PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

25 September 2001

(extract from Book 3)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

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The Lieutenant-Governor

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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TUESDAY, 25 SEPTEMBER 2001

Tuesday, 25 September 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.03 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent to:

Community Visitors Legislation (Miscellaneous Amendments) Act
Public Notaries Act

DRUGS, POISONS AND CONTROLLED SUBSTANCES (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. R. THOMSON (Minister for Small Business).

QUESTIONS WITHOUT NOTICE

Industrial relations: government policy

Hon. BILL FORWOOD (Templestowe) — I ask the Minister for Industrial Relations under what circumstances the Bracks government would decide to abandon its position of being an honest broker and instead choose to support just one party in an industrial dispute.

Hon. M. M. GOULD (Minister for Industrial Relations) — The government has made it perfectly clear that its position on industrial disputes is for the parties to resolve their disputes. It is unfortunate that the Workplace Relations Act is conflict based, and it is also disappointing that the act is legalistic where it allows for the parties to use not only the Australian Industrial Relations Commission but other courts that are available to the people of Victoria.

The government always tells the parties to a dispute that it is in their interests to sit down and negotiate an outcome that is satisfactory to all. As I have indicated to the house previously, there was an incident with Yallourn Energy where the government did not support the wildcat action that had been taken by workers. The government will ensure on all occasions involving industrial disputes that it has at the forefront of its interest the development of and ongoing investment in this state.

An occasion occurred last week where the government sought leave to intervene in a matter before the Australian Industrial Relations Commission to support an application by an employer on a section 127 — I am not sure whether honourable members on the other side know what a section 127 is — to have an illegal picket line lifted. The government supported the employer's application on that occasion and sought leave to intervene, and that leave was granted.

Industrial relations: employee entitlements

Hon. T. C. THEOPHANOUS (Jika Jika) — Will the Minister for Industrial Relations advise the house whether the Victorian government's position on the protection of employee entitlements has been taken into account in the federal government's recently announced revised entitlements scheme?

Hon. M. M. GOULD (Minister for Industrial Relations) — I thank the honourable member for his question because I know he has a keen interest in this area. The Bracks government's position on employee entitlements has always been clear: workers should be guaranteed their full entitlements and any scheme to provide for that should be a nationally funded scheme. If employees are entitled to redundancy payments under agreements that employers have entered into, the employees should receive them. It is their legal entitlement.

Honourable members may also be aware that in May this year I advised the house that Victoria, along with other Labor states, called on the federal minister to examine the matter, and he accepted that a review of his flawed scheme needed to be undertaken.

This matter was discussed last Friday at the workplace relations ministerial council meeting with the federal Minister for Employment, Workplace Relations and Small Business and state ministers from across the country. At that meeting I confirmed the Bracks government's commitment — that is, it does not support the previous scheme the federal government put in place. That scheme did not cover all the entitlements and was not an employer-funded scheme.

The federal government also asked that states pay half of that flawed scheme. The Bracks government was not prepared to allow Victorian taxpayer funds to be used for this purpose. We have consistently asked for a national scheme that is employer funded and covers all entitlements. We have also asked that employees receive all their entitlements.

Hon. R. M. Hallam — You keep parroting on; what does that mean?

The PRESIDENT — Order! I suggest the minister directs her answer through me and ignores interjections. Mr Hallam has indicated about seven times that he has a question to ask at some stage and, no doubt, he will.

Hon. M. M. GOULD — We have also said that if the federal government was so committed to its flawed employee entitlements support scheme it should pay for it itself, not Victorian taxpayers.

After 18 months of this flawed scheme being in place the federal government has agreed with us that it is not good enough. It has finally accepted that and has increased the level of contribution to the entitlement; it is no longer asking for states to fund the scheme. The federal government has conceded that its scheme was flawed and it has changed the formula. However, like the previous scheme this scheme is still not funded by employers. It still does not guarantee 100 per cent of employees' entitlements. The federal government has cobbled together one scheme that did not work, added another bit to it that still does not work and all it has is a mishmash.

In summary, I am afraid the federal government continues to reject the proposal put by this government and other Labor states. That means we still have an inadequate scheme that does not protect employees' legal entitlements 100 per cent. It is not an employer-based scheme and it is not across all employers. Employers should be responsible for their corporate mismanagement, not Victorian taxpayers or taxpayers generally.

Target Australia: Geelong closure

Hon. I. J. COVER (Geelong) — My question is directed to the Minister for Small Business. During the four-month battle to save jobs at Target Australia Pty Ltd in Geelong the Premier asked the Minister for Small Business to continue discussions with Coles Myer Ltd concerning its plan for its Geelong operation. When did the minister first learn of the decision announced today to shed 200 jobs at Target's head office in Geelong and what action did she take to save those jobs?

Hon. M. R. THOMSON (Minister for Small Business) — I have had discussions with Coles Myer Ltd on a number of occasions about Target Australia Pty Ltd, going back to before the speculation in the media about the head office of Target being wound down and all its functions being placed in Melbourne.

The government is concerned that job losses will arise out of the announcement made by Coles Myer today. However, these business decisions were made by Coles Myer after it undertook a review of staffing and management. It was important to the government that the presence of Target as a head office in Geelong be retained. The Premier, other ministers and I spoke to Coles Myer over time about the importance of Target to regional Victoria and the Geelong region. The government is pleased that Coles Myer has decided to maintain Target's head office in Geelong as that is very important for the people of Geelong and Victoria. The government is pleased that Coles Myer saw fit to ensure that the office is retained.

The government had no more prior knowledge than others about the job losses and is concerned about the people who will be made redundant by the decision. However, I make it clear that a number of issues have been of some concern to the Coles Myer group for some time. It is true to say that the outgoing chief executive, Dennis Eck, and the chairman, Stan Wallis, have looked to blame the GST for the company's poor performance. In a letter to shareholders on 6 August Stan Wallis said:

> The profit downturn is also due to a very difficult and challenging economic and retail trading environment, further impacted by the introduction of the goods and services tax. The GST and its implementation have severely influenced consumer buying patterns and profitability, mainly in our non-food, general merchandise and apparel business. However, we expect more normal buying patterns to progressively emerge as we go past the anniversary of the GST …

The former chief executive officer of Coles Myer, Dennis Eck, said on ABC radio on 15 March that:

> I think that conversion over to GST certainly had an impact in the start of the half year. We then went through a holiday trading period that was a bit more difficult as customers were making adjustments within that tax framework.

As I said, I have had discussions with Coles Myer for some time about the importance of maintaining Target's head office in Geelong and I am pleased that the company has agreed with that position.

Retail tenancies: leases

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Small Business explain the effect of the anomaly arising from the Khodr decision and what the government is doing to address this issue?

Hon. M. R. THOMSON (Minister for Small Business) — As was discussed last week the Victorian Civil and Administrative Tribunal (VCAT) Khodr decision has put in doubt the definition of what comprises base rent. Last week I indicated the government's concern about the decision and how it

will be interpreted in the future. The anomaly which led to this decision was not something that came out of the legislation passed in 1986 but rather out of changes made to it in 1998. It is because that legislation was so feebly put together without anyone really thinking through its consequences that there have been so many cases before VCAT and other courts.

I have spoken with the Australian Retail Association, the Property Council of Australia and the Law Institute of Victoria. We have over time sought a number of legal opinions from the Victorian Government Solicitor as well as consultations with the Law Institute of Victoria about the Khodr decision and the best way of fixing that problem. We will continue to work on getting the legislation right. But it is not as easy to fix as some people might think. There is some concern that we might get it wrong if we have another knee-jerk reaction.

The government has been going through the processes of discussing the right fix for this problem and is committed to fixing the problem with the decision of VCAT. If there was an immediate urgency in bringing legislation to this Parliament we would be doing it, but the discussions I have had with the Property Council of Australia, the Australian Retail Association and the Law Institute of Victoria indicate that they are happy to work with the government through the government's processes to fix this problem and they believe this problem will be adequately addressed through the processes we have in place.

As I said, the legislative amendments that will need to be made to clarify the definitions to base rent are not simple. We need to be careful that we do not impact on other parts of the legislation, nor that other parts of the legislation impact on the possible fix. We will be fixing this problem in a way which ensures it does not come back to haunt the Parliament.

Australian Football League: grand final tickets

Hon. R. A. BEST (North Western) — I raise a matter with the Minister for Consumer Affairs. The government discussion paper, 'Controlling ticket scalping and improving major events ticketing practices', states:

> The reselling or onselling of AFL grand final tickets is the most lucrative and discordant scalping practice occurring in Victoria.

Given that the government has legislative powers to investigate unconscionable behaviour, will the minister advise the house of the action she or her department will take against Australian Football League clubs that are selling grand final tickets at prices well above their face value and beyond the reach of average supporters?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — If we discover that tickets are being sold well beyond their recommended retail price, action will be and is taken on those matters.

