mildura	Ind
Helper, Mr Jochen	Ripon	ALP	Seitz, Mr George	Keilor	ALP
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Ingram, Mr Craig	Gippsland East	Ind	Stensholt, Mr Robert Einar [2]	Burwood	ALP
Jasper, Mr Kenneth Stephen	Murray Valley	NP	Thompson, Mr Murray Hamilton	Sandringham	LP
Kennett, Mr Jeffrey Gibb [1]	Burwood	LP	Thwaites, Mr Johnstone William	Albert Park	ALP
Kilgour, Mr Donald	Shepparton	NP	Trezise, Mr Ian Douglas	Geelong	ALP
Kosky, Ms Lynne Janice	Altona	ALP	Viney, Mr Matthew Shaw	Frankston East	ALP
Kotsiras, Mr Nicholas	Bulleen	LP	Vogels, Mr John Adrian	Warrnambool	LP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Wantirna	LP
Languiller, Mr Telmo	Sunshine	ALP	Wilson, Mr Ronald Charles	Bennettswood	LP
Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP

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

CONTENTS

THURSDAY, 10 OCTOBER 2002

Thursday, 10 October 2002

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

DRUGS AND CRIME PREVENTION COMMITTEE

Motor vehicle theft

Mr JASPER (Murray Valley) presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

PAPER

Laid on table by Clerk:

Subordinate Legislation Act 1994 — Minister's exemption certificate in relation to Statutory Rule No. 92.

LOCAL GOVERNMENT (UPDATE) BILL

Introduction and first reading

Received from Council.

Read first time on motion of Mr CAMERON (Minister for Local Government).

MEMBERS STATEMENTS

Schools: maintenance

Mr HONEYWOOD (Warrandyte) — The Labor Party is back to its old Cain–Kirner governments habits when it comes to school capital works and school maintenance. According to the Auditor-General, in 1992 the previous Liberal government inherited an audited $650 million backlog for school maintenance requirements.

In 1999, after seven years of good economic management, the previous government brought that backlog from $650 million down to $136 million. But now, according to freedom of information documents that took seven months to obtain from the government, it is back to $355 million — about a $200 million blow-out. We have gone back to the old Cain–Kirner days.

On a recent visit to the Lowan electorate in Horsham, at Horsham College, the school principal was so concerned about his maintenance backlog that he took me around the school. According to the Labor Party's own figures on Horsham College, there was a $1 204 000 outstanding maintenance bill. Of this the school has received only $130 000 for fire service remediation, yet the lowest tender quote for that alone is over $200 000 — it cannot even afford to meet occupational health and safety needs.

At Nhill College there is an outstanding maintenance bill of $651 000. In my own electorate, Norwood Secondary College has been waiting for three years for a technology unit upgrade. It is clear that schools need — —

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

St Albans Catholic Regional College

Mr SEITZ (Keilor) — I wish to place on record my congratulations and commitment to the St Albans Catholic Regional College, which is celebrating its silver anniversary, because the Catholic college in St Albans was something that the people of my electorate of Keilor had long been looking for. In particular, since it was part of my parish, Sacred Heart, and as you, Honourable Speaker, would also know as you are familiar with the location, providing secondary education for the community in the St Albans area at that time was very important. Then there was the construction of the regional senior college at Sydenham, which developed a Catholic regional network of secondary education.

It was a great attendance at the celebration that took place on 8 September — with a mass and afternoon tea — for a reunion of the former students of the St Albans Catholic Regional College because too often people leave school and get lost in different areas and districts. For the school to survive that long and have 200 people attending that function is a milestone; and it shows the support that the school has and the high esteem it is held in in my electorate of Keilor. It also shows the development of a community: it is very important to have a local secondary college based on different backgrounds.

Rural and regional Victoria: sport and recreation funding

Mr KILGOUR (Shepparton) — I want to report to the house how this government is ripping off sports funding from country sports facilities in favour of Melbourne. We have a cutback in sport and recreation facility funding. And if members opposite want to

check the web site of the sports department they can do that and find that major facilities funding has been cut back by $1.25 million. The Better Pools funding has been cut back by $5.3 million. So we have major facilities funding cut from $35 000 per council last year to $19 000 per council this year. If members opposite can count they will find spending has been cut back. Ask the Greater Bendigo City Council about it; it will be really happy about it.

This government can give $77 million to the Melbourne Cricket Ground in lieu of funding that should have come from the federal government, and it can give $1.5 million to the State Netball and Hockey Centre. I want to support elite sport, but what we see here is rural sports-associated facilities — the lifeblood of rural communities — being cut back by this government, which is supposed to be supporting rural Victoria. We will lose much-needed facilities because of this city-centred, money-grabbing government.

Australian Opals

Ms ALLAN (Bendigo East) — I wish to congratulate the Australian Opals for their outstanding performance at the recent world championships in China. The Opals won bronze, defeating Korea 91 to 63, and were superbly led by their captain, Bendigo player Kristi Harrower.

However, I put on record the enormous disappointment felt by myself and many other basketball supporters around Victoria that the world championships were not televised in any way, either on free-to-air or pay TV. I telephoned Basketball Australia in Sydney, because I was very keen to watch the Australian Opals on television, to check why it was not being televised, and was told that no television network was covering the event.

We had to rely on radio and newspaper updates, which were reasonable in that they provided the score but little other details on the outstanding performance of the Australian Opals. These are top Australian athletes, but unfortunately again a women's sport has been relegated to the briefs section of the media. The Opals were the team that won Australia's first ever basketball medal at an international level and the team has received a medal in every major championship since the 1996 Olympic Games. But do basketball fans get to see our best performing international team on television? No, we do not, which is absolutely disgraceful.

Contrast this telecast of the Opals at their world championships with the coverage of the soccer World Cup championships recently in Korea and Japan where there was no Australian team participating but we had saturation coverage. That is disappointing for many basketball supporters.

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

Schools: Bayswater

Mr ASHLEY (Bayswater) — The condition of government school infrastructure in the Bayswater electorate is under threat from the virtual freeze on the maintenance funding practised by the Bracks government during this Parliament. According to the most recently available audit information of the physical resources management system the total PRMS maintenance needs recorded against primary schools in the Bayswater electorate are as follows: Bayswater, $431 000; Bayswater South, $524 000; Bayswater West, $124 000; Great Ryrie, $42 000; Heathmont East, $131 000; Maroondah, $103 000; Regency Park, $452 000; Templeton, $129 000; Wantirna, $119 000; Wantirna Heights, $46 000; and Yawarra, $143 000 — a total of $2 227 000 in primary schools needs.

PRMS needs of four of the five secondary colleges in the Bayswater seat are as follows: Bayswater, $672 000; Fairhills, $292 000; Wantirna, $139 000; and Ringwood, $320 000 — a total of $1 423 000. I have omitted Heathmont Secondary College because of its commitment to consolidate two campuses on to the one site. Without a prompt action program the current total PRMS backlog — —

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

Joseph Potocnik

Mr LANGDON (Ivanhoe) — I rise to give testimony to the life of Joseph Potocnik who unfortunately passed away after a long illness on 21 September this year. Joseph's life is proof of what migrants can do in Australia. He was born in Slovenia on 24 November 1921. As a child he experienced life in many countries including Austria to which his family moved to find work. In 1943 during the Second World War Joseph was drafted into the German army where he served in Norway. In 1944 when he was transferred to the frontline in Italy he grasped the opportunity to escape and desert the German army, where he surrendered to the Canadian forces. He was transported to England, where he was accepted into the Czech army, after which he went back to the war on their behalf. In 1945, shortly before the end of the war, he was in Italy. He married his wife Sandra in 1947 in

Italy, and in 1949 he and his brother were arrested and went to a concentration camp. In 1950, with the assistance of an international refugee organisation, he boarded a ship to Australia.

It is very much a history of what many people did in coming to Australia during that period. He worked for the Slovenian community and broadly took on various leadership roles, and I commend his life to the house. I pay my condolences to his family: his wife, Sandra, and children, Alex, Sonja and Andrew and their partners and families.

Newcomb Secondary College

Mr SPRY (Bellarine) — With regard to school facilities I wish to draw the attention of the house to the appalling treatment of one of the two government secondary schools in my electorate, Newcomb Secondary College, a school with a record of high student achievement and exemplary staff and community commitment. Newcomb Secondary College hosted the merger of nearby James Harrison Secondary College when student enrolment forecasts made the future of the James Harrison Secondary College unsustainable. It was a clean, cost-effective merger which enjoyed broad community support.

One of the key elements of that support was based on a commitment from the Labor government that the vocational training facilities that were a feature of James Harrison would be re-established and enhanced for the benefit of students transferring to Newcomb Secondary College. That was not an unreasonable expectation, given that a $2.5 million general upgrade earmarked for James Harrison was no longer necessary and that money was expected to be available for Newcomb Secondary College. That was two years ago.

Since then, despite Bellarine Liberal candidate Frank Kelloway's advocacy and my advocacy on its behalf, Newcomb Secondary College has so far received from this Labor government for this project a mere $50 000. Labor's performance under successive education ministers, the Honourables Mary Delahunty and Lynne Kosky, is a disgrace. These ministers' commitment to the students and school community at Newcomb Secondary College is now non-existent. That school has waited patiently for two years to no avail under the Bracks Labor government, and its patience has expired.

Gisborne Football Club

Ms DUNCAN (Gisborne) — There are many things to speak about this morning, including the untruths that have been told by the Liberal Party about school maintenance. I encourage people to ring their school principals, as I did, and I was pleased with the response: a $330 000 backlog according to the Deputy Leader of the Opposition; zero according to the school.

This morning I sing the praises of the Gisborne Bulldogs, who won the real grand final the weekend before the AFL Grand Final. It was a beautiful day in Bendigo at the Queen Elizabeth Oval where we watched Gisborne win the grand final in the under-18s, the reserves and the seniors. We won the trifecta. The streets of Gisborne were paved with the colours of the Bulldogs for the entire week. Every business got behind the team in the week leading up to the grand final. All the shopfronts, including the chemist and my office, were decorated with streamers and balloons. It was fabulous and was a tribute to the Gisborne team.

I mention the coach, Mick McGuane — honourable members may recognise that name — the president, Roger Toll, the teams, their supporters, families and friends. We had a great bash afterwards at the Bullengarook recreational reserve, which is a terrific place to have a football grand final celebration. It was packed and everyone was extremely excited. Everyone who thinks country football is dead should have been in Bendigo.

Schools: maintenance

Mr ROWE (Cranbourne) — School maintenance in the electorate of Cranbourne and its adjoining electorates is in dire need of urgent funding. One need only to look at the report handed down by the Auditor-General to see that there is nearly $8 million worth of funding backlog for schools in Cranbourne and adjourning electorates: Cranbourne Park Primary School, $206 000; Cranbourne Primary School, $195 000; Cranbourne Secondary College, $419 000; Cranbourne South Primary School, $137 000; Cranbourne West Primary School, $331 000; Rangebank Primary School, $155 000; Rowellyn Park Primary School, $220 000; Carrum Downs Primary School, $131 000; Skye Primary School, $245 124; Lyndhurst Secondary College, $765 000.

When we look next door to the Frankston East electorate we find Monterey Secondary College with a massive $2.1 million backlog of maintenance, of which $1.3 million is urgent.

Mr Nardella interjected.

Mr ROWE — The honourable member interjects that it was us. We spent $3 million upgrading the school, you idiot! This government has allowed the Monterey Secondary College to run down to a

deplorable state. This must be addressed immediately for the benefit of the students in that secondary college.

The SPEAKER — Order! The honourable member for Burwood has 40 seconds.

Waverley hockey and Ashburton soccer clubs

Mr STENSHOLT (Burwood) — Next weekend I will have the pleasure of assisting with the presentation days of Waverley Hockey Club juniors and Ashburton Soccer Club juniors. Both these clubs do a great job providing the opportunity for hundreds of local girls and boys to play sport. In particular I congratulate the Waverley Hockey Club under-13 girls pennant premiership team and runner-up teams, the under-17 South boys, the under-13 pennant and the under-13 South.

I also congratulate the Ashburton Soccer Club premiers under-15 Arrows and under-11 United teams, both premiers in the Victorian Churches Soccer Association. State representatives at Ashburton were Anthony Stabelos and Shmsuddin Shahabbi. Waverley Hockey Club state representatives were Laura Farrell, Michael Ortlieb, Leigh Iacovangelo, Lachlan Mikronis, Laura Paton, Mandy Dudgeon, Stuart Ritchie, Sam Eddy, Neerav Verma, Allisa Robertson, Eliza Larter, Cassie David, Brenton Perry and Stephen Jarvis.

The SPEAKER — Order! The honourable member's time has expired. The time set down for members statements has expired.

ESTATE AGENTS AND SALE OF LAND ACTS (AMENDMENT) BILL

Second reading

Ms CAMPBELL (Minister for Consumer Affairs) — I move:

That this bill be now read a second time.

The bill amends the Estate Agents Act 1980 and the Sale of Land Act 1962 to deliver substantial improvements in the protection afforded to consumers when purchasing real estate and in their dealings with estate agents generally. The bill will also implement a number of proposals arising from the national competition policy review of the Estate Agents Act and will make a number of other amendments necessary for the efficient operation of the legislation.

For most Victorians, purchasing a home is the largest and most significant financial commitment they will make. Home buyers, and indeed other investors in the Victorian real estate market, are entitled to approach purchasing property with confidence, particularly when buying at auction. For this reason, the government is committed to ensuring that the auction process is fair and transparent, and that Victorian consumers and investors can put their hand up at an auction confident that they are not bidding against a tree or a dummy bidder.

The amendments to the Sale of Land Act will introduce new rules governing the conduct of real estate auctions that will ensure fairness and transparency, and which will benefit prospective purchasers, honest vendors and honest estate agents.

The amendments to that act will require that all bids made by the vendor be made via the auctioneer. The auctioneer will be required to declare that a bid is a vendor bid by using the words 'vendor bid' immediately after making a bid on behalf of the vendor. The auctioneer will be prohibited from acknowledging a bid that he or she knows was not made, or was made by, or on behalf of, the vendor. The auctioneer will also be required to announce, during the course of the action, when the vendor's reserve price has been reached — indicating to everyone at the auction that the property is 'on the market' and will be sold to the highest bidder.

The bill will provide for substantial financial penalties for an individual or corporation who fails to comply with the new provisions. In addition, an estate agent who is found to have engaged in the dishonest auction practices prohibited by the bill could be subject to disciplinary proceedings at Victorian Civil and Administrative Tribunal. VCAT could, if it considered it appropriate to do so, cancel or suspend the agent's licence.

The bill will also give a purchaser, who believes he or she has been a victim of prohibited auction practices, a right to make an application to VCAT for compensation for any loss or damage he or she has suffered as a result. The tribunal will be able to order a vendor to pay compensation to the purchaser where the tribunal is satisfied that dummy bidding occurred and that the purchaser suffered loss or damage as a result of that dummy bidding. In order to protect honest vendors from unfounded claims for compensation, a purchaser who is found to have made a vexatious or frivolous application for compensation, or a claim without substance, could be held liable for any loss the vendor may have incurred as a result of the application.

In addition to creating new rules for the conduct of real estate auctions, the bill also improves consumer protection in relation to sales of residential real estate by private treaty. The bill will remove the $250 000 cap on the right to cool off that exists under section 31 of the Sale of Land Act. Given the recent substantial increase in house prices, this cap effectively means that a large number of Victorian home buyers do not have the protection afforded by the right to cool off.

Rather that simply increase the cap, which will again become outdated, the government has decided to extend the protection afforded by the right to cool off to all purchasers of residential land, regardless of the purchase price. The government does not believe that a purchaser should be denied adequate consumer protection simply because the price of the property he or she purchases exceeds an arbitrary set amount. The right to cool off will still not apply to auction sales or to where the purchaser has obtained legal advice prior to signing the contract of sale or has entered into a similar contract with the vendor for the purchase of the same land.

The bill will also amend the Estate Agents Act to prohibit the practices of underquoting and overquoting.

The bill will prohibit an estate agent or agent's representative making a false representation to a vendor, or prospective vendor, as to the agent's true estimated selling price of the vendor's property. This provision is designed to stamp out the practice, engaged in by some dishonest agents, whereby the agent gives the vendor an inflated estimate of the property's value in order to obtain the vendor's listing. The bill will require the estate agent to record his or her estimated selling price in the authority or agency agreement signed by the agent and the vendor.

The bill will also prohibit an estate agent or agent's representative from underquoting the estimated sale price to a prospective purchaser. This provision is designed to stamp out the practice, also engaged in by some dishonest agents, whereby the agent gives prospective purchasers a low estimate of the selling price in order to encourage interest in the property and attendance at the auction. This practice can, in some cases, result in purchasers spending money on architect or builders inspections or on legal fees when, in reality, the property is beyond their means.

Under the new provisions the director of Consumer Affairs Victoria will be able to require an estate agent or an agent's representative to provide evidence of the reasonableness of his or her estimated selling price. Substantial penalties will apply for a breach of the new provisions, and an estate agent or agent's representative who fails to comply may find him or herself subject to disciplinary proceedings at VCAT.

The bill also introduces new requirements regarding advertising rebates and other payments received by some estate agents in relation to outgoings purchased on behalf of their clients. The bill requires that these payments be passed on to the agent's client. It will be an offence for an estate agent to fail to pass on a rebate to the client or to charge their client more for the supply of goods or services than the estate agent paid to the supplier.

The government is committed to working with industry to improve the quality of services provided by estate agents, as well as ensuring that they comply with their legal obligations. To this end the bill will establish a framework for the development of a system of continuing professional development for estate agents and agents representatives. The bill will amend the Estate Agents Act to require estate agents and agents representatives to undertake further training and development activities, designed to improve their knowledge and understanding of the law and their obligations to consumers. Consumer Affairs Victoria will work closely with industry bodies such as the Real Estate Institute of Victoria and the Estate Agents Council to develop an appropriate continuing professional development system that will benefit individual estate agents and agents representatives, consumers of estate agency services and the real estate industry as a whole.

The bill will also enable the regulations to specify consumer protection information that must be given by estate agents to consumers of estate agency services. This information will cover matters such as negotiating the agent's commission, entering into a contract with an agent to sell or manage a property, warnings about engaging in prohibited auction practices, and advice on underquoting and overquoting, rebates and dispute avoidance and resolution processes. It is hoped that, through the provision of this information, consumers will be better informed of their rights and responsibilities when engaging the services of an estate agent.

The bill makes a number of further amendments to the Estate Agents Act, including:

amendments resulting from the national competition policy review of the act;

amendments designed to update the trust accounting requirements to take into account modern accounting software;

amendments to bring the qualifications for auditors of estate agents trust accounts into line with the qualifications require for auditors of solicitors trust accounts;

introducing a capacity for infringement notices to be issued for certain prescribed offences; and

tightening up the provisions regulating the purchase by an estate agent of a property he or she has been engaged to sell.

This bill represents a substantial and significant package of reforms to the laws governing the sale of real estate and the regulation of estate agents in Victoria. Industry and consumer groups, individual estate agents and consumers have been consulted on and had input into the bill. The key consumer protection measures contained in the bill have widespread community and industry support and are supported by the Real Estate Institute of Victoria and the Estate Agents Council. The majority of honest estate agents are keen to see dishonest practices eliminated from the industry and will support the bill. The bill will provide increased protection to consumers, will increase consumer confidence in the market and, as a result, will ensure that Victoria has a healthy and vibrant real estate market.

I commend the bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Debate adjourned until Thursday, 24 October.

FEDERAL AWARDS (UNIFORM SYSTEM) BILL

Second reading

Debate resumed from 12 September; motion of Mr LENDERS (Minister for Industrial Relations).

Government amendments circulated by Mr HAMILTON (Minister for Agriculture) pursuant to sessional orders.

Mr McINTOSH (Kew) — I say at the outset that the opposition opposes this bill. In saying that, the opposition has some genuine understanding of what the government is attempting to do. From the government's announcement in the second-reading speech and from discussions I have had with the Minister for Industrial Relations, there is no doubt that absolute agreement should apply in a unitary system of industrial relations in Victoria.

One of the advantages Victoria has over other states is that, firstly, it does have a unitary system, in that in 1996 the state government referred industrial relations powers to the commonwealth Parliament, and Victoria is now essentially governed by the Australian Industrial Relations Commission and the law promulgated by the commonwealth Parliament. Secondly, a strong agreement exists between all parties in that when we talk about industrial relations our principal goal is to provide a degree of accord between major parties and employers and employees in relation to the maximum amount of flexibility that can be built into the system of wage determination and employees' entitlements to ensure maximum flexibility in the jobs of ordinary Victorians at individual workplaces. Thirdly, our industrial relations system should also have built into it a mechanism to say that maximising jobs should not come at the expense of substantial disadvantage to people working for inappropriate pay or unacceptable terms and conditions; there must be some form of safety net.

The opposition takes the view that there is no need for this bill to pass for those three things to be achieved; there is no need for the bill to take the matter further. The bill is about trying to suggest that the current safety net provisions — and that is what they are — under schedule 1A of the federal Workplace Relations Act are not extensive enough and they should effectively become the 20 allowable items under a federal award system. That is the only real disadvantage that has been identified in all of the material I have come across.

Sure, there are disparities between wages and entitlements and between different workers, but that is part of the process; people are paid at different rates. Even in this place people are paid at different rates that reflect degrees of responsibility, levels of experience and the level of esteem in which they are held by their respective parties or otherwise. Those pay rates and entitlements are built into the system. It is all part of the situation that exists generally with industrial relations.

Importantly, if there is genuine disadvantage the opposition would be about trying to achieve some degree of conformity with community standards as to what would be expected, but the most important thing is that the safety net is precisely that: schedule 1A of the federal Workplace Relations Act provides the essential safety net and protects and provides a base for all Victorian workers.

If a person chooses to enter into a bargain, an Australian workplace agreement, participate in an enterprise agreement or an agreement covered by a federal award, it may extend beyond the 5 allowable items in the safety net to perhaps up to 20 allowable items. However, just because there are 20 allowable items under a federal award system does not necessarily mean that a person has to be covered by all of those 20 items; they are part and parcel of an entitlement.

If people enter into common-law contracts they can extend or be flexible enough to move outside those 20 allowable items. It is all part of the negotiation and collective bargaining process, which is all part of the Victorian industrial relations system. The most important thing is that the bill attempts to effectively make the provisions of schedule 1A of the federal Workplace Relations Act, which as I said are the safety net provisions of that act, otiose or obsolete in Victoria.

In this situation the bill does a number of things. First and foremost it provides a referral of one aspect of industrial relations which does not apply in Victoria. It provides the mechanism of referring power to the commonwealth Parliament to have the ability to make laws with respect to common-rule orders. Common-rule orders effectively provide a common set of rules governing wages and entitlements that would apply across an industry sector irrespective of the nature of individual workplaces, individual relationships between employer and employee, what is produced, where it is produced or the geographical location — all of those matters — and this power is being referred.

It is an extension of the act which was passed here in December 1996 that referred the state's industrial relations power to the commonwealth Parliament. It is important to note that in 1996 the ability to make common-rule orders was specifically excluded from that referral. I will be dealing with this in due course, but it was done on the basis that that would provide the maximum amount of flexibility in the job market in Victoria to ensure one of the principal goals of industrial relations — the creation of jobs. This flexibility was to be at the individual enterprise level.

What was crucial about the passage of the commonwealth legislation, the Workplace Relations Act, was that it provided a focus for the workers entitlements and wages to be determined at an enterprise level. That was the whole crux of it. There were, of course, other provisions relating to things like freedom of association, but one of the principal goals of the Workplace Relations Act was to ensure that wages and entitlements of employees would be determined at an enterprise level, rather than having industry sectors where you might have different enterprises with different layers of different types of awards applying. The confusion and the costs of administration of all of those things would be eliminated if wages and entitlements were determined at an enterprise level.

In this particular aspect this bill refers the power to make common-rule orders to the commonwealth Parliament. My party when in government specifically excluded common-rule orders. We considered and still believe that provides the maximum amount of flexibility in Victoria and should not be referred. If the bill were carried and the referral was made, the commonwealth Parliament would have to introduce a bill within a reasonable time. At the briefing the minister more or less indicated that the bill would have to be in place and ready to be introduced into the commonwealth Parliament by the beginning of the autumn sitting of the commonwealth Parliament.

There are two steps. Firstly, the federal government would have to introduce legislation creating a mechanism to determine common-rule orders into the commonwealth Parliament by the autumn sitting — that is, within a reasonable time. Secondly, the Governor in Council, which is essentially an instrument of the executive government, would have to certify that that bill met the limits and spirit of that referral.

There are a number of anomalies in this bill. I highlight just one that may cause a Liberal government in Canberra some concern. I do not speak on behalf of Tony Abbott, the federal minister, but this is a matter I have taken on board that may cause the federal government some concern. In a state-based system, which is delineated, the Victorian Civil and Administrative Tribunal can make common-rule orders in the alternative.

If it is demonstrated that the employer-employee relationship is based upon a workplace in Victoria and a federal award applies, VCAT must make a common-rule order. It is that obligation — effectively a lack of discretion to look into the financial circumstances or otherwise — that causes some concern. If the federal legislation suggested that the Australian Industrial Relations Commission, for example, may make a common-rule order in those circumstances that may be something that may offend the government in Victoria and occasion the whole bill not to be certified and therefore it would have been a waste of time and effort. We would then default to a state-based system.

Most importantly, in the state-based system that we have in the alternative, if that bill were certified as being acceptable we would default to a state-based system. At the moment that state-based system is based on particular VCAT provisions. VCAT is, of course, a very effective body. There has been a lot of debate, particularly here as well as in the public arena, whereby there is a suggestion that VCAT is not properly resourced at the moment, although it has been indicated by the minister's advisers at a briefing that adequate resources would be provided to VCAT, including the appointment of extra members to deal with the opportunity to make common-rule orders.

Importantly, in the alternative, if the bill introduced into the commonwealth Parliament were not acceptable, the state-based system would default into operation. The bill is essentially asking the commonwealth government to introduce a bill, but with a gun pointed at its head and the state government saying, 'Unless you do the right thing completely by us, we will default to the state-based system'. I will say more about the state-based system in a moment, but it is a matter of some concern, as I said at the outset, that the very principle of a unitary system would start to be diminished or dissolved. Then the very goal that both the government has announced and the opposition would adhere to — that is, the unitary system — would necessarily be broken down.

Firstly, the opposition is terribly concerned that once there is a chink in the armour of the creation of a state-based system, at VCAT or otherwise, that responsibility could easily be taken away from VCAT and we would have our own state-based industrial relations tribunal — and that would be something within the legislative purview of this Parliament.

Secondly, even if the responsibility were not taken from VCAT, I am concerned that while the advice we are getting from the government is simply that it is not going to be terribly onerous — a few resources and an extra member or two at VCAT would probably see us out — I think it is a much more complicated system than what first meets the eye. I expect that legislation will be introduced relatively shortly to extend the amount of resources and the number of members that would have to be appointed to VCAT, or indeed for separation from VCAT.

Thirdly, the bill provides for the minister to appoint what are called information services officers. The opposition takes the view that this is an Orwellian term, because those information services officers will be part of the inspector process which caused so much angst in the debate on the Fair Employment Bill. While the government has been very clever in the way it has watered down some of the more onerous parts of the inspector provisions of the Fair Trading Act, what we have here is essentially the same sort of vice. The minister will appoint the inspectors. Again, the advice from the government and the minister is that it is anticipated that no more than 10 information services officers will be appointed.

The information services officers will ensure conformity and compliance with the act and will inform both employers and employees about the provisions of the act. As I said, one of the other things that offends about the bill — and this is the real rub about the appointment of the information services officers — is that it provides for compliance with this act and any act. God knows what other acts we are talking about.

I am terrified that that could include occupational health and safety standards — not because we are concerned about occupational health and safety because in fact we support the opportunity for all workers in Victoria to be protected. The most important thing is that if you look at the Cole royal commission you see that one of the findings that has already been made by Terence Cole, QC, in his first report is the use of occupational health and safety standards as an industrial tool — that is, they are used not to protect workers, and there is a comment about that, but are used by rogue unions such as the Construction, Forestry, Mining and Energy Union to bash employers over the head.

As I said, in the hands of a rogue union like the Construction, Forestry, Mining and Energy Union (CFMEU) occupational health and safety will be used as an industrial tool. What is an information service officer doing in forcing compliance with this referral bill and other bills such as those dealing with occupational health and safety standards? Certainly the government has given no indication that that should be limited in any way.

The other thing is the power of the information service officers. Again I reflect that the government has been clever in the way it has watered down some of the more onerous provisions that appeared in its initial drafts and perhaps even the more onerous provisions of the inspectorate under the Fair Employment Bill. I acknowledge it is done by way of consent. There is provision to enforce that, and I will go into that in a moment, but it is essentially directed at consent entry of information service officers into the premises where there is a reasonable belief that work is being carried out that should be covered by a common-rule order — a reasonable belief. That is a fairly broad term, and in

the hands of an expert information service officer it could perhaps be padded out to enable entry anywhere.

If we are talking about schedule 1A workers, as the minister has pointed out in his second-reading speech and elsewhere, we are perhaps talking about people who are on the lower end of the pecking order, some 350 000 employees at the lower end of the pecking order on the minister's figures — not that I accept all of those figures absolutely, but that is the figure he has used. What we are talking about therefore is many workplaces, not only a factory, a shop or a dairy but also a home. Essentially the information service officer could have right of access to any workplace where there is a reasonable belief that work is being carried out that should be covered by a common-rule order.

In the hands of a rogue union that could be a fairly draconian step. The inspectors could of course enter those premises with consent, and the most important thing is that they can inspect the premises, they can take samples of the goods that are being produced on the premises, they can interview employees and they can look at and take copies of any document. Most importantly, it is done by way of — —

Mr Cooper interjected.

Mr McINTOSH — I will get to the police in a moment. The issue is that the inspectors can do all of these things, but essentially it is done by way of consent. There is a process whereby Martin Kingham in his retirement could be appointed as one of these information service officers. He could get a big badge and turn up and say, 'I am an information service officer. Let me have a look at your books', and take it from there. It has to be done by way of written consent, and the onus is on the information service officer to get that written consent to the entry of the premises. The officer would enter the premises and do whatever they do. Alternatively, there is a mechanism to obtain a search warrant through the Magistrates Court, which is a fairly dramatic step in itself that may lead to substantial angst in some small workplaces, particularly if it is a home.

The worst thing about this matter — and I do not quite understand why it is necessary — is that the information service officers have the power to call in the assistance of the police. The only thing I could imagine is that perhaps this time Martin Kingham could have the police standing behind him if he was appointed information service officer with his big sheriff's badge and he could be saying, 'Let us into your premises'. Well, it would be interesting to see what would happen there.

The fourth and perhaps major step in the bill concerns the provision relating to victimisation. Of course it mirrors to some extent the commonwealth legislation, but it is essentially designed — we have been briefed about this — to prevent the victimisation of an employee who is seeking to exercise their rights and entitlements under this bill. There is a curious provision in clause 27(1), which states:

> An employer, a registered organisation … must not victimise a employee.

I do not see why that would be necessary, given the fact that the whole purpose of this is to prevent victimisation of a employee. It is a very broad term, and I think it is too onerous. As I said, it seems to be unnecessarily broad in the context of this bill, when it is clearly designed, and we have been briefed that it was so designed, to prevent victimisation of an employee seeking to exercise their rights.

The bill contains a set of offences and also a mechanism for enforcing both civil and criminal sanctions, if you like. There is also a mechanism for an employee to exercise any of their rights to seek recovery through the Magistrates Court. As I said, we have been fully briefed on those matters and I will not take them any further. They are, briefly, the main items. As I said, it is not a totally exhaustive list but they are the major items and the major thrust of the bill.

The next step is the unitary system. Can I say at the outset that it is my belief that the unitary system would be broken down. It is fair to say a practical consequence of the passage of this bill is that we would have a state-based industrial relations system. I say 'a practical consequence'; I am not saying 'theoretical'. While there may be an expectation that the federal minister is likely to adopt this referral power to introduce a commonwealth legislation implementing common-rule orders, the most important thing about this is that I do not believe the federal minister wants this power. I do not believe he wants it because this particular power is specifically excluded from the original reference. The coalition government in 1996 wanted to maximise flexibility.

If the commonwealth minister did not want the power then, in my view — I do not speak on behalf of the federal minister — he is unlikely to take the referred power and introduce legislation. I reckon that is for two reasons: first, I do not think he, from a philosophical point of view, would want to have commonwealth orders applicable again here in Victoria; and second, perhaps it would lead up to a terrible political fight about the line-by-line-by-line items in the federal bill if it were introduced by the commonwealth government.

As I said, if that is the case you would then default to a state-based system. I am saying that as a practical consequence of the passage of this bill, because I do not think the federal minister wants to have common-rule orders apply here in Victoria and is unlikely to adopt the referral and because there is likely to be a fight about the terms of the bill — there would no doubt be a substantial discussion which would end up as a political brawl — we would have a state-based system by about the beginning of March or April of next year. That would eliminate the first and primary goal of both the opposition and the government, which is a unitary system of industrial relations in Victoria, and would be the first chink in the armour leading to going back to the bad old days.

The next problem would be substantial job losses following the passage of this bill. Two industries have now gone on the record opposing this bill. The Australian Retailers Association suggests that as many as 2500 jobs could be lost. The Victorian Farmers Federation has indicated that 2400 jobs could be lost in agricultural industries around this state. Indeed, the VFF highlights the dairy industry, which accounts for some 7935 farms in Victoria. There are some 22 694 dairy workers in the state, and Victorian dairy production accounts for 64 per cent of the total Australian production.

As we have seen, as the dry climate assessment task force has come up with and as the Premier has finally admitted, there is a drought in Victoria. We have finally come to that conclusion! That drought, coupled with a reduction by some 25 per cent of the commodity price for dairy products internationally, could have a severe impact that could be substantially greater than the 10 400 jobs that the Victorian Farmers Federation talks about.

Ms Beattie — That is just scare tactics!

Mr McINTOSH — It is not just me scaremongering. People such as Bryan Donegan from the Australian Retailers Association say that. In a recent press release he states:

> If it had been passed —

that is, the Federal Awards (Uniform System) Bill —

> the bill could have imposed penalty rates for weekends as well as restrictions upon rostering staff on Sundays, resulting in extra costs to business, potential business closures and job cuts.
>
> Given the deregulated trading environment in Victoria, these two issues could have crippled businesses, in particular small retailers who operate on reduced margins and have few staff …
>
> …
>
> We were also extremely concerned about the proposed powers for information service officers which would have given them greater powers than the current federal legislation and would have enabled them to enter any workplace.
>
> The ARAV believes the opposition has made a fiscally responsible decision which will positively impact upon thousands of small businesses.

Indeed, the VFF has estimated that there could be as many as 10 400 farm jobs lost, not counting the multiplier effect because of the consequence of the drought and other matters. I would have thought that a government supposedly committed to rural and regional Victoria would have taken this on. Most importantly, the VFF says in a press release:

> More than 1 in every 10 farm employees could lose their jobs if the Labor government's industrial relations legislation is passed through the Victorian Parliament.

Mr Lenders interjected.

Mr McINTOSH — I will repeat that, Mr Acting Speaker, because the minister has obviously just pricked up his ears and is now listening. As a result of your bill, Minister, 1 in every 10 farm employees could be losing their job.

I quote again from the recent news release from the Victorian Farmers Federation:

> Victorian Farmers Federation Industrial Association chairman, Alan Bowman, said the new industrial relations legislation would cripple Victoria's farm sector and slash rural jobs by imposing higher costs on farm employment.

The most important thing here is that the practical consequence of the passage of this bill will be, firstly, a state-based industrial relations system, severing the unitary system. Secondly, there will be a major impact on jobs in certain sectors such as the retail sector and the agriculture sector, particularly the dairy industry in my view.

The flexibility provided by the current industrial relations system will be undermined — take the retail traders, for example. Victoria has some 35 000 retail businesses. It is not just Coles Myer, not just David Jones, not just the fashion houses that the honourable member for Burwood obviously shops at, but also a number of other small strip-shop businesses, not only in metropolitan Melbourne but in rural and regional Victoria. There are 35 000 of them.

The Australian Retailers Association tells me that 95 per cent of its members have less than 20 employees and that 53 per cent of its members have less than

5 employees. Of those 35 000 retail businesses some 5000 are covered by federal awards.

There are all sorts of differences in the way retail outlets operate. Some small shops at train stations may want to operate from about 5 o'clock in the morning through to about 10 o'clock in the morning and then may come back for the peak hour later in the day. There may be a fashion house in Collins Street, someone who sells swimming pool equipment in Kew, or there may be a large retailer. They are as different, Mr Acting Speaker, as you and me and as every individual here is from each other. We have different aspirations, different requirements and different needs.

Mr Lenders — You are all peas in a pod!

Mr McINTOSH — The minister says we are all peas in a pod. The minister sees everything as defined descriptively: 'You are all peas in a pod'. That is what you want. I take the view that the individual is important and individual businesses are different, as different as I am from you, Mr Acting Speaker, and as I am from the honourable member for Burwood and others. I am proud of what I am and I am sure the honourable member for Burwood has got used to what he is.

Mr Lenders interjected.

Mr McINTOSH — As I said, there are a number of federal awards — —

The ACTING SPEAKER (Mr Nardella) — Order! The honourable member for Burwood is out of his place.

Mr Cooper — And his mind!

Ms Asher — And his depth!

An Honourable Member — Strike 3!

Mr McINTOSH — Talk about job losses! What about Arnotts? Indeed, what we have here is, for example, the National Fast Food Retail Award. It would be interesting to see how you could apply a federal fast food award to the swimming pool shop in Kew or to the person who sells cigarettes, lollies and chocolates and newspapers at a train station. Yet apparently if there is a federal award in an industry sector then VCAT must apply that award. Perhaps something like the shop interim award would also be applicable. Not all of them cover all 35 000 of these people.

I am informed that prior to 1995 there were something of the order of 30 awards or common-rule orders — these are just state-based awards under the previous system — that could apply to the retail sector. I imagine it would be very easy for each and every one of us, including the honourable member for Burwood, to list all sorts of different types of retail shops, different types of locations and different sorts of needs and requirements to open at different times.

Mr Lenders interjected.

Mr McINTOSH — I know these awards do not apply anymore, as the minister has just prompted across the table. I am just saying that these awards applied prior to 1995. There were 30 of them, and trying to define each and every business prescriptively would be an almost impossible task and would, in the end, be a detriment to small business. You can bet your bottom dollar that these would have been designed to improve the lot of some of the larger retailers at the expense of smaller retailers.

As I said, awards like the shops award or the national fast foods award do not and could not apply prescriptively to all types of diverse groups of retailers in different sectors in different locations carrying on different tasks with different trading hours. With a common-rule order you would also have an enormous difficulty with the payroll system. You could clearly have different types of federal awards moving across different enterprises. As I said at the outset, one of the great things about the federal Workplace Relations Act is that workers entitlements and wages should be prescribed vertically — that is, within an enterprise — to remove any anomalies between different types of workers. But with different awards or common-rule orders travelling across different industry sectors, it is not beyond the realms of possibility to think of a particular type of workplace that would have many different awards.

I was thinking about that this morning, and I recalled that when I was a young man at university I had a job at Christmas in a large retail wood store over in Clayton. I was just a shop assistant helping out in the retail area, and I would have been covered by a retail common-rule order.

Mr Lenders interjected.

Mr McINTOSH — I proudly was never a member of the union, and neither was I asked to be a member of the union. I was a retail assistant in a large wood store in Clayton, and as part and parcel of its business the store delivered wood. It had a number of large trucks

that were driven by employees who may have been covered by the transport sector. There was also a sawmill. It did not cut up the big raw logs but it certainly cut large logs that had been delivered to the wood store into smaller planks that were then dressed in the store, and that process might have been covered by something like the forestry or sawmillers award. They had a small factory out the back with about five or six employees who put together things like windows and framing for houses on request from builders, and they may have been covered by the manufacturing sector or a skilled labour sector such as the carpentry sector, or even the building industry, because they were putting together house frames and windows to be used in the building sector.

All those different types of industry awards would have been applicable to that store. The administrative costs and the differences in the payroll would have been substantial and would indeed have added substantially to the cost of running that business, possibly in the end at the expense of jobs.

The amount of flexibility provided by common-rule orders could cost jobs. A lack of flexibility in the way you go about appointing staff in the retail industry may be very important. I will take myself as an example — and you may be similar to me, Mr Acting Speaker, I do not know — but when I need to do something around the house I am the first to admit that my carpentry and other skills are not flash, so I will go down to the local hardware store and perhaps even ask for advice before I buy a hammer and some nails or whatever. I usually do that on a weekend, and the fact that there is a hardware store down at Kew junction that is open between 10.00 a.m. and 4.00 p.m. on Saturday and Sunday is of enormous value to me. Because of the family-friendly hours we now have in this place, it is rare that I can get down there during the course of the week, and perhaps now because of the massive legislative program we have to get through we will be here during weekends as well.

I quite like the fact that the hardware store is open on the weekends, and it would appear that many of my fellow residents in Kew and elsewhere like the hardware shop being open on the weekends. That is fine, but it is only a very small hardware shop in the scheme of things. Indeed a close friend of my family has another hardware shop a few miles up the road that I often try to get to from time to time. That is even smaller, but it is required to be open on the weekends because it is part of the type of industry that needs to open then and it has a lot of people coming through on the weekends.