Local government: public lighting

Hon. E. C. CARBINES (Geelong) — I ask the Minister for Energy and Resources to inform the house how the Bracks government's introduction of full retail competition for public lighting has proceeded.

Hon. C. C. BROAD (Minister for Energy and Resources) — Full retail competition for public lighting was implemented by the Bracks government from 1 August this year. Implementation has been proceeding exceptionally well, providing significant savings to many councils across the whole of the state, and to Vicroads and to the Docklands Authority. A majority of some 78 councils have taken advantage of market competition and have negotiated new contracts for the supply of electricity with the retailer of their choice. According to the market participants themselves, councils have been able to make approximate savings of between 18 per cent and 30 per cent of the total public lighting cost, depending in which distribution business area the council is located.

Councils which have benefited from savings associated with the introduction of full retail competition for public lighting include, to name a couple of examples, the City of Greater Dandenong, which is expecting to make savings of $750 000 over the period of its contract, and the Corangamite shire is projecting some $20 000 per year in savings.

The savings have been made despite councils purchasing green power at a higher price. Through the very large savings councils have made from full retail competition a number of them have been able to purchase part of their electricity requirements for public lighting from green power sources and still ensure significant savings on their public lighting bills.

Other councils have retained an option in their contracts with retailers to purchase green power at a later date if they are not purchasing it immediately. According to the National Green Power Accreditation Steering Group across the whole of the state on average about 10 per cent of known electricity purchases for public lighting will come from environmentally sustainable power sources generated from either hydro-electric, landfill gas, solar or wind sources. This is a major step in reducing greenhouse gas emissions, and it is also

facilitating new investment in renewable energy generation — a goal of the Bracks government.

These results demonstrate the progress the Bracks government has made in delivering on its vision of obtaining a secure, reliable and affordable supply of electricity for all Victorians. We are turning things around from the days of the previous Kennett government when the agenda was solely focused on selling off the state's electricity supply.

Small business: government assistance

Hon. C. A. FURLETTI (Templestowe) — I ask the Minister for Small Business whether the government has given consideration to how it will deal with the serious adverse effects of recent corporate collapses, cutbacks and closures on the innumerable small businesses in Victoria that are dependent on the larger enterprises, and if so, what is its intended course of action.

Hon. M. R. THOMSON (Minister for Small Business) — I thank the honourable member for his question, which should be addressed to the federal Parliament. The federal government has presided over the collapse of HIH Insurance, One.Tel, Harris Scarfe, Pasminco and Ansett. For a government that prides itself on its economic management, it has been a disaster.

Since its election the Bracks government has worked diligently trying to encourage investment into regional and country Victoria. That is reflected in the Yellow Pages confidence sentiment guide for regional Victoria, which indicates that 60 per cent believe things are looking good, which is the second best of any state of Australia. That investment drive will continue to ensure that growth in country Victoria continues.

We are conscious of the need for small and medium-sized enterprises to concentrate on their businesses beyond supplying to one firm, beyond supplying to this state or this country only, to looking globally and negotiating internationally.

One of the many ways we are trying to encourage small business to look beyond dealing with one business is through our government procurement program online to encourage small and medium-sized business to get government contracts. Seminars were held throughout Victoria to encourage businesses to participate. We are also encouraging businesses in the food area to be involved in export, and we are working with them to make them export ready.

I have already told the house about Vic Export's online information on how to go about exporting for people who need to know, and we have launched that. We have been active in working with small and medium-sized enterprises to extend their capacity to compete in a global market. It is vitally important that our small and medium-sized enterprises — which is where our job growth is and where our future lies — look to the world stage and to supplying to the world, and we are continuing to work on that process.

Sport: funding

Hon. KAYE DARVENIZA (Melbourne West) — I refer the Minister for Sport and Recreation to his answer to the house last week which detailed the federal government's cancellation of its funding agreement with the state for the delivery of grassroots sporting opportunities. Will the minister please advise the house of recent difficulties experienced in Victoria by sporting organisations as they attempt to access the federal government's newly revised funding program?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Honourable members will recall that last week I mentioned issues surrounding national sporting organisations and their funding and the ham-fisted approach taken by the federal government in introducing its new sporting program.

Certainly the issues relate to the fact — I did warn the house — that Jackie Kelly, the federal Minister for Sport and Tourism, was a bit of a loose cannon, and she confirmed that the following day by her remarks in Parliament.

I reinforce the fact that one of the significant components of the funding agreement the national sporting associations have with the federal government is that they must bring corporate support to that agreement. I quote:

> … the capacity of the sport to invest in the strategy itself and to bring a corporate partner to bear to support the strategy.

However, the issue is that to demand that of sporting associations in a post-Olympic year, when many sports are having to deal with significant pressures anyway, when sponsorships by many corporate organisations were brought forward by the Olympics and when sporting organisations are having to deal with travel and sponsorship issues that relate particularly to the Ansett collapse is absolutely deplorable because it places national sporting organisations in an impossible position.

An honourable member interjected.

Hon. J. M. MADDEN — I will tell you what the relevance is: the federal government reneged on its agreement to put funds through state governments into regional sports. The federal government said it would put the funds in at the top end in national sporting organisations, but the trouble is the national sporting organisations have not seen any of that money, and they are not likely to until they get a corporate partner. In this climate, with the collapse of Ansett significantly affecting most of the major sporting organisations across the country, there is very little chance of those sporting organisations being able to grab more corporate sponsorship or more corporate partnership, let alone keep what they have just lost through the collapse of Ansett.

It is a lose-lose situation for sport in this country, particularly in this state. We consider this state to be the sporting capital of Australia. It is unlikely that the majority of sporting organisations will attract sponsorships, and in turn what they will be able to achieve is now unclear. Certainly sporting organisations cannot understand the federal government's funding arrangements and what they are likely to do for them.

Essendon Airport: sale

Hon. A. P. OLEXANDER (Silvan) — I noted the response the Minister for Small Business gave to the question from the Deputy Leader of the Opposition, Mr Furletti, when she spoke about the Bracks government's concern for small business in rural and regional Victoria. Will the minister support the retention of Essendon Airport to support regional small businesses in this state?

Hon. M. R. THOMSON (Minister for Small Business) — The issue of Essendon Airport is one for the federal government. I understand a leasing arrangement on Essendon Airport has been entered into by the federal government.

Industrial relations: outworkers

Hon. R. F. SMITH (Chelsea) — Will the Minister for Industrial Relations inform the house what measures she is aware of that are currently being undertaken to prevent the exploitation of outworkers who currently make school uniforms in Victoria?

Hon. M. M. GOULD (Minister for Industrial Relations) — I thank the honourable member for his question and I know of his genuine commitment about this issue. The Bracks government is committed to putting an end to the exploitation of clothing outworkers in this state. The most effective way to do this would have been for the house to support the passage of the Fair Employment Bill. In the absence of that legislation being passed, federal changes are needed to deem outworkers to be employees and to provide common-law awards.

Apart from Western Australia, all other states deem outworkers to be employees. As recently as last Friday at the workplace relations ministerial meeting, even the industrial relations minister from the conservative South Australian government was astounded that outworkers are not deemed to be employees in this state. That has been the case in South Australia for many, many years.

As well as the important initiatives it is undertaking, the Bracks government is supporting the Fair School Wear campaign, which seeks to stop the exploitation of outworkers who make school uniforms in Victoria. Last month I was pleased to launch this campaign here at Parliament House. The launch was attended by a number of schools — private and independent — from across this state. At that launch four young schoolgirls did a skit on what they thought outworkers were. The very well done sketch, which went for only a few minutes, identified to all who were there the pressures put on outworkers, and their children, and the appalling conditions under which they work. The young students were calling on their schools and their communities to support the Fair School Wear campaign. It was terrific to see that those year 11 and 12 students were prepared to take up this campaign and encourage their schools to participate.

As I have indicated to the house the Fair Wear Group, which organises the Fair School Wear campaign, is a coalition of church, union and community groups concerned about the exploitation of outworkers. Every honourable member in this house should be concerned about the exploitation of these workers. The conditions under which they work and the pay they get are not acceptable and should not be tolerated in this state.

The Fair School Wear campaign encourages all those involved in the purchase of school uniforms to support products made by workers who are free from exploitation. The Bracks government supports this campaign. There is no place in today's society for that sort of exploitation. We will continue to grow the whole of the state and we will continue to work to support disadvantaged and exploited workers.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — I have answers to the following questions on notice: 1480, 1788, 1805, 1826, 1865, 1906–7, 1949, 1960, 1990, 1993, 2028, 2032, 2038, 2056, 2058–9, 2064, 2118, 2200 and 2204.

DRUGS AND CRIME PREVENTION COMMITTEE

Overseas study tour

Hon. B. C. BOARDMAN (Chelsea) presented report.

Laid on table.