But if you impose an absolute requirement that says, 'You have to have some form of penalty loading and you cannot roster on permanent staff on a Sunday', you start to break down the flexibility — notwithstanding that the employees may be quite happy to work on a Sunday and notwithstanding that they may be happy to perhaps work three days rather than five days to get their entitlements up if that could be dealt with at an enterprise level. But common-rule orders would apply, and they would prescriptively dictate what the employer has to do, and that would reduce their flexibility.

Mr Lenders interjected.

Mr McINTOSH — The minister yells out across the table, 'If they don't have an enterprise agreement'. The problem with the enterprise agreement is that it probably suits a large corporation that has the time, the energy and the opportunity to provide an enterprise agreement, but 53 per cent of Australian Retailers Association members have less than five employees. They do not necessarily have the capacity and the financial wherewithal to drive an agenda where they can get an enterprise agreement. But that is not the purpose of schedule 1A, which is just there to provide what is a reflection of the basic minimum standards.

Importantly the opportunity to provide the flexibility in the retail sector to negotiate and deal with your employees on a one-to-one level has a profound benefit not only for the workplace and not only for jobs but for the broader community generally.

I turn to another profound concern in relation to this bill which goes to the issue of the opportunity of the union movement to get into those workplaces where they have not traditionally been involved. This could be a direct consequence — indeed, if I were cynical I would be saying that it is one of the primary aims of the Minister for Industrial Relations — of getting union power up in the state of Victoria. We have seen union numbers in this state drop from 60 per cent in the halcyon days of the 1950s — 60 per cent of the work force was unionised — to below 25 per cent now.

Indeed the most important thing about this bill is that it is driving the agenda for the union — it is a sop to the union — and everyone knows it. The union movement is clearly on the nose right around the country. The Australian Labor Party was tearing itself to bits last weekend trying to do something about ALP representation. That may be the case, but they seem to have done an effective job. They dropped it from 60 to 50, they increased the representation at the national conference to 50 per cent when it was 0 per cent before,

and they are looking glowingly at someone like Tony Blair in England, who has removed the union domination of the Labour Party completely. I am sure the Minister for Industrial Relations would love to see a Victorian ALP free and devoid of any influence from the union movement, but that is not my point. This bill is about union power. This bill is driving the agenda that could see the unionisation of small traditional workplaces that have never had any form of unionisation in them before.

We have seen with the Cole royal commission the opportunity for the union movement to use an agenda for all sorts of adverse effects right around our workplaces in Victoria. To see that one has only to look at the extra costs associated with the Woolworths bond store in Broadmeadows, where because of the intervention of the trade union movement seven months has been added to the length of construction, and compare that with the situation in New South Wales, where exactly the same sort of bond store on exactly the same type of land and in the same type of country has been built. It took longer by seven months in Victoria, and hundreds of thousands of dollars in extra costs have been put on the thing.

We have also seen the involvement of this government in the Melbourne Cricket Ground development. Importantly, in relation to the MCG we had $90 million of commonwealth money being offered as its participation in the Commonwealth Games, which everybody in this house would support, including the government. It was prepared to offer $90 million, but it came at a single price — that is all. 'We want you to subscribe to the national building code'. The rub was, 'You are going to have to provide access to the Office of the Employment Advocate', who could go in there to ensure that the law of this land, the Workplace Relations Act and the enshrined provisions relating to freedom of association, was being complied with.

What this government could not stand was to have the Office of the Employment Advocate checking to make sure that the freedom of association provisions were being adhered to and that the MCG site was not a closed shop. I believe the government was very concerned that the office would discover that it was a closed shop and therefore in breach of the law. What you have is the government forgoing $90 million worth of commonwealth money on that sole basis. It rejected the commonwealth money because its mates in the union movement were going to be caught out, who got $77 million tipped in by the state government — $77 million that could easily have been spent elsewhere.

The most important thing here is that you could have the potential involvement of the union movement if this bill passes, and this is the thing that terrifies me. I used the example of a retired Martin Kingham taking on the job of an information services officer with the right of access, the right to determine what books he looks at and what he can take away, talking with the interviewees. It could be a home-based industry; it could be a retail premises; it could be a dairy. For the first time you are going to have access by the union movement, officially sanctioned by this government, going in and using something like occupational health and safety standards as a mechanism, or an industrial tool.

It is not as if it is anything new. The Cole royal commission has already made the finding that occupational health and safety standards are used as an industrial tool. Once you get this in place you could potentially have every single workplace unionised easily.

Let's have a look at the other thing that could come about. The Shop Distributive and Allied Employees Association (SDA) at the moment is trying to get a rope-in award of some 17 000 retailers here in Victoria. It has spent four years trying to rope them all in. It is having difficulties because, as we know, retailers come and go, and it is a problem to define who is in and who is out. There are 17 000 retailers it wants to rope in.

If this bill comes in, all of the union's problems are over and done with. Every single employee and industry sector would be roped in under the common-rule orders. What I am saying is that with this bill the government of the day is essentially doing the bidding of the SDA so it does not need to go through all of this trauma to try to rope in, with all the difficulties that may incur and indeed with no real prospect of success in relation to a general award. The union would be back in town. It would be ready to spread its tentacles right across every single retail premises in Victoria. You can see the unionisation of the retail sector, and even the traditionally non-unionised labour force on our farms right throughout Victoria — something that causes the Victorian Farmers Federation an enormous amount of angst, as it specially mentioned in the comments I read out.

I mention also what should be happening. The minister says that because there is a safety net and a minimum standard is prescribed under that safety net — a minimum standard prescribed by a minimum wage order under each of the five items of the Workplace Relations Act — and because you have the minimum standards prescribed by schedule 1A you necessarily

have a safety net, because apparently everybody wants to share in the 20 allowable items, whether they are in or out of any award or individual agreement or otherwise. But what this minister should be doing is working within the law. What is wrong with going to Tony Abbott and saying, 'Let's extend the provisions of schedule 1A.'?

At the moment we have introduced into the federal Parliament the Workplace Relations (Improved Protection for Victorian Workers) Bill, which is due to be debated this month. Tony Abbott has already introduced legislation that will see the extension of schedule 1A provisions to carer leave and to bereavement leave and allowing an extension of the 38-hour week for payment beyond a 38-hour week — all those matters. If there is any concern about people wanting to share in the joys of the 20 allowable items under a federal award, perhaps what we should be doing is extending the provisions of schedule 1A, not going through long and tortuous processes to get rid of the unitary system, because we will have a state-based system and we will have information services officers going around the place. What should be happening is that the government should be treating with the commonwealth government to extend those provisions of schedule 1A, not going through this long and turgid process. If the government is fair dinkum about this bill and wanting to maintain a unitary system, that is what should be happening. The government should not be introducing this bill, which would do nothing more than introduce the state-based system and destroy flexibility.

I recently had an opportunity of talking to a couple of people from Jobwatch who came to see me. They expressed concern about the fact that there is a disparity between the 20 allowable items. They talked about carers leave and bereavement leave. They wanted to have penalty rates; that may cause some angst. They wanted to have an annual leave loading. Apparently someone is disadvantaged because they do not get an annual leave loading. I do not know whether the honourable member for Mornington gets an annual loading.

Mr Cooper — I do not.

Mr McINTOSH — I do not know whether the minister gets an annual leave loading. The honourable member for Brighton may get an annual leave loading. In fact, Mr Acting Speaker, I do not know whether you get an annual leave loading as well. Apparently this is so important that it should be in the extended schedule 1A. But that is a matter on which the government can treat with the commonwealth government.

The other thing is — and I think this is a legitimate concern if it is true, and I do not maintain it is true because I have not read the article — I am told that the community standard for redundancy should be eight weeks. That is a matter for negotiation. Perhaps we need to build into this system an appropriate level of redundancy, but that is a matter for an amendment of the commonwealth act. I am sure the federal minister, Tony Abbott, would be more than willing to discuss with the state Minister for Industrial Relations an extension of those safety nets. As I have said, he has a bill in the commonwealth Parliament which is due to be debated in the House of Representatives this month that relates to an extension of the very provisions of schedule 1A.

Mr Nardella interjected.

Mr McINTOSH — In concluding my remarks I refer to the three principles that I started with. The practical consequence of the passage of this bill will be the destruction of the unitary system of industrial relations. I do not believe the federal minister wants the power but even if he does and exercises the power by introducing a commonwealth bill it is unlikely that it would be passed. We would have a state-based system by about March or April.

The second point I make is that the passage of the bill would have the result of destroying jobs because it would reduce flexibility. That is the most important thing about this measure. It is not something that we would put up with.

The opposition will ensure that flexibility is preserved by not passing the bill. In conclusion, the Liberal Party believes a job should underpin an individual and the family's economic wellbeing. The ability to share in the benefits of economic growth is crucial to this. If people have a job they have the opportunity to participate in the benefits of economic growth, so that should be a fundamental core driver of government.

The best safeguard of a job for Victorians and their families is to have a flexible and vibrant labour market where all can participate in the benefits of economic prosperity. Importantly, industrial relations have to remain flexible and vibrant and not be killed off with the dab hand of the union movement, not killed off by the inflexible approach of the state-based system that the bill will create. When the economy declines jobs will be lost and opportunities will evaporate. We have to preserve the economy, but essentially people need to have a job and anything that impacts on jobs should be condemned. Accordingly, this bill will see a loss of jobs, an inflexible system built up, and a state-based

industrial relations system. As a consequence the opposition will oppose the bill.

Mr LENDERS (Minister for Finance) — I withdraw the amendments circulated in my name.

Mr Jasper — On a point of order, Mr Acting Speaker, I ask the minister for an explanation for the withdrawal of the amendments. It is the usual practice in this house that proposed amendments are circulated to honourable members so they can be assessed during the second-reading debate and prior to the committee stage.

The ACTING SPEAKER (Mr Kilgour) — Order! My understanding is that the amendments were circulated but were not moved.

Mr LENDERS — I thank the honourable member for Murray Valley for allowing me the opportunity to comment on the withdrawal of the amendments. Yesterday the honourable member for Kew distributed a press release which said that the opposition could not support the bill because of the information services officers. Because the opposition did not move amendments the government thought if that was the sole reason for this good legislation being opposed by the opposition that impediment would be removed. Clearly the opposition is now opposing the bill for a series of other reasons. To save the time of the house I have withdrawn the amendments.

Mr Cooper interjected.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Mornington should not be interjecting.

Mr JASPER (Murray Valley) — I acknowledge the minister's comments in relation to the amendments. From my point of view as the National Party spokesman on this legislation I am disappointed that in making my contribution I do not have the amendments so that I am able to assess and comment on them. Additionally, we could have a situation that the debate on this legislation may not be concluded by 4.00 p.m. today and the amendments would be moved and adopted without any consideration by members of the Legislative Assembly. In those circumstances we would be relying on members of the Legislative Council to assess the amendments. During the debate on the Constitution (Parliamentary Reform) Bill the opposition parties criticised the proposals to change the operation of the Legislative Council for the very reason that the other place is able to assess amendments that are not able to be assessed appropriately in this house. The Legislative Council is able to properly debate and comment on the merits of amendments. I express my disappointment that the amendments have not been put before the house, as is the normal practice and that honourable members cannot comment on them during their contributions.

I have listened with a great deal of interest to the contribution of the honourable member for Kew. I indicate that the National Party will also oppose the bill.

Mr Nardella interjected.

Mr JASPER — The honourable member for Melton will be aware that during the debate on the Fair Employment Bill in November 2000 I led the debate for the National Party. I indicated at that time our concern with the legislation and that we would oppose it. We opposed that legislation on a number of grounds but mainly because of the high cost in setting up a new tribunal in Victoria and duplicating the system. We believe there would be a major increase in the power of unions in Victoria, which would lead to major problems for employers and employment within Victoria. We also noted at that time that schedule 1A of the Workplace Relations Act 1996 covered workers within Victoria with minimum awards. I also noted that the workplace relations legislation transferred powers from the state government to the federal government.

The National Party is concerned about the implication of the legislation we are debating today. I have listened to the comments made by the honourable member for Kew and his assessment of the legislation. There are differences in the payments made to employees under the federal award and those under state awards, but there are a range of protections provided and approximately 20 allowable items under the federal award that are part of the negotiations for employment.

As is normal with the National Party, we contacted a range of organisations that we believed would have a view on the legislation so we could understand their views and the implications of the legislation. On reading the second-reading speech I was initially supportive of the thrust of the legislation. In his second-reading speech the minister states:

> Stage 1 involves a referral of further industrial relations power to the commonwealth so it can legislate to apply federal award standards (the 20 minimum conditions) to Victorian schedule 1A workers.

I believed at the outset that the proposal would support the thrust of the 1996 legislation, which transferred state industrial relations powers to the federal government, so it had some appeal. I changed my thinking when I read the stage 2 process. The warning

signs went up straightaway. I was concerned about the implications of the legislation, which on the surface was appealing.

In seeking responses from a range of organisations the National Party contacted country organisations and farming communities and businesses in country Victoria. They included the Victorian Farmers Federation, the Northern Victorian Fruit Growers Association, a number of chambers of commerce in country Victoria and the Victorian Employers Chamber of Commerce and Industry, which provided only brief comments on the legislation. I refer to some of the problems with the legislation that were brought to our attention. I refer to some extracts from the September edition of *Business Forum*.

The article is headed 'Labor renews push for industrial relations reform'. I will pull out a couple of sections that I feel are important to read into *Hansard*. The article states:

> While more limited in scope than the Fair Employment Bill, the new bill does have the potential to impose a significant cost impact on many small employers in Victoria operating outside the federal award system, particularly in regional areas.

Further on:

> An 'incapacity to pay' option and the phasing-in of any changes would be obvious options in this year.

They are not included in the legislation. I also received a detailed response to the legislation from the Victorian Farmers Federation. I refer to a number of the paragraphs from the VFF submission:

> The bill has been drafted in such a way that allows Labor's objective for the common-rule power in applying federal awards to Victorian non-award workers by either of the following routes:
>
> > to refer to the commonwealth further industrial relations powers; or
> >
> > to provide for federal award conditions to apply to non-award covered Victorian employees following an application to, and decision by, the Victorian Civil and Administrative Tribunal.

Of great concern to the National Party is the second stage of this legislation which would involve the Victorian Civil and Administrative Tribunal, which we believe would have an adverse effect on people living in Victoria, particularly in relation to employment.

The VFF document goes on to refer to the referral of powers:

> The VFF is opposed to the referral of power because it is the state Labor Party's intention to use the common-rule power to apply and implement federal award conditions to those Victorian employees whose minimum terms and conditions of employment are underpinned by schedule 1A of the Workplace Relations Act 1996. Currently, Victorian employees who are not covered by federal awards or agreements have five minimum conditions or safety net terms in relation to their employment. These minimum conditions consist of 4 weeks annual leave, 5 days sick leave, maternity leave and paternity leave, notice of termination to a maximum of 5 weeks, and an hourly rate of pay for an employee under a particular industry section.

That has been highlighted as a concern from some quarters, where under the federal system there are 20 areas of allowable and referrable areas for negotiation.

I am reading from the submission because it summarises the VFF view, a view to which the National Party strongly adheres:

> Moreover, while the VFF supports a uniform industrial relations system, it is opposed to a forced federal common-rule approach as outlined by the uniform bill. The VFF submits that it is opposed to a common-rule application to federal awards for Victorian workers since there is no allowance for entitlements to be linked to productivity or to have enterprise flexibility at the workplace. Victorian farmers compete on the international market, and it is very important for wage increases to be tied to productivity. Nothing in the uniform bill has linked entitlements to productivity. Employers and employees should be allowed to negotiate at the workplace on their own terms and conditions without an outside party enforcing uniform conditions on them.

The National Party is concerned for country people. The present drought conditions across many parts of country Victoria are bringing more pressure to bear on employers, particularly the farming community in country areas. It not only affects the farming community but goes into the small towns and cities that operate in country Victoria.

My investigations reveal that the tightening of the drought conditions, particularly over the last month, is having an effect on the country cities and towns, where business people tell me there is a genuine slowing in those businesses activities. They then have the option of asking what they can do. The farming community faces a very difficult situation in managing their farms through these times. What do employers in the towns then do? Many are small employers. Do they start reducing staff? Do they look at trying to be ecumenical in making sure they maintain those employees, even though they may have a reduced turnover due to the lack of business in those country areas?

I say again to people who live in metropolitan Melbourne that you have to live in country Victoria to

understand country people and country conditions. I often listen to other speakers in the Parliament, particularly those who have no idea of the circumstances faced by those of us living in country Victoria. We need to have a proper understanding of those circumstances.

This legislation shows little understanding of the specific concerns of those of us who live in country areas. It is highlighted now by the current conditions in country Victoria and the subsequent drop in production and income for primary producers, which is carrying through to country communities. There is no doubt in my mind that if the drought conditions continue and we get adverse effects in country Victoria, those effects eventually will be felt in metropolitan Melbourne.

Yesterday we were briefed by Goulburn-Murray Water. It indicated its concerns about the reduced inflow of water into the water storages, particularly highlighting the reduced water storage at Eildon. That storage is in a drastic situation, because it did not receive the inflow of water that was anticipated during September. The people from Goulburn-Murray Water expressed great concerns for the future availability of water and their being able to provide it down through the Goulburn Valley for the farming community and those living in country cities and towns. Over the next month conditions will be watched very closely to see if there is any change in the water supply, not only into Eildon Reservoir but into all the other water storages across country Victoria.

I note in passing that many people, particularly conservationists and those in the green movement, express concern that we have water storages built in country Victoria across our waterways. Those of us who live in country areas would be faced with a drastic situation if we did not have the major storages we have at present. The saviour for the farming community, the irrigators and those living in country Victoria has been not only the water contained within the Snowy scheme but the large water storages across Victoria. We are facing a situation where many of these storages are at their lowest levels on record after a six-year shortage of water, which is evident across Victoria and across Australia. I make those comments in relation to this legislation because that has an enormous effect on those of us living in country areas.

I refer to further extracts from the VFF submission, which talks about small business:

> Small business operators who employ relatively few employees will be the most vulnerable to Labor's latest legislative proposals, since they will have to compete with large employers who are able to afford the federal award conditions. Many family farm businesses will have to put off employees, or alternatively not employ labour because of the cost impact the uniform bill will have on employment.

As I said earlier, that is an important issue not only for those of us living in country areas but for all people operating within small businesses, which could and will feel the effects of the legislation.

Another paragraph from the Victorian Farmers Federation submission goes on to say:

> Recently the VFF had three meetings with the Victorian Government and had been given the opportunity to read the Federal Award (Uniform System) Act 2002. In essence the VFF believes that the uniform bill is essentially flawed. From reading the uniform bill, it lacks practical application for the appropriate industrial relations processes to be implemented.

That summarises the views of the organisation. The victimisation provisions are of concern to the National Party, and the VFF submission also mentioned its concerns in this area, stating:

> The victimisation provisions contained in division 2 provide for severe penalties and can be applied to prospective employees and employers where there has been no legal binding employment contract. These provisions are biased against the employer and are questionable on the ultra vires doctrine.

The concluding summary of the VFF's submission indicates that it is opposed to the legislation. It makes two comments: that the Victorian opposition should be rejecting the Federal Awards (Uniform System) Bill 2002 and that the federal government should reject any referral of powers to it.

I also refer to the attachments to the submission from the VFF which gives a comparative case study of a dairy farmer under the current industrial relations system and the system proposed in this legislation. It provides the rate of pay for an employee on a dairy farm with reference to four weeks annual leave, sick pay, standard public holidays and the overtime that may be worked, and compares the totals for the two systems. The potential increase in employment costs for the dairy farmer under the proposed system would be 21 per cent, indicating that he would need to find over $7000 additional funding, with all the difficulties that would bring.

Some people in the government would say, 'If that is the case they should pay the federal award and we would have no difficulties'. But other things happen when we employ people, particularly in country areas and in the farming sector. One of the issues not taken into account in this calculation is that in most cases the employee's accommodation is provided for in the contract. So the employee would have a particular

award under the current system, schedule 1A, but would be provided with other benefits by the farmer or whoever employs him — and often there would be other benefits for him and the family living on the farm. We need to take into account all those other issues when we are looking at this legislation.

Many people are saying that country communities should be prepared for droughts. There is some merit in that view, that the farming community and those involved in farming should be able to accept the prospect of an occasional drought. But in talking to a farmer recently I said, 'You have had some good years recently; you should be able to accept the fact that this is going to be a difficult year'. His comment was, 'The problem is that we have had many, many years over the past 20 years when the farming community has had to battle for survival'. Again we see a situation where this government has brought legislation before the Parliament without any real understanding of many of the difficulties that face us in country Victoria or the total impact of this legislation, should it be implemented.

As I said earlier, my concerns are based not only on the fact that this legislation has been brought before the Parliament but on the implications of what it involves. First of all the government is saying that this would be referred to the federal industrial relations system, but if the federal government did not accept that as stage 1, it would go on to stage 2, which, as the minister indicated in his second-reading speech, would be implemented if the commonwealth refuses to legislate to adopt the proposed referred powers.

It involves federal awards applying on application by common rule under Victorian legislation. In other words, stage 2 would be implemented if stage 1 fails due to a lack of cooperation on the part of the commonwealth. That is of great concern to us in the National Party. Should the federal government say it is not prepared to accept this situation from Victoria — and presumably it may — that would lead to the position where the Victorian Civil and Administrative Tribunal (VCAT) would be brought into play to assess particular cases in Victoria and provide award conditions which may not be — and probably would not be — acceptable to those of us living in Victoria.

What we need is flexibility where you can get arrangements made between employers and employees which are effective and which work. As I have indicated, we have seen it work within the farming community. There is a particular award in the state system which through schedule 1A in the Federal and Industrial Relations Act is not as lucrative and does not provide the same conditions as the award under the federal system, but other actions are taken by the people within that employment area to negotiate an appropriate system and appropriate support for the employees.

Again I indicate to the house that the wealth of Victoria is created by employers in private enterprise who are able to employ people. There is no doubt that if you put conditions on employers which are not acceptable and which they cannot live within while remaining profitable, they certainly will not be employing people. I have great concerns with the legislation before us, not particularly with stage 1 but with the other parts, including the implementation of stage 2 in relation to VCAT. The National Party agrees with the information that has been provided to it by the farming community and farming organisations that this would create extreme difficulties for many of the employers in Victoria and that the legislation is flawed in many respects.

In summary, members of the National Party oppose the legislation for what they believe are very good reasons, including the effects it would have in particular on the people that we represent in country Victoria. I suggest that other issues should be looked at. Some government members asked: what would you do in the circumstances? We would be prepared to go along, perhaps, with achieving a single system of industrial relations in Australia but there are some provisos as far as members of the National Party are concerned. We would be seeking a new and reviewed mechanism to run capacity-to-pay arguments, which need to be a basis of all negotiations. As indicated by the honourable member for Kew, the unions are creating problems for employers in the state of Victoria. We are seeing a new situation where employers are being put under more and increased pressure by unions, which is making profitability even more difficult. We want to see a new and improved mechanism to run capacity-to-pay arguments.

If there were any changes, we would like to see a phasing-in period, so that you could get some flexibility in being able to implement changes, but also by agreement. There could also be perhaps some transition by way of assistance from the state government, particularly to small business. Small business is, of course, critical to the operations of the state of Victoria. I include in small business not only the farm community but business operations in small country towns and cities in Victoria and indeed right across Melbourne — that is, the whole state. The government could consider giving some relief in Workcover, perhaps over the next two years, to assist small businesses to get through what is a difficult time.

Added to that we have at present the extremely difficult conditions being faced by country Victorians generally and the drought conditions being faced by the farming community in particular.

Members of the National Party are opposing the legislation. We believe it is not in the best interests of the state of Victoria. We trust there can be some further discussions and negotiations on the matter. The legislation before the house is not acceptable to the National Party.

Ms BEATTIE (Tullamarine) — The bill represents another key component of the Bracks government's commitment to fairness. There, I have said it in the chamber — the f-word, fairness — because members of the government firmly believe in fairness.

The Labor Party does not believe that some classes of Victorian workers should be treated as second-class citizens and that their conditions should be lower than workers in the rest of the country and the territories. Indeed, most members of the Liberal Party do not believe that. Tony Abbott does not believe that and Peter Reith never believed that. But members of the Victorian Liberal opposition, now joined by members of the National Party, believe Victorian workers somehow are second-class citizens.

Unlike the Kennett government's approach to industrial relations, this bill has been developed by a proper process. There was consultation with employer groups, unions — yes — and employers and employees. That is the approach members of the government take — again unlike the Kennett government's approach, which was for the minister responsible to consult a bottle of Scotch!

There is a need for a unitary system and that has been acknowledged because since 1996 the gap between employees covered by federal awards and agreements and those under schedule 1A of the Workplace Relations Act has steadily increased. That gap is widening and workers under schedule 1A are falling behind. Employees are under schedule 1A as a result of the scrapping of state awards by the Kennett government in 1992.

Honourable members will recall that there was a lack of commitment by the federal government to take on these employees. The Bracks government then introduced the Fair Employment Bill, but that was rejected. Where? It was rejected just along the corridor — by the Legislative Council, that disgraceful place that is really not representative, as was well canvassed during debate yesterday. That place is sometimes known as the red morgue, probably unkindly, as I have seen some — not many but some — signs of life there. I do not want to cast aspersions on that other place. For seven years people sat there mute and did nothing while Kennett and his gang stripped away the rights of Victorian workers.

Honourable members will recall that the Fair Employment Bill had significant support from unions, employers and community groups, as well as the Victorian Automobile Chamber of Commerce, the Housing Industry Association, the Victorian Road Transport Association and the Master Builders Association of Victoria.

In the year 2000 the independent industrial relations task force identified 561 000 Victorian employees who were covered by the Workplace Relations Act but were treated differently from other employees. Those 561 000 employees were treated as second-class citizens just because they were Victorians. Members will recall that one former Premier loved to call people un-Victorian, but some people are treated as second-class citizens just because they are Victorians. That is shameful.

I refer to some of the clauses of the bill. Firstly, the bill refers to the commonwealth the power to make common-rule orders. That will allow the commonwealth to legislate for federal awards and to bind all Victorian workplaces to a consistent and more appropriate award safety net without undue legal and administrative technicality. Again, it goes to the very heart of fairness. The bill also allows for the Victorian Civil and Administrative Tribunal to have the power to make orders on application applying federal award conditions as common rules in Victoria if the commonwealth does not accept the referral of power to make common-rule orders. It also allows for a common-rule order made by VCAT to have legal force and to apply to employers and employees within the scope of the order and protection against an overlap of common-rule orders applying in respect of the same work.

The bill also provides for the process in the making of various common-rule orders, including public advertisement, receipt of submissions, public hearings, publication of decisions and orders and a capacity for employers to seek an exemption based on an incapacity to pay increased wages and conditions flowing from the VCAT order. It also provides for many other things.

I want to turn to the opposition's attitude to the bill. Members of the opposition are running a scare campaign, saying that hundreds of thousands of

workers will be put out of work if the bill is introduced. The bill is not a scary monster. Even Tony Abbott and Peter Reith — the bovver boy of federal politics and the phone card meister — think this is quite a fair thing. They seem reasonable, compared with the members of the Victorian Liberal Party.

Yesterday we saw an hysterical outburst by the honourable member for Kew. He said that a solicitor had sent some workers a letter and he implied there was some extortion in that. If solicitors sending people letters were extortionist, half the members of this Parliament would be labelled extortionist — for sending letters to people! I do not know where the extortion comes in, but those are the hysterical atmospherics and ideology surrounding a debate in this place on anything to do with workers.

It shows a complete lack of understanding of working men and women. They should get out there in the factories and shops for a little while. They would then observe the conditions some people work under and see why there is the necessity for unions. In a perfect world we would all be working in perfect conditions and employers would all be paying a fair rate. That is where the necessity for unions comes about, to bring people in and have checks and balance on rogue employers. There are many fine employers out there — there is no doubt about that — and they have no problem with this legislation, but rogue employers do.

When you look at Victorian working men and women — and indeed with some of the legislation brought in by the Liberal opposition when it was in government — is it any wonder that Victorian working men and women ousted the Kennett government? I do not think it is any wonder, but still those on the other side of the house just do not get it.

By rejecting this bill, which is not a scary monster but is about fairness and equity, the Victorian Liberal Party is saying, 'We were right in 1992, we were right in 1996, we were right in 1999, and we are still right'. As I said, even Peter Reith and Tony Abbott think the bill is reasonable and fair. Again, they think workers should have some rights, that there should be fair and equal access to carers leave, bereavement leave and the right to redundancy. Even Tony Abbott thinks there should be a right to redundancy — eight weeks in the case of Ansett workers who had clocked up 20 or 30 years. Although they have not yet been paid, the federal minister does believe in a minimum of eight weeks.

What we have here is a bill that is not being properly debated; we have an opposition that is desperate for publicity, desperate for popularity and absolutely desperate for some leadership. We saw the desperation yesterday and we saw how lazy opposition members are. At question time when a sum of money going to the state Labor Party was mentioned — —

An Honourable Member — What has that got to do with the bill?

Ms BEATTIE — It has nothing to do with the bill, but it has everything to do with the laziness of the opposition. Opposition members did not bother to check it up. They just came in here, floating figures — as the honourable member for Geelong North knows — and made absolute fools of themselves because they are too lazy to check out these things. That goes to the heart of it. Again, I can talk about that laziness because if the Victorian Liberal Party really had problems with the bill it should have moved some amendments. Has it used that opportunity? Not at all! Liberal Party members should get some advice from Peter Reith. They should pick up their phone cards and ring Peter Reith, or perhaps borrow Peter Reith's phone card.

Mr Loney — On reverse charges!

Ms BEATTIE — Yes, and talk to Tony Abbott as well, because he and Peter Reith would say, 'Look, come on, Victorian Liberals, pass this bill, get on with it; you are making fools of yourselves and of the rest of the party around the nation'. But again, like in other debates we have seen this week, the state conservatives say they agree with their federal colleagues but when they come to a vote they act differently to their colleagues. They cannot get it together. It is called discipline and unity, but as we saw yesterday, at the moment they do not have any discipline and unity so they will vote this bill down.

They have already said that, and the National Party members are hanging off their coat-tails — and they will pay again at the next election, just going along with whatever the Liberal Party master says. They will be like a little dog with its tail wagging. They will run out there, wag their tails and say, 'Yes, master' and go along with him. They will reject this legislation not because is it is the right or the decent thing to do, not because they actually believe it — it is about political expediency. They want to go to an election. They want to get it over and done with because they are bleeding all over the place.

Mr Loney — So they can get a new leader.

Ms BEATTIE — As the honourable member for Geelong said, so they can get another new leader. They are looking for solutions all over the place.

This bill is extremely important to the Bracks government. We are absolutely resolute in our determination that Victorian workers should be treated equally with other workers in Australia. We do not believe Victorian workers are second-class citizens. We believe in the dignity of labour. We come from the trade union movement, and we are not ashamed. These people seem to have a thing about Martin Kingham. They cannot get over the Kingham factor, but we believe in the dignity of labour.

In summary, I know there are lots of other people on our side who want to fully debate this bill — reasonably, not with hysterical nonsense and words; they want to debate this reasonably. So in closing my contribution I say that this is a bill about justice, fairness and equity. Again, I will shock you all and say the f-word again in this house — fairness: that is what this is about. We are absolutely resolute and we will keep bringing bills into this house which are about fairness and equity and decency for Victorian workers. We do not believe Victorian workers are second-class citizens. Unfortunately those on the other side believe they are. I commend the bill to the house.

Ms ASHER (Brighton) — This bill wishes to refer common-rule orders to the commonwealth Parliament. Failing that, the government's alternative position is to have the Victorian Civil and Administrative Tribunal make orders applying federal award conditions as common rules.

The honourable member for Kew has gone into some considerable detail about what is contained in the bill, and I wish to make a couple of comments on it as well. Firstly, this bill is in the same style as a series of bills we have seen come before this Parliament and all have been rejected by the opposition in the upper house. We will continue to reject bills that we regard as unreasonable and that we believe cost Victorians jobs. It is not just the opinion of the Liberal Party, it is the opinion of peak associations that this bill will cost jobs. That is the reason this bill will not get through this Parliament.

The Labor Party started initially with its so-called Fair Employment Bill, this ideological attempt to impose its pro-union framework on Victorian employers and on the Victorian community. On the figures of the so-called independent industrial relations task force, 2000 jobs would have been lost as a consequence of that bill. On employer figures, 40 000 jobs were going to be lost over three years, so the so-called Fair Employment Bill was rejected in the upper house by the Liberal opposition.

The government then moved to introduce so-called industrial manslaughter legislation, again with some serious consequences for employment in this state. So we had another ideological attempt to impose unnecessary pro-union legislation on the Victorian community, and that bill was also rejected.

Then as a stunt prior to the last federal election the government prepared the Commonwealth Powers (Industrial Relations) (Amendment) Bill, and that bill, once the federal election was over with the Liberal government being re-elected in Canberra, was never even put before this chamber — clearly evidence that it was a stunt again. However, now we have the Federal Awards (Uniform System) Bill 2002. This bill is again in the same context. It is a pro-union and union-driven bill which will cost jobs, and the opposition will reject it.

I will make a couple of comments about schedule 1A employees. That category was created in 1996 as a consequence of the Kennett government's referral of industrial relations powers to the commonwealth. But a significant problem for the Labor Party is that one of the key supporters of that bill is none other than the now Premier. When that bill, that transferral of powers, was debated before this chamber the shadow spokesperson at the time, the honourable member for Williamstown, said:

> The opposition supports in principle the concept of a single national system of industrial relations.

And it always has.

It can deliver benefits to both employees and employers by creating a uniform national framework for dispute resolution and the application of minimum employment standards that can be more easily complied with and enforced. That is the problem for the Labor Party. The now Premier supported that transfer of powers. The issues the Labor Party raised in the Fair Employment Bill, in industrial manslaughter legislation and in the bill before the house were never raised at the time of the transfer of industrial relations powers, because its current leader supported that transfer of powers. Today we are seeing an ideological attempt by the ALP simply to pander to its trade union base.

However, the most insidious part of the bill, and the aspect of the bill over which the Minister for Finance put on an extraordinary little prima donna-like performance earlier, is these information services officers (ISOs). The bill provided for information services officers. And who are these officers? Who are these people the Labor Party wants to give entry into every workplace?

Mr Cooper — Bracks's Gestapo!

Ms ASHER — Bracks's Gestapo, it has just been suggested. I need to tell the house what these information services officers are. The primary function of information services officers, according to the bill, is:

> … to provide information about the operation of this Act to employers, employees, registered organisations, interested organisations, peak bodies and other interested members of the community.

As to powers, they are going to have the function of ensuring compliance with this act and 'any other functions conferred by or under this or any other act'. In other words, these ISOs are going to do what they like in workplaces in Victoria.

The appointment of information services officers is to be made by the minister. Can you imagine a Labor minister with the power to appoint information services officers to go into every workplace and do basically what they like in the state of Victoria? I asked how many of these people they would have, how many members of the Gestapo are going to be recruited. I was told 'Initially less than 10'. Initially?

They will have identity cards and they will have significant powers. They will be able even to call on police help. You can see in the bill that the Labor Party was obviously aware that these people might get a little robust in their inspection of premises. I refer to clause 18:

> 18. When may powers be exercised?
>
> …
>
> (2) In exercising powers under this Part, an information services officer must —
>
> (a) cause as little harm and inconvenience or damage as possible …

They know who these ISOs are going to be. They know who the thugs are. They are even telling them to cause as little damage as possible.

There are two kinds of power of entry. One is where the poor little small business owner consents to it because he or she does not know what is happening: you flash your identity card, you get in and you do what you like. The other is where the entry is non-consensual. You can go to a magistrate to get access to people's business premises.

The powers of entry for these ISOs are extensive. On exercising a power of entry the information services officer may:

> (a) inspect any work, material, machinery, appliance, article, facility or other thing —

in other words, inspect everything in the workplace.

> (b) take samples of any goods …
>
> (c) interview any employee …

It does not even have to do with whatever the reason for the inspection is!

> (d) require a person having the custody of, or access to, a document relevant to the purpose of determining compliance with a common rule order …
>
> (e) inspect, and make copies of or take extracts from, a document …

The most extraordinary and most offensive part of the bill relates to these ISOs, who have been recommended by the industrial relations task force.

The ALP has a considerable mantra on schedule 1A employees. I note in the second-reading speech that schedule 1A employees 'receive fewer conditions and entitlements than other employees'. Those conditions and entitlements are spelt out in the second-reading speech. However, I wish to put on record part 2 of the report of the Victorian industrial relations task force. The task force was set up by the Minister for Industrial Relations to recommend and justify the Fair Employment Bill. Part 2 of its report, however, contains results of statistical research into the Victorian labour market. The research was compiled by the Australian Centre for Industrial Relations Research and Training.

It is important to examine the facts about schedule 1A employees. According to the data schedule 1A employees have interesting pay rates. With regard to average minimum hourly rates, mean minimum hourly rates and median minimum hourly rates the task force found the following, and I quote from page 16 of the report:

> When looking at averages it is useful to apply both the mean and the median, since the former is sensitive to extreme values. Looking first at mean minimum hourly rates, the most startling impression is the consistency of the industry pattern. With the exception of agriculture and infrastructure, the mean minimum hourly rates are all higher for workplaces with schedule 1A coverage than those with federal coverage.

I put the data on the record. Table 22 of the report shows mean minimum value rates by industry as follows: under federal awards agriculture gets $13.72 and under schedule 1A, $11.45; under federal awards mining and construction gets $14.57, and $16.22 under schedule IA; manufacturing gets $12.64 under federal awards and $14.47 under schedule 1A; under federal

awards wholesale and retail get $12.64, and $12.81 under schedule 1A; hospitality, recreation and services under federal awards get $12.64 and $12.97 under schedule 1A; infrastructure, $14.23 federal and $13.2 under schedule 1A; education, health and community services, $42.44 federal and $15.90 for schedule 1A; other, $14.06 federal, $16.18 schedule 1A; and the total mean minimum was $13.47 for pay under federal awards and $14.40 for pay under schedule 1A.

Likewise the same pattern emerges for median hourly rates by industry. Let's set the record straight: we are not talking about pay, we are talking about conditions that the government wishes to regulate.

There are significant arguments against this particular bill. The first one is that it eliminates flexibility in the workplace, which is something the Labor Party does not wish to see. However, in smaller businesses it is easily important to have flexibility in the workplace. The Retail Traders Association of Victoria is extremely concerned about this bill and claims there will be a loss of 2500 jobs.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Geelong North and the honourable member for Burwood should not be conducting conversations from one end of the house to the other, as it makes it extremely hard to hear the honourable member for Brighton. The honourable member for Brighton, without help from the opposition and government benches.

Ms ASHER — I refer to a letter dated 18 September 2002 put out by the Australian Retailers Association of Victoria headed 'Crisis in the retail industry'. It states:

> The state government is proposing legislation, the Federal Awards (Uniform System) Bill 2002, which will see award conditions apply automatically to all businesses. The legislation will result in small business suffering increases of up to 25 per cent in labour costs.

This is not what the Liberal Party is saying; this is what the retailers association is saying.

Turning to the *Victorian Retailer* magazine of September 2002, the retailers go on to say:

> The ARAV is opposed to the Victorian government's approach to this issue, as retail is one of the industries most likely to be affected if the new laws are introduced. We are continuing to make your concerns known to the Minister for Industrial Relations.

That obviously was not effective. The retailers go on to outline the fact that they expect that 2500 jobs will be lost in retail as a direct consequence of the bill before the house.

The Victorian Farmers Federation has also forecast that if this bill were to pass there would be increases in labour costs, and it estimates that running costs in the dairy industry would increase by 21 per cent. It also argues that over 10 000 jobs could be lost as a direct consequence of this bill.

I have some sympathy for low-paid workers who need improvements in their conditions, and I note that the federal industrial relations minister, Tony Abbott, shares those views. Indeed, in the federal Parliament on Thursday, 9 August 2001, he moved the Workplace Relations Amendment (Minimum Entitlements for Victorian Workers) Bill 2001, and I will indicate what Tony Abbott wanted to do, which is very much in line with the sentiment of some of the speeches from members of the ALP. This is what the minister said in his second-reading speech:

> This bill will amend the Workplace Relations Act 1996 to enhance the legislated safety net entitlements in schedule 1A for employees in Victoria not covered by federal awards or agreements.

He then itemised those areas. The commonwealth government was and is perfectly happy to amend legislation to ensure that the conditions we are talking about — we are not talking about pay, we are talking about conditions — that are listed for schedule 1A in the federal bill could apply to Victorian workers. What happened to that bill? It was rejected by the Senate, and Tony Abbott will reintroduce it. It is very clear from a Liberal perspective that the federal government has been prepared, is prepared and will be prepared to protect the rights of Victorian workers, but within a unitary system. There are very, very clear advantages in having one industrial relations system operating across Australia. I suggest to members of the ALP that they talk to a couple of senators to get them to support what Mr Abbott is trying to do in the Workplace Relations Amendment (Minimum Entitlements for Victorian Workers) Bill rather than taking the approach in the bill before the Parliament today.

I am conscious of the fact that a number of people wish to speak on this bill, so I will reiterate in conclusion that Labor has introduced this bill for purely ideological reasons. Labor will do what the unions want. That is the simple equation. That is what you get with this government, and that is what you get with this Premier, who is beholden to the trade union movement for his job.

The Liberal Party will reject this legislation because it will cost jobs. The Liberal Party has listened to the retailers association and the Liberal Party has listened to the Victorian Farmers Federation. The Liberal Party

will not allow damaging legislation to pass through this Parliament; it will not allow the loss of jobs in the dairy industry; it will not allow the loss of jobs in the retail industry; and it will not allow information services officers — bovver boys — to come into small business premises and home-based businesses to inspect books and do whatever they like. This legislation is unacceptable to the members of the Liberal Party, and we oppose it.

Mr LONEY (Geelong North) — The first thing to be said is that the Victorian Liberal Party, had it been around at the time, would have opposed Lord Shaftesbury's legislation to improve the lot of children in workplaces on the basis that it would have cost jobs!

This is a mob who cannot see anything at all that justifies fairness in the workplace. Having listened to the honourable member for Brighton, I have some sympathy for her because it was a tough job she was given. I assume the speakers notes for this bill were prepared by the honourable member for Kew, based on his research, and we saw the quality of his research highlighted yesterday, so I sympathise with the honourable member for Brighton and other members of the opposition for having to make their contributions based on notes provided by the honourable member for Kew based on his research. We know he is, at best, a very sloppy researcher indeed. Today was the day he was going to try to rebuild some credibility through his speech in this debate after yesterday's debacle at question time, but he has not got there. The credibility of the honourable member for Kew is still zero.

The one thing on which I agree with the honourable member for Brighton is that this legislation shows the clear difference between the government and the opposition on employment matters. That clear difference is that we have an opposition in Victoria which for three years now, following seven years in government, has shown that it just does not care about workers in general, but in particular it does not care about low-paid workers. The very clear difference is that it is a party that does not care.

On every occasion on which legislation is brought into this place to improve the lot of low-paid workers the Liberal Party and the National Party reject it. They vote against it and reject it. One of the arguments raised here — I will not go through it point by point — was about the powers of the information services officers, how extensive these powers are and how incredibly draconian they would be, as the honourable member for Brighton said. I say this to her: the powers of the barley marketing inspectors are far more extensive than the powers of information services officers under this legislation, yet the Liberal and National parties rushed to give barley marketing inspectors those powers! They will not even support the powers for low-paid workers inspectors that the barley marketing inspectors have. They are a mob that is prepared to defend grains of barley crossing the borders, but low-paid workers in Victoria can forget about getting any support from them.

This is where they come from. This is the way they go every time. The National Party, of course, pretends that it tries to represent and protect the interests of rural and regional people. In fact most of the lower paid workers in Victoria are in rural and regional areas, and they tend to be concentrated in small workplaces in certain industries. You would think this is an issue on which the National Party would say, 'Here is somewhere where we can state a clear difference between ourselves and the Liberals'. They are the Melbourne-centric party; they do not care. National Party members could stand up for rural and regional workers — but no, they will not. They will sell them out again.

What is being proposed here is very simple. It is that all workers in Victoria should have the same proper safety net for their work. This is pro-worker legislation, and that is what they hate about it, because in the deep and dark corners of their hearts they hate workers. It is a simple proposition — that workers who are not covered by federal awards should be given the same terms and conditions as those on federal awards. But no, they cannot support that simple proposition that Victorian workers, regardless of where they are in the state and who they are, should have the same terms and conditions applied to them. They try to pretend they are standing up for Victorians everywhere. It is rubbish.

This legislation is about putting in place a fair system of employment conditions for all workers. It is the principle of one system for all Victorians. Why should it be — and I have not heard this argument from any of them — that 356 000 Victorians, 21 per cent of the Victorian work force, who rely on schedule 1A should not have the same terms and conditions as the remaining 79 per cent of the work force? Why shouldn't they be entitled to that? But members opposite say, no, they should not be. They are prepared to just wipe off 21 per cent of the work force and say, 'You are somehow lesser Victorians. You are not entitled to the protection of this Parliament. You are not entitled to the protection of a fair employment legislation'. That is what they are saying. That is what they are telling those 356 000 workers today. They are saying to hundreds of those workers in Colac, 'I don't care about you'. Are the people at Corio and Colac not

entitled to get the same wages and conditions as people do elsewhere?

Mr Mulder interjected.

Mr LONEY — I take up the remark of the honourable member for Polwarth. The Corio area, as he well knows, has had the best employment results in the state under this government. We certainly could not say that about the government the member for Polwarth supported, which created not one new full-time job in the whole Barwon–south-western region in seven years.

An honourable member interjected.

Mr LONEY — You are talking about figures. Go and have a look at them.

Some 235 000 Victorians receive only minimum rates under industry sector orders. Those 235 000 workers are not going to get a fair deal from members on that side of the house today. They are going to say, 'We don't care about you'. They do not care at all! The rates that were being talked about before are not completely relevant, because 8 per cent of our work force is on under $10.50 an hour. But they say that is fair: 'We do not care about them. We don't want to do anything about them. We are happy to leave them there'. As I said, heaven help Lord Shaftesbury if he had been about today and had to face the Victorian Liberal Party.

On top of that, of course, are the terms and conditions. They say that all of those people should have no right to carers leave. They say they should have no right to bereavement leave. That is what schedule 1A means — no right to those things. They say they should have no entitlement to redundancy. We know the Liberal Party view on that. The only workers in Australia entitled to redundancy are those who work for the Prime Minister's brother, so I guess they are consistent on that!

There is no entitlement under schedule 1A for workers to be paid for hours worked in excess of 38 hours a week. They say, 'That is all right. We don't care about that one'. The sick leave benefits under schedule 1A are prescribed at lower levels than they are for federal awards, but again that is all right. 'We do not care about these things', the Liberal Party and the National Party say. 'As far as we are concerned, those 21 per cent of Victorian workers are not entitled to those things. We will not support them. They do not deserve a fair go in their employment'.

This bill is about giving them a fair chance and a fair go in their employment. I am happy to stand here and say that I will support Geelong workers who are in that position. I challenge the honourable member for Bellarine and the honourable member for South Barwon to do the same — stand up for low-paid Geelong workers and say, 'We are prepared to give them a fair go today'. I can tell you I will be supporting it, and I know the honourable member for Geelong will support it. The acid test is on them. We will see what they do.

One of the other interesting things is that we had a debate last night in which we heard speaker after speaker from the other side tell us about the independent house of review across Queen's Hall. We saw today how very independent it is as a house of review when the honourable member for Brighton announced in this place a few minutes ago, 'We will reject it'. It is a very independent house of review across there!

We know, of course, that that is perfectly consistent, because Liberal members of the upper house have a fine tradition of wanting to do anything for the worker but become one. That is the way they see all those things. We have over there amongst the Liberal Party upper house members a motley collection of blockers and blockheads. That is what they are and that is their total role — blockers and blockheads. Just like their colleagues in this place they will not give Victoria's low-paid workers a fair ago. They will not do it. The mob in here will not do it, but the government will continue to stand up for those 21 per cent of workers not currently getting a fair go because of actions of the previous Liberal government. We will keep doing it.

The legislation will be supported by the government, and Victorian workers will be told that one side of this place is prepared to say they will get a fair go — the test is for the other side.

Mr COOPER (Mornington) — The honourable member for Geelong North said that he was all for preserving the rights of workers. He made out that he was the only person to do that. One of the things the honourable member did not say was that he was about the creation and protection of jobs. This legislation is a re-run of the government's discredited Fair Employment Bill, and it will cost jobs. That has been said by the Retail Traders Association and the Victorian Farmers Federation. This bill will cost jobs if it is passed.

The honourable member for Geelong North, who is leaving the chamber, should pay some attention to those two peak organisations and to the comments of Victorian Employers Chamber of Commerce and Industry (VECCI), which says that the bill has the

potential to impose a significant cost burden on many small employers in Victoria operating outside the federal award system, particularly in regional areas. The honourable member for Geelong North represents one of those regional areas in this Parliament, yet he is again ignoring the advice of a peak organisation that says the bill has the potential to impose significant extra costs on small businesses in regional areas.

The upshot of any imposition of increased costs is that employers look at how they can handle those increased costs, and job losses are an inevitable outcome of increased costs. The honourable member for Geelong North, while putting his hand on his heart — I imagine he is genuine — says he is on about protecting workers. The honourable member should understand that in supporting the bill he could be signing the unemployment notices of many of the workers in his electorate. He needs to understand that and vote accordingly, although I am not under any misapprehension that he will change the way he will vote.

I now comment on the petulant decision by the Minister for Finance to withdraw the proposed amendments when the honourable member for Kew completed his contribution. When the minister was asked by the honourable member for Murray Valley why he was withdrawing the amendments he said he had had a discussion with the honourable member for Kew prior to the debate and that the honourable member had said a significant problem for the opposition was part 3, the information services officers provisions. The minister said his amendments would remove those provisions from the bill. That was an outright lie that he put to the house in his attempt to justify his withdrawal of the amendments. The amendments do not do that at all.

At the time I challenged him by way of interjection. I said that he was not telling the truth to the house. Indeed, he was not telling the truth because the amendments do not do what he says they would do. Three of the amendments change the word 'inspectors' to 'officers'. They do not withdraw part 3 of the bill. Almost 30 per cent of the bill deals with the establishment of information services officers. For the minister to say in this house after hearing the official announcement by the opposition — the opposition had already said outside the house that it would oppose the bill — that he would withdraw the amendments is unbelievable. He was untruthful. The reality probably is that the minister has received advice that his amendments are a load of garbage and that is why he has got rid of them. He has used the comments of the honourable member for Kew as a reason to do it. It would have been the decent thing for the minister to be honest in telling the house why he withdrew the amendments. He has not been honest or truthful to the house. I had a higher regard for the credibility of the minister. I thought he would not stoop to that kind of low performance, and I am very disappointed that he has done this. As I said, I had a higher regard for him until today. It appears he has low standards, and he has displayed them to the house today in a very distasteful way.

As I said, 30 per cent of the bill is devoted to the information services officer provisions — as the honourable member for Brighton said, and I think she may have been responding to my interjection, 'Bracks's Gestapo'. That is the only way to describe them, especially when you look at the powers they will be given under the bill. It is incredible that the honourable member for Geelong North could have said today that other people have greater powers than the potential powers to be given to information services officers. The powers to be given to them are wide ranging and are powers that were tested and thrown out by the Parliament when they were included in the Fair Employment Bill. This bill is a re-run of the Fair Employment Bill. It is couched in different language, and the government has tried to make it softer, but at the end of the day the inspectorate will be a body of people who will have almost unlimited powers to enter business premises and business offices and seize whatever they wish to and extend their investigations far beyond what one would have thought would be reasonable for an investigatory body.

The bill shows how important it is for the government to set up an inspectorate that will have wide-ranging powers that enable entry into premises inspectors believe are workplaces or offices. I note the government wanted to change the word 'inspectors' to 'officers' in its now withdrawn amendments. It is a further attempt to hose it down and make the bill seem a lot nicer. The word 'inspector' has a nasty overtone. The minister would have said, 'We will change that to "officers", because it sounds so much nicer. When people have their doors kicked in by officers wearing black or brown shirts who say they are not inspectors but officers they will feel much better about it'. That is the reality, because the powers under the bill, as the honourable member for Brighton said, set out in clause 18(2)(a) will allow these people to:

> … cause as little harm and inconvenience or damage as possible …

Isn't that lovely! The words 'as possible' are wide open. They can turn up at someone's house that is the

registered office of the business at 3 o'clock in the morning — that is a good time to look at documents because people are sleepy and might say, 'Come in and do it'. There is no restriction on the times they may enter premises. If they come through the front gate and find a Rottweiler walking around the premises they can cause as little harm and inconvenience or damage as possible!

That could be interpreted as, 'We had to shoot the dog, otherwise we would never have got up to the front door'. This is the sort of thing that will happen. I know the Minister for Agriculture would feel bad about that, considering the story in the paper yesterday about that little puppy! The Minister for Agriculture might be a dog lover, but he cannot guarantee that the goons that would be employed under this act would feel any sort of conscience about dealing with a dog that is trying to protect its home.

People might say this is hyperbole and overstatement. The reality is in writing, in the bill. Once these people are put into operation the reality is that they will have unlimited powers to gain access, and they will be able to take members of the Victoria Police with them to ensure that. The Victoria Police will have their already stretched resources stretched even further in supporting these characters going into somebody's home and demanding that they open filing cabinets and present to the inspectors all the documents they might want to see. The inspectors will have the power to either copy the documents or take them away. It is nice to know that if they take the documents away the owner of the documents — that is, the business proprietor — can still have access to the documents, wherever they may be with the inspector, and photocopy them if they need them for the continuation of their business. It is nice to know that the employer is being thought of even at these times!

However, there will be a massive invasion of business premises by these inspectors based on what they say is reasonable belief. Their reasonable belief will allow them to enter premises, causing as little harm and inconvenience or damage as possible, and then to not remain on the premises any longer than is reasonably necessary. How long is reasonably necessary? That could be a couple of weeks. It could certainly be several hours. There is no limit whatsoever on the time of entry.

The government says its proposals are reasonable. Those proposals are totally unreasonable, and that was made clear to the minister by the honourable member for Kew, who said that although it was not the only issue it was a major one. As a result we got an appalling performance by the minister this morning when he withdrew his amendments. The enforcement officer provisions are draconian. They are nothing more than a re-run of the Fair Employment Bill, which has already been rejected by this Parliament.

I find it difficult to deal with legislation where there has clearly been inadequate consultation with employers. This is an important bill: anything to do with employment, continuation of employment, and employment conditions is important. That would be accepted by all honourable members, regardless of their political membership. But it is very difficult when a government introduces legislation where there has been totally inadequate consultation with employer groups and individual employers and where their views are wiped aside and no attention is paid to them.

This bill bows to the trade union movement. For example, it will allow, as the honourable member for Kew said, the Shop Distributive and Allied Employees Association (SDA) to rope in 17 000 retailers in Victoria. They do not have to go out there and sell their services to these businesses and give reasons for saying it is important that their employees be represented and have those reasons accepted by employees and employers. This bill allows them to rope in those businesses and shanghai those people into the union. That is not the way of reality in the workplace. It is certainly not something that anyone who espouses democracy would see as reasonable.

At the present time declining union membership is simply a fact of life in this country. Obviously it is a worry to members of the Labor Party, but the way to deal with declining union membership is not to use legislation to force people to join unions. If unions have a place in this world, then they have to establish that place fairly and democratically and not do it this way. But that is what this bill does. It simply bows down to the demands of the union movement, which has been incapable of maintaining its numbers and has seen a decline in its membership. So the union movement says to this government, because it is compliant and obedient, 'We want legislation that will enable us to be able to haul people into our unions whether they like it or not'.

The words, advice and concerns of employers and employer organisations are given no truck whatsoever by this government and this minister. I was only told this morning that recently a group of employers went to see the Minister for Industrial Relations and his advisers. They had only been in the room talking to the minister for 3 minutes when he and his adviser fell asleep. Eight employers went to see this minister to

discuss an important issue and he and his adviser fell asleep while they were talking! What kind of a minister and a government have we got when that sort of thing happens? What sort of a message does that send to employers throughout the state? The message it sends is that they are not really interested. They will pay lip-service and turn up, but 'Hey, talk your head off, we will have a snooze'.

The minister might have had a big week, a big night or a big lunch, but it does not matter how big a moment he had in his life: he should have at least displayed some manners and some ability to be able to talk to a group of employers.

An honourable member interjected.

Mr COOPER — When was this? It was just recently. That is the sort of attitude we see from the government. The minister fell asleep at a meeting, and he stood here this morning not telling the truth about why he is withdrawing his amendments. Is it any wonder that there is a huge question mark over the ability of this minister to do his job — and not only to do his job but to tell the truth about his job? Is it any wonder that we say this minister needs to have a bit of a reality check? His government does as well.

Who is in charge of the asylum over there? When the Premier talks you wonder what the hell he is talking about most of the time. He does not even know what he is talking about. Now we have ministers falling asleep at meetings. It is not a government; it is a disgrace. Is it any wonder that employer groups in this state are all saying that they are not getting a fair go out of this government? The government does not even pretend to give them a fair go.

The major unions in the state get a fair go. As the honourable member for Kew said earlier, the Martin Kinghams and the Brian Boyds of this world will be given an armchair ride. People who lead demonstrations against employers and use thuggery and standover tactics get along all right. They walk in the door and they get heard. I bet the Minister for Industrial Relations does not fall asleep in front of Martin Kingham and Brian Boyd. If he did they would wake him up very quickly!

It takes me back to the days when the transport unions wanted to see transport minister Peter Spyker. They did not even bother about opening the door. They used sledgehammers to get through. Down at Transport House they took a sledgehammer to one of the doors and walked straight into the minister's office. They know how to deal with this government and how to get its attention, like dealing with a crazy mule. Get a piece of four-by-two and give them a good whacking between the eyes and then they concentrate on you.

This is what this bill is designed to do to employers. Give them a whack between the eyes and make their eyes water, and make them comply. It is a bill designed to bring employers to heel; it is a bill that will cost jobs and it is not in the best interests of Victoria.

Mr Smith — Where is Lenders now?

Mr COOPER — He's asleep.

Mr STENSHOLT (Burwood) — This is a bill about fairness and equity. This bill aims to provide all workers in Victoria with the same protection, rights and awards. To reiterate for members opposite, it is called the Federal Awards (Uniform System) Bill. It could be mistaken, listening to some of the contributions, for something completely different. This bill seeks to cover those who have fallen outside the federal system, the schedule 1A workers.

I must admit I find the opposition's stance and that of the National Party on this bill quite offensive. The old Country Party used to look after people. It used to be talked about many years ago as agrarian socialism, looking after the ordinary people against the big squatters who used to be the supporters of the archconservative party. And the old Liberals used to have a sense of fairness towards the individual, acknowledging the rights of people and enhanced by a belief in noblesse oblige. They do not believe in that now. They do not believe in fairness or in looking after people. They do not believe in the level playing field and they are happy to allow the continuation of a system that permits the exploitation of workers.

This is what we have had: they are trying to protect these old bastions of conservatism and have no regard for the ordinary working people. I am also concerned about the continual myth making of the Liberal Party in this chamber. We have had a whole lot of myth making in contributions this morning and indeed this week. We heard yesterday the vindictive and vituperative speech by their leader on the Constitution (Parliamentary Reform) Bill. In this debate we saw the honourable member for Kew myth making on this bill. He talked about this bill as if it was going to be tantamount to setting up a new industrial relations system in Victoria. This creation of myth is a weaving of webs, imagining things which are not there. I know the opposition is a bit sensitive on this issue of industrial relations. After all, we had a government here in Victoria that took the unusual step — and earlier we had a lecture from the

honourable member for Kew about the functions of government — of sacking judges, as they sacked the old industrial relations tribunal here in Victoria. So much for the respect for institutions among these so-called new Liberals. We have had further myth making over employment and potential losses. What we are talking about here is a fair day's pay for a fair day's work. We are talking about bringing it all into one system. As I said before, it is the Federal Awards (Uniform System) Bill we are looking at here today.

What else has the honourable member for Kew found under his bed, in terms of myth making? If he looked closely he would probably find Peter Reith and Tony Abbott, because this is what we are looking at here: uniform with the federal system. What did he find under his bed in Kew? He found potential payroll problems. Here we have it, from the payroll expert from Kew. We heard him yesterday, proving what an expert he is on payrolls and on payroll deductions. He got it all wrong. He does not understand what standard deductions are and what it is all about. He does not understand what transparency is, unlike the Liberal Party and their Cormack Foundations and their secret slush funds.

We have had other myth making about inspectors. I commend to members of the opposition an excellent report recently tabled in this house by the Law Reform Committee on the power of inspectors, about the terms of entry, search and seizure. A very comprehensive examination was made of the powers of inspectors in several hundred acts in our jurisdiction in Victoria. These are very common powers, which have already been alluded to, that have been provided to inspectors to make it work. There is no great myth on this one: you are trying to create some more shibboleths and castles in the air. But here it is, it is just 'Powers of inspectors'. It is no greater than, just similar to, those exercised by members of the federal Department of Employment and Workplace Relations inspectorate. There is nothing in it. You have found Tony Abbott and Peter Reith under the bed, that is what you have found. There is nothing there, nothing different. Maybe you want to check it out this weekend when you are down at Geelong. Go and ask John Howard and Tony Abbott this weekend, what it is all about. Check it out down at Geelong when you are going — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Phillips) — Order! The honourable member for Glen Waverley!

Mr STENSHOLT — He's not even in his seat either.

The ACTING SPEAKER (Mr Phillips) — Order! Interjections are disorderly, and though this is a debate that will bring out the passions in people, the honourable member for Burwood sat fairly quietly during the earlier debate, yet here he seems to be being attacked from all sides. The Chair enjoys a genuine debate, but the level of noise was far too great. I ask the honourable member for Burwood to continue and honourable members to interject in a reasonable manner.

Mr STENSHOLT — Thank you, Mr Acting Speaker. It is good to see the Chair is exercising its function. May I suggest that my colleagues on the opposition benches check with the Prime Minister and the Honourable Tony Abbott when they are at Geelong this weekend trying to contemplate their navels on how the federal award actually works. While they are there talking to John and Tony they should perhaps say to them, 'This is quite excellent. We can bring them all under one system, and that particular federal system should operate'.

Essentially the bill covers two stages, in that the government is looking for the workers to come under the federal jurisdiction. The assumption is that the federal government would agree to other Victorian workers being covered by the federal system. In the event that the federal government proves to be obstreperous the bill contains some fail-safe provisions. I urge opposition members to use their time at Geelong to convince their federal colleagues.

Ms Beattie interjected.

Mr STENSHOLT — That is true. Try to convince them, so that when this bill goes to the Legislative Council its members will have the assurances of both the Prime Minister and the Honourable Tony Abbott, whom they found under the bed in Kew, which are necessary for the Liberal Party. They can then ring the National Party and convey those messages to its members, perhaps via the Honourable John Anderson, to ensure that they can support this bill.

As I said before, the bill restores fairness and equity to all Victorian workers. This is what the Bracks Labor government stands for: fairness and looking after all Victorians. The bill brings justice back to Victoria, which is what the Labor Party was elected to do. That is its mandate, and the bill does that with great fairness.

Mr VOGELS (Warrnambool) — I have been listening to the debate, and I suggest that members of the Bracks Labor government tell their federal colleagues in the Senate to pass the federal Victorian

workers bill and the problem will be solved. I do not know why the Labor Party is getting so upset; that is all it has to do.

This bill seeks to refer power to make common-rule orders to the federal Parliament. If that power is not adopted a common-rule order will be run by the Victorian Civil and Administrative Tribunal, and the worst part will be the appointment of information service officers. We all know those officers will be straight-out unionists who will turn up to give people a hard time.

Small businesses, small retailers and farmer groups are implacably opposed to this bill. It is obvious that most people on the other side of the house have never employed anyone. Once upon a time when a person was employed it was necessary — and rightly so — to pay a fair day's pay for a fair day's work. I am sure we all agree with that. What the Labor Party now wants to do is have a raft of commitments to ensure that the social life of employees is also looked after as well as their retirement. It does not worry about the small business operators who must deal with financial institutions to keep their businesses going, face droughts such as they are facing at the moment and work probably 80 hours a week — that does not matter. The Labor Party only wants to ensure that the workers are provided with superannuation, sick leave, long-service leave and maternity or paternity leave and that if there is a bereavement in the family they can have three weeks off.

Ms Beattie — You don't agree with those conditions?

Mr VOGELS — I am talking about what used to happen as compared with what is happening now. Small business owners just battle on regardless. Information service officers will be able to come onto the farms or enter small business premises to look through books, laptops or diaries. As the honourable member for Mornington said, they have a reasonable time in which to do that; it may be a day or they may stay a week.

Mr Mulder interjected.

Mr VOGELS — Hopefully they might fit in a milking or two if they turn up at a dairy farm, but they won't be there for that. You can bet your bottom dollar they will be there from 9.00 a.m. until 5.00 p.m.

If the bill is passed it will eliminate flexibility in workplaces, because it makes no allowance for entitlements to be linked to productivity or to have enterprise flexibility in a workplace. For small business it will be a real disincentive to negotiate enterprise-specific terms and conditions.

Retail traders, the Victorian Farmers Federation (VFF) and numerous lawyers make the point that an industrial relations system which has the power to make common-rule orders provides large enterprises with a competitive advantage over smaller businesses, because if someone does not turn up for work one day it does not matter so much because there may be 100 or 200 employees and everybody covers for one another.

The VFF estimates that the implementation of the bill will increase labour costs. For example, dairy farmer labour costs — and there are 22 000 farm jobs in dairy at the moment — will increase by 21 per cent. If you add the serious drought conditions suffered in northern Victoria, together with a 25 per cent fall in the international price for dairy produce, you see that job losses will be inevitable.

As I said, I cannot understand why the government does not tell its federal colleagues in the Senate to support the federal workplace industrial relations amendment bill which is specifically for the protection of Victorian workers. It has been in the Senate once already, maybe twice, and I think I heard someone say it might be coming on again shortly.

The first attempt to extend schedule 1A failed, as the Senate did not pass the bill. The federal Victorian workers bill extends the schedule, which already contains minimum conditions relating to paid annual leave, sick leave, maternity leave, minimum wage, notice of termination, bereavement leave, carers leave and entitlements to payment for working in excess of 38 hours a week. It also enables disabled employees to access a supported wage system. It is all sitting there waiting to be passed, and I cannot understand why that does not happen.

This legislation will simply add another layer of bureaucracy to Victorian industrial relations. The employment conditions this bill purports to address would be better dealt with by making appropriate amendments to the commonwealth act. A move back to two industrial relations systems, which is what the inevitable result will be if the bill is passed, will hit smaller employers in agriculture and hamper the growth of rural jobs. I keep repeating: the government should negotiate with the federal government so we can retain a single system of industrial relations.

In conclusion, agriculture and most small businesses are different from the huge and middle-size companies out there. They are not 9-to-5 operators, and the last

thing they need is heavy-handed so-called information services officers — unionists — interfering or meddling in family-run businesses. Many of those business are actually run from home with local family members. For example, I employ about five people at home who are all family members — and I think they are all quite happy. The last thing I need is an information services officer wandering around telling them what they should or should not be doing.

Mr HARDMAN (Seymour) — I am pleased to speak on the Federal Awards (Uniform System) Bill. But once again I am disappointed by the members of the conservative parties, who are again attempting to block the bill.

The current industrial relations system in Victoria is an indictment of Victorian society. Once again members of the conservative Liberal and National parties are failing to represent the whole of their electorates. They forget that they are letting down the workers who in many cases vote for them. Those workers have only the vital minimum conditions under schedule 1A, which makes them the workers who are the worst looked after in the whole of Australia.

Currently 235 000 Victorians have the lowest pay, conditions and entitlements of workers in the country. It is a shame and a disgrace. In 2002, going into 2003, we live in a society that is supposed to look after people and be caring. In Victoria we are going back to the 1890s: all that the members of the conservative Liberal and National parties want to do is put down workers, the people who vote for them and whom they pretend to look after. It is an absolute shame!

Mr Steggall interjected.

Mr HARDMAN — I beg your pardon! The bill will not provide huge wages or harm employers. It will make it fairer for employees and small businesses, because people across the state will be employed on the same terms and conditions. I do not see what is wrong with that. I know from talking to people in business that they want to work on a level playing field with other businesses in conducting their activities. It is really time that members of the conservative Liberal and National parties really listened to the people in their electorates instead of playing political games. As I said, the bill provides for balancing the rights of employers and employees. That should be recognised by the opposition, because it is even recognised by their counterparts in Canberra.

In conclusion, it will be a shame if this bill goes down. It is a very reasonable bill that recognises all Victorians. It is important to make sure that our society is fair and equitable.

Mr SMITH (Glen Waverley) — I am pleased to join this debate today. If it is passed this bill will put back the industrial relations scene in Victoria by years. The bill brings out the inflexibility of the industrial relations scene. Already retail traders say it will cost 2500 jobs in Victoria, and the Victorian Farmers Federation says that 10 000 jobs will be lost in rural Victoria. These are not idle claims but are made by organisations whose members know what they are talking about. They realise that the inflexibility in the bill and the return of the powers of the unions will not do all the things we have been hearing about from members of the Labor Party today. It will not return jobs for the workers.

Some honourable members, including the honourable member for Geelong North, said that members of the opposition do not care about jobs.

Mr Haermeyer — You don't!

Mr SMITH — We have the minister saying we do not care. We care because we want to ensure that the engine room of the economy, which is the private sector, is enhanced by a system of industrial relations that will not go backwards. Members of the Labor Party do not realise that. They think they can milk the system.

Mr Spry interjected.

Mr SMITH — That is exactly what it is about: they will kill the goose that laid the golden egg.

Let's look at the marvellous part of this bill that turns everybody on — the appointment of information services officers and the powers they will have. They will be able to go unrestricted into people's houses to follow up investigations. What amazes me is that the bill does not set out a uniform for them!

The bill provides for their appointment and says what powers may be exercised. Listen to this bit: clause 18 provides that they must:

> … cause as little harm and inconvenience or damage as possible.

What are they going to do when they are making an entry? Are they going to enter with crowbars or battering rams? All that is missing from this is the dress code and regulations, the type of brown shirt and insignia they are going to wear. Will they wear jackboots? What type of forage caps are they going to

have for the union thugs who are going to be called information services officers!

Honourable members on this side know that as soon as this type of legislation is brought in we will be back to the bad old days of union thuggery like we have never known it before. Why do members opposite want to do it? The government is under the control of the Labor Party, and its members want to ensure that their union thugs are allowed to go unfettered into the workplace relations system. That is what it is on about in this bill. That is shown by the fact that it has had to spell out in clause 18(2) that in exercising their powers information services officers must:

> (a) cause as little harm and inconvenience … and
>
> (b) not remain on premises any longer than is … necessary.

Members on this side are aware of where the government is going with this. We know that this type of legislation is nothing more than scandalous!

Business interrupted pursuant to sessional orders.

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

QUESTIONS WITHOUT NOTICE

Sir Paul McCartney concert

Mr DOYLE (Leader of the Opposition) — I ask the Premier: how much money has the government put into the Sir Paul McCartney concert, and why is the taxpayer subsidising what will be a hugely successful and profitable private business investment?

Mr BRACKS (Premier) — I will briefly indicate to the honourable members behind me that that was that dorothy dixer, so please don't ask that one!

I am pleased that the Leader of the Opposition has asked the question, and I thank him for that. Today I was very pleased to announce, together with the head of the Victorian Major Events Company, Steve Vizard, who is in the USA, that Sir Paul McCartney will be coming to the Telstra Dome in Melbourne on 23 November. That is a great boon for Victoria. This is the only Australian event in the South-East Asian tour. Part of the opposition leader's question was what were the benefits to Victorians of such an event.

Mr Doyle — On a point of order, Mr Speaker, on the question of relevance, the Premier might be able to make up the answer but he cannot make up the question. That was not a part of the question. The question asked how much money, and why is the taxpayer subsidising a private business project?

The SPEAKER — Order! I do not uphold the point of order.

Mr BRACKS — Why are we doing this? Because it will mean some 10 000 extra people coming to Victoria from interstate and overseas. It will mean something like $20 million extra in the Victorian economy.

It is part of a broader strategy. When we came to office we changed the Melbourne Major Events Company to the Victorian Major Events Company. We broadened its focus to the regions and we also made sure that we looked for other than sporting activities.

Mr Rowe — On a point of order, Mr Speaker, the Premier is debating the question. Why is he hiding another financial deal from the people of Victoria?

The SPEAKER — Order! The latter part of that point of order is clearly out of order. I ask the Premier to come back to answering the question.

Mr BRACKS — As I was saying, we were intent on broadening the focus of major events from sport to art and other activities. That is why we have secured the Mercedes International Fashion Week and the AFI Awards. I am very pleased we have secured this concert; it will be the only Australian event of the tour.

As honourable members know, we have a budget provision of $35 million as an overall amount for major events. We do not immediately disclose individual amounts because all it does — and this has been a long — —

Honourable members interjecting.

Mr BRACKS — This has been a long-term practice of successive governments, the only reason being that the bid price for these events does not go up because it is a very competitive environment. I am very pleased that this event is coming to Melbourne. It will be a great event for Victoria, and I look forward to many Victorians enjoying it. I look forward to the value that will come from the extra business it will attract to our state as well.

Inglewood and Districts Health Service

Mr RYAN (Leader of the National Party) — It's been a hard day's night, Mr Speaker! I refer the Minister for Health to a letter sent to him by the Inglewood and Districts Health Service dated 12 August in which the hospital states that it has:

> … a projected deficit of $364 000 —

largely as a result of:

> A shortfall in funding for the nurses enterprise bargaining agreement …

And further that:

> We have looked at alternatives such as closing our emergency department between 11.00 p.m. and 7.00 a.m. …

Will the minister now admit that country hospitals are in financial strife because of his funding shortfalls?

Mr THWAITES (Minister for Health) — The Leader of the National Party has zero credibility. The question he has raised today, like the question he raised yesterday, is false, wrong and untrue. Yesterday he made the same claim when he said in this house, and I quote:

> … numerous country hospitals are in serious financial difficulty because they have not been properly funded by the government and that at least eight of those hospitals will be involved in emergency meetings with the department tomorrow to avert possible cuts to services.

I was somewhat surprised by that question. One of those hospitals was Inglewood, so I made inquiries about whether there was to be such a meeting. There was no such meeting at all. None at all!

Mr Doyle interjected.

Mr THWAITES — Wait, listen to this. The hospitals that were referred to were Dunolly, Inglewood, Kyneton, Seymour, Kyabram, Numurkah, Wonthaggi and Lakes Entrance. That was the claim that was made by the Leader of the National Party.

He went out to the press and said that those country hospitals were involved. It is in his press release. Indeed, prior to the press release going out one Danny O'Brien, the media contact person, contacted the Victorian Hospitals Industrial Association to find out if this was so and was told that it was not so. Yet, despite that he went on with the press release.

This morning the ABC spoke to these hospitals that the honourable member has asked about and they expressed surprise at the claims by the Leader of the National Party because they said the services operated on a tight budget but they are not in trouble. They went on to say:

> … from our point of view the funding that we've got we haven't raised any issues with the department about at all …

No issues raised! In relation to whether they are in surplus, the hospitals have advised that in fact Seymour has a surplus of $381 000.

Mr Ryan — On a point of order, Mr Speaker, the question was directed to the Inglewood hospital specifically, and I would ask that the minister respond to the issue insofar as it has been raised with him by the Inglewood hospital in a letter of 12 August this year.

The SPEAKER — Order! I ask the minister to come back to answering the question.

Mr THWAITES — The honourable member has claimed that the Inglewood hospital would have a deficit of some hundreds of thousands of dollars. What he has not done is produce the response from the department and the subsequent agreement with the hospital that that is not so. The hospital is not closing services. In fact, the deficit — and there is one — is $9000, which represents 0.2 per cent of total revenue. I might also say that when ABC radio today asked the National Party leader to justify his claims, he was not available.

Mr Ryan — On a point of order, Mr Speaker, I was interviewed on ABC radio this morning at 9.40 a.m.

Honourable members interjecting.

The SPEAKER — Order! I warn the honourable member for Bentleigh! That was clearly not a point of order taken by the Leader of the National Party.

Mr THWAITES — This honourable member claimed in this house yesterday that there was this meeting with the department. There was no such meeting at all. I call upon the honourable member to apologise to the house for claiming that there was a meeting when there was not, that hospitals have financial problems when they have indicated they are in substantial surplus, and also to explain how it is that there is this sudden change of view after seven years when this member sat on his hands and allowed — —

The SPEAKER — Order! I ask the minister to come back to answering the question and to conclude his answer.

Mr THWAITES — Hospitals in country Victoria under the Bracks government have received a massive injection of funds, something they did not have in seven years of Liberal and National party governments. The Leader of the National Party was wrong yesterday, he is wrong today, and he ought to get his facts right.

Employment: government performance

Mr NARDELLA (Melton) — Will the Premier inform the house about the latest employment statistics and explain how the actions of the government have contributed to this outcome?

Mr BRACKS (Premier) — I thank the honourable member for Melton for his question. The labour force statistics came out today, but while they were coming out there was also some other very good news in relation to engineering construction work for the June quarter, which was up 10 per cent in Victoria while it was going down by 2 per cent across the country.

When it comes to the question the honourable member for Melton raised, today's labour force statistics showed that Victoria now has the lowest unemployment in Australia — the lowest unemployment in the country. Over the last three years we have generated 142 000 new jobs in Victoria, and that represents a greater job growth rate than the figure for the whole of the nation. The national job growth figure is 5 per cent; Victoria's growth rate is at 6.4 per cent. The lowest unemployment in the country and the biggest job growth in the country — the lion's share of all the job growth — has been in Victoria over the last three years.

That has occurred while our population has been growing, stimulating demands for goods and services and housing and other construction activity. In construction we are seeing some 33 per cent of all the construction activity in the country occurring here in Victoria — not only in Melbourne, but right across country Victoria. Victoria represents 25 per cent of the economy, but it has 33 per cent of all the building activity.

Last year we had a record $12.1 billion in new building approvals; in each month of this year we have had more than $1 billion in building approvals. Victoria has the lowest unemployment in the country, and it has population growth. Compared with every other state in Australia, as has been assessed by both Moody's and Standard and Poor's, Victoria's is the standout economy in Australia.

Central City Studios: Docklands tender

Dr DEAN (Berwick) — I refer the Premier to the Docklands studio debacle and note that the government has signed over the commercial cluster development not to Central City Studios Pty Ltd, the company that won the tender, and not to Central Studios Holdings Pty Ltd, which the government said it was dealing with, but to yet another company, CCS Properties Group Pty Ltd, 60 per cent owned and controlled by Mr Sino Guzzardi. I ask: why did the government sign over Crown land to a third separate company belonging to Mr Sino Guzzardi, who was never part of the tendering process but who will now reap millions of dollars in profits that would and should have gone to the company that won the tender?

Mr BRACKS (Premier) — A lot of errors were made in the question of the honourable member for Berwick. First, the land was sold for the Valuer-General's valuation. The allegation of some handover of land is incorrect. The Valuer-General's valuation was the price set for the land, which was contracted. Mr Guzzardi is a financier who is providing finance for the project. The person to whom the honourable member for Berwick is talking is obviously someone who has left the original consortium, who did not provide the finance and who has therefore been totally unsuccessful.

I am very pleased that we will have a world-class studio for Melbourne and Victoria. The government has put film and television back on the map, and we will have the capacity to entice new films in the future with a contract, which will mean we will stop losing out as we lost out to Sydney and Brisbane under the previous government. This contract and this arrangement for a studio are first class, which will be good for film and television in Victoria.

Bushfires: emergency services

Mr HELPER (Ripon) — Will the Minister for Police and Emergency Services advise the house about the state of preparation of Victoria's emergency services and other agencies for a major bushfire event?

Mr HAERMEYER (Minister for Police and Emergency Services) — The honourable member for Ripon has taken a very strong interest in the issue of fire exposure, risk and preparedness in his electorate, and I commend him for that.

As we all know, south-east Australia, which covers all of Victoria, is one of the most fire-prone areas anywhere on earth, and this year we are confronting probably the worst fire season we have experienced since the Ash Wednesday bushfires of 1983. According to the fire authorities the risk may be even worse than it was in that particularly horrid year.

The risk this year does not cover just Victoria and South Australia, it extends across the whole of Australia — Western Australia, Tasmania, Queensland and New South Wales, as well as South Australia and Victoria — which means we are going to — —

Honourable members interjecting.

Mr HAERMEYER — The members opposite obviously think that bushfire is a laughing matter. That is very unfortunate.

Mr Doyle interjected.

Mr HAERMEYER — That smart-alec interjection from the Leader of the Opposition just goes to show the sort of scant regard they have for these sorts of issues.

Last year the Country Fire Authority and the Department of Natural Resources and Environment were able to help out in New South Wales, and their efforts were very much appreciated by New South Wales, but this year if there is risk across the whole of Australia, and especially here in Victoria, our resources will be particularly stretched. When this government came to office it found that the CFA had had its budget pretty much frozen for the seven previous years, so as a matter of urgency it provided the CFA with a 40 per cent budget boost.

Its budget has gone from $113 million to $156 million. Part of that was funded out of the strategic resource initiative, which is a $100 million project over four years and which goes to the heart of training our firefighters. The project is also about providing our CFA brigades with better appliances and equipment and providing career firefighters in growth areas, and it is about volunteer support and that all-important focus we now have on prevention and fire awareness.

This year the CFA has 17 532 firefighters who are fully qualified and trained in fighting wildfires, so we are doing everything we can to ensure there will be no more Lintons. My colleague the Minister for Environment and Conservation has also been very busy in recruiting and training additional firefighters in the Department of Natural Resources and Environment, where a lot of effort is going into prevention and preparedness as well.

We also realise that fire prevention is something that starts at home. Very shortly the CFA and all the fire authorities will be launching their fire awareness campaigns. We will be starting preparedness campaigns for the fire season early this year. Every one of us needs to know what we can do to reduce the risk of fires.

One of the things that came out of the New South Wales fires last year was the success of the Erickson sky crane — something that Victoria has taken the initiative in. We lease it for about 12 to 16 weeks a year, because that is the period over which we need it. It would be pointless trying to maintain it for a whole year when you do not need it during the whole of the year. After the success of that appliance in New South Wales the Prime Minister cut in and said he is going to buy three of these — $90 million worth. He did not talk to any of the state governments. He did not talk to any of the fire authorities, particularly to the Department of Natural Resources and Environment. He had no idea what he was talking about.

After he made those statements, Wilson Tuckey, his minister, commissioned a $50 000 strategy report from the Australian Fire Authorities Council. It recommended that as part of a national firefighting strategy we lease as a national resource four Erickson sky cranes. It recommended that we also lease a number of medium-lift helicopters and two specialised fixed-wing Canadian fire bombers and that the commonwealth be asked to contribute towards a total cost of $22 million to $23 million. The states are prepared to do that, but obviously the opposition is not.