Ordered to be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 10

Hon. M. T. LUCKINS (Waverley) presented *Alert Digest* No. 10 of 2001, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Financial Management Regulations 1994 — Order in Council of 11 September 2001, increasing the maximum amount which the Metropolitan Ambulance Service Royal Commission is authorised to incur.

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

Banyule Planning Scheme — Amendment C5.

Bendigo — Greater Bendigo Planning Scheme — Amendment C5.

Cardinia Planning Scheme — Amendments C15 and C22.

Dandenong — Greater Dandenong Planning Scheme — Amendments C18 and C21.

Hobsons Bay Planning Scheme — Amendment C20.

Indigo Planning Scheme — Amendment C6.

Manningham Planning Scheme — Amendment C3.

Maroondah Planning Scheme — Amendment C15.

Moira Planning Scheme — Amendment C2.

Moonee Valley Planning Scheme — Amendments C17 and C26.

Murrindindi Planning Scheme — Amendment C5 part 1.

Stonnington Planning Scheme — Amendment C12 part 1.

South Gippsland Planning Scheme — Amendment C1.

Statutory Rules under the following Acts of Parliament:

Children and Young Persons Act 1989 — Nos. 88 and 89.

Marine Act 1988 — No. 91.

Wildlife Act 1975 — No. 90.

Subordinate Legislation Act 1994 —

Minister's exception certificate under section 8(4) in respect of Statutory Rule No. 88.

Minister's exemption certificate under section 9(6) in respect of Statutory Rule. No. 89.

BUSINESS INVESTIGATIONS (REPEAL) BILL

Second reading

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

That this bill be now read a second time.

The purpose of the Business Investigations (Repeal) Bill 2001 is to repeal the Business Investigations Act 1958. The need for repeal was acknowledged following identification of the act for national competition policy review.

The act has three limbs and applies to businesses that are not conducted by a company. First, it prohibits persons hawking any interest whatsoever in certain businesses to members of the public. Secondly, it prohibits the sale of an interest in any business if the objects include acts that would be illegal if carried on in Victoria or where the establishment or continuance of the business would be illegal in Victoria. Thirdly, it permits the appointment of an inspector to investigate the affairs of a business where, for example, fraud or misfeasance is alleged. Following such an investigation the minister has wide powers, including to effect a winding up, to dispose of the business or to place it in the hands of trustees.

The act was designed to complement powers already available in respect of companies at the time it was first enacted in 1949. It has not been used for at least 20 years because it is largely redundant and its objects are achieved by more modern legislation.

For example, the act sought specifically to address the hawking of interests in bogus businesses and sale by deception of interests in businesses. Nowadays the Trade Practices Act 1974 and our own Fair Trading Act 1999 cover misleading and deceptive conduct in trade and commerce. These measures did not exist when this act was passed in 1958. Most businesses now operate through some form of corporate vehicle. Accordingly, they are regulated by modern corporations legislation. The offering of interests in business schemes is also now regulated largely by modern corporations and securities legislation.

The minister's power to wind up, dispose of or place a business in the hands of trustees is not constrained by any criteria or guiding principles. This is not only inconsistent with best practice, but is also arbitrary, does not respect principles of natural justice and does not promote open or good government. The modern remedy is to seek an injunction under trade practices or fair trading legislation. In any event, the act's investigation powers are no longer required, since appropriate powers exist in other diverse and more specific legislation.

The repeal of the act contributes to the maintenance of an up-to-date statute book and helps to ensure that business is clear about its regulatory rights and obligations.

I commend the bill to the house.

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

Debate adjourned until later this day.

AGRICULTURAL AND VETERINARY CHEMICALS (CONTROL OF USE) (FURTHER AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The Agricultural and Veterinary Chemicals (Control of Use) Act 1992 is the principal legislation for ensuring that the use of agricultural or veterinary chemical products does not lead to the contamination of agricultural produce and stock, or to financial losses resulting from damage to plants or stock. The act also imposes controls over the use of agricultural and veterinary chemical products to protect the environment, public health, the safety of chemical users and the health and welfare of animals.

The main purposes of this bill are to update the Agricultural and Veterinary Chemicals (Control of Use) Act 1992 to ensure that the act can continue to effectively address chemical use practices which have the potential to lead to contaminated agricultural produce or stock, as well as continuing to protect the health of users of such chemical products, the public and the environment. The bill also implements nationally agreed recommendations from the 1999 review of the legislation.

This bill represents an ongoing commitment by the government to protect Victoria's reputation for producing clean and green food. It underpins the government's Naturally Victorian marketing initiative to enhance Victoria's agricultural exports, whilst ensuring that increases in agricultural exports are achieved in an ecologically sustainable manner.

The bill has been developed through consultation with the Victorian Agricultural Chemicals Advisory Committee. This committee is established under the act to provide key stakeholder input into the legislation controlling agricultural chemicals in Victoria. The committee represents the interests of primary producers, aerial and ground-based chemical applicators, local government, chemical manufacturers, consumers and environmental interests.

The aspects of the bill that deal with veterinary practitioners are to implement nationally agreed controls over the use of veterinary chemical products. These parts of the bill have been developed in consultation with the Veterinary Practitioners Registration Board of Victoria, which has endorsed the proposed amendments.

The Agricultural and Veterinary Chemicals (Control of Use) Act 1992 is a part of a partnership between the state and commonwealth governments, and supports the national registration scheme for agricultural and veterinary chemicals.

The national registration scheme serves to ensure that only agricultural or veterinary chemical products which meet the standards of the national registration authority are available for sale in Australia. The Agricultural and Veterinary Chemicals (Control of Use) Act 1992 aims

to ensure that people who use agricultural or veterinary chemical products, which are made available in Victoria by the national registration scheme, use those chemical products in a safe and responsible manner. The act supports the national registration scheme by providing for the control of the aspects of the use of agricultural and veterinary chemical products that have the potential to lead to adverse consequences.

When agricultural or veterinary chemical products are approved for sale by the National Registration Authority for Agricultural and Veterinary Chemicals, a specific label is required to be placed on each chemical product. This label contains certain information that is critical to the safe and effective use of the product. The label also contains specific instructions to ensure that the use of the chemical product does not result in agricultural produce containing unacceptable levels of chemical residues, or adverse environmental impacts.

The bill extends the provisions of the act that provide for compliance with specific statements that appear on the label of a chemical product. This occurs when such statements are identified as mandatory in order to prevent the production of contaminated agricultural produce, or to protect plants, animals, the user, the public or the environment.

The bill amends the act to prohibit the use of chemical products intended for use on animals being used on plants. It also prohibits the use of chemical products intended to be used on plants from being used in the treatment of animals. An exception to the latter provision is provided to veterinary practitioners; however, this is to be limited to the treatment of individual animals in the course of the practice of their profession.

The bill also amends the act to limit veterinary practitioners in their use of chemical products that have not been approved by the national registration authority. In such cases veterinary practitioners will be limited to the treatment of individual animals in the course of the practice of their profession.

The bill strengthens controls which provide for acceptable standards in relation to agricultural spraying. This is aimed at avoiding adverse effects that may arise from off-target agricultural spraying. The bill provides for the protection of primary producers from off-target spraying which results in the contamination of agricultural produce or stock. This provision is to ensure that primary producers who are targeting markets for clean and green agricultural produce both in Australia and overseas are not disadvantaged by poor practices in relation to agricultural spraying undertaken on adjoining properties.

The bill extends the existing offences for providing false or misleading information in relation to the use of a chemical product. An offence will also apply to the provision of false or misleading information concerning the circumstances in which the product is to be applied. This provision only applies to cases where such information would cause a person who relies on the information to commit an offence under the act, or to contaminate or damage agricultural produce or stock.

The bill extends controls on contaminated agricultural produce, fertilisers and stock food. This will be achieved through new powers to issue notices and make regulations controlling the sale, handling, use, transport and disposal of contaminated agricultural produce, stock food or fertilisers.

The bill repeals the section of the act that provides for the secretary to provide statements as to whether plants or stock have been damaged by agricultural spraying. This section has not been operated for a number of years, as this function is being fulfilled by the private sector.

The bill extends the powers of authorised officers to allow for the effective enforcement of compliance with the act and regulations and orders made under the act. These provisions include the power to enter and search a premise with the written consent of the occupier, or in cases where there is evidence to indicate that the act has been contravened, power to obtain search warrants.

The bill provides for fees collected under the act in relation to licences and permits to be made available for assessing applications, monitoring operational standards of licensed chemical applicators, and monitoring compliance with and generally administering the act.

The bill benefits industry, regulatory bodies and consumers by ensuring that the Agricultural and Veterinary Chemicals (Control of Use) Act 1992 can continue to control the identified risks associated with the use of agricultural and veterinary chemical products.

This legislative foundation is necessary to support Victoria's reputation for clean food production and to meet increasing demands of Australian and international consumer for clean and green food products.

I commend the bill to the house.

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

Debate adjourned until next day.