Mr Doyle — On a point of order, Mr Speaker, not only is this not succinct, it is dull.

The SPEAKER — Order! The latter part is clearly not a point of order. I ask the minister to conclude his answer.

Mr HAERMEYER — I can understand that a city-centric toff from Malvern thinks bushfire is dull, but — —

The SPEAKER — Order! I will not permit the Minister for Police and Emergency Services to go down the path he has chosen to comment upon. The minister, coming back to answering the question and concluding his answer.

Mr HAERMEYER — We regard this as a very serious matter. The commonwealth has now come up and said it is prepared, having committed to $90 million for three Erickson helicopters, to offer $5 million. All that we actually gain are two more helicopters in New South Wales. That is the commonwealth government's commitment to a national firefighting strategy. I have to say that that rings true with the Liberal Party per se. Yesterday we had the Leader of the Opposition get up in this house and say, 'I refer the Premier — —

Dr Dean — On a point of order, Mr Speaker, the minister has decided to move on from not being succinct to starting to debate the question. I would ask you to ask him to sit down.

The SPEAKER — Order! I uphold the point of order, and I ask the minister to conclude his answer.

Mr HAERMEYER — The 17 000 bureaucrats he referred to included firefighters, ambulance officers, nurses and police officers, so we know what they would do if they got back into government. They would cut police, cut firefighters; they would cut the emergency services to ribbons like they did previously.

Bushfires: Gippsland

Mr INGRAM (Gippsland East) — Since we are likely to see an extreme bushfire season this year, I direct the attention of the Minister for Environment and Conservation to the 1999 Department of Natural Resources and Environment Gippsland fire protection plan, which recommends fuel reduction and an ecological burning regime of 120 000 hectares per annum in Gippsland's national parks and state forests to reduce the risk and devastation of uncontrolled summer wildfires. I ask the minister to explain why the annual target has never been reached and why the department has only ever reached an average ecological and fuel reduction burning regime of 50 per cent of the target since implementation of the plan.

Ms GARBUTT (Minister for Environment and Conservation) — I thank the honourable member for his question and for the opportunity to outline to the house the work undertaken by the Department of Natural Resources and Environment in its preparations for the fire season. It supplements very well the comments and information provided by my ministerial colleagues on the Country Fire Authority preparations.

In reference to the honourable member's question, fuel reduction burning depends almost entirely on the weather conditions. It has been too dry, as we would all know, and the opportunity of undertaking safe fuel reduction burning has not been there. But I am happy to provide the house with other information about fire preparedness and fire prevention undertaken by the department.

We have brought preparations forward and increased funding. We have specifically spent $14 million on fire prevention and $30 million on fire preparedness and suppression, which would include the activities the honourable member referred to. In addition, there has been a further $4 million this year to bring our equipment up to date. That includes the modernising of 67 fire towers across Victoria. I am sure the honourable member will be interested to know that 15 of those are in his electorate of Gippsland East.

There is a bit of a story to tell here. During the 1990s the budget for the Department of Natural Resources and Environment's fire preparation went plummeting down. By 1999 it was just $34 million. Last year it was $49 million. We have increased it by the $4 million I just mentioned. But there is more! There is an additional $18 million this year for 750 seasonal firefighters and additional resources. That brings our total to $76 million. That includes 24 specialised aircraft and of course the Erickson sky crane known as Elvis. So Elvis will be returning shortly to combat fires this fire season!

I can tell the house that at the moment there are no fires out of control across Victoria. However, one was brought under control just 30 minutes ago east of Mildura. That is a great credit to our firefighters, and I say a big thankyou and pay them a great compliment on behalf of all Victorians. We are very well prepared. We are well equipped for fighting what could potentially be a very dangerous fire season.

Central City Studios: Docklands tender

Ms McCALL (Frankston) — I ask the Premier to confirm that the principal of CCS Properties, Mr Sino Guzzardi, who will be the majority owner of the Docklands studio, is in the film distribution business and that his company distributes such titles as *Franzy*, *Enter the Dragon Lady*, *Black in the Saddle* and *Sensual Obsession.* Is this the film industry the Premier envisages for Docklands?

Mr BRACKS (Premier) — The answer to the question is: I am not familiar with those titles.

An honourable member interjected.

Mr BRACKS — Absolutely not! But what I can give the house an assurance on is that the necessary financial arrangements are in place with this investor for this film and TV production house to go ahead.

Public sector: infrastructure

Ms LINDELL (Carrum) — Will the Treasurer inform the house about details released today showing the government's record investment in public infrastructure and explain why this has been necessary?

Mr BRUMBY (Treasurer) — Today I am releasing *Budget Information Paper No. 1 — Public Sector Asset Investment Program 2002–03*. The paper shows the details of all the asset investments made across Victoria over the forward estimates period.

I am delighted to say to the house that today's budget paper details public asset investments made by the state this year of $1.8 billion. Over the three years of the Bracks government we have seen total expenditure on

capital works of $5.148 billion. It is noteworthy that I was asked why this is necessary. Under the last three years of the former Kennett government total asset investment expenditure was $2.98 billion. So this represents an increase of more than 70 per cent in capital works across the state.

All of this 70 per cent increase has been funded without $1 of debt. What does this mean to Victorians? It means that over the last three years one in three government schools has benefited from infrastructure funding — either in general maintenance or asset investment; around 40 per cent of hospitals in Victoria have benefited from infrastructure funding for upgrades; and we have committed to build 65 new police stations, of which 26 have already been completed.

What this means to Victorians is that whether you are a student at Chelsea Heights Primary School, Ararat Primary School, Benalla College or Frankston High, you will benefit from government infrastructure investment in your school this year. If you live in towns like Bunyip, Cressy, or Inglewood — —

Dr Dean — On a point of order, Mr Speaker, on relevance, it is important to know whether in reading the statistics the Treasurer is including the figures today that show that we have invested less in capital projects than Tasmania.

The SPEAKER — Order! The honourable member is clearly not taking a point of order but is making a point in debate. The Chair does not tolerate such points of order. There is no point of order.

Mr BRUMBY — They say the honourable member for Berwick will be moving to Tasmania.

The SPEAKER — Order! The Treasurer, addressing the question.

Mr BRUMBY — Malcolm Mackerras was reported in yesterday's *Geelong Advertiser* as saying that there is a perception in Victoria that the Liberals are hopeless.

Honourable members interjecting.

The SPEAKER — Order! The Treasurer, coming back to answering the question.

Mr BRUMBY — They are hopeless. Quod erat demonstrandum — it is demonstrated, as evidenced by the honourable member.

If you live in towns like Bunyip, Cressy or Inglewood you will benefit from government infrastructure investment in your local police station this year. If you live in Narre Warren, Epping or Laverton you will benefit from government infrastructure investment in major road improvements this year. If you live near the Lorne Community Hospital, the Stawell District Hospital or the Dandenong Hospital you will benefit from government infrastructure investment to improve your local hospital this year.

These are just some examples, but this document is full of them. It details $1.8 billion of works this year, which brings the total under the Bracks government to $5.1 billion in three years. The paper is full of examples of government at work across the state of Victoria. It is a great document. It confirms our commitment to grow the whole of the state and illustrates that the government is making a major improvement to the quality of life and economic opportunities of all Victorians.

Water: rural rates

Mr MULDER (Polwarth) — I refer to the Premier the Treasurer's claims on infrastructure spending in the house today and also to the Australian Bureau of Statistics data released today which reveals that there has been a massive $218 million or 55 per cent fall in investment in water storage and sewerage works since the government came to office. Will the Premier guarantee that this lack of infrastructure spending will not result in a rise of 20 per cent in rural household water and sewerage charges, as reported in yesterday's *Weekly Times*? Who is right, the Treasurer or the bureau?

Mr BRACKS (Premier) — I thank the honourable member for Polwarth for his question. The matters he is referring to relate to engineering construction for the June quarter 2002, is that correct?

Mr Mulder interjected.

Mr BRACKS — I want to check that we are reading from the same sheet.

The SPEAKER — Order! The honourable member for Polwarth has posed his question. I have called the Premier to answer it, and I ask him to address his remarks through the Chair.

Mr BRACKS — As a new shadow minister, it is sometimes difficult to understand the Australian Bureau of Statistics data. I turn to the statistics, which say that engineering construction work in the June quarter 2002 was up 10 per cent in Victoria from the previous quarter. In comparison the national figure was down 2 per cent. Victoria rose 10 per cent while the nation went down 2 per cent!

Honourable members interjecting.

The SPEAKER — Order! I warn the honourable member for Narracan and the honourable member for Burwood.

Mr BRACKS — Victoria's share of national engineering construction work was 17 per cent in the June quarter compared with the 10-year average — this is the ABS figure — of 17.8 per cent. So overall engineering construction work is 10 per cent up while the rest of the country is down. Get yourself in deeper, it is a good idea.

Mr Mulder — On a point of order, Mr Speaker, on the issue of relevance, I asked whether spending had dropped 55 per cent since the government took over — yes or no. Clearly the statistics say it has.

The SPEAKER — Order! the honourable member for Polwarth is repeating his question.

Mr BRACKS — The opposition has put these misleading figures in the house. I will tell you another one which is absolutely misleading and which is often quoted in Liberal Party advertisements which were taken off the air at one stage.

Dr Dean — On a point of order, Mr Speaker, you can see that the Premier is in a difficult position in answering the question and is now debating another question to get out of it. He should not be debating the question by using other statistics.

The SPEAKER — Order! I do not uphold the point of order. I ask the Premier to come back to answering the question.

Mr BRACKS — If you look at the overall activity you see that we are 10 per cent up and the commonwealth is 2 per cent down. The same figures were released today. If you look at the misleading nature of the opposition on these figures you realise that on previous occasions it has quoted a figure for construction in the public sector compared to other states in a situation where the previous government sold off all the state assets, and that has distorted that picture. Transport, gas and electricity, which are in the public sector, have been sold off. Of course there is no public sector spending in those areas when they were sold off by the previous government. They have misled in the past; they will mislead in the future. Looking at engineering overall, we have had a significant increase of 10 per cent.

Automotive industry: tariffs

Mr LONEY (Geelong North) — In light of the Productivity Commission's inquiry into assistance to the automotive industry, will the Minister for Manufacturing advise the position of the Victorian government and how this position differs from that of the Howard government?

Mr HULLS (Minister for Manufacturing Industry) — I thank the honourable member for his question, and I acknowledge his interest in the automotive sector. The automotive industry is critical to Victoria's economy. This industry employs some 27 000 Victorians and tens of thousands more in the supply chain. It turns over more than $9 billion per year and is now one of our largest sources of export dollars.

The Bracks government's position on this is clear. It is consistent with our position when we were in opposition. It is also consistent with the former Kennett government's position. In fact it is was from this dispatch box on 9 April 1997 that former Premier Jeff Kennett was reported as saying:

> If the federal government moves to lower tariffs … it will threaten the very existence of the car industry in this country.

In a media release dated 29 May 1997, former Minister for Industry, Science and Technology, the Honourable Mark Birrell in the other place, said:

> Any immediate moves by the federal government to further cut the automotive tariff rate would devastate the industry and sacrifice employment, skills and exports.

The government agrees. However, we do not just take notice of former politicians. I have also been speaking to a number of leading players in the industry. A senior executive from a European car part maker told me that the most important thing is the rules of the game. He said that if the federal government changes the rules his parent company will not invest in Australia. A senior executive from a northern American car maker told me that if we do not keep the automotive competitiveness and investment scheme (ACIS) and the 10 per cent tariffs his company will start preparing its exit strategy from Australia. It is an important issue.

We have been accused by the federal government of being alarmist. That is because we are alarmed and we are being told very alarming things.

I note that the Victorian Liberal Party state council is meeting in Geelong on the weekend, and the Prime Minister will be at that meeting. An independent report shows that in Geelong 1900 vehicle industry jobs are under threat as a result of the Productivity

Commission's recommendations. The car industry is not even on the conference's agenda, despite the fact that it is being held in Geelong. What is on the agenda? They have time to discuss poor polling results in recent state elections, with particular reference to Victoria, and attracting quality candidates, but they do not have time to discuss tariffs in the auto sector in Geelong.

I conclude by saying that unless the Liberal state council in Geelong comes out with a strong motion condemning the Productivity Commission's recommendations and supporting the car industry in this state and in Geelong, the Liberal state council and the Leader of the Opposition will have certainly betrayed the people of Geelong.

FEDERAL AWARDS (UNIFORM SYSTEM) BILL

Second reading

Debate resumed.

Mr SMITH (Glen Waverley) — In addressing the Federal Awards (Uniform System) Bill before lunch I said that a state-based industrial relations tribunal will be set up as a division of the Victorian Civil and Administrative Tribunal. If the government gets its way then the dead hand of the union movement will again ensure that jobs in Victoria are destroyed. The bill looks innocuous enough, but it is just as devastating for jobs and the creating of employment as the previous bill introduced and defeated this year, the Fair Employment Bill. The provisions of the bill are a disincentive for small business owners and also a disincentive for people thinking of setting up small businesses in Victoria.

Before the luncheon break I was talking about the appointment of information services officers and just what sort of people these officers would be. This is one of the concerns of both the Victorian Farmers Federation and the Australian Retailers Association. The VFF believes that as a result of the bill up to 10 400 jobs would be lost, and the Australian Retailers Association believes between 2500 and 3000 jobs would be lost. What a bill to be bringing in here!

The sad part about it is that what worries people in small business and people who are setting up businesses is the type of people who would be working in these so-called information services officer roles. When we look at the rules for these people we see that it is nothing more than again allowing loose the thuggery of the union movement on small operators trying to set up their businesses.

I have been speaking now for nigh on 8 minutes. So that the business of the house can be completed I will wind up. This bill is nothing more than a dressed-up version of the Fair Employment Bill, and it ought to go down screaming like the last one did.

Mr LENDERS (Minister for Industrial Relations) — In closing I thank honourable members who have contributed to the debate. A number of honourable members have spoken to the bill. It has been a passionate debate, as debates on industrial relations issues tend to be in this place. I will briefly go through a few of the issues raised.

The debate has essentially been over this legislation, which is obvious, but there has been a misapprehension. The government has been seeking in a cooperative manner to give to Victorians the same legislation that Peter Reith and Tony Abbott think is good enough for the other seven jurisdictions in this country; nothing more, nothing less.

Firstly, the opposition has been getting quite hysterical and emotional about information services officers. The concept of information services officers in Victoria is the same as that operating under the federal act. Obviously Peter Reith and Tony Abbott do not think they are a threat to the rest of the country, so why would they be a threat in Victoria? So that is furphy no. 1 that needs to be dealt with.

Secondly, what this is also about is that there are a number of people, some hundreds of thousands, who have fallen through the net in Victoria because of the referral of powers some years ago. We are seeking to remedy this. Despite opposition members saying that the commonwealth government is trying to restore some benefits to these people, the easiest way for benefits to be restored is for this bill to be passed and for the federal government to accept the referral of common rule. We will then have in this state exactly the same procedures as apply in both the territories and de facto in all other jurisdictions. The opposition either does not understand or is more mean spirited than Peter Reith and Tony Abbott.

I will close by simply referring to the information services officers and clarifying a statement I made earlier in the house. Firstly, the shadow Minister for Industrial Relations, the honourable member for Kew, was reported in the rural media yesterday as saying that the objection the opposition had to this bill was the information services officers. I would have invited him to move an amendment to delete in toto all reference to those officers if that was his whole concern about this legislation. The opposition chose not to do that. It is

ironic after a long debate the day before about the great review role of the Legislative Council that the opposition did not avail itself of the opportunity to make amendments to this legislation to improve it if it had a problem.

In view of that criticism, some amendments in my name had been circulated in the house to deal with a number of technical issues, including a mention of information services officers. I also intended to bring in further amendments to assist the shadow minister so that if he was not willing to propose the amendment we could at least offer them to him. I inadvertently referred to them when I was withdrawing other amendments. Nevertheless the issue before the house is that the opposition could have attempted to improve this bill, either in this place or in another, but it chose not to. Its objections were solely based on things which it was in its own hands to improve.

By voting against this bill today the opposition is voting against giving to Victorian workers the same rights and conditions under the same terms that Peter Reith and Tony Abbott think are good enough for the rest of the country. Yes, it is those dangerous, radical, left-wing figures, Peter Reith and Tony Abbott, who have obviously been hunting reds under the beds unsuccessfully. The opposition is saying, 'Peter Reith and Tony Abbott think this is good enough for the rest of the country but it is too generous for Victoria'. They are mean spirited. I urge the bill to be supported and I give notice that we as a government will pursue this bill again and again, year after year, until we restore justice to Victorian workers.

House divided on motion:

Ayes, 44

Allan, Ms
Allen, Ms
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Davies, Ms
Delahunty, Ms
Duncan, Ms
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr
Howard, Mr
Hulls, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Languiller, Mr
Leighton, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
Maddigan, Mrs
Maxfield, Mr
Mildenhall, Mr
Nardella, Mr
Overington, Ms (*Teller*)
Pandazopoulos, Mr
Pike, Ms
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Viney, Mr
Wynne, Mr

Noes, 41

Asher, Ms
Ashley, Mr
Baillieu, Mr
Burke, Ms
Clark, Mr
Cooper, Mr
Dean, Dr
Delahunty, Mr
Dixon, Mr
Doyle, Mr
Elliott, Mrs
Fyffe, Mrs
Honeywood, Mr
Jasper, Mr
Kilgour, Mr
Kotsiras, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms
McIntosh, Mr
Maclellan, Mr
Maughan, Mr (*Teller*)
Mulder, Mr
Napthine, Dr
Paterson, Mr
Perton, Mr
Peulich, Mrs
Phillips, Mr
Plowman, Mr
Richardson, Mr
Rowe, Mr
Ryan, Mr
Shardey, Mrs
Smith, Mr (*Teller*)
Spry, Mr
Steggall, Mr
Thompson, Mr
Vogels, Mr
Wells, Mr
Wilson, Mr

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

CRIMES (PROPERTY DAMAGE AND COMPUTER OFFENCES) BILL

Second reading

Debate resumed from 12 September; motion of Mr HULLS (Attorney-General).

Opposition amendments circulated by Mr PERTON (Doncaster) pursuant to sessional orders.

Mr PERTON (Doncaster) — Given that the time is now 10 past 3 and the house will cease dealing with this business at 4 o'clock, I shall speak very briefly.

The bill implements components of the Model Criminal Code Officers Committee report entitled *Damage and Computer Offences*, published in January 2001. The bill has been very slow in getting to this Parliament. For instance, the computer crime provisions of this bill, which the Premier has strangely said is one of the most vital bills in his legislative agenda, were introduced into the New South Wales Parliament in April 2001 and passed in May 2001. So in respect of computer offences, while the opposition supports the provisions and notes that they come from the model criminal code, the government has been very slow on the uptake.

The third component of the bill relates to sabotage offences and is directed at individuals who damage publicly or privately owned public facilities. In respect of those provisions my colleague the honourable member for Frankston will speak about those issues at a suitable time.

The area which is in controversy in this debate is a new bushfire arson offence which, in the words of the Attorney-General, is directed at those individuals who:

> … intentionally or recklessly cause a fire and who are reckless as to the spread of the fire to vegetation on property belonging to another person.

The Model Criminal Code Officers Committee made it quite clear that this clause is very special in the Australian context, and it referred to Ash Wednesday, Black Friday and a number of other events which make this sort of offence resonate so strongly in the Australian psyche.

One of the amendments I have circulated intends to lift the maximum penalty for that offence to 20 years. That is identical to the offence as introduced in South Australia and rightly and properly puts it in the Victorian system halfway between arson and arson causing death. As I have indicated in a number of public statements, it would be quite absurd that the sentence for starting a bushfire that crosses the border between South Australia and Victoria would be determined according to whether the offender was presented in a Victorian or South Australian court.

More will be said about that topic in the committee stage, when my colleagues the honourable member for Evelyn, the honourable member for Benambra and the honourable member for Warrnambool will make further comments on this matter. Suffice it to say that the comments the Liberal Party has made in respect of extending the maximum penalty to 20 years have been very well received across the community.

Indeed members of the Liberal Party have heard strong views expressed by people that there ought to be a minimum sentence for this offence. Our amendment will include a five-year minimum sentence, subject to the discretion of the judge in certain circumstances.

Mr Hulls — You are a disgrace!

Mr PERTON — Speaking of a disgrace, I note the interjection of the Attorney-General.

Mr Hulls — Read it into *Hansard*!

The ACTING SPEAKER (Mr Plowman) — Order! The Attorney-General!

Mr PERTON — I note that he has sent me a most contemptible letter. The criticisms he makes are of me quoting from the Model Criminal Code Officers Committee report, so his attacks on me are an attack on his own officers and the other public servants.

The position we have taken publicly on this has been very well received right across Victoria, especially in rural and regional areas. I will read the last few words of a letter from Mr Hulls to me I received today. He treats 'those views of the public with the contempt', he says, 'they deserve'.

Mr RYAN (Leader of the National Party) — The National Party does not oppose this legislation; in fact, we support its main thrust. I do not intend to dwell upon its general terms, as they have been outlined by the shadow Attorney-General. The bill broadly encompasses issues regarding penalties pertaining to the inappropriate and criminal use of computers. It also deals with the very important issue of sabotage.

The third area is the one upon which I want to concentrate my comments, and that is to do with bushfires. From a country Victorian perspective this is an area of critical importance, and it is of equal significance to all Australians.

The general thrust is to try to penalise those who are involved in intentionally or recklessly causing a bushfire. I commence by raising a couple of issues for consideration. The first is that the term 'bushfire' is not used throughout the legislation. There tends to be a general usage of the word 'fire', and inasmuch as anything is to be made of the distinction it perhaps needs to be clarified. The side note to clause 4, which inserts new section 201A(1), refers to 'intentionally or recklessly causing a bushfire', whereas the body of the provision only talks about fire. I simply ask the Attorney-General to examine that matter.

In essence the provision then states that a person who intentionally or recklessly causes a fire is going to be guilty of certain offences and that a person who is reckless as to the spread of the fire will also be guilty of the offence which is described in the legislation. The prescribed period of imprisonment is a maximum of 15 years, and the Liberal Party has proposed that that be amended to 20 years. We are not opposed to the Liberal Party amendment, but whichever is to apply, suffice it to say that this is a substantial period of imprisonment. It therefore highlights the fact that we will all need to be very careful in the interpretation of this provision.

New subsection (2) provides an exemption, if you like, where a person who is involved in an activity which

might be otherwise regarded as intentional or reckless or who might otherwise be regarded as having recklessly contributed to the spread meets the circumstances referred to.

I direct the attention of the Attorney-General to the terms of that exemption, because subsection (2) states:

> For the purposes of subsection (1)(b), circumstances in which a person is not to be taken as being reckless as to the spread of a fire include the following —
>
> (a) the person caused the fire in the course of carrying out a fire prevention, fire suppression or other land management activity …

That is understandable, but then importantly there appears the word 'and':

> (b) at the time the activity was carried out there was in force a provision made by or under an Act or by a Code of Practice approved under an Act, that regulated or otherwise applied to the carrying out of the activity …

My query is what happens where an event such as that contemplated by this legislation occurs outside a period of time when any form of permit is required? In other words, there are times of the year, as I understand the legislation, when a person can burn off or can undertake fire-suppression activities on their property without the necessity of having to get a permit or do anything by way of what is contemplated by this legislation. What happens in such a situation, given the permitting of people who are required under an act to be undertaking the course of conduct referred to here? The side note in section 37 of the Country Fire Authority Act gives the general prohibition against lighting open-air fires. It states:

> A person shall not light a fire in the open air in the country area of Victoria … during a fire danger period unless authorised or directed …

In the definition provisions 'fire danger period' is referred to as:

> … in respect of the country area of Victoria or any part thereof … the period declared pursuant to this Act to be the fire danger period in respect of the said country area …

What happens if a person who is burning off in a period which is not a fire danger period is involved in the sort of activity which this legislation contemplates? It seems to me that the 'and' linking those two subsections potentially creates a problem just on a literal reading. A person who may quite innocently be involved in some sort of fire-suppression activity on their property and finds that the fire gets away may otherwise satisfy the other terms set out in this new section, even though at the time they are carrying out the particular activity they are not doing so pursuant to a provision made by or under an act or by a code of practice approved under an act. As I understand the law, it is possible that a person can be acting within the law and yet not be burning off in a way which is contemplated by the exemption provisions set out in the legislation.

If it were 'either/or', or if there were any other construction except that involving the use of the word 'and', which means the two subsections must be linked, I do not think there would be a problem; but having the word 'and' there potentially creates the difficulty. I ask the Attorney-General to give some attention to that issue in the course of his commentary and perhaps while the bill is between houses, if it comes to it.

The other issue is the definition of 'spread of fire'. I think I understand the general intent, because it states that a person will be guilty of an offence or be reckless as to the spread of fire if the unforeseen event occurs and the fire gets away. 'Spread of fire' is defined as meaning the spread of fire beyond the capacity of the person who caused the fire to extinguish it.

If I have that right, I wonder what would happen in the situation where the capacity of a person to extinguish a fire could relate to more than the efforts of that individual. Let's say, for example, that you are the captain of a crew manning a truck and you have five people on the vehicle yet the fire gets away. What is the relativity of the fact that you have this foursome massed around you as opposed to just you as an individual having the capacity of the person who caused the fire to extinguish it? I would be grateful to the Attorney-General if he could look at those couple of issues.

I understand there will be more discussion about the amendment proposed by the Liberal Party. The expression contained within the amendment — I will not dwell on this — is that the 15 years prescribed by the bill is to be increased to 20 years. The National Party has no particular objection to that happening. It is a substantial period in either event.

Then there is the other qualification that the court, in the event of a determination of guilt, is to impose a sentence of imprisonment for a term not less than five years unless there are exceptional circumstances. Having looked at this carefully and thought about it long and hard, I have concluded that from the perspective of the National Party we do not oppose the amendment in the form that it appears. I wish to make it clear that I am an opponent of mandatory sentencing; I do not favour mandatory sentencing.

There is a potential issue here with the definition of 'exceptional circumstances'. As I understand it, it is intended by the Liberal Party that those words are to take their literal dictionary meaning, if you like, and to be applied as a matter of commonsense by a court involved in the interpretation of this issue. In the end, having weighed these matters carefully, and bearing in mind that I for one and my party generally are opposed to the principle of mandatory sentencing in the scheme of things, we do not oppose the proposition that is being advanced by the Liberal Party.

Mr WYNNE (Richmond) — I rise to support the Crimes (Property Damage and Computer Offences) Bill. In doing so I want to make a few brief comments because I think the important aspects of this legislation are supported by both sites — save and except for the amendment which has been foreshadowed by the shadow Attorney-General. It can only be seen in one context, which was rightly signalled by the Leader of the National Party, the context of mandatory sentencing. We will come to that issue in a moment.

I think there is an inherent inconsistency in the position the Leader of the National Party takes. He rightly says he and his party do not support mandatory sentencing; yet, as I think honourable members will see elaborated in the debate when we get into the committee stage, that is exactly what the shadow Attorney-General is proposing with this amendment.

The substantive bill proposes three new offences on the basis of the model criminal code report. The *Damage and Computer Offences* report of January 2001 is the first aspect of that and it has taken some time for us to bring the whole thing together into a more coherent package. Nonetheless I think each of the three aspects of the bill is important in its own right. They include new offences to be included in the Crimes Act 1958 pertaining to bushfire offences, computer offences and sabotage offences. These new offences, as I indicated, are based on the model provisions. The model offences established a framework for a coordinated and uniform national approach to these serious crimes, and it is important to indicate that there is national agreement to implement the model offences. Indeed, a couple of states have already implemented aspects of the model legislation. We would argue that it is critical that we have a national response to these offences as they occur across the nation because the impact of some of these offences, particularly the sabotage ones, know no state boundaries.

We are fast approaching the bushfire season and every year we know Victoria faces that horrendous threat. We saw on the news during the last couple of nights the dreadful damage that has been done in New South Wales. Over the last 12 months this government has sent a clear and unequivocal message of its abhorrence of people who go out and light fires deliberately and cause such massive devastation to people's property — and, in the most dreadful circumstances, cause tragic loss of life. We well remember the Ash Wednesday fires when a tremendous number of people were killed by fire.

The bushfire offences we are indicating in this bill cover a gap in existing Victorian law and will complement existing offences. They will be punishable by a maximum penalty of 15 years imprisonment, which is consistent with every other state with the exception of South Australia, which has a 20-year maximum period of imprisonment.

I intend that when we get to the committee stage we will have to debate the substance of the amendment because that is what today's debate needs to be about. In substance, however, it is clear that the scope of the legislation is obviously supported by both sides of the house. We have nevertheless the most severe reservations about the amendment being foreshadowed by the shadow Attorney-General. It is mandatory sentencing, let us be absolutely clear about that.

I am pleased that the Leader of the National Party has indicated his party's position on mandatory sentencing. The house will see as this debate starts to emerge why we are so permanently opposed to any course of action that suggests mandatory sentencing, which is indicated in the amendment to be dealt with in committee shortly.

Mr HULLS (Attorney-General) — In summing up before this bill goes into committee I would like to thank all honourable members for their contributions. The Leader of the National Party raised some issues, in particular concerning burning off outside a permit requirement period and whether the word 'and' should be replaced by the word 'or'. I am more than happy to have a look at that matter while the bill is between the houses.

I notice that an amendment is being proposed to the bill by the shadow Attorney-General. This is, as all members who have spoken on this bill are aware, legislation based on the model criminal code. To be suggesting that this bill ought be used as a vehicle for a trumped-up law and order debate and a mandatory sentencing debate is totally inappropriate.

What concerns me about this matter and the comments made by the shadow Attorney-General is that he was always considered — by himself and by many other

conservatives — as a civil libertarian who stood up for the underdog. The first comment he made as shadow Attorney-General was that the government had gone too far in relation to asset confiscation legislation. No doubt he was hauled before his leader over that matter and reminded, 'Hang on, we need to trump up this law and order debate, mate. You'd better not be going and saying those sorts of things. We want you to toe the let's-be-tough-on-sentencing line, otherwise we could be in trouble'.

There has certainly been the most extraordinary transformation in the shadow Attorney-General. He has gone almost overnight from being a civil libertarian to being a hang'em-high sheriff, complete with lasso, leather chaps, spurs and cowboy mask, ready to hang anyone in the main street of town. It really is quite extraordinary.

It is true that I have written to the shadow Attorney-General about this matter. He wrote to me and said he proposed moving an amendment to increase the maximum penalty that applies to these offences in virtually every other state under the model criminal code from 15 to 20 years, and he asked me what my views were on mandatory sentencing. I made it quite clear to him that his amendments are ill conceived and simply political grandstanding. I also made it clear to him that this bill is part of a model criminal code. I told him that apart from being surprised about his failure to understand the national agreement on this model bushfire offence, I was extremely surprised to learn that he believes — you have to understand that this is what his amendments do — and I assume the Liberal Party believes and the National Party, if it supports his amendments, believes, that causing damage to vegetation is more serious than destroying people's homes. That is the message those who support this preposterous amendment will be singing loud and clear.

We as a government certainly understand the harm and devastation that bushfires can cause, but in determining the appropriate maximum penalty the shadow minister seems to have forgotten that it is important to consider similar offences to ensure that maximum penalties across all offences are as consistent and as comparable as possible. I advised the shadow Attorney-General in my letter that the proposed maximum penalty of 15 years as set out in this bill is, as the Leader of the National Party said, a very substantial term of imprisonment and is consistent with the existing penalties for other Victorian criminal offences with similar levels of culpability — for example, recklessly causing serious injury, setting fire to an aircraft and drug trafficking in a non-commercial quantity.

The shadow Attorney-General mentioned to me — and he mentioned it in debate just a short time ago — the South Australian experience. I pointed out to him and I point out to the house that the South Australian bushfire offence will be punishable by a maximum penalty of 20 years imprisonment, but that state is in a different position from Victoria in relation to its existing legislation. In South Australia the offence of arson provides for a maximum penalty of life imprisonment where the damage exceeds $30 000, so it would be very difficult for South Australia to maintain parity with its existing offences by adopting the model bushfire maximum penalty of 15 years.

I also made some comments to the shadow Attorney-General about Ash Wednesday, and I am sure he will look at that letter long and hard and take a good hard look at himself now, wearing his cowboy boots, his spurs, his leather chaps and his hang'em-high attitude. He does more flips than Nadia Comaneci, this bloke!

My views on mandatory sentencing are well known, and the views of this government are well known. We oppose mandatory sentencing in any guise. You can disguise it by calling it mandatory minimum terms, but the reality is it is mandatory sentencing, and what mandatory sentencing means is: let's not have faith in our judiciary, let's allow politicians — let's allow the Victor Pertons of the world — to act as judge, juror and executioner!

The ACTING SPEAKER (Mr Plowman) — Order! The Attorney-General shall refer to the honourable member by his correct title.

Mr HULLS — Let's allow the shadow attorneys-general of the world to act as judge, juror and executioner. Let's take sentencing away from our independent judiciary. In fact, let's interfere with the independence of our judiciary. That is what mandatory sentencing does. It was discredited in the Northern Territory, and we are not going down that path here in Victoria while Labor is in government.

Politics is about leadership and it is about doing the right thing. It is not about just swingin' in the breeze and changing your philosophy about matters from time to time. It is not about going on radio programs and being asked what your view is about somebody who has received seven life terms and then saying, 'Don't know. I'll get back to you', and in an hour's time coming up with a policy. That is not what leadership is about. That is what swingin' in the breeze is about and trying to appeal to the lowest common denominator.

For a person who portrayed himself as a civil libertarian who stood up for the underdog, this transformation on the road to mandatory-sentencing Damascus has been quite extraordinary. The shadow Attorney-General, when he has a quiet moment on his own to examine the path he is now embarking upon, will be ashamed of himself.

You live and die by your reputation in this game, and we all have reputations, rightly or wrongly, but if you are true to yourself, if you are true to your beliefs and if you are true to your social justice philosophy, it does not matter how much pressure comes upon you and it does not matter what people might run around and say about you, the fact is you can look at yourself in the mirror and say, 'I took the hard decision. Yes, it was difficult, but I have been absolutely consistent'.

The fact is that the shadow Attorney-General, by now going down this extraordinary path, has not been true to himself — either that or he has been living a lie in his civil libertarian guise for far too long. Will the real Victor please stand up? Will the real shadow Attorney-General please stand up? We on this side are vehemently opposed to policy on the run — this Forrest Gump and Run Victor Run type of policy making. We believe it is not only inappropriate but unethical. We will be opposing these amendments when the bill goes into committee; I will not say too much more. We will be vehemently opposing these amendments because they are nothing more than a shabby attempt to reignite the old law and order debate.

I was in Queensland at the time when Bjelke-Petersen tried to do this during the 1989 election campaign. He was gone for all money, and he knew it, so he pulled out the law and order trump card. They had these most extraordinary ads with blood running down the television screens saying, 'If you vote for Goss, that is what will happen. There will be blood in the streets'. This type of nonsense is not much different from that. It is the model criminal code in every other state and the Prime Minister says the most appropriate penalty for this offence is 15 years, but the shadow Attorney-General says, 'Nah, let's go one better. Let's go 20!'. If the model criminal code said 20 years, he would have said, 'Let's make it 25! Let's just show that we are tougher on law and order'.

You can argue about what the appropriate maximum is, but we believe it ought to be 15 years because, as I said, we already have a number of bushfire offences, including the offence of arson causing death, which has a maximum penalty of 25 years, and we believe bushfires that cause damage to vegetation should not be put in a more serious category than bushfire offences that cause damage to people's homes. We believe the balance is right in this legislation and we are not prepared to go down this path.

I will just touch on what the Leader of the National Party had to say. I have a fair amount of time for the Leader of the National Party, who says he has given this a great deal of thought. He said that he is opposed to mandatory sentencing, but he is going to support this. We all have people we talk to from time to time who say, 'I am not a racist, but' — and then away they go. 'I am opposed to mandatory sentencing, but we are going to support it'. It is just not on. He has a legal background, so does the shadow Attorney-General. I have to say that we are not prepared to go down this path. So having made that brief contribution on the bill, I understand we will now go into committee.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 3 agreed to.

Clause 4

Mr PERTON (Doncaster) — I move:

1. Clause 4, lines 12 and 13, omit all words and expressions in these lines and insert —

> "is guilty of an offence and liable to imprisonment for a term not exceeding 20 years and, unless there are exceptional circumstances, not less than 5 years.
>
> (2) If the court is satisfied that there are exceptional circumstances, it may impose a sentence of imprisonment for a term less than 5 years and, if it does so, the court must —
>
> (a) give reasons for its decision; and
>
> (b) cause a note of the reasons to be entered in the records of the court.
>
> (3) Nothing in this section affects Division 7 of Part 4 of the **Children and Young Persons Act 1989** or Subdivision (4) of Division 2 of Part 3 of the **Sentencing Act 1991**.
>
> Note: Under Division 7 of Part 4 of the **Children and Young Persons Act 1989** the maximum period for which a child may be detained is 1 year in a youth residential centre or 2 years in a youth training centre. Under Subdivision (4) of Division 2 of Part 3 of the **Sentencing Act 1991** the County Court or the Supreme Court may direct that a young offender be detained in a

youth training centre or a youth residential centre for a maximum period of 3 years.".

Mrs FYFFE (Evelyn) — Sadly this vast continent has a surprisingly large number of bushfires — something we are all very conscious of. The majority of these bushfires are started by lightning, but they are very closely followed by fires that are deliberately lit. I will quote from the Department of Natural Resources and Environment web site statistics. These statistics cover a 20-year period and show the average number of fires each year. Deliberately started fires total 145 each year, in comparison to lightning fires of 149. Fire burn escapes, which happen where there are burn-offs, account for only nine fires each year.

I would like to highlight a few of the serious fires that we have had as I do not have time to mention all of them. In 1968 there was a fire in the Dandenong Ranges where 53 houses and 10 other buildings were destroyed. On 8 January 1969 we had what have been commonly known as the Lara fires, where 250 000 hectares of bush was burnt and 23 people died. In that fire 230 houses, 21 other buildings and 12 000 stock were also destroyed.

On 16 February 1983, Ash Wednesday, there were over 100 fires, and it seemed as though the whole of the eastern seaboard was on fire. We had 76 fatalities, and 2000 houses were lost and 27 000 stock destroyed. I remember those fires vividly, because I lived then at Yarra Junction. It seemed as though the whole mountain range was on fire and townships and hundreds of people's lives were endangered.

On 21 January 1997 we had another Dandenong Ranges bushfire — and the fire was deliberately lit. Three lives were lost, and there was a loss of property, including 43 homes. But apart from the terrible loss of life and property, the people who survived also lost. They lost their memorabilia, they lost their photographs, they lost their clothing and they lost their children's toys. They lost every personal possession in that fire — which, as I said, was deliberately started.

I was a commissioner with the Shire of Yarra Ranges at that time, and I remember visiting there the day after to talk to people to see what we could do to help. I met this sobbing four-year-old child in the street with his mother. Naturally I stopped to chat and said how sad it was. He was so worried and upset about the possums he had put food out for every night. I lied, Madam Chair: I told him that possums, like lots of animals, are far cleverer than human beings; that they can smell smoke; that they know about fire long before we do; and that his possums would have had time to run away. But these are the sad things that are caused by these arsonists.

There have been numerous fires started in New South Wales. Twenty-two people were arrested over the last Christmas period, and 15 of these were boys aged between 9 and 16. This amendment does not refer at all to the Children and Young Persons Act; it does not affect that at all. The 15 boys aged between 9 and 16 were dealt with in juvenile courts, as would happen here.

This is not, as the Attorney-General said in his extravagant language, mandatory sentencing. This is minimum sentencing for adults who start fires that damage property. The loss of life is covered already by the law, but there is also damage, loss of property and the devastation that occurs. I was helping people to find somewhere to live and trying to get basic clothes for them and basic toiletries — for example, taking a woman to a chemist to buy the sanitary pads she needed because she had no money as everything had gone. These people who deliberately or recklessly light fires deserve the maximum sentence.

It is very hard not to get emotional about it when you think about the victims' faces. They did not have toothbrushes and they did not have toothpaste. There was nothing left, because an individual had deliberately lit a fire at the bottom of a gully knowing which way the wind blew and knowing about the maximum devastation it could cause.

This maximum of 20 years is a long time, but so it should be. This is one of the most serious crimes you can do. Man cannot stop a bushfire. It is impossible when the wind is blowing so strong. All people can do is try to control it and hope the weather changes and it dies down. Yes, there is a minimum of five years, but with exceptional circumstances the judge or the magistrate can make it less than that, as long as he gives reasons for his decision.

We have had a strong public response to our consultations. There are no crime statistics generally available in our courts, and it does appear that arsonists are treated leniently. If the Attorney-General has any other information I would gladly welcome his proving to us otherwise. We have strong support for this within the community. People are asking for this sort of sentencing. It is very important. We are going to face our driest period possible, and in the next couple of years we could have an horrendous time with possibly lots of bushfires.

Mr WYNNE (Richmond) — I rise to make a brief contribution in relation to the amendment, given the time available to us and the fact that there are another couple of speakers who would like to make a brief contribution as well.

I reiterate the very basic but no less appropriate comment made by the Attorney-General, which goes to the very genesis of this amendment. It is drawn from that dark well of law and order campaigns which the opposition has so inappropriately dipped into. This amendment is driven by that agenda. Clearly you can dress it up in whatever clothing you like, but the nakedness of it is clear to us all. Read the amendment: it refers to a minimum sentence. What is being suggested is that the fundamental discretion that must be available to the court should be taken away, which takes away the notion that the circumstances of each offence must be judged by the court freely and impartially and that the sentence should be appropriately brought to bear on the offender.

The bill refers to a 15-year sentence, and that is a serious sentence in anybody's terms. It is part of a national framework. We should not be playing politics with these sorts of issues, particularly when you have a national response to it that is shared between the commonwealth and the states.

I would have hoped that the shadow Attorney-General, as indeed the Attorney-General did when he congratulated the shadow Attorney-General on his appointment, would have taken a reasoned approach to these issues and the law and order issues, but unfortunately he has gone done this path of the law and order campaign.

This is a debate that nobody wins. We need to have a fair and reasoned approach. This amendment is in every way mandatory sentencing. We need to be clear about that. You cannot dress it up in any other form, and that is why we oppose it.

Mr VOGELS (Warrnambool) — There is no doubt that if you live in rural Victoria one of the major fear factors is bushfires. Every year, as summer approaches, you find people who do not leave home on total fire ban days because they are fearful of bushfires.

I went through the 1983 Ash Wednesday bushfires. I do not know how many other honourable members did. It is absolutely devastating for people to see the damage, witness the death of loved ones and see firefighters lose their lives. If arson is worth 15 years, then deliberately lighting a bushfire is worth 20 years. No one who lights a fire on a total fire ban day, a 40 degree Celsius day with northerly winds, knows where that fire will go. A person who lights a fire on those sorts of days deserves to be thrown away for life. They are trying to do as much damage as possible. They have picked their spots. Last year in New South Wales people deliberately lit fires.

I would have thought the five-year minimum sentence would be a deterrent. If a person is found guilty by a court of lighting a fire on purpose with no exceptional circumstances he would know the minimum sentence he would receive is five years. What is wrong with that? I have no problem with it, but the Labor Party obviously has.

We all know that we are facing probably the worst fire season since 1983, which was also a drought year, and the damage could be enormous. I commend the shadow Attorney-General for bringing these amendments to the house.

Mr PLOWMAN (Benambra) — The cartoon in today's *Herald Sun* says that it will be a bad fire season this year and the question underneath is 'Where?'. I can tell you where: in all the forest areas, largely in my electorate, in Gippsland and across through western Victoria. We have already seen the start of fires around Sydney. I appeal to the Attorney-General and the honourable member for Richmond, because nothing is more frightening than being involved in a major fire. I have been in charge of a fire brigade with five men on the truck when we were caught in a fire, and we nearly lost men on that fire truck. I can promise you, if an arsonist had started that fire, it would not have been a five-year term, it would have been much worse than that if the person had been caught. It is the most serious crime I can imagine in country Victoria. I appeal to both of you to reconsider your position. This issue ranks as high as anything that I am concerned about for country Victorians.

I give a couple of reasons why that is so. I again say to the Attorney-General that the opposition is appealing for a heavier sentence and a minimum sentence because this is always the worst state for fires in Australia. Over the last few years New South Wales and Sydney have experienced bad fires, but Victoria is always the worst. I think with our experience we should make a judgment. We need a deterrent that will work, and I believe the increased penalty is such a deterrent. To suggest this is mandatory sentencing ignores the words 'exceptional circumstances'. Members of the government should have faith in our legal system and the judges to determine whether those exceptional circumstances will be interpreted appropriately. I think they underestimate their own judiciary.

I believe the sentence in the amendment proposed by the shadow Attorney-General is appropriate for this crime.

Mr PERTON (Doncaster) — This amendment is brought to the house recognising that this offence is more serious than what one would call the ordinary crime of arson but ought to have a lesser penalty than arson causing death. There has been extraordinary public support for the amendment. Such support indeed that there has been a strong public call for a minimum sentence.

It is not just in the context of this debate that this has occurred. The Attorney-General is introducing a number of amendments to the Sentencing Act, and one of the extraordinary things about that is that Professor Arie Freiberg, who wrote the report on which the bill is based, says that the Attorney-General himself ought to be able to ask the Court of Appeal for a guideline judgment, but the Attorney-General has left that out of the bill. The only way the Attorney-General and the Parliament can have an impact on the sentencing system is to do what ought to be done: to make clear in legislation what the maximum term is and, where the offence is serious, to set out a recommended minimum sentence — in this case five years — subject to judicial discretion on what is to be done in exceptional circumstances.

This is appropriate. This is the sort of way the Parliament must show its determination that offences like this need to be treated strongly. In those circumstances it is appropriate. The opposition has said that it will introduce recommended minimum sentences for a number of other serious offences, but when the Sentencing Council is in place that will be the appropriate body to help the Parliament make these sorts of determinations.

Mr HULLS (Attorney-General) — I have said most of what I wanted to say. I addressed a criminal law conference last week or the week before at which I said that no matter what insidious terminology is used to describe minimum sentences in our criminal justice system they are merely mandatory sentencing by stealth — a device politicians use when jostling for a law and order agenda. I also said that any attempt to curb the judiciary's discretion is an attack on its autonomy under another guise.

Mandatory sentencing subverts the integrity of our legal institutions and their ability to address the causes of crime. I said then and I say now that this is a malevolence that must be resisted. I said then and I say now that it is the enemy of a humane society manifest in its reactionary opportunism. I do not back away one iota from what I said last week. The government will reject mandatory sentencing in any of its guises.

Committee divided on amendment:

Ayes, 41

Asher, Ms	Maclellan, Mr
Ashley, Mr	Maughan, Mr (*Teller*)
Baillieu, Mr	Mulder, Mr
Burke, Ms	Napthine, Dr
Clark, Mr	Paterson, Mr
Cooper, Mr	Perton, Mr
Dean, Dr	Peulich, Mrs
Delahunty, Mr	Phillips, Mr
Dixon, Mr	Plowman, Mr
Doyle, Mr	Richardson, Mr
Elliott, Mrs	Rowe, Mr
Fyffe, Mrs	Ryan, Mr
Honeywood, Mr	Shardey, Mrs
Jasper, Mr	Smith, Mr (*Teller*)
Kilgour, Mr	Spry, Mr
Kotsiras, Mr	Steggall, Mr
Leigh, Mr	Thompson, Mr
Lupton, Mr	Vogels, Mr
McArthur, Mr	Wells, Mr
McCall, Ms	Wilson, Mr
McIntosh, Mr	

Noes, 45

Allan, Ms	Kosky, Ms
Allen, Ms	Langdon, Mr (*Teller*)
Barker, Ms	Languiller, Mr
Batchelor, Mr	Leighton, Mr
Beattie, Ms	Lenders, Mr
Bracks, Mr	Lim, Mr
Brumby, Mr	Lindell, Ms
Cameron, Mr	Loney, Mr
Campbell, Ms	Maxfield, Mr
Carli, Mr	Mildenhall, Mr
Davies, Ms	Nardella, Mr
Delahunty, Ms	Overington, Ms
Duncan, Ms	Pandazopoulos, Mr
Garbutt, Ms	Pike, Ms
Gillett, Ms	Robinson, Mr
Haermeyer, Mr	Savage, Mr
Hamilton, Mr	Seitz, Mr
Hardman, Mr	Stensholt, Mr
Helper, Mr	Thwaites, Mr
Holding, Mr (*Teller*)	Trezise, Mr
Howard, Mr	Viney, Mr
Hulls, Mr	Wynne, Mr
Ingram, Mr	

Amendment negatived.

Business interrupted pursuant to sessional orders.

The CHAIRMAN — Order! The time has now been reached for the cessation of government business.

Clauses 4 to 15 agreed to.

Reported to house without amendment.

Remaining stages

Passed remaining stages.

ROAD SAFETY (RESPONSIBLE DRIVING) BILL

Second reading

Debate resumed from 9 October; motion of Mr BATCHELOR (Minister for Transport).

Motion agreed to.

Read second time.

Circulated amendments

Circulated government amendments as follows agreed to:

1. Clause 5, page 5, line 8, after "licence" insert "or, if the holder incurred 12 or more demerit points within any 3 year period but not 5 or more within any 1 year period, a learner permit or probationary driver licence".

2. Clause 5, page 5, line 11, after "licence" insert "if the holder incurred 5 or more demerit points within any 1 year period".

3. Clause 10, lines 10 and 11, omit paragraph (b) and insert —

   "( ) sub-sections (2) and (3) are **repealed**;".

4. Clause 10, lines 12 and 13, omit paragraph (c) and insert —

   '( ) in sub-section (3A) **omit** ", suspended or suspended and disqualified";

   ( ) in sub-section (4) **omit** ", suspension and extension of probation under sub-section (2) or suspension and disqualification under sub-section (3)";'.

5. Clause 10, after line 13 insert —

   '"( ) in sub-section (5) —

   (i) omit "or suspension"; and

   (ii) omit "or suspended";'.

6. Clause 13, page 14, line 3, omit "(2) and (4)" and insert "(2), (3), (4) and (5)".

Remaining stages

Passed remaining stages.

TRANSPORT (HIGHWAY RULE) BILL

Second reading

Mr BATCHELOR (Minister for Transport) — I move:

That this bill be now read a second time.

This bill aims to restate in legislative form, and as an interim measure only, the former rule of common law known as the 'highway rule', which was overturned by the High Court last year in the case of Brodie and Singleton Shire Council.

In the longer term, the government proposes to bring in legislation to facilitate better road management and that will provide greater certainty in relation to the legal duties of road authorities. In the meantime, the temporary return to the former law will overcome the retrospective effect of the court's ruling, and will provide breathing space to enable road authorities to adjust their policies and programs to their new legal duties.

Mrs Peulich — On a point of order, Mr Acting Speaker, there are nine pages in the second-reading speech and only five pages in the bill. The second-reading speech is longer than the bill!

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member for Bentleigh can read the second-reading speech herself. The Minister for Transport, without interruption.

Mr BATCHELOR — I ignore her.

What was the highway rule, why was it abolished and what has been the result?

The Chief Justice of the High Court summarised the highway rule in Brodie's case in the following terms:

> The essence of the rule is that a highway authority may owe to an individual road user a duty of care, breach of which will give rise to liability in damages, when it exercises its powers, but it cannot be made so liable in respect of a mere failure to act.

In other words, under the former law, a highway authority could be sued for poor performance, which was called 'misfeasance', but not for non-performance, which was called 'nonfeasance'.

The court decided to abolish the highway rule by a majority of four to three. However, it is important to note that all of the justices acknowledged the defects of the former highway rule.

First, the rule did not work well in practice. It was often unclear whether or not the highway rule applied. For example, in principle the rule applied only to the road itself and not to non-road infrastructure, but it was often hard to tell which was which. Further, the rule only applied when the authority was acting as a highway authority, not in some other capacity, but the distinction was sometimes hard to draw. Finally, the line between poor performance, or misfeasance, and non-performance, or nonfeasance, was often blurred.

Secondly, a number of the justices considered that the rule was out of keeping with general legal principles. It gave road authorities special exemption for wrongs that other persons do not have and could result in injustice in cases of clear-cut negligence on the part of a road authority. And the uncertainty of the rule and its many qualifications and exceptions had the effect of encouraging rather than discouraging litigation and reduced the rule's practical benefit for authorities.

If the former rule did not work well, criticisms may also be made of the current law. First, there is a lack of certainty in relation to the standard of care that a highway authority must exercise when carrying out its road management functions such as design, construction, inspection, repair and maintenance. Roads vary widely in the standard of their construction and in the type and volume of traffic that uses them. So do the resources and priorities of the various road authorities and the communities they serve. In determining priorities and allocating resources, authorities have regard to their system-wide responsibilities. Under the current law, however, what standard the authority should have applied, what should have been done, falls to be decided by the courts after the event on a case by case basis. Road authorities need to know in advance what standard of care the law expects of them so that they can allocate resources and set priorities accordingly. It is one thing for an authority to be accountable for not carrying out its legal obligations, but those legal obligations need to be clear.

Another difficulty with the current situation is that, for practical purposes, the highway rule was abolished retrospectively. This exposed councils, Vicroads and other highway authorities to claims for past events, during a period in which everyone concerned believed the highway rule applied and arranged their affairs accordingly.

The result has been that highway authorities face increased exposure to claims and lack certainty in carrying out their functions. Rural municipalities in particular face a growing gap between what is expected of them and the resources available to carry out their functions.

The way forward

In the government's view, reinstatement of the highway rule is not a viable long-term option. Its uncertainty and unfairness was not in the best interests of either highway authorities or road users. Reinstating the highway rule would not lead to the best results in terms of providing a safe road network.

What the community needs is a system that provides roads that best meet the needs and priorities of the community to the highest practical standard given the available resources. The law should facilitate this outcome.

For this reason the government intends to bring in legislation next year to deal comprehensively with road management and related issues.

An important principle is that the assessment of needs and the setting of priorities are tasks that are best carried out by publicly accountable bodies.

At a local level this means councils, elected by and accountable to their local communities. At a state level it means state government agencies, such as Vicroads, that are ultimately accountable to this Parliament.

Consistent with the proposals set out in the discussion paper published by the Department of Infrastructure in June, this new legislation would provide a framework by which authorities would develop and publish management plans. These plans would articulate the policies, budgets and operating standards for roads under the authority's control.

The courts would then be required to have regard to these management plans in determining whether the road authority had or had not been negligent in the performance of its functions in any particular case.

Councils and other road authorities would have clear accountability for how well they carry out their functions. But they would also determine standards that best suit their local needs and priorities, and could plan accordingly in the knowledge that they would be protected from legal liability if their standards are reasonable and they adhere to them in practice.

It is not possible to have one set of standards that applies to all roads across the State. The diversity of roads and of road authorities is too great. However, it is proposed that the legislation provide a framework for the development and implementation by individual

authorities of road management plans. This framework would be set out in a code of practice or guidelines, to be approved by the relevant ministers and tabled in Parliament. These would not specify actual legal rights and duties. Rather they would set benchmarks for good practice and would provide guidelines and principles to be followed in carrying out road management functions and in preparing management plans. While a code of practice would not be legally binding, it would be a relevant consideration if it were suggested a road authority had been negligent.

In general terms, it is expected that the code of practice or guidelines would be similar to the *Code of Practice for Maintenance Management* which is published by the United Kingdom Institution of Highways and Transportation.

I should point out that this approach is broadly similar to the recommendations of the recent report of the New South Wales Legislative Assembly's Public Bodies Review Committee on the effects on government agencies of the abolition of nonfeasance immunity.

The issue of liability of public authorities was also considered by the panel appointed by the commonwealth government in July to review the law of negligence, which was chaired by Justice Ipp of the New South Wales Court of Appeal. The panel's final report was recently published. That report did not support the reinstatement of the highway rule, which it said was 'subject to many qualifications which were difficult to apply or to justify in a principled way'.

However, the panel's report also concluded that the abolition of the highway rule had had some undesirable consequences. Courts have to consider whether, in the words of the report, 'the authority's conduct in relation to the risk in question was reasonable given the other demands on the resources available to the authority'. The panel considered that this was undesirable in at least three respects. To quote the report again:

> First, courts are not well qualified, either in terms of expertise or procedure, to adjudicate upon the reasonableness of decisions that are essentially political in nature. Secondly, courts are inappropriate bodies to consider the reasonableness of such decisions because they are neither politically representative nor politically responsible. Thirdly, proper consideration of the reasonableness of such decisions may be very expensive and time-consuming.

The panel recommended that new legislation should embody the principle that a policy decision based substantially on financial, economic, political or social factors or constraints cannot support a finding of negligent performance or non-performance of a public function unless the decision was so unreasonable that no reasonable authority could have made such a decision.

The conclusions and recommendations of the panel's report are therefore consistent with the direction being taken by the Victorian government in relation to highway authorities.

The new legislation will also contain a number of other measures to reform the law relating to the management of roads. These include ensuring that road authorities' powers match their responsibilities, and that utilities and other bodies that carry out roadworks are subject to similar principles.

The contents of this bill

The government will be carrying out further consultation over the detail of this new approach, with a view to bringing in legislation next year.

In the meantime, road authorities are grappling with the effects of a major change to the law that was not only made with no notice, but retrospectively. What is needed is breathing space so that the transition to the new arrangements can be conducted and managed in an orderly fashion. To this end this bill proposes to confer on road authorities a statutory immunity from civil liability in respect of non-performance of their functions in relation to inspection and repair of roads. It is intended that, as near as practicable, this statutory immunity will have the same effect as the former common-law highway rule.

This is an interim measure only. The statutory immunity will sunset on 1 July 2004. It is intended that the new road management legislation, outlined earlier, would also take effect on that date. This will give councils and other road authorities time to put in place management arrangements that reflect the new law, including the adoption of management plans under the proposed new legislation if they wish.

As already mentioned, the High Court's decision in Brodie's case was retrospective in its practical effect. This is a significant problem for councils and other road authorities, which had arranged their affairs in good faith on the basis of the former law. For this reason, the bill proposes that the new statutory immunity will apply to all legal proceedings, including those where the cause of action arose prior to the legislation taking effect. However, this will not apply where legal proceedings had actually begun prior to the introduction of this bill into Parliament, so as to avoid disadvantaging plaintiffs who have already begun proceedings in reliance on the law as expressed in Brodie's case.

Section 85 statement

I wish to make a statement for the purposes of section 85 of the Constitution Act 1975.

Clause 3 of the bill proposes to insert a new section 37A into the Transport Act 1983. That new section will provide that certain persons and bodies carrying out functions of a highway authority will not be liable in any civil proceedings for failing to repair, or keep in repair, a highway or for failing to inspect it for that purpose. Clause 5 of the bill proposes to insert a new section 255F into the Transport Act 1983, which states that it is the intention of the new section 37A to alter or vary section 85 of the Constitution Act 1975.

The reasons for this proposal are as follows. In the case of Brodie and Singleton Shire Council, the High Court held that the rule that highway authorities were not liable in damages in respect of failure to repair a highway no longer formed part of the common law of Australia.

The change in the law in this manner has had a number of undesirable consequences. The decision had retrospective effect for practical purposes, applying to causes of action that arose before, as well as after, the court's decision. Further, road authorities had arranged their affairs on the basis of the law as it was formerly understood and have had difficulty in adjusting their arrangements to the new requirements.

To overcome these undesirable consequences, the amendments will provide statutory immunity in similar terms to the former highway rule. This immunity will apply to all causes of action, whether arising before or after the commencement of the legislation, so as to negate the retrospective effect of the judgment. The immunity will continue until 1 July 2004, but will not apply to causes of action arising on or after that date. This will provide a transitional period during which highway authorities may continue to manage their affairs on the basis of the former law whilst having time to make appropriate arrangements to carry out their responsibilities under the new law.

Conclusion

The High Court decision in Brodie's case made plain the defects of the former highway rule. The new law, however, provides road authorities with insufficient certainty. Councils and similar bodies make their decisions on the allocation of limited public moneys amongst competing priorities and across the whole range of their responsibilities. Any assessment of whether an authority has been negligent in a particular case needs to take into account these wider issues. To this end the law needs to provide a better framework for road management, one that optimises the best outcomes having regard to local needs and priorities. The government is committed to developing and implementing such a framework.

In the meantime, under this bill, councils and other road authorities will be able to carry out their functions on the basis of the former law.

I commend the bill to the house.

Debate adjourned on motion of Mrs ELLIOTT (Mooroolbark).

Debate adjourned until Thursday, 24 October.

TRANSPORT (TAXI DRIVER STANDARDS AND OMBUDSMAN) BILL

Second reading

Mr BATCHELOR (Minister for Transport) — I move:

That this bill be now read a second time.

The bill introduces amendments to the Transport Act 1983 which are designed to further improve Victoria's public transport system. The changes will improve taxidriver standards, clarify the powers of the Victorian Ombudsman to investigate the actions of authorised enforcement officers and facilitate the operation of a public transport industry ombudsman scheme.

The improvements to taxidriver standards contained in the bill will enable the licensing authority — that is, the Secretary of the Department of Infrastructure — to declare that a person who has been convicted of a serious criminal offence be disqualified from obtaining a drivers certificate for a specified period of time. The provisions will apply to current drivers, new applicants for a drivers certificate and to drivers seeking to renew their certificate every three years.

The provisions will also apply to drivers of hire cars and buses used for public transport and will reinforce the existing provisions that safeguard the standards for driver eligibility.

The provisions cover criminal offences involving violence — such as murder, armed robbery and serious assault; sexual offences — such as rape or sexual assault against children; drug offences; and offences involving theft, fraud or damage to property.

Where the holder of a certificate is convicted of a serious criminal offence the licensing authority will have the ability to suspend or revoke the drivers certificate and to prevent the driver being granted a new certificate for a specified period.

Drivers whose certificates are suspended or revoked are able to appeal to the Magistrates Court consistent with current legislative protections.

Consistent with the current legislative framework there will be no recourse to a court or tribunal to appeal against a refusal by the licensing authority to grant a drivers certificate. Existing administrative law rights will not be interfered with.

The bill also introduces a requirement for a person holding or applying for a drivers certificate to notify the licensing authority of any conviction or charge for any criminal offence which is relevant for the purposes of these provisions.

These new provisions will only apply to offences committed on or after the date these provisions come into effect.

As honourable members are aware, the government has previously announced that it is working with the public transport operators and groups representing passengers and consumers to establish a public transport industry ombudsman. This initiative will restore rights of recourse that passengers lost when public transport was franchised in August 1999.

To facilitate the operation of a public transport industry ombudsman, the Transport Act will be amended to allow information relating to passenger and enforcement matters which is protected by privacy provisions, to be given to a public transport ombudsman for the purposes of investigating and resolving complaints made by members of the public. To safeguard privacy, the Secretary of the Department of Infrastructure must certify that the public transport industry ombudsman has an appropriate privacy protection policy consistent with the requirements of the Victorian Privacy Commissioner.

The bill also clarifies the power of the Victorian Ombudsman to investigate complaints about the behaviour and actions of authorised enforcement officers who are employed by public transport operators and are performing public transport-related functions. This amendment will give clear power to the Victorian Ombudsman to investigate and make recommendations to the operator and to the Minister for Transport regarding law enforcement on public transport in cases where there is an alleged misuse of statutory power by enforcement officers.

It is anticipated that the public transport industry ombudsman will also investigate complaints about the conduct of authorised officers, and that the industry ombudsman and the Victorian Ombudsman will have an agreement to cover the practical processes for dealing with the interface of their respective jurisdictions. It is expected that the majority of complaints relating to authorised officers will be dealt with by the public transport industry ombudsman; however, it is recognised that more serious cases involving alleged misuse of statutory power may be appropriate for investigation by the Victorian Ombudsman. The clarification of the Victorian Ombudsman's powers will ensure a high level of accountability and transparency in the exercise of powers vested in authorised officers by the state.

The bill includes an amendment to the Rail Corporations Act 1996 which will ensure that the Victorian Rail Track Corporation and the Spencer Street Station Authority are able to participate in a public transport industry ombudsman scheme.

The bill also contains an amendment to the Public Transport Competition Act 1995 to repeal a number of obsolete provisions.

I commend the bill to the house.

Debate adjourned on motion of Mrs ELLIOTT (Mooroolbark).

Debate adjourned until Thursday, 24 October.

RETAIL LEASES BILL

Second reading

Mr BRUMBY (Minister for State and Regional Development) — I move:

That this bill be now read a second time.

The purpose of the bill is to establish a new regulatory framework for retail tenancies that promotes greater certainty, fairness and clarity in the commercial relationship between landlords and tenants of retail premises.

The deficiencies of the Retail Tenancies Reform Act 1998 — both in terms of legal anomalies and the inadequacy of the legislation in addressing the most important concerns of small business — means that it

has been necessary to create an entirely new regulatory framework.

Before detailing the key elements of the bill, I wish to briefly outline the broader context within which the legislation has been developed.

Retailing is a vital part of the Victorian economy. The industry is comprised of over 35 000 retailers, which are mostly small businesses. It employs over 350 000 Victorians, half of whom are young people. Victoria has a diverse and vibrant retail industry, ranging from world-class shopping centres to specialist outlets in laneways. The strong presence of small businesses in the industry underpins Melbourne's reputation as the shopping capital of Australia. With most retailers choosing to lease a premises rather than buy a shop, the rent payable and other terms of a lease have a major impact on a tenant's business.

The government came to office with a commitment to conduct a comprehensive review of Victoria's retail tenancy laws to better protect small and medium-size retail tenants by abolishing the 1000-square-metre rule, ensuring more effective disclosure statements, providing reasonable security of tenure and introducing a low-cost and responsive dispute resolution mechanism.

The bill delivers on the government's commitments in full.

The review consulted extensively with the industry. It released an issues paper and discussion paper for comment and conducted a series of public forums and industry workshops. Most recently, an exposure draft of the bill was circulated for public comment.

The government thanks those people who contributed to the development of the bill by making submissions to the review or attending meetings. The feedback from these consultations has been critical to ensuring the government has developed legislation that represents a fair balance between the interests of tenants and landlords and is also legally sound.

If all parties to a lease adopted good and fair business practices, there would be little need for the regulation of retail tenancies. Unfortunately this is not always the case. Governments across Australia have recognised this and have introduced retail tenancies legislation that establishes minimum requirements to promote fair outcomes. This legislation is intended to encourage an environment of fairness so that landlords and tenants mutually benefit. The government has legislated to ensure that a party does not unfairly take advantage of its superior information and negotiating power to the detriment of the other party.

One of the key issues to clearly emerge from the industry consultations is the need for improved education of both tenants and landlords on the implications of a lease before it is entered into, to help prevent disputes arising during the term of the lease. The industry also emphasised the importance of seeking to resolve disputes in an informal, timely and cost-effective manner.

A major government initiative included in the bill is the establishment of a Retail Industry Commissioner. The commissioner will have the power to arrange mediation between disputing parties to avoid formal legal action proceeding, undertake education campaigns and, if necessary, run test cases. The commissioner will play a role in the broader retail industry, with the power to investigate compliance with the packaged liquor industry code of conduct and the capacity to intervene in unconscionable conduct disputes between businesses under the Fair Trading Act 1999. The role of the commissioner is pivotal in the government's overall strategy of promoting a competitive and fair business environment.

The bill represents best practice retail tenancies legislation in Australia and harmonises laws by adopting a number of sensible provisions from other states.

I now turn to the key elements of the bill.

Certainty and clarity

The bill introduces major improvements to how the coverage of the legislation is determined so that small and medium-size tenants are not unfairly excluded. As promised by the government, the 1000-square-metre rule — a provision that is unfair and creates legal uncertainty — has been abolished. The review assessed a range of alternatives and concluded that a rent threshold is a fairer means of determining coverage. The rent threshold figure will be prescribed by regulation following final consultations with the industry.

The current provision that excludes public corporations works against small businesses that operate under a company structure. The bill introduces a more readily identifiable means of distinguishing between small and large companies by excluding listed corporations and their subsidiaries. The bill also corrects an anomaly in the current legislation whereby a franchisee who is a party to a lease is not protected if the franchisor also happens to be the landlord. These changes deliver on

the government's commitment to ensuring that the public corporations and franchise provisions of the legislation do not unfairly exclude small and medium-size tenants.

The bill also provides greater protection for tenants who are on short-term leases, as they will be covered once the tenant has continuously been in possession for one year. This ensures that schemes such as 364-day leases that contain a 25-year option are covered by the legislation. The bill maintains existing provisions regarding the type of retail activity that is covered by the legislation.

The government considers that the most effective way of minimising retail tenancy disputes is to ensure that the parties have sufficient information to make a sound business decision about entering into and renewing a lease.

The bill includes improved provisions that require the landlord to give the tenant a disclosure statement at least seven days before entering into the lease. Tough penalties will apply where a landlord fails to give a disclosure statement or provides one that is misleading, false or incomplete. The content of disclosure statements is to be prescribed by regulation and will include the improvements suggested by the industry during the course of the review. Notification requirements in regard to a tenant's option to renew are enhanced.

A major obstacle to informing landlords and tenants of their rights and obligations under retail tenancies legislation is that there is no systematic means by which to contact them. All jurisdictions except Victoria require leases to be registered. While the government has chosen to minimise the compliance burden on business by not adopting the interstate model of registering leases, the bill does require the landlord to notify the Retail Industry Commissioner of basic contact details of the parties to the lease within 14 days. This is a negligible impost on landlords, but the details will be invaluable for the commissioner to ensure that all landlords and tenants covered by the legislation have access to relevant retail tenancy information.

Fairness

The bill delivers on the government's commitment to deliver reasonable security of tenure for tenants. It provides that all tenants, not just first-time tenants as is currently the case, have a right to a five-year term. This reform brings Victoria into line with interstate regimes and is an important improvement in a tenant's security of tenure. However, this provision does not apply where a tenant seeks a shorter term and has been informed by the Retail Industry Commissioner about the implications of waiving their right to a five-year term.

A major initiative under the legislation is the inclusion of unconscionable conduct provisions aimed at protecting a tenant or landlord from unfair practices by the other party to the lease. The bill includes a non-exhaustive list of matters, drawn from section 51AC of the Trade Practices Act 1974, that the Victorian Civil and Administrative Tribunal may have regard to in determining whether a party has engaged in conduct that is, in all the circumstances, unconscionable. Similar provisions already operate in New South Wales and Queensland.

However, those matters based on the Trade Practices Act are generic and so the bill includes some specific matters to ensure greater clarity as to the application of the concept of unconscionable conduct to the landlord-tenant relationship. These specific matters relate to:

> the extent to which the landlord or tenant was not reasonably willing to negotiate the rent under the lease;
>
> the extent to which the landlord or tenant unreasonably used information about the turnover of the tenant's or a previous tenant's business to negotiate the rent; and
>
> the extent to which one party required the other party to incur unreasonable fit out costs.

This provision will benefit both landlords and tenants. It in no way represents a broadening of the existing principle of unconscionable conduct. The government received advice on this matter from Dr Clyde Croft, SC, an expert in retail tenancy legislation and trade practices matters, and is satisfied that the specific matters included in the bill do not broaden the concept of unconscionable conduct and would not create legal uncertainty regarding the interpretation of unconscionable conduct or constrain businesses from engaging in normal commercial behaviour.

The unconscionable conduct provisions should encourage a cultural change and the adoption of good business practices. This gives tenants greater security, without imposing prescriptive requirements on landlords.

Certain actions by a landlord in managing the building can have a significant adverse effect on a tenant's business. The bill strengthens the current provisions

relating to relocation of a tenant's business and introduces new protections to deal with alterations, refurbishments, demolition and damaged premises. Depending on the circumstances, the tenant may be entitled to reasonable compensation, a right to terminate the lease or an entitlement to be offered a new lease on the same terms and conditions. These reforms provide significant improvements in security to tenants during the term of the lease.

The bill contains important improvements in regard to the conduct of rent reviews. Under the current legislation it is possible for landlords to purposefully delay the timing of a rent review in the expectation of a more favourable outcome. The bill addresses this unfair practice by providing that rent reviews are to take place as early as practicable within the time provided by the lease. If the landlord has not initiated the review within 90 days after the end of that time, the tenant may initiate the review.

Where a lease provides for a rent review to be made on the basis of the current market rent and agreement on the amount cannot be reached between the tenant and landlord, the bill requires the valuation of current market rent to be determined by a specialist retail valuer. If the tenant and landlord cannot agree on the appointment of a specialist retail valuer, the bill provides for the Retail Industry Commissioner to appoint one. In such cases the landlord is obliged to supply relevant information to the valuer. Penalties apply if the landlord fails to do so.

The bill also ensures that tenants are treated fairly in regard to outgoings. Landlords can currently pass on their land tax liability to the tenant as part of outgoings. However, land tax is an expense that bears little relation to the tenant's activities. In light of this the bill provides that a provision in a new or renewed lease is void to the extent that it makes the tenant liable to pay land tax. In regard to existing leases, the bill ensures that tenants have a reasonable time to budget for land tax payments by requiring the landlord to give written notice to the tenant of the liability within 21 days of receiving the assessment notice. The bill also gives tenants more certainty regarding management fees in shopping centres by generally limiting increases during the term of the lease to no more than CPI.

The new legislative framework will apply to new leases and renewals of existing leases. However, the bill ensures that tenants on old leases are not left behind and benefit from the government's reforms. The Retail Tenancies Act 1986 and Retail Tenancies Reform Act 1998 are amended to ensure consistency with procedural requirements under the bill. These provisions relate to matters such as the confidential use of turnover information, outgoings statements and notices for upcoming renewals and options.

The bill also extends the jurisdiction of the Victorian Civil and Administrative Tribunal to enable it to hear and determine disputes arising under or in relation to retail premises leases, whether or not those disputes arose under leases subject to the common law, the 1986 act, the 1998 act or the bill. This is of significant importance to tenants under pre-1998 leases, who currently cannot have disputes heard by VCAT.

Dispute resolution

The bill establishes the Retail Industry Commissioner to investigate complaints, mediate retail tenancy disputes and undertake a range of other statutory functions. A dispute must first be referred for mediation before being the subject of proceedings before VCAT. Interstate experience suggests that this model will be effective in resolving disputes and therefore avoid the need for formal legal proceedings.

Furthermore, a tenant seeking relief against forfeiture must currently make an application to the Supreme Court. This imposes a significant cost burden on small tenants. The bill rectifies this situation by investing VCAT with concurrent jurisdiction in relation to relief against forfeiture, so that a tenant can choose to apply to either the Supreme Court or VCAT.

Section 85 statement

I wish to make a statement of the reasons why it is the intention of the bill to alter or vary section 85 of the Constitution Act 1975.

Clause 97 of the bill states that it is the intention of section 89(4) to alter or vary section 85 of the Constitution Act 1975.

Section 89(4) restricts the jurisdiction of the Supreme Court in regards to retail tenancy disputes so that disputes (with some exceptions) can generally only be justiciable before the Victorian Civil and Administrative Tribunal. This ensures that parties in dispute have access to a low-cost and timely forum to resolve disputes. A similar provision applies in the 1998 act.

In conclusion, the bill is a major reform package that delivers on the government's commitment to bring greater certainty, fairness and clarity to Victoria's retail tenancy legislation.

I commend the bill to the house.

Debate adjourned on motion of Dr DEAN (Berwick).

Debate adjourned until Thursday, 24 October

GAS INDUSTRY (RESIDUAL PROVISIONS) (AMENDMENT) BILL

Second reading

Mr BRUMBY (Treasurer) — I move:

That the bill be now read a second time.

The purpose of this bill is to amend the Gas Industry (Residual Provisions) Act 1994 (the act) to provide for the transfer of certain property, rights and liabilities from Gascor to another state-owned entity.

Gascor acts as a gas wholesaler. It purchases gas from Esso/BHP-Billiton and on-sells it to private sector gas retailers Origin Energy (Vic.) Pty Ltd, AGL Victoria Pty Ltd and TXU Australia Pty Ltd. Until the onset of full retail contestability (FRC) on 1 October 2002, each of the retailers had an exclusive right in a geographical area to supply gas as an agent of Gascor to non-contestable customers. The retailers paid agency fees to Gascor in return. On commencement of FRC the retailers' obligation to pay agency fees to Gascor lapsed.

When the Bracks government came to power in October 1999 the gas industry (apart from Gascor) had passed to private ownership. Pre-existing contractual arrangements established as part of the reform process provided the state with options exercisable until 31 December 2002 to transfer one third of the shares in Gascor to each of the retailers.

The government is currently reviewing its position with respect to the options and will reach a decision on whether to transfer Gascor to the retailers after consultation with stakeholders. In addition, certain steps are required before the government is in a position to exercise the options should it determine to do so. In particular, under the options the state warranted that if and when Gascor is transferred to the retailers it would have no contingent, accrued or prospective liabilities (apart from certain defined liabilities related to its respective contracts with Esso/BHP-Billiton and the retailers).

Gascor (together with 15 other state entities) is a party in the Longford class action. These proceedings arose over fire and explosions at the Esso/BHP-Billiton gas processing plant at Longford on 25 September 1998. This incident resulted in the tragic death of two Esso workers and the injury of several others. The class action is a claim by gas users and stood-down workers for damages relating to the 10-day cessation of gas supplies, which followed the events at Longford. As the matter is before the court I do not propose to comment further, except to say that the state denies any liability in relation to the class action.

The purpose of this bill is to transfer Gascor's Longford class action interests, including any liability, to another state entity. This will ensure that if the government elects to exercise the option to transfer Gascor to the retailers the state will not be in breach of warranties contained in the options. Similarly it will ensure preservation of the interests of the state with respect to the class action.

I will now provide an outline of the bill.

Clauses 1 and 2 of the bill contain preliminary information including a statement of the purpose of the bill, which is to provide for the transfer of certain property, rights and liabilities of Gascor.

Clause 3 of the bill inserts in the act a new part 14 entitled 'Transfer of certain property of Gascor'.

New section 116 includes definitions of the property, rights and liabilities of Gascor to be transferred. In summary these are items arising out of or in connection with the fire and explosions at Longford on 25 September 1998 and the class action that followed these events. Collectively these are referred to in the bill as 'Longford assets' and 'Longford liabilities'. They include insurance rights, contractual rights, compensation rights, documents, any liabilities arising in connection with proceeding no. 5538 of 2001 and proceeding no. 5975 of 2001 in the Supreme Court, any similar proceedings, and any appeal from such proceedings.

New section 116(2) enables the minister to fix the date of transfer.

New section 117 provides that it is the intention of part 14 to provide for the transfer as a bundle in one transaction of the whole of the Longford assets and Longford liabilities to a transferee nominated by the minister. This provision has been included to make it clear that the state intends that Longford assets and Longford liabilities transferred under part 14 are not to be unbundled or separated from each other.

New section 119 provides that on the date fixed by the minister the Longford assets vest in the transferee and the Longford liabilities become liabilities of the transferee.

The government is committed to ensuring that Victorians enjoy the benefits of a competitive and efficient gas industry, including the lowest sustainable gas prices and high standards of service. The market structure and independent regulatory arrangements allow industry participants to compete on an equal footing and protect consumers at the same time. The Essential Services Commission and the ACCC have the ability to oversee pricing arrangements, while Vencorp also acts as an independent system operator for market participants.

The government intends to firmly establish whether there is public benefit in transferring Gascor to the retailers in order to decide whether to exercise the options. Passage of the bill is necessary in order to enable the state to exercise the options if it decides to do so.

I commend the bill to the house.

Debate adjourned on motion of Dr DEAN (Berwick).

Debate adjourned until Thursday, 24 October.

PLANNING AND ENVIRONMENT (METROPOLITAN GREEN WEDGE PROTECTION) BILL

Second reading

Ms DELAHUNTY (Minister for Planning) — I move:

That this bill be now read a second time.

The purpose of the bill is to amend the Planning and Environment Act 1987 to establish a greater control — involving approval by each house of Parliament — over planning scheme amendments which have the effect of increasing the subdivision potential of land in the metropolitan green wedges.

The Premier has recently made announcements about the implementation of Melbourne 2030, the metropolitan strategy. Implementing Melbourne 2030 will involve actions across a range of government portfolios and departments.

One of the initiatives of Melbourne 2030 is to reinforce the principle of maintaining green wedges between areas of urban development. Melbourne's ongoing development in urban corridors separated by green wedges has been a planning principle at least since 1971. Where the term 'green wedges' was previously used to define the areas between the growth corridors of metropolitan Melbourne, its current usage in Melbourne 2030 relates to the whole non-urban area within the metropolitan region. While the protection of the green wedge areas has been generally supported by all governments since the inception of the concept, land within the green wedges has been subject to continuing pressure for closer subdivision and for various forms of urban and semi-urban development.

Unless a firm line is taken on further subdivision in the green wedges, some of them will disappear entirely. Melbourne 2030 includes initiatives to support the green wedges, including definition in planning schemes of an urban growth boundary, which will be the subject of extensive consultation over the coming months.

The government is committed to undertaking this extensive consultation, but unless immediate action is taken it does create a risk of land speculation and owners of land in the green wedge, perhaps seeing the possibility of more intensive development being limited, applying pressure to planning authorities and the government to implement last-minute amendments to increase subdivision potential. Firm measures are needed to avert this situation, and this bill is one of those measures.

First, the recently implemented planning scheme amendment VC16 defines the urban growth boundary. There may be points where this does not quite reflect local detailed planning, and the final definition of this boundary will be part of the ongoing consultation process on Melbourne 2030. The boundary as defined now is the starting point.

This bill is the second element of the initiative to manage this interim situation. It provides that any planning scheme amendment which would have the effect of increasing land subdivision potential in the area outside the urban growth boundary as defined by the planning scheme as it existed on 8 October 2002 (that is, including the changes made by amendment VC16) will be considered in the usual way but can come into effect only if ratified by each house of Parliament. The approval of not just the minister of the day but of Parliament will be required.

This process is similar in effect to that which was put in place by the previous government for amendments to the Upper Yarra Valley and Dandenong Ranges Strategy Plan. It gives effect to recommendations made by a task force — under the leadership of Professor Michael Buxton — which was established by the Premier earlier this year to review issues related to green wedge protection. It is being introduced as a quick interim measure, pending consultation on more

enduring arrangements which will form part of the implementation of Melbourne 2030.

To avoid any misunderstanding, I also need to note what this bill does not do.

First, it is not a freeze on subdivision or development in the green wedges. While some may wish to see such a freeze applied, to do this would not be fair to landowners with legitimate expectations of using and developing their land in accordance with approved planning schemes. Applications to use and develop land within the green wedge areas in accordance with the approved planning schemes will continue to be considered by responsible authorities in the usual way.

Secondly, it is not a ban on well-thought-out scheme amendment proposals. A planning authority can prepare and exhibit an amendment, review submissions, and submit it for the minister's approval, in the usual way, but an amendment which affects subdivision potential in the green wedges will not come into operation until approved by Parliament.