AGRICULTURE LEGISLATION (AMENDMENT) BILL

Second reading

Debate resumed from 18 September; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. PHILIP DAVIS (Gippsland) — I am pleased to speak on the Agriculture Legislation (Amendment) Bill, and in so doing shall make a few remarks about what is essentially a small piece of legislation. However, I would like to make a point about the nature of the legislation the government has introduced in that it is a conundrum which the Parliament has to deal with. Not only is there a small workload for the Parliament in a legislative sense, but the matters the government is intending to bring before Parliament — and does so in this case — seem to be of insufficient weight for the Parliament to consider.

The bill makes a number of amendments to the Meat Industry Act to implement recommendations arising from an independent review of the act under the government's obligations to national competition policy. The purposes of the bill are to repeal a number of acts that are redundant legislation — namely, the Margarine (Repeal) Act 1994, the Quarantine Officers (Transfer) Act 1990, and the Tobacco Leaf Industry (Deregulation) Act 1994.

I do not propose to make further comment about those acts that will be repealed, but I intend to comment about the principal purpose of the bill, which is to deal with amendments to the Meat Industry Act 1993. As the explanatory memorandum states, the proposals include to:

> change the application of the Minister's exemption power from 'owners of meat processing facilities' to 'licensees' because the Act focuses on the requirements of licensees;
>
> limit the power to grant an exemption to 'classes' of licensees and 'classes' of meat processing facilities …

Further, there are proposals to:

> … limit the Victorian Meat Authority's power to place restrictions on who may conduct a required audit of a quality assurance program …
>
> … to add the following decisions of the Victorian Meat Authority to the list of decisions which can be reviewed by the Victorian Civil and Administrative Tribunal.

They are:

> refusal to approve a person or body to be an approved inspection service;
>
> imposing or varying a restriction relating to the suitability of persons to conduct a required audit of a quality assurance program of a declared facility.

Clause 6 repeals section 35(6) of the Meat Industry Act, which prohibits the slaughter for human consumption or sale for human consumption of meat from a horse or donkey. The final matter the bill deals with in its amendments to the Meat Industry Act is in clause 7, which substitutes proposed new section 46, which provides that a direction to the Victorian Meat Authority will have to be in writing and be published by the authority in the *Government Gazette* and its next report of operations under the Financial Management Act.

Having run quickly through the provisions of the bill I return to what I consider to be a matter of high farce — that is, that one of the principal provisions of the bill the government is introducing to make amendments to the Meat Industry Act 1993 amends the controls that are presently placed on the slaughter and consumption of horse and donkey meat. It is belaboured in both clause 2, the commencement clause, and the substantive clause 6, and great weight was placed on it in the second-reading speech. This is unfortunate in my view, and it is best to illustrate my point by quoting from the second-reading speech:

> The current provision potentially restricts consumer choice and is inconsistent with the treatment of other consumable animals which, if their slaughter were to be prohibited, would be prohibited by regulation under the act. As there is strong community sentiment regarding the slaughter of horses and donkeys, the government intends to maintain the prohibition by using the regulation-making powers of the act …

It is wasting Parliament's time for the government to bring legislation into the house to repeal a provision that prohibits an activity from occurring and in the same breath in the second-reading speech to spell out that it intends to reintroduce exactly the same provision by way of regulation. Further, it seems to me a most unlikely proposition that the substantive provisions of the bill deal with exactly that. The commencement clause clearly sets out a process that will be followed to allow sufficient time for the necessary consultations surrounding a regulatory impact statement to occur so that the provision can be introduced by way of regulation.

If Parliament is to consider important matters, it ought, certainly in the agriculture portfolio, to be considering matters that will have some profound impact on

primary producers in Victoria. As somebody who has spent most of his life as a primary producer, I am disappointed that Parliament is asked by the government of the day to consider such a trivial matter. There has been a national competition policy review and consultants have made a recommendation, but that will have no practical effect in terms of government policy. I find it highly farcical that such a matter should be brought before Parliament for consideration and deliberation.

While all of this has been going on and while Department of Natural Resources and Environment (DNRE) officers, learned consultants, ministerial advisers and the minister have been preoccupied with this momentous piece of legislation, what have we seen? In Gippsland we have seen meatworks going to the wall. In Gippsland alone, Tanjil Valley at Moe, A. W. Dark at Koo Wee Rup, Mooneys at Neerim South, Garfield Abattoirs and Prom Meats at Foster, which alone employed 100 people directly with a multiplier effect of probably 400 to 500, have gone to the wall while the Minister for Agriculture has been busy contemplating how he will repeal a provision in the Meat Industry Act and replace it by exactly the same provision by way of regulation. This is high farce.

Concerns are being expressed by farmers all around the state at present about the impact on their commercial viability of wild dogs being out of control. Not just in Gippsland but in north-eastern Victoria and western Victoria there has been a higher level of complaints about the incidence of wild dog attacks on stock than has been experienced for many years. Concerns are also being expressed about uncontrolled weeds and the debate is about who is responsible for roadside weeds.

Hon. B. W. Bishop — A good debate.

Hon. PHILIP DAVIS — It is a good debate, Mr Bishop, and we have had that debate a number of times. The problem has been exacerbated by a lack of effort on the part of DNRE and Parks Victoria in controlling weeds on public land. It is becoming a major economic blight for Victoria's farmers.

Notwithstanding the policy commitment at the last state election by the then opposition, the ALP, to resolve the difficult issue of ovine Johne's disease control in Victoria we still have no policy that provides a certain outcome for sheep producers. It is clear that all of those matters have been left unattended while the minister has been busy worrying about repealing a piece of legislation so he could then immediately embark on a regulatory impact statement process to enable him to reintroduce the same provision by way of regulation. It is disgraceful.

Further, since 23 February this year the United Kingdom has experienced the worst outbreak of foot-and-mouth disease it has ever experienced, with momentous economic loss. I am talking about several thousand farms being affected in the UK, and the implications are clear for Australian farmers, and particularly for Victorian farmers.

There is no doubt that at this time the efforts of the Minister for Agriculture should be directed to establishing how Victoria should deal with the potential risk. There is a high risk, given the international traffic between Australia and the UK, albeit lessened because of recent international incidents. No other state faces the level of risk from foot-and-mouth disease that Victoria faces. The reason for that is that in the densely stocked agricultural environment in the south-east corner of Australia we have the most productive grazing land in Australia.

I find it perplexing that despite those important matters the Minister for Agriculture should have exhorted DNRE's legislative branch to produce such a flimsy piece of legislation. It seems the minister has no interest in the impact on farmers of the collapse of the meat processing sector, which is largely attributable to increased costs. One of the major increased costs faced by the meat processing industry has been the increased Workcover premiums. By way of example, the estimated increase in premium for Prom Meats alone in the last financial year is about $250 000.

Nevertheless it is important for us to recognise that this bill deals with horses and donkeys, but particularly horses which are important to Australians. Australians have a very keen attachment to their horsing heritage as is regularly evidenced around the Parliament. Indeed, only last Tuesday the mountain cattlemen held a visual, static display on the steps of Parliament House.

Hon. E. G. Stoney — It was big.

Hon. PHILIP DAVIS — It was very big and, just to help them out, Mr Stoney ensured that the whips were cracking. Some parliamentarians who are interested in what the cattlemen are up to were able to had some useful discussions with them. The mountain cattlemen and other farmers represent a view of a heritage which is profound in the Australian context. Many people have grown up in rural environments — I for one started riding at a very young age — and many of us have fond memories of Shetland ponies which had rather strong minds of their own. I have to say that

my own experience is that I had far more sense of control of stockhorses later in my life than I ever did of a Shetland pony. At a personal level I understand the reticence concerning the consumption of horsemeat. I must admit to having eaten horsemeat albeit only once in my life and I probably would not elect to do so again. I was not discomforted by the taste of the horsemeat I had in a beer hall in Germany and I did enjoy the experience as such, but I had some difficulty when I thought about all of the stockhorses I have had over the years and I could not get into the swing of this eating of horsemeat. I empathise with people who have difficulty with that notion.

However, that does not help me understand what is in the mind of the government which has put so much effort and emphasis into what frankly in many respects is trivial legislation that is now occupying the Parliament. I would warrant it is important that the government and the Minister for Agriculture attend to their responsibilities to deal with the significant issues facing the farming community at this time. Therefore, I can say that I cannot support the bill overtly, but I will not oppose it.

Hon. B. W. BISHOP (North Western) — I welcome this opportunity to speak on behalf of the National Party on the Agriculture Legislation (Amendment) Bill. In following on from my colleague the Honourable Philip Davis I must admit that I feel some agreement with his view that this is a very minor piece of legislation. I also agree that the Minister for Agriculture would be well served if he were to focus on some other issues concerning his portfolio. Mr Davis mentioned many of the issues which sprang to his mind and I can think of one other — that is, the plight of the Robinvale table grape growers who have suffered some very adverse conditions for the fourth year in a row. The Minister for Agriculture was in the area some months ago to address the problem. We are now starting to get to the sharp end of the situation as those growers are encountering substantial costs in readying their crops for next year but there is still no decision.

Nevertheless while this is a minor piece of legislation it is important in its own way because it deals with the safety of food and particularly meat. While the bill probably will not have an earth-shattering effect it is reasonable for this house to reflect on how fortunate we in Australia are with the safety of our food. I have been fortunate enough to travel in many parts of the world and I believe people do not recognise the importance of the cleanliness of our food and the regulatory processes we have to ensure our continued good health until they travel out of Australia. The quality of the food we sell on the domestic market for both the production of food and consumption by people within Australia and the quality of the food we provide for consumption by the world — Australia is renowned for the quality of the food it sends to the international markets — is important and there is some reflection of that in this bill.

We have quality assurance programs throughout the entire spectrum of the food chain — on the farms and in the storage, transport and processing areas. I am confident that the target we have in Victoria of $12 billion worth of food exports by 2010 — which I note was set by the previous government and supported by this one — will be achieved, but it will not achieved unless we keep at the task. In some cases it will be tough going. I urge the government of the day to ensure the necessary links are put in place in the chain to ensure that the target we are all striving for is reached without hiccups along the way.

Research is one of the most important things we will ever have in food safety. In agriculture per se research is probably one of the most important factors underpinning the sector. It is not only the research that is important but also the assurance that the information generated from that research goes into the production area. I think that has always been the tough one. I know that during my farming career I used to look for the issues coming out of research, but it is sometimes difficult to get that information out into the wider community and ensure that all those innovations and production incentives are picked up. The government should strongly support the quality assurance programs now in place not only in the production, processing and storage areas but also in the transport area which is particularly important as our products head for domestic and export markets. I will make some comments about the auditing of those areas later.

This bill has been introduced in response to an independent review of the national competition policy process. The review supported the basis of the high standards of our food safety industry and revolved around the Meat Industry Act 1993. That review recommended a few amendments to that act and we find them in this bill. The bill also repeals three spent acts in the agricultural portfolio — the Margarine (Repeal) Act 1994, the Quarantine Officers (Transfer) Act 1990 and the Tobacco Leaf Industry (Deregulation) Act 1994.

Clause 1 sets out the main purposes of this bill. They are:

(i) to provide for review of further decisions of the Authority —

that is the Victorian Meat Authority —

> by the Victorian Civil and Administrative Tribunal;
>
> (ii) to limit the Minister's power of exemption to classes of licensees and classes of meat processing facilities;
>
> (iii) to limit the Authority's power to impose restrictions on persons who may conduct audits of quality assurance programs.

The bill also expands on a person or organisation's appeal options to include the Victorian Civil and Administrative Tribunal, or VCAT as we know it. Clause 5 sets out the appeal areas quite well. They are refusal to approve a person or body to be an approved inspection service or the imposition or variation of a restriction relating to the suitability of persons to conduct a required audit of a quality assurance program of a declared facility. That is a reasonable and practical way to go about protecting a person's or an organisation's right if they believe the Victorian Meat Authority is too tough or has simply got it wrong through the process.

I know most members of this house, particularly country members, have probably had some dealings with the Victorian Meat Authority. I had some dealings with it just recently. What I am about to say is not in any way a criticism of the VMA, but there is no doubt that at times many of the operators it deals with think the authority is overbureaucratic and at times pedantic. But honourable members should think about the history of the meat industry in Australia for a minute. It may be bureaucratic and it may be a bit pedantic, but it does have a substantial responsibility for upholding the standards of a very important industry to Victoria and Australia as a whole. I for one will not forget that.

I remember debating a bill about food standards in this house a few years ago. I remember a photograph from a newspaper article being displayed in which a gentleman was getting out of a food carriage vehicle delivering a nice-looking lump of meat in his hand. I think that was a graphic example of the need to uphold food standards throughout Victoria and indeed throughout Australia.

However, it needs to be done with a balance of understanding. I will bring a couple of issues to the house's attention this afternoon. One is that the Victorian Meat Authority must maintain our high standards. There is absolutely no doubt about that, I believe, in the Parliament and in the wider community.

The other point is that due to the nature of the meat industry, the authority must have the capacity to provide accountability and transparency. However, operators must have crisp and quick decisions so they can proceed with their work. To put it as simply as I can: if the VMA cannot provide quick and accountable decisions, the opportunity for some of our operators could be lost, particularly in today's world of quick decision making and particularly in the export market.

I suspect that the issues in clause 5 relating to the suitability of people to conduct inspections or audits will not often end up with the Victorian Civil and Administrative Tribunal, or VCAT. But if they do I want to make sure they do so with some expediency so that decisions are not held up. I understand VCAT has been fairly busy with its work and processes over the years, so I would not like to see any appeals held up in that process. I suspect that comes down, in a way, to the resourcing of VCAT. That is an issue the minister could respond to in this debate and look at further down the track, taking the point that decisions need to be made as quickly as possible.

I refer to paragraph (ii) in the purposes clause, which states:

> … to limit the Minister's power of exemption to classes of licensees and classes of meat processing facilities …

That appears, again, to be a sensible amendment that simply limits the minister's capacity to provide exemptions to individual businesses and classes of licensees and classes of meat processing facilities. In that way there cannot be any — if you want to put it this way — picking of winners on an individual basis. It still retains — and I think this is very important — the flexibility to change the system to meet a particular market requirement.

I again come back to the fact that our industry may from time to time need to make quite quick decisions to ensure we capture whatever the market moment might be. In the same way, we need to safeguard the industry itself and also the individual operators so that everyone will have that elusive level playing field we chase most of the time.

Paragraph (iii) states that a further purpose is:

> … to limit the Authority's power to impose restrictions on persons who may conduct audits of quality assurance programs …

I am not sure why that paragraph is here. I have not experienced the VMA being unreasonable in that particular area or heard that its powers are too wide or even too narrow. In the past the VMA could impose restrictions on people who conducted the audits on meat processing facilities that have quality assurance programs. The change is that the VMA will impose restrictions on the suitability of the people conducting

those audits. I suppose that is a good thing in a way. It certainly would focus the VMA on the qualifications of the people who would be conducting those audits and whether in fact they had the experience and expertise to proceed with them. We all believe the audits are very important to the safety of our food products, particularly in the longer term.

The minister commented that they would depend on the merit, competence, training, expertise and qualifications of the people. I suppose my query during this debate is, that is all very fine, but is there a base requirement for a suitably competent person? Perhaps the minister in this house might care to comment on that as well in summing up the debate.

My good friend and colleague in the other place the honourable member for Swan Hill has spent a lot of time and effort on food and food safety. In our travels throughout his electorate and mine we have often raised the issue — and this is one I very much agree with — of the system of audits throughout our food industry. We have very good quality assurance programs and processes in place. But we believe we need more auditors and a recognised audit standard for our industry. It appears that the joint accreditation system of Australia and New Zealand or the national registration authority would be reasonable places to start in establishing a national standard.

One or the other might be the better. I know some people support the joint accreditation system of Australia and New Zealand. But I note — and Mr Philip Davis would be interested — that representatives at the annual conference of the Victorian Farmers Federation talked about the maximum residue limit anomalies. They passed the following resolution:

> The DNRE recognise the national registration authority's maximum residue limits and not the Australian New Zealand Food Authorities code.

There seems to be a bit of confusion running around in the industry, but I understand we do not have a deadset national standard that can be applied across the whole of the industry. I am just as clear that we need one, and I urge the government to work particularly in national interests and in the federal area to see if we can put in place a national standard which would be important for this country and other countries whom we wish to trade with. If that were the case it would be a real advantage to have national audit standards which would underpin the industry in a substantial way.

I have noticed as I go around the electorate that in some cases we need multiple audits. That is another good example where a national standard and a nationally recognised audit system would be of benefit.

More and more we see large supermarket chains with huge purchasing power having their own standards or quality assurance programs and unless the producer or supplier or both agree and come up to that standard their produce is not accepted into those supermarkets. So supermarkets are playing a leading role in setting standards.

It is a good idea to have a national standard recognised throughout the country. For example, a national standard may be recognised and if a supermarket has a particular view on some product it can add on the pieces it wants in relation to that standard, but at least we will have a base standard on which to work. The National Party urges the government to put in place, with the help of the federal government, a national standard and training that is sorely needed in Victoria.

I come back to the apparent confusion in the industry about having two organisations and I suspect slightly different standards, so we need to tidy that up. I urge the government to do that if it can. Mr Davis referred to clause 6, which is a strange clause.

Hon. E. G. Stoney interjected.