Amendments which affect subdivision potential include those which change the specific provisions of zones relating to minimum lot sizes and lot excision in the zones which specify subdivision requirements. This relates particularly to the rural zones and the low density residential zone. Amendments to exclude land from one of these zones and include it in another zone, or which specify particular subdivision standards for a project area, would also require approval.

However, an amendment to change land from one urban zone to another in one of the green wedge townships — say, from residential to business — would not change subdivision requirements and so would not require approval by Parliament.

The government intends to introduce legislation needed to implement Melbourne 2030 next year. The form of this will be decided taking account of issues raised in the consultation process about Melbourne 2030. This bill does not pre-empt this consultation process or decisions about Melbourne 2030 implementation, and in particular does not indicate a finalised approach to land management in green wedges, or the location of the urban growth boundary. The procedure provided in this bill is intended to be an interim arrangement to hold existing scheme provisions pending the outcome of consultation.

As I have already noted, the special approval procedure applies only to land outside the defined urban growth boundary. This is provided for in the proposed section 39B of the Planning and Environment Act 1987, as proposed to be included by clause 3 of this bill. I have available here a plan which indicates the urban growth boundary and the green wedge areas over the whole metropolitan area. While this gives an overview of the area of application, it is, of course, of too small a scale to show exact boundaries. These are shown on the maps of the recently approved planning scheme amendment VC16, and I have arranged for a set of these maps to be available in the parliamentary library.

I commend the bill to the house.

Applause from gallery.

The ACTING SPEAKER (Mr Lupton) — Order! The gallery will remain silent during the debate.

Debate adjourned on motion of Mr BAILLIEU (Hawthorn).

Ms DELAHUNTY (Minister for Planning) — I move:

That the debate be adjourned for two weeks.

Mr BAILLIEU (Hawthorn) — I move:

That the word 'two' be omitted with the view of inserting in place thereof the word 'four'.

The green wedge concept is one that evolved from the efforts of the Hamer government in the 1970s and it has endured and earned the support of Melburnians. Nevertheless the proposition put to us is complex. It has an impact on a very large number of individuals and land-holders and also involves a number of councils. There are 23 councils involved in the documents produced under the urban growth boundary material of the metropolitan strategy released on Tuesday, and I note that there are some 17 councils involved in proposed section 39A that will be inserted by the bill by way of fringe planning schemes.

It is a complex item. It is a complex bill. Every situation is different. I have already had representations from a large range of land-holders inquiring as to the potential impact on their properties. It is difficult to arrange consultations with all of those stakeholders at the best of times, let alone in a two-week period where the house is sitting. All we are seeking from the government is an extension to four weeks so we can ensure fair and equitable consultation with those property holders and with those councils.

In addition, I also ask the minister for an undertaking that before this bill is discussed in the house the land-holders and property holders who are impacted by

this bill receive correspondence to that effect from the government. Obviously we are not in a position to do that, but the government is. Those who are only now coming to grips with the legislation and the proposals are doing so via the media at present, and we would ask that the government correspond to that effect with all of those land-holders.

There is a strong historical and warm consideration of green wedges as they have been by way of concept in Melbourne in the past. No doubt those views will continue. There are nevertheless those property holders who are impacted and they deserve the opportunity to understand the proposals that are being put forward to them. There are zones involved which are new and they are complex. Every situation, as I said, is different.

The minister said that this bill is an interim measure. I think she used the words in her second-reading speech that it is a quick interim measure, but I do note there is no sunset clause in the bill, unless I have misread it, and hence obviously the legislation would stand, so there is permanency about it. All we are asking is that those upon whom an impact is likely to fall have the opportunity to fully assess the position. Therefore I have moved that the adjournment period should be four weeks.

Ms DELAHUNTY (Minister for Planning) (*By leave*) — This is another example of Liberals in limbo. We have offered a briefing on this bill to the opposition, to the shadow planning minister. Opposition members have not availed themselves of that opportunity to understand what this bill is about, and they now come into this house saying that they need more time to deal with a bill that will provide immediate interim protection for the green wedges that they claim they were the fathers of. This is another example of the Liberals being lazy, the Liberals not spending the amount of time it needs to read the documentation and to accept a briefing on the bill. My office offered an opportunity to the shadow planning minister on Monday and again yesterday — —

Mr Baillieu interjected.

The ACTING SPEAKER (Ms Davies) — Order! The opposition spokesman has had his say. I ask him to hear the minister.

Ms DELAHUNTY — They have not accepted the opportunity to be briefed on this bill, and they now come into this house seeking to frustrate the clear support that the government has to implement protection immediately for these green wedges. Let me run through the support that the community has shown since the Premier announced that we would legislate to protect the green wedges. Professor Michael Buxton, professor of environment and planning at RMIT University — —

Dr Dean — On a point of order, Madam Acting Speaker, this debate is to be about time, not about the bill and the various aspects of the bill and how the bill was put together. It is just on the fact that the opposition believes it needs four weeks and the government thinks it can do it in two. That is what it is all about.

The ACTING SPEAKER (Ms Davies) — Order! I uphold the point of order. I ask the minister to speak on the issue of time.

Ms DELAHUNTY — Let's go exactly to the issue of time because it is relevant. The time began when the Premier announced some weeks ago that this government would introduce legislation to the house to protect the green wedges. We received no calls from the opposition — absolutely nothing, dead silence on this — seeking information or any explanation of how the government proposed to protect the green wedges through legislation introduced in the spring session. They were supine and silent. Then we came into this house this week and introduced the bill, and again we offered briefings on the detail of the bill — and again silence. They are supine, silent, lazy. That is the problem.

Mr Baillieu — On a point of order, Madam Acting Speaker, the minister has now on a number occasions suggested we have been offered a briefing. I am sure we will get a briefing, but we have not been offered a briefing at all.

The ACTING SPEAKER (Ms Davies) — Order! There is no point of order.

Ms DELAHUNTY — This is clearly embarrassing for the opposition because it does not have a policy. Will opposition members support interim green wedges or oppose them? Delaying the bill for an extra two weeks does not change the fundamental fact that the opposition does not have a policy. I repeat, twice this week my office offered the shadow planning minister an opportunity to be briefed. They are the facts.

The opposition has finally discovered that it must make a policy decision. It is a bit like Basslink; it has not got a policy on green wedges and now it is scrabbling around trying to discover what its position should be on a piece of legislation that has overwhelming support across the community. The shadow planning minister said the opposition needed extra time for further

consultation with the 31 councils involved. We have had so much consultation with councils I do not know how much more we can do. We had 80 000 ideas, most of them from local councils. We have had chief executive officer forums, mayors forums and public forums for the past 18 months.

Further, after the Premier announced the government's intention to introduce the legislation to the house we wrote to councils about the provisions of Melbourne 2030 that would apply from day one. I know this is a complex document but it would assist if the shadow planning minister actually read the document or part of it. We know from his email, which was not sent to his colleagues but to the government side, that his illumination on Melbourne 2030 was, 'This will have a major impact on planning issues in Melbourne'. Hello, a major impact! Even since he sent that riveting and illuminating email — —

Mr Smith — On a point of order, Madam Acting Speaker, I ask that you bring the minister back to the debate on the question of time. This is not an opportunity for the minister to debate the bill.

The ACTING SPEAKER (Ms Davies) — Order! There is no point of order. I ask the minister to continue her remarks on the issue of time.

Ms DELAHUNTY — On the issue of time and councils wanting more consultation, we had written to all councils about the planning processes that would apply from day one, 8 October, on Melbourne 2030, when the Premier announced the Melbourne 2030 plan. In addition to the forums that I have outlined we have had detailed briefings with every council affected in small regional groups and individual briefings with individual councils on the issue of the urban growth boundary and the protection of the green wedges — which is really the subject of this legislation. Further, we have had final briefings with all the councils and stakeholders affected by the urban growth boundary and this interim legislation protecting green wedges — —

Mr Perton interjected.

Ms DELAHUNTY — Aren't they people?

Mr Perton interjected.

Ms DELAHUNTY — Victor, you are embarrassing.

The ACTING SPEAKER (Ms Davies) — Order! I ask the Minister for Planning and the honourable member for Doncaster to address their remarks through the Chair.

Ms DELAHUNTY — On the day of the launch of Melbourne 2030 we had an invitation to all interested parties, be they planners, citizens, or green wedge coalition members and councillors. I was under the impression that councillors were citizens, but apparently not in the view of the Liberal Party. They came on the morning of the launch for formal briefings and details. I know the opposition does not understand the dialogue; it does not understand a conversation. We have had a conversation for weeks and months and it has been so detailed. We have seen that the councils were extremely well informed. Last night in Queen's Hall — I know members of the opposition were mingling with their local councils, which we welcome and I hope they learnt of the councils' support for the metro strategy and Melbourne 2030 — —

Dr Dean — On a point of order, Madam Acting Speaker, is this on time? I am putting the question to you because I do not believe it is. I do not believe the minister is talking on time.

The ACTING SPEAKER (Ms Davies) — Order! There is no point of order.

Mr Perton — You are joking!

The ACTING SPEAKER (Ms Davies) — Order! I suggest that the honourable member for Doncaster be more respectful of the Chair. The format of that point of order was not such that it needs to be ruled on as a point of order. I ask the honourable member for Doncaster to be more respectful. I ask the minister to continue on the issue of time. I ask her to be attentive to the topic of the debate and to focus on that narrow topic.

Ms DELAHUNTY — I am trying to address that because the point made by the honourable member for Hawthorn was that the opposition required a further two weeks so that it could consult with local councils about the implementation — —

Dr Dean interjected.

Ms DELAHUNTY — I am getting to that. The honourable member first referred to councils and then talked about landowners. The opposition does not want to hear about the range of consultations that we have had just in the last week on this detailed legislation. Last night in Queen's Hall we had a full complement of metropolitan councils, mayors, chief executive officers and members of Parliament discussing the fine detail, not just of this legislation on green wedges but the Melbourne 2030 plan.

Further to the question of time and the amount of time that the opposition needs to suddenly develop a policy

on this, all councils affected by the green wedge legislation and the urban growth boundary had a specific briefing with the metropolitan strategy unit of the Department of Infrastructure on 30 September. That detail of the green wedge legislation being introduced to the house this week was given to those councils on 30 September!

Mr Baillieu interjected.

Ms DELAHUNTY — You can say that it was not, but you have not read the documents. Look at your emails. You have no idea what is in the legislation.

The ACTING SPEAKER (Ms Davies) — Order! I ask the Minister for Planning to address her remarks on this narrow debate through the Chair. I ask her to continue to do that in the proper form or I will cease to hear her.

Ms DELAHUNTY — I will try to avoid the spurious interjections. What the opposition fails to understand — and the honourable member would understand if he had accepted our offer of a briefing — is that there is no immediate change to the responsibilities of existing landowners in the areas affected. That is in the second-reading speech. It is quite clear this is interim legislation to stop any speculation that would increase the subdivision potential of land designated as a green wedge.

It does not change their existing rights. Of the groups that represent landowners and land interests and property interests, I refer to the Property Council of Australia, which you would consider would represent both landowners and property interests in the broader sense. It is welcoming this government's Melbourne 2030. More than welcoming it, it is calling on the opposition to get behind it and give it bipartisan support. It has had enough time to examine the detail of this legislation.

Mr Vogels — On a point of order, Madam Acting Speaker, I am fairly new to this game, I understand that, but I do not believe this is debating time. The minister said two weeks; the shadow minister asked for four. The simple answer is yes or no, then we can get on to the next second reading and go home.

Mr Hulls — On the point of order, Acting Speaker, I take up the honourable member's remark. This is a narrow debate on the issue of time, but the minister is clearly saying that two weeks is enough. The opposition is arguing it needs four weeks. The minister is saying two weeks is enough and she is giving reasons why two weeks is enough. She is saying that there is enormous support and that consultation has already taken place. There has been enormous support, so the opposition does not need four weeks, it needs two weeks. The minister is explaining, excellently in my view, that the property council has been consulted with and supports the bill and urges the opposition to do so, so two weeks is more than enough. Let's get on with it. This is an important piece of legislation. Why delay it for four weeks?

Mr Honeywood — On the point of order, Madam Acting Speaker, my electorate is one of the electorates that predominantly features a green wedge. Every one of these green wedges is different in character and each of them is deserving of close consideration to make sure the government has the boundaries right.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member needs to speak on the point of order and not debate the question.

Mr Honeywood — On the point of order on time, the fact remains that the maps of the now 12 green wedges have only just arrived in the Parliamentary Library. Many members of Parliament — —

The ACTING SPEAKER (Ms Davies) — Order! I ask the honourable member to direct his comments specifically to the point of order raised by the honourable member for Warrnambool.

Mr Honeywood — On the question of time — —

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Warrnambool raised a point of order, and I ask the honourable member for Warrandyte to refer specifically to that point of order and not to debate the issue.

Mr Honeywood — The point of order, as I understand it, was that the minister was not referring to the issue of time. On that point of order I support the honourable member for Warrnambool, that the minister, in bringing this legislation on, needs to be aware that there are many issues that have to be considered rather than rushing it through.

The ACTING SPEAKER (Ms Davies) — Order! I have heard enough on the point of order. It is possible to go around in circles on this issue for a long time. The debate at hand is on the issue of time. I hear what the honourable member for Warrnambool stated. The honourable member knows that the Chair cannot control the words that a minister will use to deal with an issue. I do not find that there is a point of order. I ask the minister to continue her remarks on this very narrow issue.

Ms DELAHUNTY — There is clearly a misunderstanding of this legislation because the opposition has not taken the trouble to take a briefing. This is interim legislation. There will be, as I said in the second-reading speech, full consultation on the final legislation. The final legislation will be introduced into the house next session. This is immediate protection to stop inappropriate subdivision in the green wedges. Why hold it up?

I know that at the Liberal state council on Saturday a resolution will be moved asking that the Liberal Party define in legislation the environmental values of the green wedges, so let's just get on with it and do it.

Dr DEAN (Berwick) — I am sorry that the minister decided to turn what was a fairly subdued request into some sort of mud-slinging competition.

The SPEAKER — Order! Is the honourable member speaking on a point of order?

Dr DEAN — I am speaking on time.

The SPEAKER — Order! Has the minister concluded her remarks?

Ms Delahunty — I have concluded my remarks.

The SPEAKER — Order! The honourable member for Berwick, my apologies.

Dr DEAN — I am sorry the minister turned the debate into some sort of abusive slanging match by referring to the opposition as lazy, scrabbling and incompetent, because all that has done is to turn a proposed amendment, which was proposed in very polite terms and very quietly, into something that is now slightly out of control. That should not have happened, and it is because the minister has a tendency to not be able to look at things professionally.

I will go one by one through the points raised by the minister and will respond to them. I will not hurl abuse or anything like that. The first point the minister made was that there had been no briefing. Of course there has been no briefing. You introduce a bill, and then you get a briefing. The bill has just been introduced, so of course there has been no briefing. I do not know what the minister was talking about there.

Then the minister said there has been plenty of consultation. There may have been consultation with other people, but there has been no consultation with the opposition. The opposition has to now put its point and work out where it stands. That is why we are saying we need extra time.

The minister then said the metropolitan strategy has now been introduced. It was introduced on Tuesday. No invitation was offered to the opposition. When the opposition staffer attended he was told he could not have a copy of the metropolitan strategy. That was another consultation opportunity last Tuesday.

Then there was a reference to the fact that the councils had been advised about the background of the bill some time ago. The minister said 30 September. The minister is referring to the document that appears on the Web. This is apparently another opportunity where the government has consulted with the opposition and given the opposition the opportunity. Of course there has been no briefing yet, because the bill has only been introduced. If putting something on the Web is supposed to be an opportunity for consultation with the opposition — and most of it refers to alternative processes and not the processes that have just come on — that is very surprising indeed.

The minister then referred to the fact that there had been consultation with councils and so forth. The shadow minister just made a very polite point, I thought, and that was that we need time to consult with the stakeholders, with the property owners. The bill has just arrived. It covers massive areas of geography. It covers massive numbers of stakeholders. We need time. It may be that the government has consulted with every single one — well done! — but we, the opposition, have to come to our position, and we need to consult. If it is true that the minister has been doing this consulting over a long period, all that shows is that we also need some time to go through that process because we have to come to our position.

But I must say that when the minister says she has done the consultation it is rather strange to read in the second-reading speech that the government is committed to undertaking extensive consultation. Either the consultation has happened or it has not. From the government's own second-reading speech it appears that it has not. Maybe the government itself would like more time to do the consultation it is talking about.

When it comes down to it I am not making accusations, as the minister was, about laziness or scrabbling or incompetence. All I am doing is saying a very simple thing: this is an extensive bill which has only — —

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Springvale is not assisting proceedings.

Dr DEAN — The only request we are making is that the adjournment be expanded for another two

weeks. Why would a government that came into power on the basis of allowing the processes of Parliament to work properly not say, 'We have just second read another 11 or 12 bills. You have copped two weeks on every single one of them, and you have asked for four weeks on one which is quite extensive in terms of geography. All right, that is no problem.'? Why would it not do that, you have to ask yourself.

This is a government which only last night had to ditch its program in a rather embarrassing way because it had put too much into one week. The government is putting a lot of legislation through the Parliament; it has already had to back off from 2 pieces of legislation; and it has just added another 12. Is the government really saying it must have all these bills debated in two weeks? If it is, this is an impossible situation. It could not possibly do that, as we found out this week. Here is an excellent opportunity with at least one of the bills for it to say, 'All right, we will put that one over to four weeks'. But no, there is none of that, just abuse and 'How could you possibly want to have four weeks?'.

I am very sorry that when we ask for two weeks on one of its 12 bills the government is unable to accommodate us. It has not really explained why; it has given reasons none of which is correct. We believe the government will certainly incur the effects of the inquiring mind of the electorate when it determines that the government would not give the opposition an extra two weeks on this important bill when it was asked quite politely to do so.

Mr BRACKS (Premier) — The system which operates here and which has operated here for a long time is that bills are adjourned for two weeks. You really have to ask why in this case the opposition has sought to go longer than two weeks when it has known for some time that the government has had a policy to protect green wedges. I refer back to Monday, 30 September, when a press release was issued, which no doubt the opposition would have. It goes on to other fax sheets, to the work that was undertaken and to the policy which has now come in as legislation here today. Ten days ago the government was clear and explicit about its policy to bring in legislation and clear, also, that this was coming up.

You have to ask yourself what the nervousness over there about making a decision about green wedges is about? What are they nervous about?

The SPEAKER — Order! The honourable member for Springvale!

Mr BRACKS — It is hard to imagine why the Leader of the Opposition is so agitated about this matter. What has he got to hide? What has he got to protect? What is he so concerned about that he cannot resolve this matter in his own party? Let's face it, we know what the problem is here: he wants to avoid a blue and a battle in his own party about this matter. There is an absolute lack of commitment to green wedges. He knows there is going to be division in his own party, and he wants to avoid that division. This procrastination is all about putting off the decision on whether the opposition supports green wedges.

I refer the opposition back some 30 years ago to a previous Premier, Sir Rupert Hamer, who had the foresight to establish green belts around Victoria and the metropolitan area. You would have thought that was a portent of what should happen now, Mr Speaker. This is a policy that has been enunciated for some time. The opposition has known it was coming. This legislation is based on extensive consultation right across the community, which has driven this outcome.

There is only one reason why this extension of time is being sought: the Liberal Party cannot determine its position on green wedges. It does not have a policy; it has division in its own ranks and that division is something it wants to avoid. We have seen that division before on the marine parks — —

Dr Dean — On a point of order, Mr Speaker, I do not think the Premier realises this is a debate on time. He is nowhere near the question of time at the moment. I do not see how any fictitious divisions in the Liberal Party have anything to do with the question of time.

The SPEAKER — Order! This is indeed a narrow debate on the question of time in relation to the motion that has been moved and the amendment to the particular time frame. I ask the Premier to restrict his comments to the motion.

Mr BRACKS — Regarding the question of time, the government does not see any reason to vary the arrangement for the two-week adjournment on this bill compared with other bills. This has been subject to extensive consultation, including the preparation of the legislation itself. The legislation has been anticipated by policy that the government has determined. If they have a difficulty and are concerned about getting access to proper and appropriate briefings, I can give an assurance to the opposition and the shadow minister that we will make sure we make available a full briefing on this matter so there is no lost opportunity over the next two weeks to allow this to happen.

We on this side do not support an extension of four weeks. We will facilitate briefings, and we believe the appropriate adjournment should apply in this case.

Mr MACLELLAN (Pakenham) — The usual adjournment of the debate is for two weeks. On this occasion the opposition has asked for four weeks and the shadow minister has explained why. I think the shadow minister indicated that he would accept and be pleased to have a briefing. The Minister for Planning claimed that a briefing had been offered. The shadow minister has indicated by way of interjection and point of order that he has not been offered a briefing at least up until now. Now the Premier has made such a offer.

The question before the Chair is whether the adjournment should be for two weeks or four weeks. These things are cured in a number of different ways. Sometimes it is agreed between the parties on both sides of the house that it will be two weeks with additional time if required. Of course that would take some strength of character and broadness from the government.

One might almost suspect from the tone of this debate that there was an election in the wind. One might be tempted — strictly on the question of time, as to whether it is two weeks or four weeks — to get a distinct impression that there might be another agenda in the background to this. The Premier, on the question of time, suggested that there are divisions within the parliamentary party of the opposition. I would have thought that if he really believed that then he would, on the question of time, be wanting to have four weeks so that the divisions could mature. I would have thought that an adjournment of four weeks would have been much better to allow any divisions to show up, if indeed they exist.

On the question of time, I got the impression from the minister that she actually is looking to the opposition to support this legislation. I know some members of the government party would not share that view, because they would be hoping the opposition might oppose it. She was taking the principled stand that she is bringing this legislation in and seeking support from the opposition for it.

If support for this bill is more likely, given the opportunities to consult both municipalities and citizens on the now known legislation — and this is the time for the opposition to consult — then I think the usual approach at this stage of the sitting would be for the minister to say, 'I would prefer that the adjournment be for two weeks but I can give an undertaking that additional time will be available if required by the shadow minister'. There is nothing surprising about that, but the atmospherics of this debate clearly show there are agendas quite different from whether the opposition will or will not support this legislation. The agendas have gone beyond what has been said in the words from the minister and the Premier.

If the Premier and the minister are hoping, on the question of time, to get some political advantage out of this, I think they are missing the point. The point would be that Victorian citizens should get protection and an adequate statement from Parliament and perhaps on a bipartisan basis a view about green wedges.

Ms Lindell interjected.

Mr MACLELLAN — I do not know that it is helpful for you to interject. It tends often to make the debate more acrimonious rather than more friendly. I was merely suggesting a mechanism by which the government and the opposition might reach agreement at a quarter to 6, rather than reach disagreement. If the honourable member is anxious to have a difference on this question resolved by a vote, then I suppose it would be a good idea if she continued to interject or indeed spoke in the debate.

I am suggesting the minister might like to say, 'The government would like to insist upon a fortnight's adjournment but would be willing to give additional time if required by the opposition spokesman'. There is nothing unusual in that approach.

Mr CARLI (Coburg) — On the matter of time, the general practice in this house is to have an adjournment of the debate for two weeks. I see no reason why that should be varied, partly because I do not see any enhancement of the debate or the whole consultation process. We have already seen what happened this week with the metro strategy, which had been out there for years. The shadow minister made no contribution to that debate. The other night when we had the mayors in Queen's Hall talking about green wedges and metro strategies, again — —

Dr Dean — On a point of order, Mr Speaker, the honourable member for Coburg is not talking on time. He is talking about all sorts of things that maybe the opposition did or did not do. This debate is very narrow, and it is on time.

The SPEAKER — Order! I ask the honourable member for Coburg to come back to the motion before the Chair.

Mr CARLI — On the question of time, the process is not enhanced by adjourning the debate for another

two weeks. All it does is let the shadow minister off the hook. This is not a difficult debate. It is not a difficult issue: we know what the green wedges are. Extra time for the shadow minister will not enhance the debate.

The protection of green wedges is in fact a Liberal Party vision going back to Rupert Hamer, who 30 years ago had the vision about green wedges, and the government is putting that into practice now. It will not be assisted by this time wasting on the part of the opposition. The government wants to bring this on. These are interim measures. There will be consultation afterwards in the overall process.

What is presented to the house is not difficult. There is plenty of time in the two weeks to do the consultations and whatever is needed by the shadow minister to get on top of the issue. He needs only two weeks. He will be properly briefed. He will be able to deal with the stakeholders. We will be able to have a good debate, have the interim measures put through in this legislation and save the green wedges.

Mr LUPTON (Knox) — I wish to speak on this motion on the matter of time. The honourable member for Hawthorn has indicated that he has never received a briefing from the government. The minister has indicated briefings have been offered. In discussions with the honourable member for Hawthorn this morning it was quite apparent that he had received no offers made by the government for a briefing on this matter. The honourable member for Coburg has just come into this house and in talking about time has said that we can go into consultation after this has been legislated. There is not much point in doing that.

There is a lot of concern in the suburbs and other areas, and members of the opposition do not know what the community has said because they have not been able to consult. Although we are asking for an extra two weeks, in fact we are seeking only one additional week. If you look at the parliamentary sittings you see that we sit next week, the second week would be the off week, and then, in accordance with the minister's motion, we would be able to look at it in the third week. All we are asking for is an additional week. I cannot see that that is going to create a problem.

Members of the government must have something to hide if they are not prepared to allow us to consult with the community. In real terms we are asking for an additional week, even though the amending motion says four weeks. As I said, that is because of the parliamentary sitting dates.

Mrs MADDIGAN (Essendon) — I believe we have had enough time wasting from the opposition on this matter. Therefore I move:

That the question be now put.

The SPEAKER — Order! As this is a narrow procedural motion on the question of time, and as there have been seven speakers on the question, I am prepared to accept the motion.

Mrs Maddigan's motion agreed to.

The SPEAKER — Order! The minister has moved that the debate be adjourned for two weeks, to which the honourable member for Hawthorn has moved an amendment that the word 'four' be substituted for the word 'two'. The question is that the word proposed to be amended stand part. Those supporting the honourable member's amendment should vote no.

Amendment negatived.

Motion agreed to and debate adjourned until Thursday, 24 October.

DANDENONG DEVELOPMENT BOARD BILL

Second reading

Ms DELAHUNTY (Minister for Planning) — I move:

That this bill be now read a second time.

The main purpose of the bill is to establish the Dandenong Development Board which is a cooperative effort between the state government and the City of Greater Dandenong.

Dandenong is one of the state government's five announced metropolitan transit cities projects. The Transit Cities program is an important component of Melbourne 2030 as it implements a number of the initiatives stemming from the strategy.

On 12 March 2002 the Premier announced that the government would establish the Dandenong Development Board and, as part of that announcement, the Premier advised that the board will have seed funding of $1 million.

This funding allocation was confirmed in the state 2002–03 budget where $4 million was allocated over four years to the board

With the establishment of the board the government is honouring its commitment to setting the vision for tackling the economic, social and environmental challenges in Dandenong.

The function of the board will be to promote the development of Dandenong as a key centre for employment and services in the south-east metropolitan area. The board will aim to refocus the Dandenong town centre and encourage activities which lead to the creation of an economically vibrant, safe and attractive centre.

In order to help the board to achieve its objective it will include representatives from the Greater Dandenong City Council, the local business community, the Department of Infrastructure, the Department of Innovation, Industry and Regional Development and the Urban and Regional Land Corporation.

The board will assist in the facilitation of economic, cultural and community development and employment growth in Dandenong. The board will also make recommendations on infrastructure and other works considered necessary to stimulate development and cultural activity in Dandenong. The board, however, will not have powers to undertake borrowings or acquire land.

In order to implement the government's Transit Cities program to revitalise Dandenong, the board will assist by:

providing opportunities for increased private investment and business innovation in Dandenong;

improving the overall quality of place and encouraging sustainable development;

encouraging the development of higher density housing at strategic locations near transport nodes;

encouraging diversity of housing types and promotion of design innovation, while protecting residential character;

focusing higher density mixed-use development around the key transport nodes;

undertaking the planning of a development site and facilitate appropriate demonstration projects;

building communities that offer fair access for all to services and employment opportunities;

improving public transport usage and the integration of transport services and will assist in delivering 20 per cent of metropolitan trips by public transport by 2020;

creating and improving pedestrian/cycling linkages with transport interchanges;

reducing the pressure to develop on the urban fringe;

safety through community building and design;

better access to services;

whole-of-government response to development issues.

The Dandenong Development Board will actively liaise with agencies/instrumentalities such as TAFEs, hospitals, Department of Justice (Crime Prevention Victoria), police, Vicroads and Victrack so as to coordinate government expenditure and actions to achieve a safe urban design and built form and functionality for Dandenong.

I commend the bill to the house.

Debate adjourned on motion of Mr WILSON (Bennettswood).

Debate adjourned until Thursday, 24 October.

VICTIMS OF CRIME ASSISTANCE (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

As part of the government's commitment to strengthening support services to victims of crime, the Department of Justice has undertaken a review of services to victims of crime to:

examine how those services are currently being delivered; and

determine the best way of delivering services to victims in the future.

The *Review of Services to Victims of Crime Report* was released in February 2000. It found that although a wide range of services is available to victims of crime, service delivery is fragmented and requires greater coordination.

The report made a number of key recommendations about how services to victims of crime can be improved

and better coordinated. A victims services task force has been established to implement these non-legislative recommendations.

The report also made recommendations about the potential to improve and streamline the current processes at VOCAT in order to make it more accessible and responsive to victims of crime. Implementing these recommendations will help redress the current imbalance in the provision of counselling services. This imbalance has occurred as a result of the ease with which victims have been able to obtain counselling through the VRAS-administered victims counselling scheme and the delays that victims seeking counselling have experienced at VOCAT.

The Victims of Crime Assistance (Miscellaneous Amendments) Bill will amend the current legislation by:

removing the current legislative restrictions on making interim awards and enabling some to be made by registrars of VOCAT;

correcting an anomaly in the legislation by widening the circumstances in which childhood victims of sexual assault may be awarded special financial assistance;

enabling VOCAT to determine a matter without a hearing if it relates to making an interim award or if the applicant's consent has been obtained; and

empowering the Chief Magistrate to make guidelines in relation to non-procedural matters.

Interim awards — providing urgent assistance to support victims

Currently, in order to be satisfied that an applicant is entitled to a final award, applicants are required to provide the tribunal with a series of documents, including police and medical reports and any other relevant supporting material. It is also preferable that any injury sustained by an applicant has stabilised prior to the tribunal making a final award. In some cases, it may take many months before a final award can be made. For this reason, the tribunal has the power to make interim awards.

When making interim awards under the current legislation, magistrates must be satisfied that the applicant will be, or is likely to be, entitled to receive a final award under the act. To date, a number of magistrates have been reluctant to make interim awards on the basis that if a final award is not made, the act states that the amount of the interim award becomes a debt due to the state.

This bill will make it easier for magistrates to make interim awards by removing these requirements in the act and providing magistrates with a discretion. An interim award will only become a debt due to the state if the tribunal considers it appropriate to make such an order.

This bill will also give registrars of the tribunal the power to make interim awards up to a prescribed limit. This limit will be detailed in regulations. This will enable the tribunal to deal with interim applications more quickly, especially where applicants are seeking urgent counselling or relocation. Registrars who undertake these functions will receive appropriate training.

Childhood victims of sexual assault

When this government restored compensation for pain and suffering for victims, it recognised the special position of childhood victims of sexual assaults.

The rationale for providing assistance to child victims was explained at the time the original amendments were introduced. It was intended that special financial assistance be made available to victims of childhood sexual assault as they are among the most vulnerable victims in society. Because of the nature of child sexual abuse, cases are often not reported for years. Offenders are often known to the victim and are often in positions of power and trust. Children are generally weaker than their assailants and are often dependent on them. Providing special financial assistance to these victims acknowledges and recognises the courage shown by them in reporting the crime to police and the suffering they have experienced.

The original amendments provided that victims of childhood sexual assault would be eligible for special financial assistance in the following situations:

where the abuse occurred between 1 July 1997 (the date when compensation for pain and suffering was abolished by the Kennett government) and 1 July 2000 (the date the government reintroduced compensation for pain and suffering); and

where a sexual offence was committed against a child at any time prior to 1 July 1997 if a person has been (on or after 1 July 1997) committed or directly presented for trial on a charge for a relevant sexual offence.

This criteria has unintentionally excluded certain childhood victims who were intended to come within the scheme.

The bill corrects the anomaly in the legislation by extending the situations in which victims may apply for special financial assistance to include those where a person has, on or after 1 July 1997, been charged with a relevant offence and:

those charges are heard and determined in the Magistrates or Children's Court; and

the person dies without the charges having been determined.

The amendments will ensure that victims who fit within these categories will be able to apply for special financial assistance.

Determining applications without a hearing

This bill provides that the tribunal can determine or make a decision in relation to an interim application without conducting a hearing, unless the tribunal considers that a hearing is necessary or desirable.

This amendment recognises that the number of interim applications received by the tribunal has markedly increased. Giving the tribunal the power to determine interim applications without a hearing will increase the efficiency of the tribunal and enable it to be more responsive to victims who present with urgent needs, for example, those victims who require urgent counselling or relocation.

The tribunal does not have the power to decide on a final application without conducting a hearing, unless the applicant has consented in writing to the tribunal doing so.

If an applicant is not satisfied with the tribunal's decision in relation to an interim award, they have a right of review to the Victorian Civil and Administrative Tribunal.

Guidelines

This bill will give the Chief Magistrate the power to issue guidelines for the tribunal in relation to the matters that may be taken into account in determining whether expenses of a specified kind are reasonable.

Guidelines which set out what is reasonable will help to promote consistent practice within the tribunal and assist in managing the expectations of victims. They may also be used as a means of disseminating information to applicants and potential applicants.

It is not intended that guidelines made under this clause will fetter the discretion of magistrates who constitute the tribunal.

Evidence of deemed injury

The bill amends the current legislation to provide that the tribunal may rely on psychological evidence as well as medical evidence in determining whether a person is deemed to be suffering from an injury as the result of trauma associated with an act of violence. This amendment recognises that evidence from a psychologist is often the best evidence in determining whether a victim has suffered psychological injury.

Conclusion

This bill is a further example of this government's commitment to improving services for victims of crime. It will ensure that the system in place is responsive to the particular needs of victims and assists them in recovering from the impact of violent crime.

I commend the bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Debate adjourned until Thursday, 24 October.

CRIMES (STALKING AND FAMILY VIOLENCE) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Stalking is a relatively recent crime in Victoria. The essence of stalking behaviour is intentionally following, harassing or threatening a person, loitering outside or near the person's home or place of work, or keeping the victim under surveillance. This government is committed to protecting victims of crime. It recognises the seriousness of stalking and the harm, both physical and emotional, that can be caused to victims of stalking behaviour.

The current stalking provisions in the Crimes Act 1958, which were introduced in 1994, provide that a person stalks another person if he or she undertakes a course of conduct with the intention of causing harm, apprehension or fear in another person or a third party. In order to prosecute a stalker the victim must have been actually harmed or in fear for their safety.

The key aspect of stalking behaviour is that it is unsolicited and unwarranted.

The Crimes (Stalking and Family Violence) Bill amends the current stalking provisions in three key ways. First, it provides that previously unregulated online stalking conduct is now an offence. Second, it removes the requirement in the offence that the victim be aware of the stalking conduct. Third, the bill recognises the virtual nature of online stalking by giving the stalking provisions extraterritorial operation.

Cyberstalking

Stalking has taken on new dimensions in recent years due to the development of computer technology. The number of people who now own and use computers has increased dramatically, as has the number of people who use the Internet for a wide variety of purposes. People are becoming increasingly reliant on technology when going about their everyday business and are increasingly proficient in their use of technology.

Along with this increasing use of technology and access to information on the Internet comes an increasing risk of abuse and threat to personal information and privacy.

The term 'cyberstalking' has emerged in recent years as a result of the use of technology by stalkers to locate, pursue or harass their victims. Cyberspace is appealing to stalkers as it provides them with the means to communicate immediately and directly with their victims whilst maintaining physical distance.

Despite the virtual nature of cyberstalking, the effects of such behaviour on its victims can be just as distressing as those experienced by victims of traditional stalking behaviour. These effects can be physical or emotional and are often serious and long term.

Although all states in Australia have stalking legislation, Victoria is the first state to respond specifically to the developments in technology which are being used by stalkers.

The current definition of stalking will be expanded to provide that if cyberstalking forms part of a course of conduct undertaken with the intention of causing harm, fear or apprehension of fear, it will be an offence.

The amendments will cover a range of cyberstalking conduct, including:

sending obscene, threatening or harassing emails;

posting false information about a person on the Internet;

assuming the identity of a person on the Internet;

uploading doctored images or other material relating to a person;

tracing a person's use of the Internet; and

causing an unauthorised computer function in a person's computer.

The bill is an indication of how seriously this government views cyberstalking and the effect it has on its victims.

Removing the requirement as to the actual effect of stalking

The current stalking provisions require that to prove the offence of stalking the victim must have actually been harmed or be in fear of the stalking behaviour.

There are individuals who secretly watch, photograph and film other people and case other people's homes prior to the possible commission of a more serious offence.

Certain types of cyberstalking activity can take place without the knowledge of the victim. A number of threatening or offensive emails may be sent to a person, but that person may not log on to their computer for a number of days and therefore not see the emails. A victim may also not be aware that someone has uploaded images or information about them on to the Internet.

In all these situations the potential offender cannot currently be charged with stalking because the victim is not actually aware that the stalking behaviour is occurring.

The bill will amend the current definition of stalking to remove the requirement that the victim actually be harmed or experience apprehension or fear. The offence of stalking should focus on the behaviour of the offender rather than the response of the victim. The evil in the offence is in the actual stalking. The intention on the part of the offender to cause fear, or the fact that the offender ought to have understood that their target would be frightened, is the key factor that should make the behaviour criminal. The fact that a target of stalking is unaware or is not easily frightened should not prevent prosecution of the offence.

Extraterritorial operation of the offence

Whilst cyberstalking can be seen as an extension of traditional stalking, it is conducted in a virtual environment as opposed to a real-life environment. Cyberspace provides stalkers with anonymity that they cannot achieve in real-life circumstances. A person may stalk their victim from a digital address, and that address may be hidden or altered. Stalkers may use programs to send messages to their intended victim at random intervals without even being present at their computer when the message is sent. A stalker may stalk their victim from anywhere in the world, but the victim may not know if the stalker is in another country, state or simply around the corner from their home.

This aspect of cyberstalking presents challenges for those enforcing the stalking laws, which up until now have been restricted by jurisdictional boundaries.

This bill recognises the virtual nature of cyberstalking by giving the stalking provisions extraterritorial operation. The provisions will therefore apply to people overseas or interstate stalking a person in Victoria, and a person in Victoria stalking a person overseas or interstate.

The amendments will apply to stalking conduct which is alleged to have taken place on or after the commencement of the act.

People have the right to conduct their personal and professional lives free of harassment and threats either to themselves or others who are close to them. Cyberstalking behaviour should not be treated any less seriously than traditional stalking behaviour. Empirical evidence suggests that the effects of cyberstalking are just as serious and sometimes more serious than traditional stalking.

This bill recognises the serious nature of stalking and the various ways in which technology can now be used by stalkers. It sends a clear message to the general public that cyberstalking is an offence. It also enables police to intervene where stalking behaviour is occurring without the knowledge of the intended victims to prevent the possibility of serious harm to those victims. In doing so the bill promotes the government's commitment to providing all Victorians with safe streets, homes and workplaces.

Amendments to the Crimes (Family Violence) Act

The Crimes (Family Violence) Act 1987 provides for the making and enforcement of intervention orders. Intervention orders may be granted to protect a person from a family member in cases of domestic violence. The court can make the order if it is satisfied on the balance of probabilities that there has been an assault or a threat of assault or similar harassing behaviour. Intervention orders may also be granted to protect people from stalking type behaviour.

An intervention order protects an aggrieved person by prohibiting or restricting approaches by the defendant to the aggrieved person or access to the premises where the victim lives, works or frequents. A breach of an intervention order is a criminal offence.

Prior to 28 June 2002, if the defendant did not oppose the making of an intervention order the court could make the order without having to hear evidence about the behaviour that led to the application for the order. This provided a quick and efficient way in which the courts could make orders to provide ongoing and effective protection to victims of domestic violence and stalking.

However, on 28 June 2002 the Supreme Court ruled in the case of *Stephens v. Melis* that an intervention order made solely on the basis of consent of the parties may be invalid and therefore unenforceable.

As a result, even where two parties consent to the making of an intervention order between them, the court must still hear evidence. This has made the making of intervention orders a much longer process, as evidence may need to be heard, and a more difficult process, as defendants have the opportunity to challenge that evidence. This has significant resource implications for the Magistrates Court.

The decision in *Stephens v. Melis* has also cast doubt over the validity of past orders which were made solely on the basis of consent of the parties.

This has placed the community in a situation where it cannot know whether consent orders made in the past in this manner are invalid and therefore unenforceable. Considering that between 1 July 2001 and 7 June 2002 alone there were 6029 intervention orders made in this manner, which is nearly half of the total number of intervention orders made during that period, the matter has raised considerable concern in the community.

This bill address these issues in two ways. Firstly, it provides that intervention orders may be made solely on the basis of the consent of the parties.

Secondly, it ensures that all intervention orders granted by consent before the Supreme Court decision of *Stephens v. Melis* are valid, so that it is clear that breaches of these orders can be enforced.

I make the following statement under section 85(5) of the Constitution Act 1975 of the reasons why it is the intention of new section 25AB(1) of the Crimes (Family Violence) Act 1987 being inserted by clause 8 of the bill to limit the jurisdiction of the Supreme Court.