Hon. B. W. BISHOP — Perhaps, as Mr Stoney says, it is a hobby horse. Mr Davis relayed a story about a Shetland pony. When I went to school one of my mates had a Shetland pony and it could accelerate very quickly and was impossible to stay on. Stock horses may be easier to manage. When I visited my good friend David Treasure in the high country the time before last, I arrived when he was taking his cattle up into the hills for their summer holidays. I had not ridden a horse for nearly 30 years and I nearly killed the horse and myself, but we both survived.

Clause 6 repeals section 35(6) of the principal act, which prohibits the slaughter or sale for human consumption of meat from a horse or donkey, but the government is implementing the same provision by regulation. It is the thimble-and-pea trick — with one hand it is taking it away and with the other it is putting it back! The minister may explain that provision when summing up the debate.

Clause 7 will improve the accountability and transparency of ministerial power by ensuring that any ministerial direction to the Victorian Meat Authority is in writing and that the authority must publish that directive in the *Government Gazette* or the annual report of the authority. That is a good idea. Although the *Government Gazette* or the annual report of the

authority are not best sellers in the literary sense, it is important the directive is on the public record so people in the industry can refer to it when necessary.

In conclusion I suspect the bill will not change the world, but it will improve a number of processes that have evolved over time in the meat industry while continuing to protect the security and safety of our food, which is very important.

The National Party does not oppose the legislation but I have made a number of suggestions to the minister during the course of my contribution and I request that those suggestions be considered, particularly the issues dealing with the auditing process within agriculture and other industries and the move to clear national standards.

Hon. R. F. SMITH (Chelsea) — I speak in support of the Agriculture Legislation (Amendment) Bill. I do not know a great deal about farming, the meat industry or horses and donkeys, other than the type you can bet on. However, in a small way the bill deals with some of the serious matters that exist within the industry and it is important to remind Parliament and the public that the meat industry is extremely important to Victoria, not just for employment, but with its export markets.

In looking at the conditions that prevail in Victoria regarding the environment and the meat industry I am disappointed that the industry is not larger. With some genuine commitment from all parties involved, including the Meat Workers Union, which has a significant contribution to make, the industry could be bigger than it currently is.

The bill amends the Meat Industry Act 1993 in response to a review commissioned by the government in 2000. The bill repeals three spent acts — the Margarine (Repeal) Act, the Quarantine Officers (Transfer) Act and the Tobacco Leaf Industry (Deregulation) Act. Under national competition policy an independent review was undertaken and the review found that most current restrictions that prevail were justified and helped to ensure that the high standards we currently have in the industry are maintained, and in terms of world best practice it is extremely important to maintain as high a standard as possible not just to retain confidence in the domestic market, but particularly in export markets. For example, our Middle Eastern markets have real issues in maintaining quality control.

Several amendments were recommended and the government has agreed to implement them. I am pleased that although the Liberal and National parties do not agree with the bill, they are not opposing it. Their lead speakers have said clearly why they do not oppose the bill, which will be duly noted.

Clause 3 amends ministerial powers under the act. It limits the ability of the minister to provide exemptions from the act to individual businesses by restricting exemptions to classes of licensees and classes of meat processing facilities.

Clause 4 amends section 12A of the act to limit the power of the Victorian Meat Authority to place restrictions on who may conduct a required audit of a quality assurance program. Clause 5 deals with transparency and accountability issues. It provides rights of appeal to the Victorian Civil and Administrative Tribunal to people who fail to have their applications for inspection licences approved.

Clause 6 repeals section 35(6) of the act, which prohibits the slaughter or sale for human consumption of meat from a horse or donkey. Why anyone would want to eat the meat of a horse or donkey is beyond me, but apparently some people do and some different cultures enjoy that meat. At the moment the slaughter of horses and donkeys for human consumption is allowed, although the government recognises the strong public objection and sentiment involved with that, and therefore will use its regulation powers to prevent that from happening.

In response to Mr Bishop's comments I understand the section is being repealed because it is easier to handle this problem administratively by regulation. I am sure the minister will expand on that issue in her contribution when concluding the debate.

Clause 7 provides greater accountability and transparency of the minister's decisions. They will now have to be made in writing and promulgated in the *Government Gazette* and in the authority's annual report. The amendments to the act will allow the meat industry and the government authority, which currently work well together when all is said and done, to continue to do so in a cooperative manner and to ensure that we maintain world best practice in this particular industry.

Clauses 8, 9 and 10 of the bill will repeal the Margarine (Repeal) Act 1994, the Quarantine Officers (Transfer) Act 1990 and the Tobacco Leaf Industry (Deregulation) Act 1994. Those acts have all served the purpose for which they were intended, and repeal of the Quarantine Officers (Transfer) Act will not affect the rights of the officers who at the time were transferred from the commonwealth to the Victorian public service. Given the current conditions within mainstream society when

people are losing their employment or businesses are being transferred, it is noteworthy that they will not lose their rights.

Similarly the repeal of the Tobacco Leaf Industry (Deregulation) Act will not affect the transfer of the former Tobacco Leaf Marketing Board's property rights and liabilities to the Tobacco Cooperative of Victoria Ltd.

The Margarine (Repeal) Act ended the former outdated licensing scheme for the manufacture of margarine. Having said that, it seems to me that while the bill is small in length it is important and it does finetune the act. I therefore commend the bill to the house.

Hon. E. G. STONEY (Central Highlands) — Firstly, I agree with Mr Philip Davis that this is a paltry and insignificant bill. As Mr Davis did, I have considered the other issues now running in rural Victoria that are not being addressed. I have just scribbled them down and my list is almost identical to that of Mr Davis — things like ovine Johne's disease, weed control, the fencing of Crown land, wild dog control, and Workcover and its effect on abattoirs and other industries. There is one that even Mr Davis, in all his wisdom, missed — the issue of water. Water for agriculture is the biggest issue in rural Victoria. Will the environmental flows down the Snowy River affect the availability of water for agriculture? Although we need to ask lots of questions about that, those issues are not being addressed by the government.

A section of the bill that does take my interest relates to the issue of horse and donkey meat. I have had personal experience of sending old horses to the knackery — a very difficult thing to do. The horse that has carried you well over the years through rough country and over mountains and through rivers. It is hard to send him up the ramp, onto the truck and off to the knackery. It is very hard to send a packhorse, especially if it is the quietest packhorse you have — the one you always put the grog on and that has faithfully carried your grog for many years. Sending him down the road is not an easy thing to do. However, that is part of farming; it is part of owning animals. It is very important that farmers can, if they wish, maximise returns from all their animals including horses. It is certainly important to maximise our return on feral horses and donkeys, of which there are many thousands in Australia.

Mr Davis referred to clause 6, which repeals section 35(6) of the Meat Industry Act which prohibits the slaughter for human consumption or sale for human consumption of meat from a horse or a donkey. This means that at present it is illegal in Victoria to sell horsemeat for human consumption, but that provision is about to be repealed; and, as has been identified by other speakers, is to be replaced by regulation. But I am heartened by the repeal of this provision because it just may leave the door open for a change at a later date.

I will state my position that I can see no reason at all why people cannot purchase horsemeat to eat if they wish to do so. I probably agree with Mr Smith that it is not exactly my cup of tea, but I know by the figures that there are many people in the world who do enjoy eating horsemeat. I refer to the intention as outlined in the second-reading speech:

> As there is strong community sentiment regarding the slaughter of horses and donkeys, the government intends to maintain that prohibition by using the regulation-making powers of the act.

It is a great pity that the government has decided to do this. I have undertaken a bit of research on the history of horses in Victoria, and I am absolutely indebted to Patricia Ellis who is the principal veterinary officer, horse industry programs, in the Department of Natural Resources and Environment. I apologise to Hansard because I have to raise the question of hippophagy — I think I am pronouncing it correctly — which is the eating of horsemeat. In her paper Patricia Ellis states that hippophagy may seem a bit unusual or even abhorrent to horse lovers but that its origins may be found in the mists of time. She states that horsemeat was first utilised by the early historic Eurasian tribes but she then explains that as the horse became more and more important to tribes and was used more and more in the progress of mankind the consumption of horsemeat fell. She states that there is quite a strong horsemeat taboo which persists to this day, and that arose in England and in other countries where Anglo-Saxon missionaries classed hippophagy as equally as sinful as idolatry and they considered those who eat horsemeat to be pagans. There was a change to this in the 19th century when with war and revolution horseflesh consumption was encouraged because it provided animal protein. The practice became more and more established so that today horsemeat in France represents 2.3 per cent of total meat consumption. Patricia Ellis also states that older French people still enjoy horsemeat but that this is becoming a little bit unfashionable.

The relevant thing for Australia and Victoria is that in Australia horsemeat is not sold for human consumption. It is produced for export at export abattoirs, both for pet food and for human consumption, but it is used only for pet food in Australia. Australia has two export licence abattoirs for horse and donkey meat — one at Caboolture in Queensland and the other at

Peterborough in South Australia — and they handle about 40 000 horses for export. About 20 per cent of those are feral horses. It is clear that abattoirs in this country, with an export industry relying on feral horses which do a great deal of damage, are of great benefit to both the environment and the Australian export economy.