Defendants who, before the commencement of this bill, may have been able to appeal to the Supreme Court against a conviction for a breach of an intervention order on the grounds that the intervention order was made solely on the consent of the parties and is therefore invalid, will no longer be able to appeal on that ground after the commencement of this bill.

This limitation is necessary in order to ensure that all existing intervention orders that were made before the commencement of this act on the basis of the parties' consent will, in the event of a breach of that order, not be invalid merely because of the way in which they were made. This protection needs to apply from the time the order was made — regardless of when the order may have been breached.

Without this provision, those who are protected by intervention orders face the risk that, if there has already been a breach of the order, on an appeal against a conviction for that breach the order could be ruled to be invalid on the grounds that it was made based on the consent of the parties.

These amendments will bring Victoria's legislation into line with the legislation already in place in the majority of other states and its practice over many years prior to 28 June 2002. Further, this amendment will allow for the making of intervention orders to be a quicker and less complicated process.

These measures are in keeping with the government's commitment to provide safe streets, homes and workplaces by ensuring the integrity of existing intervention orders.

I commend the bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Debate adjourned until Thursday, 24 October.

COURTS LEGISLATION (JUDICIAL PENSIONS) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The purpose of this bill is to remove unnecessary barriers for appointment to judicial office and to further the government's commitment to ensuring that there is a wide pool of candidates, representing the best and brightest legal minds in the country, from which to make judicial appointments.

Currently there is a serious disincentive for judges of commonwealth and interstate courts to accept an appointment to the Victorian bench. This is because the legislation that governs these appointments does not enable judicial service in another Australian jurisdiction to be taken into account for the purpose of accruing a pension entitlement. Such an entitlement arises in Victoria after 10 years of judicial service and upon attaining the age of 65 years (or 60 years if appointed prior to 18 May 1995), or after 20 years judicial service.

At the present time any interstate or commonwealth judges who then agreed to join the Victorian Supreme or County Court benches would have to start again in terms of their eligibility for a judicial pension. This would be unfair, since by accepting a judicial appointment in Victoria they would have usually forfeited the pension entitlement they had been accruing in the other jurisdiction.

This bill seeks to bring Victoria into line with a number of other jurisdictions, including the commonwealth and New South Wales. Those jurisdictions recognise prior judicial service in another jurisdiction and so are in a position to recruit Victorian judges for positions interstate.

The bill amends the Constitution Act 1975 and the County Court Act 1958 so that a person who has served as a judge in a commonwealth or interstate court can have that service taken into account for the purpose of accruing an entitlement to a judicial pension in Victoria.

This means that judges of the Supreme and County courts will be entitled to a pension calculated from the date upon which they were first appointed as a judge, whether in Victoria, the commonwealth or interstate. As the Chief Magistrate has the same entitlement to a pension as a County Court judge, he or she will also be able to have any prior periods of service as a judge in another commonwealth, state or territory court taken into account for the purpose of accruing an entitlement to a Victorian pension.

However, this entitlement will only be available to those individuals who were judges in other jurisdictions immediately prior to their appointment to judicial office in Victoria. This will promote continuity in judicial service and is consistent with existing requirements

governing appointment to the Victorian bench from designated statutory offices in Victoria, such as the position of Solicitor-General or Director of Public Prosecutions.

The bill is also fiscally responsible, in that it prevents any possible double dipping in relation to judicial pensions. It provides that if a judge is entitled to a Victorian pension upon retirement and is also eligible for a pension from another jurisdiction, the Victorian pension is then reduced by the full amount of the other pension.

The bill will assist in ensuring that candidates with the experience and expertise to make a significant contribution to Victoria's justice system are not discouraged from seeking appointment to the Victorian bench. The bill is another way that the government is realising its vision of a fair, accessible and understandable justice system.

I commend this bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Debate adjourned until Thursday, 24 October.

EDUCATION AND TRAINING LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Ms KOSKY (Minister for Education and Training) — I move:

That this bill be now read a second time.

The bill implements a range of important measures to address anomalies in existing legislation; to remove outmoded provisions; to strengthen existing provisions disqualifying teachers convicted or found guilty of sexual offences from teaching in schools; as well as empowering TAFE institutes to seek accreditation to offer undergraduate degrees and other miscellaneous amendments.

In summary the bill will implement the following changes.

1. First, it will repeal section 27 of the Education Act 1958. This section lists the subjects that may be studied in high schools or higher elementary schools. The section has been in its current form since at least 1958. It is out of date, is no longer used, and can be repealed.

   There have been many developments since 1958 that have overtaken the relevance of the section. In particular, it is out of date with the curriculum and standards framework and the eight learning areas in schedule 2 of the Education Act 1958.

   The curriculum standards framework provides the basis for curriculum planning in Victorian schools from preparatory–year 10 (age 5–16) and for reporting on student achievement. It sets out the major areas of learning to be covered and describes learning outcomes to be achieved by students. Its content is organised into the following eight key learning areas agreed nationally:

   the arts

   English

   health and physical education

   languages other than English (LOTE)

   mathematics

   science

   studies of society and environment

   technology.

2. Secondly, the bill will update the delegation sections in the Teaching Service Act 1981 and Education Act 1958. These sections enable the secretary and minister to delegate powers and functions under those acts. It has long been an accepted principle of management that government could not operate efficiently unless ministers and secretaries are able to delegate their various powers and functions, with ministers being answerable to Parliament on those delegations.

   The current delegation powers of the secretary and minister under the Teaching Service Act 1981 and Education Act 1958 only enable delegations to officers and employees, or professional officers, teachers or other officers, or persons employed in the administration of the act, or persons employed in the administration or execution of the act.

   The changes are being sought so as to provide consistency in the various delegation sections; to overcome the difficulties covered by the

interpretation of words such as 'administration or execution'; and to widen the scope of the power to allow delegations to persons other than persons already employed in the administration of the act. As examples, the changes will:

(i) clarify that the Minister for Education and Training could delegate powers to another minister or parliamentary secretary, or other person as appropriate.

(ii) Enable the secretary to delegate discipline and other powers to experts such as retired judges or retired tribunal members to hear discipline matters and make recommendations to him, or for other appropriate matters.

Limitations are inserted in the bill so that neither the regulation making power nor the compulsory acquisitions power can be delegated. The bill also prevents the delegate from being able to further subdelegate the same power.

3. Next, the bill strengthens the provisions dealing with teachers who are convicted or found guilty of a sexual offence against a child or refused registration by, or are deregistered by, the Victorian Institute of Teaching. In relation to sexual offences against children, a degree of trust is needed between parents, teachers and students. The trust referred to is the trust that every parent must have in his or her child's teacher to look after the child and to care for the child. That trust enables parents to send their child to school knowing that his or her child will be well looked after.

Similarly the department is legally responsible for the day-to-day care of the children in its schools. Paedophilia is the antithesis of this responsibility, as well as being abhorrent and offensive to the general public. The bill strengthens the current provisions by the following changes.

(i) The bill will amend the Teaching Service Act 1981 and the Education Act 1958 to state that a person convicted of a sexual offence against a child is, irrespective of the date of the conviction, ineligible for employment in the teaching service, and to state that the secretary, or if employed by a school council then the school council, must terminate the employment of any teacher so convicted. The main change this implements is that the provision is retrospective to cover any such conviction, irrespective of when it occurred, and makes a dismissal mandatory.

(ii) Next the bill will amend the Victorian Institute of Teaching Act 2001 to provide that a person convicted of a sexual offence against a child is, irrespective of the date of the conviction, disqualified from being registered with the Victorian Institute of Teaching. As the act presently provides that a person must be registered with the Victorian Institute of Teaching before they can teach in a school, this amendment will prevent such teachers being employed in schools. Again, the main change this implements is that the provision is retrospective to cover any such conviction, irrespective of when it occurred.

(iii) Also the bill provides that a teacher whose registration by the Victorian Institute of Teaching is refused, cancelled or suspended, can be suspended by the secretary or a state school council without pay, and that if the teacher remains unregistered for 12 continuous months, then that person's employment is automatically terminated. As the Victorian Institute of Teaching Act 2001 presently states that a teacher cannot be employed in a school unless registered, this provision appears sensible and reasonable given that if unregistered, the teacher will not be able to perform the duties for which he/she was employed. The 12 continuous months will not include periods of approved leave from employment, so that, for example, a teacher on seven years family leave who lets his or her registration lapse for 12 months or more will not be dismissed.

(iv) The secretary, in respect of employment in the Teaching Service, and the Victorian Institute of Teaching in respect of registration with it, will have the right to grant an exemption to a teacher who is disqualified owing to a conviction for a sexual offence against a child. I would like to make it very clear that this power to grant an exemption is expected to be used very sparingly, and the only situation that the

government can presently envisage in which it might be used is in the case of a person who before they became a teacher, had at say the age of 18 or 19, a consensual relationship with a 15-year-old. That technically would be an offence, but extenuating and subsequent circumstances (for example, the subsequent marriage or cohabitation of the parties), might justify granting an exemption.

4. Next the bill updates the Children and Young Persons Act 1989 by replacing the reference to 'a person registered as a teacher under part III of the Education Act 1958 or permitted to teach under that part to refer to a person registered as a teacher under the Victorian Institute of Teaching Act 2001 or permitted to teach under that act'. This is a consequential amendment arising from the transfer of the registration of teachers from the Registered Schools Board to the Victorian Institute of Teaching.

5. Another change the bill implements is to enable advertisements for and provisional appointments to positions under the Teaching Service Act 1981 to be published on the Internet. This will enable the department to post and keep updated on a site the positions available. It also amends the Victorian Qualifications Authority Act 2000 to make its provisions dealing with the payment of members consistent with the Victorian Curriculum and Assessment Authority Act 2000.

6. The bill will also make two amendments to the Victorian Qualifications Authority Act 2000. Firstly, to include a fit and proper person test for applicants for registration as registered training organisations, and secondly, to clarify what a registered training organisation can and cannot do when its registration is suspended.

7. Next the bill, in line with the *Ministerial Statement on Knowledge and Skills for the Innovation Economy* amends the Vocational Education and Training Act 1990 to allow TAFE councils the opportunity to provide specialised, high-level vocationally oriented undergraduate degree qualifications to match the skill needs of emerging occupations and industries. It is expected that the degrees would be offered in niche areas of aquaculture, viticulture, information technology and biotechnology. Degrees will be delivered in areas where a TAFE institute already has extensive expertise and can identify strong student and industry demand.

   TAFE institutes will be able to make submissions to deliver degrees in niche markets on a fee-for-service basis under the same processes that currently apply to any other providers approved to deliver higher education courses under the Tertiary Education Act 1993.

   Under this initiative TAFE institutes will be required to meet the statutory standards that apply to all non-universities proposing to offer higher education awards. The Higher Education Advisory Committee process will ensure that the content, standard and outcomes of the degree course are of the same calibre as degrees offered by universities and other higher education award providers.

   The right to deliver higher education awards will be limited to undergraduate degrees at this time. To ensure this it is necessary that the minister is empowered to issue directions to TAFE councils relating to the provision of higher education awards. The directions would address matters such as the types of qualifications and degrees that could be offered, fees to be charged and other relevant matters. TAFE institutes will not be able to confer honorary degrees or higher education awards other than degrees.

   The initiative will not involve public funding for delivery (state or commonwealth), but will provide TAFE institutes with better opportunities to market themselves to business and individual students (including overseas students) generate additional income and encourage greater innovation and flexibility.

8. Finally, in order to provide greater flexibility in meeting emerging needs for customising training and courses of study for TAFE institutes and registered training providers, the bill will provide the Victorian Qualifications Authority (VQA) with the ability to delegate to the council of a TAFE institute and other registered training providers the power to accredit courses and determine their own scope of registration pursuant to section 16 of the Victorian Qualifications Authority Act 2000.

   The *Ministerial Statement on Knowledge and Skills for the Innovation Economy* focused on

the challenges and contributions that the vocational education and training sector can make to the innovation and knowledge economy. One of the key concepts in that statement focused on providing an environment where the Vocational Education and Training sector can be responsive to the emerging needs of its clients.

The bill will empower the VQA to delegate to those providers who are able to satisfy the VQA as to the quality and standards that the provider is able to meet, the power to determine their own scope of registration and to accredit their own courses.

The Victorian Qualifications Authority Act 2000 already allows the VQA to delegate these powers to certain bodies or organisations that are listed in the act. The bill will allow the same powers to be delegated to providers who, in the view of the VQA, have been able to demonstrate the appropriate level of quality and standards. There will not be a blanket right to the delegation; providers will need to satisfy the VQA of relevant matters.

I commend the bill to the house.

Debate adjourned on motion of Mr HONEYWOOD (Warrandyte).

Debate adjourned until Thursday, 24 October.

MELBOURNE CRICKET GROUND (AMENDMENT) BILL

Second reading

Mr PANDAZOPOULOS (Minister for Gaming) — I move:

That this bill be now read a second time.

It is with pleasure that I introduce this bill, which will further facilitate the northern stand redevelopment of the Melbourne Cricket Ground in time for the Commonwealth Games.

As was noted during the second reading of the Commonwealth Games Arrangements Bill last year, the Melbourne Cricket Ground holds a special place in the hearts of all Victorians, and not since the Olympic Games of 1956 has Victoria been host to such an important sporting event as the 2006 Commonwealth Games. Accordingly, this bill further facilitates the government's determination that 'our successful bid must now be followed up by an organising effort that is fully representative of the Victorian community and ensures the building of all necessary facilities'.

The bill contributes to the government's commitment to Growing Victoria Together by:

providing a safe and healthy environment for both participants and spectators;

redeveloping the MCG as the people's ground and providing greater seating capacity for major events; and

strengthening Victoria's sport, recreation, major event and tourism base and encouraging and supporting its contribution to economic and social development.

The proposed bill also fulfils this government's election commitments to:

encourage the MCG to improve the Olympic Stand to maximise the MCG's place as the people's ground; and

foster the sport and recreation sector as a provider of greater employment opportunities for Victorians.

The purpose of this bill is to provide amendments to the Melbourne Cricket Ground Act 1933 that facilitate the redevelopment of the MCG and ensure that the management of the northern stand project and MCG meet agreed outcomes.

The bill also provides for an increase in trust membership from seven (including the chairman) to a maximum of nine. This will enable a greater mix of experience in sports, sports administration, business and financial affairs to be available to the trust. This delivers on the government's promise to redress concerns that there is insufficient flexibility and diversity in the skills available to the trust following the substantial reduction in membership by the previous government in 1989.

The proposed bill permits the trustees, with the approval of the minister to delegate any part of the functions or powers of the trustees, other than the power of delegation, to the Melbourne Cricket Club (MCC) and enables the MCC to subdelegate these functions and powers.

The reinstatement of these powers is supported by the MCG Trust and MCC and will provide the MCC with

certainty regarding its management relationship with the trust given its substantial investment in the facility.

This will in effect overturn the amendments made by the previous government, which have made it difficult to distinguish the trust from the MCC in some circumstances.

A business plan is to be prepared by the MCC as ground manager, for approval by the trust. The bill proposes to reinforce the role of the MCC in the reporting process to government and clearly articulate the trust's power to delegate its management responsibility to the MCC.

The bill proposes to permit the MCC to receive and retain all gate receipts and other revenue arising in the course of its management of the MCG while the MCC continues to be the lessee and the manager of the MCG in accordance with the agreement between the club and the trust.

The bill also proposes to amend the description of the land in the schedule to the Melbourne Cricket Ground Act 1933 to provide for the identification of an additional part of Yarra Park as being part of the MCG with subsequent trade-off as follows:

land relinquished at the corner of Jolimont Street and Jolimont Terrace totalling 750 square metres;

additional land required for the practice wicket area of 107 square metres; and

additional land required in Yarra Park near Jolimont Street of 502 square metres.

This trade-off is achieved with no net loss of public open space.

The bill also provides 'relevant stratum' for the northern stand development for those parts of the new stand which project beyond the current boundary line above ground level.

The bill will ensure that the MCG continues to be Australia's premier sporting venue for major events.

Victoria as a whole stands to benefit from the redevelopment of the MCG, not only for its world-class capacity to host major events but importantly for its accessibility as the people's ground.

The government is delighted to present this bill as a substantial contribution to improved standards and management arrangements for our premier sporting facility.

I commend the bill to the house.

Debate adjourned on motion of Mr HONEYWOOD (Warrandyte).

Debate adjourned until Thursday, 24 October.

MAJOR EVENTS (CROWD MANAGEMENT) BILL

Second reading

Mr PANDAZOPOULOS (Minister for Gaming) — I move:

That this bill be now read a second time.

It is with pleasure that I introduce this bill to promote the safety and enjoyment of participants and spectators at major sporting events.

The government has previously stated that it would introduce measures to curb misbehaviour at major events that spoils the enjoyment of others and places Victoria's sporting reputation in jeopardy.

There is increased concern in the community regarding the adequacy of crowd control at major events.

Spectators often pay a considerable premium to view these major events and expect that they will be able to enjoy the event without undue disruption.

There is also increasing concern by athletes to ensure that their safety is guaranteed prior to agreeing to participate in events. This is highlighted by the International Cricket Council's stance on security for players and spectators at venues.

There is also an increasing incidence of inappropriate items being brought into sporting venues which presents authorities with significant concerns regarding the safety of patrons.

This bill contributes to the government's commitment to Growing Victoria Together by:

providing a safe and healthy environment for both participants and spectators;

improving the general amenity and enjoyment for spectators at major events while reducing the incidence of misbehaviour;

strengthening Victoria's sport, recreation, major event and tourism base and encouraging and supporting its contribution to economic and social development; and

providing powers and processes to ensure the safety of participants and spectators that are transparent, fair and equitable.

The proposed bill also fulfils this government's election commitments to:

improve the rights of spectators and players of sport through reducing misbehaviour and ground invasion at major sporting events by increasing fines; and

foster the sport and recreation sector as a provider of greater employment opportunities for Victorians.

The purpose of this bill is to:

ensure the safety of both participants and spectators;

provide a deterrent against potential offenders;

provide powers and processes to control activities which are transparent, fair and equitable;

ensure a duty of care by venue operators; and

increase public awareness.

The bill provides for major sporting venues such as the Melbourne Cricket Ground and Telstra Dome to be declared venues for the purposes of the legislation along with adjacent land where necessary.

In addition, the bill provides for some major events to be immediately declared under the legislation with other major events declared through a system of ministerial orders.

The bill authorises officers to undertake the functions required under the legislation to detect contraband items and manage behaviour.

Part 3 of the bill provides uniform conditions of entry at declared venues, including the inspection of bags, baskets and receptacles to ensure that prohibited items are not brought into the venue.

These searches are undertaken by properly authorised venue staff or security agents on behalf of management and the legislation proposes to formalise this process. Similarly, patrons may be asked to submit to security screening at events.

The bill uniformly prohibits the possession of certain items while providing flexibility to prohibit additional items. These include:

laser pointers;

whistles/loud hailers;

fireworks/flares/pyrotechnic/firearms/weapons;

animals other than guide dogs;

skateboards/bicycles/rollerblades.

These are either dangerous or unacceptable at events with large crowds.

In the case of alcohol it will be at the discretion of the venue manager as to whether it is permitted to be brought into the venue.

The bill provides uniform forfeiture provisions in relation to the prohibited items including disposal procedures, which address public concerns regarding the security of their goods while ensuring that management is provided with a clear mechanism for the disposal of items.

The government will not tolerate troublemakers at sporting events and the bill provides increases in penalties to deter potential offenders. These include requiring individual patrons that disrupt or interrupt an event to leave the venue and not re-enter.

The bill also deals with unapproved entry onto a playing field. As this practice of disrupting events is both dangerous to the contestants and the offender the offence will carry a significant penalty of up to $6000.

It is also proposed that the ground invasion offence may be subject to an infringement notice served by a police officer.

Following a first offence or in the case of a serial pest the bill proposes to enable the banning of repeat offenders from entering venues for the period of an event at a magistrate's discretion. This will ensure the event can be staged without these offenders interrupting proceedings and placing at risk Victoria's reputation for holding major events in safety.

The collective provisions of this bill will result in the community being protected from offenders that ruin the enjoyment of others at major events and provide certainty to management and event organisers that spectators and participants will be afforded a suitable level of protection from inappropriate behaviour.

The government is pleased to present this bill as a substantial contribution to improving the standards and management arrangements for our premier sporting events.

I commend the bill to the house.

Debate adjourned on motion of Mr WELLS (Wantirna).

Debate adjourned until Thursday, 24 October.

COUNTRY FIRE AUTHORITY (VOLUNTEER PROTECTION AND COMMUNITY SAFETY) BILL

Second reading

Mr HAERMEYER (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

The purpose of this bill is to provide for better and more certain compensation and civil liability immunity protection for volunteer Country Fire Authority firefighters, and to further improve community safety in times of high fire danger through a number of amendments to the Country Fire Authority Act 1958.

Volunteer protection

The Country Fire Authority Act 1958 has in the past provided limited civil liability immunity protection for volunteers who, through actions authorised under the act, happen to cause damage or injury to a third person. This protection has always been limited to those volunteers who have not acted negligently or in wilful default.

The government is concerned that this protection may not be adequate for protecting Country Fire Authority volunteers in certain limited situations, and hence discourage the outstanding involvement of community members in this fine organisation. In order to encourage continued community involvement in the Country Fire Authority and volunteerism in general the act will be amended to provide stronger civil liability protection for volunteer firefighters and other members of the Country Fire Authority.

The act's legal protection provisions will be changed to now only require the volunteer to carry out his or her duties in 'good faith' for the civil liability protection to apply. This change will ensure a volunteer will no longer be disqualified from legal protection for a minor negligent act or omission, if this occurs in the conduct of their Country Fire Authority duties. The government believes this improved civil immunity protection is required in an environment that is perceived as being increasingly litigious. This change will greatly improve the current situation where a volunteer firefighter would, for example, only have to forget to close a gate while travelling to a fire for the current legal protection to fail. The current act could leave the volunteer firefighter personally liable to claims from others for any damage (i.e., the loss of livestock) that may result from leaving a gate open.

This amendment will protect volunteer firefighters from claims for civil damages so long as they have acted in 'good faith' in the course of their duties, so even when a volunteer has failed to perform an act (i.e. closing a gate) from which foreseeable damage could emanate they will still be protected under the new provision.

The act will be amended to ensure that all volunteers, including those who perform administrative functions, interstate firefighters assisting CFA members in Victoria, paid firefighters and anyone else acting under an authorised direction given under the act will be afforded the same civil liability protection.

The immunity provision does not prevent people who may have suffered damage or loss from obtaining compensation for damage suffered as a result of activities performed by volunteers on behalf of the Country Fire Authority. The provision merely transfers the liability for such damage to the authority, rather than allowing the individual volunteer to be held personally liable.

Compensation for volunteers

The provision of compensation for volunteers and their families has always been an essential element of volunteer firefighter protection. The government provides volunteers and other Country Fire Authority members with appropriate compensation in the event of death, personal injury and the loss of personal property. The Country Fire Authority Act 1958 will be amended to expand the eligibility of family members, dependants, spouses and domestic partners to receive compensation in the unfortunate event of an incident causing the death of a volunteer whilst on duty.

This change supports the government's commitment to reducing inequalities and building cohesive communities by providing compensation to those persons most affected by the death of a volunteer — not just dependants. The amended compensation provision will provide a regulation-making power which will enable an expansion of the existing Country Fire Authority compensation scheme to provide compensation for family members, domestic partners and spouses as well as dependants.

An important element of promoting and encouraging volunteerism is to ensure that any expenses or loss incurred by individual volunteers whilst undertaking volunteer duties or other activities associated with volunteer community service are met by the volunteer organisation. The benefits to the community in having a fully supported complement of volunteer firefighters working in country and urban Victoria far outweigh the

small cost of providing appropriate compensation for expenses or loss incurred by volunteers in providing this community service.

The act will be amended to increase the maximum amount of compensation payable to volunteers for loss of wearing apparel, personal vehicles or equipment from $600 to an amount determined by the authority (the authority have indicated that the amount will be increased to $1000 in the first instance). The Country Fire Authority will also be able to provide a greater amount if there are extenuating circumstances. This will allow the authority to compensate volunteers who suffer damage or loss in excess of the determined amount where they have, for example, had their own personal protective equipment destroyed while engaged in the suppression of a fire or a road rescue authorised under the act.

Charitable organisations

Our community is fortunate to have charitable organisations that provide support to those members of the community who are experiencing difficulty or are for whatever reason unable to provide for themselves and their families. In order to provide this support charitable organisations often conduct fundraising activities that involve the preparation and sale of food to the public. Many charitable organisations are dependent on the funds raised through these activities to provide daily support to the community.

The act will be amended to ensure that community charity organisations are able to continue with their fundraising work involving the preparation and sale of food even if there is a total fire ban in place. The government has been alerted to an anomaly in the Country Fire Authority Act 1958 which does not allow such organisations to apply for exemption permits to allow cooking of food outdoors on total fire ban days. The act will be amended to ensure that charitable organisations are able to apply for exemption permits under the total fire ban provisions of the act.

It should be noted that the ability for charities to apply for an exemption does not mean that they will automatically be granted an exemption permit. Applications will be assessed by the authority to ensure that there are appropriate safeguards in place to reduce the risk of fire. The exemption permits, if granted, may also contain a number of conditions which the charitable organisation will have to comply with in order to conduct their food-selling activities on a total fire ban day. This amendment will give charitable organisations in our community the same status as private businesses that carry out similar activities on total fire ban days.

Special recognition award

The government has had many inquiries from individuals and community groups regarding recognition of outstanding community work carried out by individual Country Fire Authority brigades. This work has had a very positive impact on families, individuals and the community in general and has largely gone unrecognised. In order to acknowledge and recognise the value of the contributions that Country Fire Authority brigades make to the community and individuals within it the act will be amended to provide the authority with the power to present a statutory special recognition award to deserving brigades.

The Country Fire Authority will have complete discretion to make a special recognition award. In making the award the authority will be able to seek nominations or receive nominations at any time from members of the public. Individuals will be provided with a statutory right to nominate brigades for the award at any time.

Prohibition of high fire-risk activities

The Country Fire Authority Act 1958 already provides for the restricted use of some appliances in the country during a fire danger period. There are a number of other activities which may be classified as high fire-risk activities because of their nature or the manner in which they are carried out. These activities may include:

the use of agricultural or industrial equipment,

the welding, cutting or grinding of metals,

the use of gas flame-off equipment,

hot-air ballooning, or

the use of fireworks.

The act will be amended to allow for the making of regulations to prescribe activities that will be considered high fire-risk activities for the purposes of the act. The regulations may prohibit the carrying out of a prescribed high fire-risk activity, place conditions on the carrying out of a high fire-risk activity or require a person carrying out a high fire-risk activity to obtain a permit. Regulations made under this provision would only apply in a declared fire danger period. This provision will ensure that the Country Fire Authority has the powers and tools necessary to more comprehensively protect the community for fire risks during fire danger periods.

Regulations prescribing high fire-risk activities will be developed and subject to the public regulatory impact statement (RIS) process before they are made by the Governor in Council.

Miscellaneous

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

I commend the bill to the house.

Debate adjourned on motion of Mr WELLS (Wantirna).

Debate adjourned until Thursday, 24 October.

OUTWORKERS (IMPROVED PROTECTION) BILL

Second reading

Mr LENDERS (Minister for Industrial Relations) — I move:

That this bill be now read a second time.

The Outworkers (Improved Protection) Bill is a key part of the government's commitment to ending the exploitation of clothing outworkers and is a significant step towards a uniform industrial relations system for clothing manufacturers.

The Outworkers (Improved Protection) Bill aims to ensure that outworkers in the Victorian clothing industry receive their lawful entitlements and to provide a consistent regulatory regime for the industry across those states where the majority of clothing manufacture is undertaken, namely, Victoria and New South Wales.

It is difficult to determine how many outworkers there are in Victoria. Estimates vary markedly between 20 000 to 140 000 outworkers. It is estimated that Victoria accounts for approximately 40 per cent of the work undertaken by outworkers across Australia.

I would like to thank the Family and Community Development Committee for its work with respect to the Inquiry into the Conditions of Clothing Outworkers in Victoria. There have been many similar inquiries across Australia that have looked into the situation facing outworkers in the clothing industry. The Family and Community Development Committee report contains recommendations that would improve the conditions of clothing outworkers and the government welcomes the report.

The government has provided the Parliament with a considered response to all the recommendations of the committee. In addition, Industrial Relations Victoria has undertaken extensive preparatory work in this area to be able to respond in a timely manner to the recommendations made by the inquiry. A significant number of the recommendations are therefore addressed through the Outworkers (Improved Protection) Bill.

Clothing outworkers are typically migrant women. Their ages vary and many come from non-English-speaking backgrounds and have poor English language skills. They find it difficult to find other forms of employment.

Clothing outworkers are among the most vulnerable members of our community. They are often subject to low wages and long hours of work. In many cases, clothing outworkers suffer from chronic underpayment and non-payment of remuneration and poor workplace health and safety practices.

There is some evidence that not all outworkers are exploited. Moreover, there is no suggestion that all retailers or all clothing manufacturers exploit outworkers. However, the most recent research into outworkers in Melbourne, conducted by Dr Christina Cregan of the University of Melbourne, which was considered by the parliamentary inquiry, indicates that there continues to be significant exploitation of outworkers in Victoria.

Dr Cregan's 2001 study, involving 119 clothing outworkers in Melbourne, found that the average hourly rate of pay amongst these workers was $3.60 per hour and their average weekly wage was only $300 per week. They work 12 hours per day for six to seven days per week.

The majority of the clothing outworkers involved in the study earned only $5 per hour, well below the minimum hourly rate of $11.35 provided for by the Australian Industrial Relations Commission in the Victorian industry sector wage orders.

Eighty percent of the clothing outworkers in the study reported that their wages were not paid on time and nearly 50 per cent reported instances of not being paid at all for work completed.

Dr Cregan's research confirms that clothing outworkers are among the most disadvantaged workers in Victoria.

Both the New South Wales and Queensland governments have implemented strategies to end the exploitation of outworkers. This legislative proposal essentially replicates the provisions relating to outworkers in the NSW legislation, thereby creating a consistent regulatory regime across the two major economies.

The proposals in the Outworkers (Improved Protection) Bill will be supported by an education campaign that will focus on community language media targeted towards the communities in which outworkers and their employers are located. The campaign will provide information to outworkers and their employers on their employment rights and obligations.

The government will also appoint bilingual information services officers under the Federal Awards (Uniform System) Bill 2002. The officers will have an understanding of the particular cultural issues that face many migrant outworkers and will provide direct assistance and advice to outworkers and investigate legislative breaches and assist individuals in undertaking action to recover under and non-payment of wages.

Purpose of the bill

The principal purpose of the bill is to improve the protection for outworkers by ensuring they receive the same entitlements as employees and have access to a simple, low-cost way to recover unpaid wages and remuneration.

It proposes to increase voluntary compliance within the industry and to focus responsibility at the top of the production chain to ensure outworkers receive their lawful entitlements. It will achieve this through establishing principal contractor liability for the payment of outworkers entitlements and the establishment of the Ethical Clothing Trades Council to monitor and foster self-regulatory mechanisms in the industry.

Who does the bill apply to?

The Outworkers (Improved Protection) Bill will provide protection for all clothing outworkers in Victoria.

It will provide all outworkers in Victoria greater employment protection by ensuring they are subject to the same standards as employees in respect of long service leave and occupational health and safety.

It will also improve the protections for those outworkers not covered by a federal award or agreement and provide them with greater power to recover unpaid remuneration.

Clothing outworkers are defined as workers who complete sewing and related tasks for another person from their home or other premises rather than in a factory.

The bill will provide all Victorian clothing contractors and manufacturers with the same regulatory regime as their counterparts in New South Wales.

It will establish an advisory body for retailers, manufacturers, employees and the community for the benefit of the clothing industry.

Outworkers as employees

One of the central issues for outworkers is whether they are employees or independent contractors. The parliamentary inquiry noted that often outworkers are lead to believe they are independent contractors when in practice they are actually employees. In such cases an outworker may be called an independent contractor, but the actual practice of the employment relationship is that of employer and employee. The effect of this confusion means that outworkers are denied their employee entitlements.

The nature of work in the clothing industry and the circumstances of the employment of outworkers indicate that outworkers should be considered as employees rather than independent contractors.

The bill will define outworkers in Victoria to be employees for the purposes of the Long Service Leave Act 1992, the Occupational Health and Safety Act 1985 and for the purposes of the Federal Awards (Uniform System) Bill 2002, currently before the Parliament.

This is consistent with both New South Wales and Queensland, where outworkers are deemed to be employees for the purpose of industrial legislation.

By defining outworkers to be employees for the purposes of this industrial legislation the uncertainty surrounding their employment status will be resolved, and it will be clear that outworkers are entitled to all the protections afforded to other employees.

Recovery of payments

Currently outworkers are faced with complex and largely inaccessible mechanisms for recovering unpaid wages and other forms of remuneration. Outworkers are subject to complex enforcement procedures,

prohibitive costs when taking action and lack an enforceable employment agreement.

In addition to these problems, complex production chains often make it difficult for outworkers to identify who their employer is.

The Outworkers (Improved Protection) Bill will establish a system for the recovery of unpaid remuneration that is simple to use and low cost.

The recovery of unpaid remuneration system established by the bill will operate in a way that unravels the complex chain of production to reveal those contractors in the chain who bear responsibility for the payment of entitlements to the outworker.

The provisions in this bill will replicate the New South Wales recovery of unpaid remuneration provisions, ensuring there is consistency across the states.

Under the recovery of unpaid remuneration process, an outworker makes a claim for unpaid remuneration by serving a statutory declaration, with supporting details, on the person that the outworker believes to be their employer. The claim must be served within six months of the completion of the work.

The person served with the claim, known as the apparent employer, may not be the person that the outworker directly deals with. The bill provides that the outworker may serve a claim on the person who they believe is their employer. In practice this person could be anywhere along the production chain, from the intermediary delivering and collecting work to the principal manufacturer.

Once served with a claim for unpaid wages by an outworker, the apparent employer has 14 days in which they can refer the claim to the actual employer. If the actual employer cannot be identified or does not accept liability within 14 days, the person served with the claim is liable for payment of the outworker's unpaid remuneration.

Where an actual employer has not accepted liability and the apparent employer has paid the outworker for the claim, the bill enables the apparent employer to deduct the amount paid to the outworker from any money that the apparent employer owes to the actual employer. This will ensure fairness in situations where the apparent employer is higher up the production chain than the actual employer.

In the event that a claim for unpaid remuneration is not resolved through this process, recovery will be through the industrial division of the Magistrates Court. In such proceedings an apparent employer will be liable for payment unless they can show that the work was not done or that the amount claimed is incorrect.

The bill establishes an offence where a person uses intimidation to prevent, hinder or discourage an outworker from making a claim for unpaid remuneration. It will also be an offence under the bill to make a false or misleading statement in a notice regarding liability for a referred claim; and to refer a claim to a person where it is not known or there are not reasonable grounds to believe that the person is the actual employer of the outworker. The maximum penalty for these offences will be $12 000.

Principal contractor liability

In addition to establishing a simple, low-cost process for outworkers to recover unpaid wages and remuneration, the Outworkers (Improved Protection) Bill establishes principal contractor liability in order to focus greater responsibility for outworkers' entitlements at the top of the supply chain.

Outworkers currently bear the burden when a contractor in the production chain disappears or refuses to pay an outworker after the work has been completed. There is no mechanism by which an outworker can pursue unpaid remuneration from a person who is higher up the supply chain than their direct employer.

The principal contractor liability provisions in the bill will enable outworkers in this situation to claim the unpaid remuneration directly from the principal contractor. The provisions are the same as those already operating in NSW.

The principal contractor will be liable for any unpaid wages unless they have a written statement from the contractor that all wages to outworkers have been paid. The principal contractor will be able to withhold any money owed to a contractor until such a statement is provided, without penalty.

The principal contractor is not liable for payment of the outworkers' remuneration where the subcontractor is in receivership or the course of being wound up or, in the case of an individual, is bankrupt and payments made under the contract are made to the receiver, liquidator or trustee in bankruptcy.

Enforcement of a claim for unpaid wages on a principal contractor will also be through the industrial division of the Magistrates Court.

Ethical Clothing Trades Council

A key feature of the Outworkers (Improved Protection) Bill is the establishment of an Ethical Clothing Trades Council of Victoria. This council, modelled on the NSW Ethical Clothing Trades Council, will be the primary means of achieving voluntary compliance within the industry.

The council's chairperson will be a person with relevant knowledge of the clothing industry, and members of the council will include representatives of retailers, manufacturers, employees and the community.

The primary role of the council initially will be to enhance voluntary compliance by the clothing industry as a means of ensuring that outworkers receive their lawful entitlements. If voluntary compliance is unsuccessful then the council will advise the minister on the need for a mandatory code.

The council will enhance voluntary compliance by the industry through facilitating consultation with relevant clothing industry organisations and promoting self-regulatory mechanisms within the industry.

The council will promote industry agreements and codes such as the home workers code of practice, a self-regulatory code that seeks to regulate and monitor the production chain from the retailer to the home worker.

It is welcoming to see the pioneering work being undertaken by the NSW council, which has recently brokered a landmark agreement between the Australian Retailers Association and the Textile Clothing and Footwear Union of Australia. The Victorian council will be required to consider the work of the NSW council, to further the consistency between NSW and Victoria.

The council will provide quarterly reports on whether outworkers are receiving their lawful entitlements and make recommendations. The council will also report on the activities of the industry with respect to the home workers code of practice and other industry agreements.

During the initial 12-month period, the council will evaluate the effectiveness of the actions taken by the industry to improve compliance with the obligation to ensure that outworkers receive their lawful entitlements. At the end of 12 months, the council will report its findings to the minister.

After consideration of this report, the minister may establish a mandatory code of practice for the industry. A mandatory code would be established if it is determined that the current self-regulatory mechanisms are inadequate to achieve improvements in the level of compliance or that the persons engaged in the clothing industry are not attempting in good faith to negotiate improvements of extensions to those voluntary self-regulatory mechanisms.

If established, the mandatory code may require employers and other persons engaged in the clothing industry to adopt specified standards of conduct and practice with respect to outworkers. Failing to comply with the mandatory code without reasonable excuse will be subject to a maximum penalty of $12 000.

The bill provides that the regulations may provide for an exemption to the operation of the code for specified persons or classes of persons.

It is incumbent on the clothing industry to take responsibility for ensuring that clothing outworkers receive their lawful entitlements and the Ethical Clothing Trades Council will provide them with every opportunity to take relevant action in this regard.

Information services officers

The bill includes provisions that provide for additional powers of entry for information services officers under the Federal Awards (Uniform System) Bill.

The clothing industry is typified by complex contracting practices that may mean that some contractors avoid liability for outworkers' entitlements. The additional information services officers powers will assist in reducing the level of exploitation currently experienced by many outworkers by enabling information services officers to more effectively determine and facilitate compliance in the clothing industry.

The powers enable an information services officer to enter, without force, any premise where there are reasonable grounds for believing that outwork under a common-rule order is being, or has been, performed or there are documents being kept that relate to the contracting out of work in the clothing industry that are relevant for the purpose of determining compliance with the act or a common-rule order.

The bill outlines the manner in which an information services officer should exercise their powers. Entry must be during ordinary working hours and an information services officer must cause as little harm and inconvenience as possible.

On entry, an information services officer will be able to inspect work, take samples, interview employees or require the production of documents.

Information services officers are not empowered to enter any part of premises used solely for residential purposes without the informed consent of the occupier.

The bill creates offences for actions that obstruct an information services officer in the exercise of their powers.

Right of entry for authorised industrial officers

Outworkers are often reluctant to take individual action against their employer for fear of reprisals, so they rely more heavily on the ability of the union to investigate and prosecute employers for breaches of their award.

In New South Wales (NSW) an industrial officer of a registered organisation has powers to enter premises to hold discussions with employees and to investigate suspected breaches of the award. Unions are then able to prosecute for any breaches of the award that they find.

The Outworkers (Improved Protection) Bill includes provisions which replicate the NSW right of entry provisions.

The provisions enable authorised industrial officers to enter premises without force during working hours where outworkers under a common-rule order are engaged or where records relating to the employment of outworkers are kept, for the purpose of holding discussions with outworkers or for investigating suspected breaches of a common-rule order or the act.

Before exercising their power of entry, the authorised industrial officer must provide the employer with 24 hours notice or 48 hours notice in cases where the records or documents are kept away from the employer's premises.

There is no power for authorised industrial officers to enter any part of premises used for residential purposes without the consent of the occupier.

The industrial division of the Magistrates Court will issue instruments of authority on application by an industrial officer. An industrial officer is required to produce their authority on request.

If an authorised industrial officer intentionally hinders or obstructs an employer or employees in their working time or acts in an improper manner in the exercise of their power under the act, the Magistrates Court will be able to revoke the instrument of authority.

The bill creates an offence where an authorised industrial officer intentionally hinders or obstructs an employer or employees in their work or where a person deliberately hinders or obstructs an authorised industrial officer in the exercise of their power or fails to comply with a requirement of an authorised industrial officer in accordance with the act without lawful excuse.

The bill provides the textile clothing and footwear union with the power to prosecute an employer for a breach of the act, to facilitate their ability to ensure that outworkers receive their lawful entitlements.

Review of act

The bill provides for the act to be reviewed by the minister within five years of commencement, or as soon as possible thereafter. The review would determine whether the policy objectives of the act remain valid and whether the terms of the act remain appropriate for securing those objectives. The report of the review will be tabled before both houses of Parliament.

A similar review is to be conducted of the NSW legislation by the NSW Minister for Industrial Relations.

Summary

The Outworkers (Improved Protection) Bill will provide overdue protection for some of the most vulnerable workers in Victoria.

It will extend to clothing outworkers the same protections and entitlements as other employees and provide them with a simple, low-cost way of recovering unpaid wages and remuneration.

It will empower information services officers to ensure compliance with the provisions in the bill and the entitlements of common-rule orders applying to outworkers.

Importantly, employers in Victoria will face the same regulatory regime as their counterparts in NSW.

The bill will ensure that companies at the top of the production chain take responsibility for ensuring that outworkers receive their lawful entitlements. The Ethical Clothing Trades Council provides the clothing industry with the opportunity to make significant steps towards voluntary compliance.

The proposals in this bill, in conjunction with the proposals contained in the Federal Awards (Uniform System) Bill 2002, deliver on this government's commitment to end the exploitation of outworkers.

The Federal Awards (Uniform System) Bill 2002 will enable outworkers in Victoria to receive the same entitlements as other employees under the federal award. It will take the first step towards ending the exploitation of outworkers by providing them with a higher standard of entitlements.

The Outworkers (Improved Protection) Bill will take the next step by affording them improved protection to ensure they receive those entitlements.

This bill creates a uniform system between Victoria and New South Wales, the two states that account for the majority of clothing manufacturing, and will be of benefit to those in the industry currently dealing with two vastly different regulatory regimes.

It is a matter of record that the NSW legislation was the outcome of a bipartisan approach on the issue of outworkers and I would hope that the same approach could apply in Victoria.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 24 October.

CHILD EMPLOYMENT BILL

Second reading

Mr LENDERS (Minister for Industrial Relations) — I move:

That this bill be now read a second time.

Governments and communities throughout Australia accept that children under the age of 15 should be engaged in compulsory education. The Bracks government believes that education should remain the priority for children under the age of 15. This government also believes that children should have the opportunity to be children and to participate in social and leisure activities with their families and their peers.

Having said that, we acknowledge that children under the age of 15 do work. And this work is not limited to babysitting and paper rounds. The growth in part-time and casual work in the retail and service sectors has meant that children are being employed in a wider range of jobs than ever. There is also an increasing trend for children who are still at school to treat work as a source of personal income and so the desire for paid employment is growing.

Child employment in Victoria is already regulated by the Community Services Act 1970. The child employment provisions have not, however, been substantively amended in 30 years. Not surprisingly then, these provisions do not recognise the changed nature of work for children under 15 and the challenges this presents.

Employment presents risks to children that differ from those that may be faced by adults in the workplace. In contrast to adults, children are physically, emotionally and mentally immature. They have less life experience to draw upon and may find it hard to voice their concerns in an appropriate or effective way. This can mean that children are exposed to greater occupational health and safety dangers when they work. It is alarming to note that, according to Workcover statistics, approximately one child under 15 is seriously injured in the workplace every two weeks.

In 1999 the Australian Labor Party committed to eliminating child labour exploitation in Victoria, as well as to increasing penalties to up to $10 000 or 12 months imprisonment and to coming down hard on those people who breach our child employment laws.

In order to identify the best ways to protect children from risks associated with employment, the government conducted a review of child employment in Victoria. Extensive community consultation formed part of this review. Members of the public attended six round tables held in regional and metropolitan Victoria, and 37 written submissions were made. Consultation indicated that, whilst the employment of children under 15 is acceptable, it is acceptable only to the extent that work does not interfere with a child's education and development opportunities and does not expose children to physical or moral dangers.

Purpose of the bill

The purpose of the Child Employment Bill is to establish a system of child employment regulation that accommodates some capacity for work for children under 15 whilst ensuring that work does not adversely affect a child's education and protects the health, safety and moral welfare of children at work.

In the first instance the Child Employment Bill seeks to repeal the child employment provisions from the Community Services Act and enact a new statute — the Child Employment Act 2002. The government believes that establishing a new act will play an important role in

improving community understanding of the child employment laws.

The bill retains the current definition of employment. That is, employment occurs when a child takes part or assists in any business, trade or occupation carried on for profit. This participation can be paid or unpaid, and the child may be engaged as an employee or as a contractor.

The bill also highlights a number of activities that do not constitute employment. These are participating in a church service or religious program, participating in an occasional entertainment or project for a school or church, performing any work for a non-profit organisation and participating in a sporting activity. I should also note that babysitting, except where conducted through an agency, is not considered to be employment.

The bill has four key elements. These relate to the permit system; general limitations on child employment; offences and penalties; and information and compliance.

The permit system

The Community Services Act currently provides for a system of child employment permits. Under this system, with some exceptions, children are required to have a permit in order to work.

The Child Employment Bill retains the permit system, but with some modification. The primary change has been to extend the current exemption for children who work with their parents in a shop that is attached to the family home. This exemption has now been extended to all children who work with their parents in a family business, including on a family farm.

Members may recall that public concerns were previously raised that the government would be introducing a requirement for children working with their parents on the family farm to obtain a permit. These people were operating under the misconception that farming parents are currently exempt. This is not the case — the Community Services Act, under provisions enacted by the Bolte government, does not exempt farming parents.

Under the Child Employment Bill, however, children working with their parents on the family farm will not require a child employment permit. I will return to the broader issue of children working in a family business shortly.

Another modification, designed to ensure that a child's moral welfare is protected, is the introduction of a requirement for a police check of the criminal record of those people supervising children in the workplace. This check must be conducted prior to the issuing of a permit.

Under the bill permits will remain free of charge and parents will remain responsible for applying for the permit. The bill does require, however, the child's prospective employer and school to sign the permit application. Furthermore, the employer will be required to provide details on the application form regarding the child's intended duties and hours of work.

General limitations on child employment

The Child Employment Bill also provides for a number of general limitations on child employment. Broadly speaking, these relate to the minimum age of employment, and the types and hours of work a child can perform.

Minimum age of employment

The Child Employment Bill is underpinned by the principle that the minimum age of employment is 15. However, in recognition of the fact that some children under 15 may obtain some benefits from working, the bill permits the employment of children aged between 13 and 15, subject to certain conditions of employment.

This government also recognises that there may be some circumstances in which children under the age of 13 should be permitted to work. The first concerns the delivery of newspapers and pamphlets and deliveries for pharmacies. As a long-accepted form of employment for children, the Child Employment Bill allows children aged between 11 and 15 to undertake these forms of employment. This employment will, however, remain subject to the general conditions of child employment and the requirement for a permit.

The second concerns children who work in the entertainment industry, an industry that employs children of all ages. Due to the nature of this industry, age restrictions will not apply. This is not to say, however, that children employed in the entertainment industry are unregulated. Rather, the Child Employment Bill makes separate provision for the regulation of children in this industry. I will return to this point shortly.

The final exemption to the minimum age of employment concerns children who work in family businesses.

Type of work

An important provision of the Child Employment Bill is that children can only be engaged in employment that falls within the definition of light work.

Light work covers any work that firstly, is not likely to be harmful to a child's health, safety or moral or material welfare and secondly, will not prejudice a child's attendance at school or their capacity to benefit from instruction. This is the definition of light work provided by the International Labour Organisation (ILO) Convention on the Minimum Age of Employment.

Work that is inherently dangerous or that is performed in dangerous circumstances is not light work.

To aid in the interpretation of the definition of light work, the bill provides some examples of activities that may constitute light work. Amongst other things, working in the entertainment industry, newspaper deliveries, working as a sales assistant and farming-related chores will be considered light work, where they accord with the broader definition.

The bill also takes the step of making it an offence to engage in particular forms of employment: children are prohibited from working in door-to-door sales, in deep-sea fishing and in the building and construction industry. The government considers that these forms of employment present such a risk to children that employment should be prohibited in all circumstances. These prohibitions complement existing statutory prohibitions on children working in the mining industry, in prostitution or on licensed premises. So as to ensure that the prohibited forms of employment reflect contemporary circumstances, the bill also provides the Governor in Council with the power to declare other kinds of employment prohibited.

I should also note that the Child Employment Bill, for the most part, does not regulate work experience. At present, however, permission from the Secretary of Innovation, Industry and Regional Development is required where a child wishes to undertake a work experience arrangement in a declared high-risk industry according to the provisions of the Education Act. The Child Employment Bill therefore amends the Education Act to clarify that a child employment permit is required in these situations. In all other respects, however, the Child Employment Bill has no application to work experience arrangements.

Hours of work

In order to ensure an appropriate balance between school and work, the bill restricts the number of hours a child can work. These provisions reflect the government's philosophy that a child should not be required to work for long hours following a school day or for longer than they would be required to attend school. The current provision restricting children from working during hours of school attendance has also been retained.

The Community Services Act currently prevents children from working after 11.00 p.m. Reflecting community concerns with this provision, however, the Child Employment Bill amends the provision to limit children to working up to 9.00 p.m. The government further considers that children should be prevented from engaging in street trading at night for health and safety reasons and so the bill introduces a new provision restricting street trading to daylight hours.

Finally, to recognise that children cannot work safely for the same unbroken period of time as adults, the bill provides for a 30-minute rest break after 3 hours of work. Furthermore, children must have at least 12 hours break between finishing one shift and commencing the next.

Children working in family businesses and on family farms

I mentioned previously that the existing, although limited, exemption for children working with their parents in a shop attached to a dwelling has been extended to all family businesses, including family farms.

The government recognises that children of all ages may work with their parents and that this should not be prohibited. The provisions concerning the minimum age of employment that I outlined earlier will not, therefore, apply to children assisting their parents in family businesses. The bill also exempts parents from the general conditions relating to hours of work, although a parent cannot employ their child during school hours.

Children working in family businesses and on family farms have been exempted in this way because the government believes that, when it comes to employing their own children, all parents have both a responsibility for and an ability to protect children from health and safety risks, and to ensure their child's education is not adversely affected.

That said, the government believes that children performing work for their parents should be protected by some minimum standards. A key provision of this bill restricts employment to light work — a provision we believe should apply to all people who employ children. Consequently, parents employing their children may only employ their children in light work. Moreover, this work must be directly supervised. To employ a child in contravention of these conditions will be an offence.

Children working in the entertainment industry

The entertainment industry is a significant employer of children of all ages. It is also an industry where children may need to be employed during school term and late at night. Consequently, a number of the provisions I have outlined may require adjustment for this industry.

In order to more appropriately regulate the employment of children in the entertainment industry, the Child Employment Bill provides for the development of a mandatory code of practice. This code will be developed in consultation with industry, union and government stakeholders and will come into effect within 12 months of the bill being enacted. It is worth noting that the employment of children in the entertainment industry in NSW is also regulated by a mandatory code of practice.

Although most of the general conditions of employment will not apply to the entertainment industry, the permit system and the light work restrictions will regulate the employment of children in the entertainment industry. Whilst the code is being developed, the child employment officer will continue to regulate child employment.

Offences and penalties

At the outset I noted that the Bracks government promised to increase penalties for breaching child employment laws. The Community Services Act currently makes it an offence to employ or allow a child to be employed without a permit. The penalty for this offence is a paltry $100 — a penalty that highlights the outdated nature of these child employment provisions.

The Child Employment Bill provides a range of offences with appropriate penalties. Offences include failing to have a permit and breaching the general conditions of employment, whilst the maximum penalties for offences under the act range from $1000 for more minor offences to $10 000 for serious offences. The maximum penalty for an offence committed by a person is $6000: for a corporation it is $10 000.

Information and compliance

Community consultation revealed that there is a considerable lack of community awareness of the nature of child employment laws in Victoria. Concerns were also raised about the lack of compliance.

The bill provides for the appointment by the minister of suitably qualified child employment officers. Under the bill, their primary function is to provide information about the operation of the legislation. The child employment officers will have a particular focus on the development of educational materials regarding the child employment system and in relation to the employment of children in family businesses, including on family farms.

The child employment officers will, however, also be responsible for ensuring compliance with the legislation. To this end, the bill provides child employment officers with a number of powers to determine compliance with the act. These powers include a right of entry to inspect a workplace and the right to require production of documents.

In terms of prosecutions, prosecutions for breaching the child employment legislation will be heard by the industrial division of the Magistrates Court. This is as provided for by the Federal Award (Uniform System) Bill 2002, introduced into the house in September.

Summary

The Child Employment Bill recognises that whilst some employment of children under 15 is acceptable, by community standards it is acceptable only to the extent that work does not interfere with a child's schooling or expose children to physical or moral dangers.

The Child Employment Bill also balances allowing children to obtain benefits from working with the fact that education remains the priority for children under the age of 15.

Lastly, the bill recognises that the employment of children should not be treated in a uniform fashion. That is, there needs to be capacity to regulate the employment of children in family businesses and in the entertainment industry differently to the employment of other children.

The antiquated provisions of the Community Services Act cannot continue to regulate child employment in Victoria. This bill represents an important opportunity to ensure that the employment of our children is

regulated in a way that reflects the realities of modern day life.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 24 October.

RESIDENTIAL TENANCIES (AMENDMENT) BILL

Council's amendments

Returned from Council with message relating to amendments.

Ordered to be considered next day.

Remaining business postponed on motion of Mr LENDERS (Minister for Finance).

ADJOURNMENT

Mr LENDERS (Minister for Finance) — I move:

That the house do now adjourn.

Centre–Tucker roads, Bentleigh: traffic control

Mrs PEULICH (Bentleigh) — I draw to the attention of the Minister for Transport, through the Minister for Finance, the announcement last week of the resurfacing by December of a stretch of Centre Road, Bentleigh, between Tucker Road and Francesco Street. In the article there was some criticism by some local traders about it, raising other issues of concern.

I welcome the funding. I believe it is much needed and long overdue. However, the local Bentleigh traders have some concerns about the scheduling of the works before Christmas. For close to two years there has been a bit of a debacle about the modification of the intersection of Centre Road and Tucker Road — —

The DEPUTY SPEAKER — Order! I ask honourable members to resume their seats so we can hear the honourable member for Bentleigh!

Mrs PEULICH — It caused enormous angst to businesses, and traffic along Centre Road was congested. A number of businesses were in serious financial difficulty as a result of the works which were poorly handled by Vicroads. Admittedly it was not all its fault, but a substantial part of it certainly was, particularly in relation to costings, the placement of Telstra cables and so forth.

The Bentleigh traders are concerned that scheduling resurfacing works before Christmas will continue the congestion and business difficulties that they have experienced over the last year and a half. They cannot afford to lose any further custom. They ask the minister to see that the work is rescheduled for the quieter period after Christmas. They welcome the works but the scheduling is very important to their livelihood.

North East Catchment Management Authority: funding

Ms ALLEN (Benalla) — I raise for the Minister for Environment and Conservation the very important issue of salinity and water quality throughout the north-east. I want the minister to take action to ensure that the North East Catchment Management Authority is able to continue the excellent programs it has been undertaking in salinity and water quality management works. The North East CMA covers the management of the magnificent towns and areas of the Ovens, Kiewa and Mitta Mitta rivers throughout Victoria's beautiful north-east. This catchment contributes a large proportion of high quality water for Victoria, New South Wales and South Australia.

The north-east region had previously been eligible for funding through the Murray-Darling 2001 program, but that source of funding is no longer available, which seriously limits the pools of funding that the region can access. This funding stream has stopped and the north-east region is not eligible for funding through the national action plan for salinity management.

The Premier wrote to the Prime Minister several months ago asking him to match the Victorian offer of $5 million to make the North East CMA a region. To date the Victorian government has had no reply. Why are we not surprised?

The North East CMA is eligible for funding through the Natural Heritage Trust but because the federal government has insisted that funding for the Wimmera–Mallee pipeline come out of Victoria's regional NHT funding stream, Victoria's CMAs are going to miss out. This stubbornness by the federal government means there is insufficient funding for all other CMAs including the north-east to provide important on-the-ground environmental works.

The significantly reduced NHT funding will result in the complete stoppage of the integrated vegetation program and a significant decrease in river health and water quality programs throughout the north-east. Three Department of Natural Resources and Environment project officers and one or two CMA staff could be

retrenched. This is a disaster for north-east Victoria. The federal government is developing a tendency to disregard Victoria's natural resource management needs. This neglect has to stop!

To this end the federal member for Indi, Sophie Panopoulos, has done absolutely nothing. She should get on the phone to the Honourable Warren Truss, the Minister for Agriculture, Fisheries and Forestry, and the Honourable David Kemp, the Minister for the Environment and Heritage, to ensure that Victoria, and in particular north-east Victoria, is not done over by the miserable bean counters in Canberra. I urge the minister to take action by insisting that the federal government ensures that Victoria and the north-east get their fair share of commonwealth funding.

Northern Grampians: council structure

Mr STEGGALL (Swan Hill) — I ask the Minister for Local Government to agree to the desire of the Northern Grampians Shire Council and the Northern Grampians community and maintain the status quo with the shire's internal boundary arrangements.

Recently the Northern Grampians shire gave notice of its intention to change its internal riding representation from four and three councillors — there are two ridings — to five and two councillors. The shire council then consulted its community and did all the things that the Labor Party likes it to do. The result was that it then changed its recommendation from five for the Stawell area and two for the St Arnaud area to the status quo, which is four for the Stawell area and three for St Arnaud.

I draw the minister's attention to section 220 of the Local Government Act, which provides two tests for internal boundaries. One is the 10 per cent rule — which we are aware of — and the 10 per cent variation. The second test is the fair and equitable rule, which was put in by the Labor government in 1989 and which was very strongly debated in this house because of the same type of issue we now face. The third issue is that the council has a decision to make as to whether the alterations are desirable or not. The council went through the consultation process in the shire, and as a result has changed its position to the status quo of four and three.

Labor put section 220 into the 1989 act so as to be able to consider fairness and equity, and it is something many in this house would agree with. Most of us in the country have trouble with the one vote, one value concept when it is put in place rigidly in these areas. We ask the government to consider the advertising and consultation process and the decision of that council to rescind its initial decision. We seek from the government four councillors for Stawell and three for St Arnaud and the rural areas so that the council can, with fairness and equity, have a properly managed and properly running area.

This provision in our laws has never been tested. It was only really tested in this house when the Honourable Jim Simmonds, the then minister, introduced it and argued for what we have just put. I ask that the Minister for Local Government give serious consideration to the wishes of the Northern Grampians Shire Council and to the communities of Stawell and St Arnaud and their request for this solution.

Weapons: air taser demonstration

Mr MAXFIELD (Narracan) — I raise an issue for the Minister for Police and Emergency Services. I want to know what action the minister can take to determine whether an offence was committed, or if anyone aided and abetted the commission of an offence, in the demonstration of air tasers on the Channel 7 news last week.

I understand that any entitlement to import, possess, carry or use prohibited weapons requires the approval of the Chief Commissioner of Police and is strictly conditional. Members of the opposition apparently engaged in some activities last week which were aired on Channel 7, and as someone who believes very strongly in law and order I think it is very important for us politicians to show an example to the community. We have to be careful that we comply with the law, because the issue of law and order is very strong and is close to the heart of a member of Parliament. We have seen this with the government, where it has deployed an extra 800 police to provide a safe environment. For example, in my own town of Warragul we have gained an additional 10 police since Labor came to power, meaning that there are now police on the beat. People can go down the Warragul streets secure in knowing that they have many extra police providing a safe and secure environment.

We in this house should cherish being part of a law-abiding society. Certainly we cannot allow the situation to develop where people can break the law — where we have drug dealers breaking the law, crooks breaking into banks and people hitting old ladies over the head — and we cannot have politicians thinking they can break the law whenever they feel like it because the law is for the little people and they are above it. If you were a shadow minister for police and emergency services you would think you would want to

obey the law rather than just showing total and utter disregard for it.

We should hold close to our hearts the idea that we should strive in our society to be law-abiding citizens. If we are engaging in activities we should ensure that they are legitimate and legal. It is really sad that I have to be talking about this issue in the house today.

We have to set an example in public life. As politicians we should say to the community that we stand up for law and order.

Police: Prahran

Ms BURKE (Prahran) — I raise a matter for the attention of the Minister for Police and Emergency Services. A month or so ago the minister was briefed by my local police in Prahran when he went for a walk down Chapel Street. Winter is always a little quieter for police than summer there, although Chapel Street has as many people at 1 o'clock in the morning as at 1 o'clock lunchtime. Other areas of Prahran, such as Grattan Gardens, are suffering the same problems.

I do not believe police can run a sustainable operation over a number of weeks without, firstly, the resources and, secondly, a requirement to hold licensed premises accountable in and outside the venues. There is evidence that there are party drugs in a number of the licensed premises. While this may be seen as a health issue, it is also part of the whole problem of law and order concerns in my electorate.

The amenity uses that are promoted in the area as a tourist precinct are in complete conflict with the planning and the amenities of inner suburban living. The two are not compatible. The causes and effects are generally planning matters that exacerbate the police problem. However, in the meantime the community is most uncomfortable with the situation. Youths are coming into the area racing cars up and down the streets, drinking until all hours of the morning, breaking into people's properties, using samurai swords and machetes, breaking furniture, chopping trees down and being a complete nuisance, knowing all the time that they will most likely get away with it because there are few police in the area.

I call on the Minister for Police and Emergency Services to increase police resources in the Prahran district to make those who are destroying the area realise that it is no longer acceptable and that something will be done about it.

Automotive industry: tariffs

Mr LONEY (Geelong North) — I raise a matter for the consideration of the Minister for Manufacturing Industry. I refer the minister to the recent recommendations of the Productivity Commission that the Howard government cut automotive industry tariffs by up to 10 per cent by 2015 — recommendations that, if implemented, have the potential to wipe out an industry that in Victoria employs 27 000 workers and has a turnover of $9 billion every year. This, of course, is the direct impact on the Victorian auto industry. The multiplier effect would lift that to a further flow-on effect of around 50 000 jobs.

Geelong is the headquarters of the automotive industry in Victoria and has 1900 jobs directly in jeopardy and another 4000 jobs indirectly. In spite of this, however, and in spite of offers of state government support, no coordinated campaign has yet been commenced in Geelong. The City of Greater Geelong quietly made a submission to the Productivity Commission, but since its recommendations were announced about six weeks ago all has been silent. I note that auto industry councils, including those in Maroondah, Greater Bendigo, Kingston, Greater Dandenong, Wodonga and many others, have publicly supported the state government's position of seeking to have the commission's recommendations rejected. But the City of Greater Geelong has not done so.

This is in stark contrast to the position of the City of Greater Geelong when it was last faced with this threat. Then it mounted a massive community campaign to save auto jobs and was the lead force in both Victoria and Australia. And it succeeded. The successful blueprint is still in Geelong city hall just waiting to be dusted off and implemented.

So why has it not been? Is it because of a succession of recent Liberal anti-manufacturing mayors? Is it because the Liberal-dominated council does not want to embarrass the Howard Liberal government, particularly with its state council on in Geelong this weekend? Is it because two Liberal candidates sit on the council and a campaign against the Howard government to save auto jobs might expose them, as neither has said a word or moved a motion at council in support of Geelong's major industry? Has the dominant group on council put the party before the people?

I call on the minister to wait no longer for the council to act and to move immediately to use his office to convene a campaign in Geelong calling all interested parties together, including the City of Greater Geelong if it wishes to be involved, to fight for Geelong jobs. I

can assure him that the honourable member for Geelong and I will be there ready to lead on behalf of our community.

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

Bolton Street, Eltham: reclassification

Mr PHILLIPS (Eltham) — I ask the Minister for Transport to support me, as the member for Eltham, and the councils of Banyule and Nillumbik in having Bolton Street in Eltham reclassified as a main road. Bolton Street is a through road between Greensborough and Doncaster-Templestowe, and further to Ringwood, carrying enormous amounts of traffic. It is a road that is a boundary between the municipalities of Banyule and Nillumbik.

Both those councils are supportive of the road being reclassified to a main road, and they would then seek funds for the upgrade and reconstruction of that road. I believe the majority of residents support the upgrade. Enormous amounts of traffic are using Bolton Street. The topography is very steep, so certainly earthworks would have to be done. Originally it was a residential street — probably a government road — but over the years it has become a main thoroughfare between Greensborough and Doncaster-Templestowe. The residents have been suffering because of increased traffic. There are no footpaths, gutters or shoulders, and it is very steep.

I would like the minister to advise Vicroads to support the road being upgraded to a main road. It would have unanimous support from both Banyule and Nillumbik councils. Banyule council wrote to me again as recently as October seeking a commitment from me in the lead-up to an election, and it certainly would be seeking a commitment from both major political parties that this will take place. It is something that has been raised previously. I ask the minister to support the Nillumbik and Banyule councils and me, as the member for Eltham, in having this road reclassified and upgraded.

Greater Geelong: rates

Mr TREZISE (Geelong) — I have an issue for the Minister for Local Government that revolves around the extensive increase in rates inflicted on many ratepayers of the City of Greater Geelong. With the latest round of rates many ratepayers have experienced rate increases of up to 100 per cent. Of course, the pages of the local papers have been full — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I ask members of the opposition to be quiet.

Mr TREZISE — The best thing that is happening in my campaign is that this riff-raff is coming to Geelong on Saturday, I can assure you of that.

The pages of the local papers have been full of hardship stories, and I can also assure this house that my electorate office phone and my home phone have been running hot with distraught and upset ratepayers.

The action I seek from the minister is that he take steps to ensure that the City of Greater Geelong is actively investigating all means by which the burden of rate shock is minimised, especially as the increased rates apply to the elderly and pensioners. Sharp and exorbitant increases in rates can have a devastating effect on ratepayers, but especially the elderly and pensioners. Many elderly people, as members on this side of the house realise, can be asset rich but cash poor, and their homes can be subject to steep valuation increases. This is very much the case in a number of areas within the Geelong electorate, and the resultant sharp increases in rates can have a devastating effect on elderly people.

I am concerned that in my area the City of Greater Geelong has done nothing — absolutely nothing — to ease the burden on ratepayers afflicted with what I would describe as rate shock. For example, despite calls from many sections of the community, including members of the government — that is, members on this side of the house — the City of Greater Geelong has refused to do anything. It has, for example, refused to match the government's $135 rebate payment. The City of Greater Geelong could, in one fell swoop, assist pensioners in Geelong by providing that $135 rebate.

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

Scoresby freeway: access ramps

Mr WELLS (Wantirna) — I raise a matter of concern with the Minister for Transport. We have a ludicrous situation in the outer east which has been proven just recently by the state Labor government's commitment — or non-commitment — to the Scoresby freeway. We have a $1.2 billion project yet this government has not committed itself to building the two major ramps connecting the Monash Freeway to the Scoresby freeway.

We have a situation where you will be able to drive down the Scoresby freeway but there will be no ramp turning right onto the Monash Freeway, and we have

the reverse situation where you will be able to travel east along the Monash Freeway but there will be no left turn onto the Scoresby freeway. These are the two main connecting points in the entire eastern and outer-eastern freeway network, yet this Bracks Labor government does not believe those ramps are necessary. It smacks of the time when the Cain–Kirner government put traffic lights on the South Eastern Freeway!

But the situation gets even worse, because the spokesperson for the state government, a Ms McKinnon, is reported as saying:

> Virtually nobody would want to travel up the Monash … Freeway from Dandenong and turn south down the Scoresby or travel south down the Scoresby and turn west up the Monash.

It is the single most stupid thing I have ever heard in 10 years of politics that the government does not believe it can connect the two freeways. It has total contempt for the outer-eastern suburbs, and that is why it knows politically that it is in danger of losing more seats out there. The government knows it will not win any seats, and it is not committed to the Scoresby freeway. And to say that the two major ramps connecting the Monash Freeway and the Scoresby freeway are not necessary shows that it is out of touch with the needs of the outer-eastern community.

The DEPUTY SPEAKER — Order! What action does the honourable member want the minister to take?

Mr WELLS — Fix it!

Consumer affairs: health club contract

Ms BARKER (Oakleigh) — I ask the Minister for Consumer Affairs to take action to ensure that the fitness industry complies with the industry code of practice, particularly where it relates to cooling-off periods on contracts.

I have been approached by a 19-year-old constituent and his father for advice and assistance. As a result of telemarketing this young man, who is a full-time student, visited the Genesis Health Club in Oakleigh to further discuss whether or not he would join up for a course. He indicated that he was a full-time student, that he did not have any income and that if he was going to sign up to this contract he would have to check with his parents to see whether they would assist him with the monthly payment.

He was given a verbal undertaking from the person who was trying to sell him the membership that if he signed the document it would not be processed until he had confirmed with his parents that the payments could be met. He said he did not, unfortunately, examine the terms and conditions of the contract, as he clearly felt he would not be committed to it until he had called the health club back to confirm.

He returned home, which took only about 5 or 10 minutes, and of course on checking with his father to see whether he would pay the $68.10 monthly for 20 months he found his father declined the offer. My constituent tried on several occasions to call the Genesis Health Club and speak to the person he had spoken to. He was told on a number of occasions that the person who had sold him the contract was busy, but he was also told that the message that he would not proceed with the contract would be given to that person and that the contract would not be processed.

He then received a letter from a specialist billing company which said, ‘Thank you for this, this is how much you owe for 20 months’. He wrote to them and they said, ‘It is not our problem, you have to go back to the others’. When they approached me my office contacted Genesis. We were told, ‘We have no responsibility for it, the recruiting company is responsible for it’. The recruiting company is Life Force. We then approached the recruiting company and someone there said, ‘He is an adult, he has signed a contract, he has agreed to all the terms and conditions, and he is liable for the payments’.

We could say that my constituent was rather foolish in what he did, but he believed that the contract would not be processed until he had called the health club back. I have raised this issue with the minister previously, and I understand that some action has been taken and some progress has been made. Cooling-off periods are provided for in many other areas of society, and I think it is only appropriate that it apply to the fitness industry and that recruiting companies, as they call themselves, have a look at the way they are encouraging — and I think it is a gentle word — people to sign up for contracts they cannot afford.

Beach Road, Beaumaris: traffic control

Mr THOMPSON (Sandringham) — The matter I wish to raise is for the attention of the Minister for Transport. It concerns Beach Road, Beaumaris, among other roads in the area.

Mr William Chamberlain, a resident of Beach Road, Beaumaris, dices with death every time he has to access and leave his property in Beach Road, which was once a beach track and has now been made into a road that carries a high volume of traffic.

In part as a consequence of the failure of the Labor government to commit to the building of the Dingley bypass there remains an increasing volume of traffic along Beach Road, Beaumaris. It is unfortunate that Mr Chamberlain sustained a serious accident in recent times and incurred some $5000 damage to his motor vehicle.

The police who advised him at about the time of the accident initially thought that he may have been errant in his driving, but upon closer examination — the police, in fact, were passing by — they formed a view that his house and his driveway were in such a position that it was impossible to leave the premises and the property in a safe manner without placing Mr Chamberlain and his passengers at considerable risk.

There are a number of avenues that I recommended to Mr Chamberlain could be pursued in this matter. They include contacting Road Safety in the South-East, an excellent organisation under the chairmanship of Mr John Moller, where some excellent work is undertaken on road safety initiatives in the south-east. There are excellent collaborative organisations that engage with traffic planners, road user associations and organisations such as the Motorcycle Riders Association, the Royal Automobile Club of Victoria (RACV) and the local traffic operations group, where there is an excellent dialogue and forum for review of safety issues.

I ask the Minister for Transport to facilitate a review of Beach Road, Beaumaris to provide whatever advice is available to be given. Perhaps he may even institute remedial measures in that area that may provide a safer form of access and egress for Mr Chamberlain. Some suggestions may include a realignment of the road to stop the merging of traffic in the area. Another solution may be the location of a mirror on the other side of the road so that as Mr Chamberlain leaves his premises, he can do so safely.

This matter has been raised with the local council, the RACV and the local police. Every person who has looked at it has recognised the extreme danger that Mr Chamberlain and his family encounter when they leave their property, in part as a consequence of road remediation works that were undertaken last year in Beach Road, Beaumaris.

It is more important in the light of the failure of the government to — —

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

Responses

Mr HAERMEYER (Minister for Police and Emergency Services) — The honourable member for Narracan raised the issue of a demonstration of a device called an air taser on the Channel 7 news on 3 October. The demonstration he referred to was in fact conducted by personnel from a firm called FBIS at what was described by the reporter as a secret location. It was in front of a small group of people, none of whom appeared to be police officers. Certainly three of them were eminently recognisable: the honourable members for Wantirna, Mornington and Knox.

The taser was demonstrated on two members of the public, including the journalist. The permit to FBIS to allow it to demonstrate tasers is a very specific one. It enables it to demonstrate tasers for the purposes of showing them to state and territory police forces in Australia, and that is the only purpose under which it is entitled to demonstrate tasers. It would appear that the demonstration was conducted outside the terms set down by the chief commissioner to FBIS under the Control of Weapons Act. If that is so it would possibly constitute an offence under that act.

I have requested that the Chief Commissioner of Police investigate this incident, because it is a very serious matter. If companies that are in a position of trust are importing, distributing, selling and demonstrating what is effectively a weapon, and potentially a very dangerous one, in the wrong circumstances, then we have to have confidence that they are doing so under the terms and conditions under which those authorities are given. I have asked the chief commissioner to determine the circumstances of the demonstration, whether an offence under the act may have been committed, and whether other participants in the demonstration may have aided and abetted the commission of a criminal act under the Control of Weapons Act.

Victoria is very keen to explore a number of comparative or different alternatives so far as non-lethal force is concerned, and that includes tasers, neck guns and other devices. The news report was incorrect when it said the Victorian government and Victoria Police were refusing to consider the use of tasers. They will be evaluated across a variety of fronts. They will be evaluated comparatively against other items of equipment to determine whether they are safe to use. The one demonstrated emits some 50 000 volts. I am not aware that it is currently being used by patrol level

police in an operational sense anywhere. We are still trying to find that out.

We are very keen to explore non-lethal alternatives to the equipment we give our police. However, we also need to make sure it is practical, that it fits into their operational requirements, and that it is safe. We are interested in looking at tasers. That said, we are certainly not keen to be doing that when the company that is distributing them is flagrantly flouting the conditions under which the permit was issued. I can assure the honourable member that that matter has been referred to the police for investigation.

The honourable member for Prahran raised the issue of Chapel Street. Unfortunately most of what she said is absolutely true, but it has been drawn to my attention already on numerous occasions for quite some time by a Mr Tony Lupton. As a result of those representations, I accompanied members of Victoria Police on a street walk through Chapel Street some weeks ago on a Friday night, although having tried to drive through Chapel Street on some occasions around the same hour on Friday nights, it certainly was not the busiest night on which I could have had a look at it, I must say. However, there are certainly issues there.

There is a licensing issue, not just a policing issue. It is not going to be solved by just more police, it needs to be solved on a whole variety of fronts. There are traffic management issues, planning issues and licensing issues. It also involves in particular some of the licensees. A lot of them are very responsible but some of them are not responsible at all. Some of them will have to start taking responsibility not just for what goes on in their premises but for what goes on in the street altogether, because at the end of the day if the street develops a bad name, as did King Street, that is going to affect their businesses as well.

I got together with Tony Lupton, Sally Davis, the mayor of Stonnington, and Hadley Sides, the chief executive officer, and we will be calling together a forum of all the relevant stakeholders to try to take a multipronged approach to this and develop solutions to all the dimensions of the issues that exist there. Unfortunately for the honourable member for Prahran I have to hark back to the words of that old song 'Sorry, you're a little too late'.

Mr HULLS (Minister for Manufacturing Industry) — Thank you very much indeed. That is a hard act to follow, but we will do our best.

The honourable member for Geelong North raised a very important issue about auto tariffs. He suggested that as the Minister for Manufacturing Industry I should wait no longer for the Greater Geelong City Council to act and asked that I immediately use my office to convene a campaign in Geelong, calling interested parties together.

As the honourable member pointed out, this is a very serious matter because the proposals of the Productivity Commission to reduce auto tariffs down to 5 per cent and ultimately to zero, and to slash the automotive competitiveness and investment scheme (ACIS) — the assistance scheme to the auto sector — will be devastating right around Victoria, and certainly in the Geelong area, where economic modelling shows that there will be something like over 1900 jobs lost.

I am surprised that a whole range of councils have got behind the state government's campaign in relation to this matter, but I am just as surprised that the Greater Geelong City Council has not been loud in its support for this campaign. I find that extraordinary, particularly in light of the fact that a former mayor, who I understand is a Liberal candidate in the Geelong area, ought to understand the importance of the effect of the reduction in auto tariffs on employment in Geelong.

I would be asking Mr Kontelj to stretch himself to get behind this campaign and stop remaining silent on this very important issue. Does he support the approach of John Howard and Mr Macfarlane that will see jobs lost in Geelong or does he support the Bracks government? He has a stark choice: he can support John Howard and his reduction in tariffs and therefore the loss of at least 1900 jobs in Geelong or he can support the Bracks government's position — that is, tariffs at 10 per cent, no reduction in ACIS and therefore a healthy and vibrant auto sector.

However, if this campaign is to have bipartisan support — and we hope it does — it is very important that the honourable members for Bellarine, South Barwon and Geelong Province also get behind the Bracks government's campaign. So far they have been very silent on this issue as well. They are fast becoming known as the Three Stooges of Geelong — the Moe, Larry and Curly of the Geelong area — who are not prepared to act in a serious way on a very serious matter. But the issue can come to a head on Saturday, because the Prime Minister will be in Geelong on Saturday.

Here is the opportunity for the honourable member for Bellarine to give his swan song. He is on his way out. This can be his swan song. He can stand up to John Howard and move a motion on Saturday. Here is an opportunity for the honourable member for South

Barwon to stand up for employment in Geelong or kowtow to Little Johnny. They are the choices he has. He can stand up for the people of Geelong, for those 1900 jobs that are under threat, or he can simply be a sycophant and tug his forelock to John Howard when he is at the conference.

The same goes for the honourable member for Geelong Province in another place who is a member of the Liberal Party. He can hide behind the coat-tails of the Prime Minister and do nothing about jobs in Geelong, or he can actually stand up and move a motion. My suggestion is that the honourable members for Bellarine, South Barwon and Geelong Province and Mr Kontelj all get together and put a combined motion to be taken to this conference on Saturday, because when you look at the program you find there is not one mention of or one motion dealing with the car industry, not one motion dealing with Geelong. That is quite extraordinary! Here is a great opportunity for the Three Stooges and Mr Kontelj to put together a motion. I am prepared to draft the motion for them.

This is the motion they should be putting:

> That this council calls on the federal government:
>
> > to reject the proposals of the Productivity Commission to reduce tariff levels to 5 per cent and eliminate or reduce industry assistance;
> >
> > to maintain a package broadly similar to the Australian Competitiveness and Investment Scheme;
> >
> > to provide certainty on tariff levels by maintaining them at 10 per cent until 2010 and after unless there are substantive reductions in automotive and non-tariff barriers by other countries;
> >
> > to gain access to new markets, particularly in the Asian region, through bilateral and multilateral negotiations
> >
> > to encourage innovation within the industry by reviewing current measures to ensure appropriate support for research and development; and finally,
> >
> > to encourage a collaborative, non-adversarial workplace environment by working with all key stakeholders.

That is the motion. They do not even have to go away and work it up themselves; I have done it for them. All they have to do is put this motion to the Liberal Geelong council on Saturday. If they fail to do that they would indeed be turning their backs on the people of Geelong. They are betraying the people of Geelong, and they are betraying the thousands of people who work in the auto sector right around Victoria, but particularly those in Geelong. So Saturday is D-day for these people. D-day!

Mr CAMERON (Minister for Local Government) — The honourable member for Geelong raised sensible issues concerning rate movements. Certainly there are existing flexibilities within the Local Government Act. One of the things the government would like to see, and something it is presently legislating for, is for councils to undergo a rate impact statement process so that two key groups in municipalities have an understanding as to what will occur with rates.

Although it did not come up during the local government update, there is a suggestion that there could be additional flexibilities, and the government is very prepared to examine them and contrast them with the existing flexibilities under the Local Government Act to determine whether the additional flexibilities can work and why the present flexibilities are not sufficiently flexible. As I said, we are very prepared to work through that issue, provided that what it brings about is a better rating strategy. That is what rate impact statements are all about.

The honourable member for Swan Hill raised a matter concerning the Northern Grampians Shire Council. Honourable members will be aware that this government believes, as did the previous government, in one vote, one value when it comes to local democracy, and for that reason there is a 10 per cent tolerance.

If we could apply proportional representation to municipalities that would bring about a situation of an undivided council and an even distribution of people. You would be aware, Deputy Speaker, that the former Liberal–National Party coalition supported proportional representation in the past when it came, for example, to the City of Melbourne. On 4 July on WIN Television I saw the National Party spokesman talking about the Local Government (Update) Bill and broadly supporting those initiatives. One of the key provisions referred to was proportional representation. I must, however, advise the house that the National Party has not come good. It has turned its back on country councils despite their pleas, and it has denied the opportunity by voting down the very thing which most country councils would have liked to see, and that is the additional flexibility of proportional representation.

Notwithstanding the fact that that has been cast aside by the National Party, notwithstanding its past record and that it was more than prepared to have that apply in Melbourne, I advise the house that on radio today the mayor said the council was examining the issue of the number of councillors in the municipality to bring about a situation where the numbers can be made up. I

understand there is a desire to have three councillors in the St Arnaud area. There is no reason why that cannot happen provided other arrangements are made concerning the rest of the municipality.

The honourable members for Bentleigh, Benalla, Eltham, Wantirna, Oakleigh and Sandringham raised matters for other ministers, and I will refer those matters to the ministers.

Motion agreed to.

House adjourned 8.18 p.m.