In the 1970s Australia exported only 32 tonnes of horsemeat, but it rose in the 1990s to 9000 tonnes, and at this point it is probably a lot more than that. The industry is not large but it is significant. As I said earlier, if there is local demand for a product it should be encouraged and become part of what we are allowed to do in Australia.

Knackeries are different from abattoirs. Knackeries exist in most parts of Australia. They render down horses for pet food and fertiliser, and there are lots of by-products, such as horse hides, hair and bone meal. They provide a very useful service to horse owners whose pets might have died and who have no way of getting rid of them, people who have unwanted horses or people who are unable to get rid of their horses in any other way.

In closing I would like to quote from Patricia Ellis to put the subject into context, which is quite important in this debate. Ms Ellis states:

> Putting cultural differences and attitudes to hippophagy to one side, the following comments by Greer … are still relevant: 'There is a need for greater social acceptance of well-run, humane horse abattoirs'.

Greer goes on to say that they should be well-spaced throughout the country and should be closer to the main population of horses, that that would mean a greater use of a resource and that perhaps an emerging market could be developed. The quotation from Greer continues:

> … and environmental damage from overpopulation of horses would be diminished.

There we have it. There are no horse abattoirs in Victoria, only knackeries. There are only two abattoirs for horses in Australia — at Caboolture and at Peterborough. A contact of mine in the industry tells me that the export price for Australian horsemeat is quite significant. He tells me that for the past 10 years it has been impossible for anyone but the people who are doing it now to export horsemeat. People have tried, and it has been left on the wharves, so there is a whiff of something that is not quite right in the industry. Perhaps that is something the officials and the bureaucracy could look at.

I understand the Caboolture abattoir processes about 100 horses a day, seven days a week, and that Peterborough processes about 300 horses a week. There are about 18 licensed knackeries in Victoria, which, as I have said, mainly produce pet food and fertiliser. Horses are handled through private sales and auctions at Echuca, Benalla, Wodonga and a few other places. It is a very specialised industry — almost a closed shop, if you like, but within that closed shop some questions are being asked.

As I said earlier, I make no secret of my position. Horses are part of our farming resources in Victoria and Australia has a high ethnic population. There is a growing demand for low-fat meat and for game-type meats, and I believe we should make it possible for private enterprise to test the market and see what is there. It does not make sense that our horsemeat is processed in an export abattoirs and exported but it is illegal to sell it here. I just do not understand the rationale for that. I suggest we should re-examine the way horse and donkey meat is handled in Victoria and in Australia. I would certainly support such a change in Victoria. I reiterate that I do not oppose the bill.

Hon. S. M. NGUYEN (Melbourne West) — I would like to speak in favour of the Agriculture Legislation (Amendment) Bill. As other speakers from both sides have said, this is a small bill, but it makes some necessary changes to the legislation.

The second-reading speech refers to the need to maintain a high standard of food safety, an issue most honourable members have not referred to in debating the bill. The state government commissioned a review of the Meat Industry Act as it applies to food in Victoria. This state produces a lot of meat, and product that is exported overseas is highlighted by the bill.

The proposed legislation repeals the Margarine (Repeal) Act 1994, the Quarantine Officers (Transfer) Act 1990 and the Tobacco Leaf Industry (Deregulation) Act 1994. The bill reflects action taken to encourage business in Victoria to be more productive and limits the ability of the minister to provide exemptions from the act to individual businesses.

I will refer to clause 2, but before doing so I indicate that the bill has arisen because of an independent review of the Meat Industry Act 1993 to meet the government's obligations under national competition policy. The review was undertaken by the Public Sector Research Unit of the Victoria University of Technology and it recommended 16 changes to the act. One recommendation relates to clause 3, which amends section 5 of the Meat Industry Act. The review found

that there was potential for the minister to discriminate between businesses, and therefore it recommended that the minister's power be limited to exempting only classes of owners and classes of meat processing facilities. In addition to implementing the review's findings, clause 3 also changes the application of the minister's exemption power from owners of meat processing facilities to licensees, because the act places obligations on licensees.

Another recommendation relates to clause 4. Section 12A(2)(d) of the Meat Industry Act gives the Victorian Meat Authority the power to impose restrictions on who may conduct any required audit. The review found that the open nature of this power could allow the authority to impose restrictions on auditors unrelated to their competence to conduct audits, and it could prohibit entry to persons for reasons unrelated to the object of the act. The review recommended that the power of the authority to impose restrictions on who may conduct audits be amended to limit the exercise of the power to the imposition of restrictions related to the suitability of a person to conduct an audit.

Clause 5 refers to the Victorian Civil and Administrative Tribunal. Under section 24(1)(b) the act currently confers a right to apply to VCAT for review of a decision of the authority to impose a condition or restriction when granting or renewing a licence.

Clause 5 amends section 24(1) of the Meat Industry Act and provides for refusal of an application for renewal of a licence, so people are given a say on who is good or bad, and on whether people should receive a licence renewal. The section also talks about cancelled licences. They are the main changes brought about by the clause. It encourages people to have a say about licence renewal.

I turn to the issue of exports. Australia wants to sell its meat to overseas markets, and we must ensure our food is of a high standard and is safe for consumers, not only those in Victoria but also overseas. Overseas consumers have a right to expect safe, healthy food products. We must ensure that Australia has high standards aimed at protecting all consumers.

There has been talk of exporting lamb to Middle Eastern markets. Australia has a large lamb industry and these markets have very strong potential because there are different ways of killing animals in those areas. Many Middle Eastern people prefer lamb to any other food. It is a product that is very expensive in their country and therefore there is a high demand for Australian lamb. Australia has not developed this opportunity.

Many years ago I was approached by Middle Eastern business people who were happy to learn about Victoria's potential to export meat to the Middle East. It is a new market for Victoria because we can supply and send the whole sheep overseas for overseas markets to produce meat products. Those business people were trying to work out the best way to export lamb with regard to cost, time, efficiency and all the other issues that need to be considered. The government is right to amend the bill to permit overseas opportunities. It is also proper to ensure that people involved in the meat industry know how to handle meat to ensure it is safe for consumers.

Clauses 8, 9 and 10 repeal the Margarine (Repeal) Act 1994, the Quarantine Officers (Transfer) Act 1990 and the Tobacco Leaf Industry (Deregulation) Act 1994. The Margarine (Repeal) Act 1994 repealed the Margarine Act 1975, which provided for the licensing of margarine producers and the refund of licence fees for licences held under the Margarine Act 1975. Refunding of licence fees was finalised at the time of the repeal.

The Quarantine Officers (Transfer) Act 1990 provides for the transfer of nominated commonwealth quarantine officers to the Victorian public service on an appointed day. Some 17 officers were transferred under this act on 2 August 1990. The act had its impact on 2 August 1990, and therefore repeal of the act would have no impact on the entitlements, accrued benefits and salaries of the transferred officers.

The Tobacco Leaf Industry (Deregulation) Act 1994 provides for the transfer of the property, rights and liabilities of the Tobacco Leaf Marketing Board to the Tobacco Cooperative of Victoria Ltd on an appointed day.

The bill is minor but it is very important for people involved in the industry. I am sure the government has looked at a range of issues and talked with many people, especially those who have input into Victorian Civil and Administrative Tribunal decisions. I therefore support the bill.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I looked at the bill with great interest. I spent some time reading it, considering what it meant and trying to draw some conclusions about what the government was doing with the bill. In the end the only conclusion I could draw was that the government was not doing anything because, as is typical of the government's legislative program, there is very little to do.

For the past 15 minutes I have listened to the Honourable Sang Nguyen carefully read his speech into *Hansard*, and I have concluded from that that the government is not doing anything with this bill. I am sure Mr Nguyen's speech was carefully prepared by departmental officers, but it does not give us any insight into what the government intends to do with the bill.

I should place on the record the reason for my interest in the bill and in agricultural matters. It is not well understood that my seat of Eumemmerring Province is 75 per cent to 80 per cent rural at the Pakenham end.

The shadow minister, the Honourable Philip Davis, shows mock surprise because he is a person who travels through my province regularly to attend Parliament and would be well aware of the composition of that province.

Hon. Philip Davis — Your colleague, Mr Lucas, has a sheep station, doesn't he? With how many sheep — five?

Hon. G. K. RICH-PHILLIPS — I shall get to Mr Lucas's sheep station in due course.

It is for that reason that I have much interest in the bill and the meat industry generally.

Hon. B. C. Boardman — What about Eumemmerring?

Hon. G. K. RICH-PHILLIPS — I shall come to Eumemmerring shortly, Mr Boardman.

The meat industry strategy on the Department of Natural Resources and Environment home page has some interesting statistics about the quantum of the meat industry. According to the DNRE web site the Victorian meat industry accounts for approximately 25 per cent of the national beef, veal, sheep meat, pig meat and poultry meat production. About five years ago 21 per cent of national beef and veal production was from Victoria, 29 per cent of lamb production, 27 per cent of pork production, 23 per cent of poultry meat, and so on. Victoria is a significant contributor to the meat industry in Australia. It is for that reason that the bill and its amendments are important.

My province has significant meat handling facilities, one being the Victorian Livestock Exchange (VLE), which is now one of the leading livestock saleyards in Australia, having largely replaced the operations that formerly took place at the Dandenong saleyards. Some honourable members would be aware that that site has now been vacated, and the City of Greater Dandenong is hoping to raise $7 million or $8 million from the sale of the land to build a Taj Mahal in the centre of Dandenong, which I hope does not happen. Those operations have moved to a state-of-the-art facility in Pakenham which I am pleased to have in my province and which supports the surrounding meat processing facilities.

The Victorian Livestock Exchange is moving forward in its development as a livestock trading facility. It recently obtained a government grant to extend what is known as the e-tag process for livestock tagging to all animals that are handled through that facility. That process makes possible whole-of-life tracking of an animal from the time it is born to the time it is slaughtered, which assists with exports to the European Union and other parts of the world. It tracks information on the life cycle of an animal, such as where it was bred, the animals from which it was bred, its disease history and so on. It is an innovative program that shows how progressive the VLE is. It is a business that employs a significant number of people in the Pakenham area and is one of the success stories in Eumemmerring Province.

In his contribution Mr Nguyen touched on some of the provisions as outlined by the department, but the bill does not do a great deal. It is interesting to see the way the government handles such bills, because under the previous administration bills of this nature repealing redundant legislation and making other minor changes would have been handled en masse, but because the government has a thin legislative program it breaks these minor matters up into individual bills to pad the notice paper and make it appear as though it is doing something.

Clause 3 amends the way the minister can provide exemptions under the Meat Industry Act by altering language that allows the minister to exempt individuals and individual meat processing facilities. The minister will be able to provide an exemption from the act or part of the act only to classes of owners or operators or classes of meat processing facilities. It is not desirable, as would be possible under the existing act, for a minister to be able to use his or her discretion for the benefit of individuals rather than classes of owners or operators. That is a positive amendment.

In similar vein clause 4 seeks to change the way the minister can reject a person from participating as an auditor. Section 12A of the principal act allows the meat authority to require an operator with a quality assurance program to appoint an auditor to audit how that program is being implemented, whether it is being complied with and how successfully it is being followed. Under the act the authority has the power to

restrict who can be appointed an auditor. It is an arbitrary power in that it does not define the basis on which the minister can restrict or deny a person's appointment as an auditor. The bill provides that the minister may impose restrictions relating to the suitability of a person to be appointed as an auditor. The intention is to provide criteria on which the minister may reject someone's appropriateness to be an auditor in a facility.

In making its amendment the government has not had regard to section 12A(2)(c), which requires that the authority:

> must specify the minimum qualifications or experience that must be held by the person who is to conduct any required audit.

That allows the authority to exercise the discretion that appears to be removed by the amending clause. What the government will achieve is questionable, when section 12A(2)(c) appears to give the authority almost blanket discretion to act in that way in any case. Clause 6 of the bill is interesting — —

Hon. B. C. Boardman — Tell us about it!

Hon. G. K. RICH-PHILLIPS — Certainly, Mr Boardman, I should be delighted to tell you about it. Clause 6 states:

> In section 35 of the Meat Industry Act 1993, sub-section (6) is repealed.

That would mean little to anyone not aware of the contents of section 35(6), which states:

> A person must not slaughter for human consumption or sell for human consumption meat from a horse or donkey.

It is interesting that that provision should be included in the principal act because section 35(1) of the principle act states:

> subject to this section, a person must not sell for human consumption meat from a mammal that is not a consumable animal.

In the definitions of the principal act 'consumable animal' includes horses and donkeys. It is interesting that section 35(6) should specifically prohibit the slaughter for consumption or the sale for human consumption of horses or donkeys.

I note in the minister's second-reading speech of this bill that the government's intention is unclear because her speech is somewhat contradictory. It states:

> Clause 6 of the bill repeals the specific ban on the slaughter and sale for consumption of horses and donkeys. The current provision potentially restricts consumer choice and is inconsistent with the treatment of other consumable animals which, if their slaughter were to be prohibited, would be prohibited by regulation under the act.

The minister states that the government intends to create regulations to prohibit the slaughter and consumption of horses and donkeys.

On the one hand the minister says that the existing provision potentially restricts consumer choice but then on the other hand says, 'We will impose the same condition under regulation anyway'. Even after the passage of the legislation the creation of the new regulations means we will continue to be denied the opportunity to slaughter and consume horses and donkeys. I will be interested to hear the minister's reason for the specific prohibition on the slaughter and consumption of horses and donkeys.

Clause 7 further amends the Meat Industry Act and strengthens the accountability requirements of the authority. The remainder of the bill repeals other legislation on the books.

Clause 8 is interesting in that it repeals the Margarine (Repeal) Act 1994. I referred to the second-reading speech of the Margarine (Repeal) Bill 1994 so as to determine why that bill was introduced in the other place by a former minister, the Honourable Bill McGrath in 1994. It seems the reason a Margarine (Repeal) Act is on the books is because it was needed to repeal the Margarine Act, which is a curious piece of legislation.

It is extraordinary that in the 21st century Victoria should have that legislation because the Margarine Act, which first came on to the statutes in 1893, restricted the production and sale of margarine in Victoria.

When that legislation came on to the books in Victoria it was seen necessary to provide protection to the dairy industry by restricting the production and distribution of margarine. In the 21st century it is extraordinary that the government would be attempting to restrict the sale of one item compared with another. The fact that it lasted so long on the statute book is extraordinary. It is a credit to the Honourable Bill McGrath and the former government that the Margarine Act was repealed so that no longer are there restrictions on the production and distribution of margarine in Victoria.

Other elements of the bill include the repeal of the Quarantine Officers (Transfer) Act 1990 and of the Tobacco Leaf Industry (Deregulation) Act. The bill cleans up redundant legislation that largely, with the exception of the Quarantine Officers (Transfer) Act, was the subject of the reforms of the former

government through deregulation and the removal of anticompetitive practices.

In that sense, the bill is to be supported for what it does in tidying up the statute book. I reiterate that it is remarkable that we should have such an inconsequential bill before the house and I am sure it will have a very speedy passage.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

The Honourable Barry Bishop raised three matters on which he asked for responses, and they can be dealt with briefly. The first was in relation to clause 4, which concerns the suitability of persons to conduct audits of quality assurance programs. At present the power of the Victorian Meat Authority (VMA) to impose restrictions is unlimited. The amendments limit the imposition of restrictions to matters concerning the suitability of a person. It will be up to the VMA to explain any restrictions on suitability and under clause 5 any decision by the VMA to restrict a person could be reviewed by the Victorian Civil and Administrative Tribunal.

Secondly, in relation to the desirability of national standards, this is entirely consistent with the VMA's current approach. However, these are not matters to which the bill addresses itself directly.

Thirdly, section 35(6), which is to be deleted by clause 6, was originally included in the act to reduce the likelihood of meat substitution. The provision is inconsistent with the treatment of other consumable animals, which, if their slaughter were to be prohibited, would be by the regulation under the act subject to a regulatory impact statement. It is therefore considered desirable to make this change. I commend all honourable members for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

CORRECTIONS AND SENTENCING ACTS (HOME DETENTION) BILL

Second reading

Debate resumed from 6 June; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. B. C. BOARDMAN (Chelsea) — This government has certainly introduced some wacky legislation in the couple of years it has been in office. It has introduced legislation that has been misguided, unresponsive, ill conceived and not thoroughly thought through, and this bill is no exception.

Just over three months ago the opposition quite rightly decided to adjourn debate on this bill to enable it to consult with the community and ascertain the community's realistic feelings about this legislation. I recall that the government decided not to support that motion. This is a government that prides itself on consulting with the community. This government has such a habit of consultation that it has established in excess of 500 committees, ministerial advisory councils and other groups to consult with to devise government policy because it simply does not have the leadership or the vision to do it itself.

It is extraordinary that when the opposition moved an adjournment motion on a sensitive piece of legislation to enable it to go to the public and attempt to determine the public's genuine thoughts on the bill the government had the audacity to oppose that motion. It smacks of something that is not in the public interest and has not been particularly well thought through, because if the government had consulted it would have understood the public's angst, genuine concerns and quite justified contempt for this proposal, which serves no beneficial purpose at all.

The public has an opportunity to comment on the recently published review of sentencing in Victoria conducted by Professor Arie Freiberg until 12 October. The government has released a 21-point discussion paper covering topics such as public consultation in sentencing, maximum penalties, administration of the act and so forth and is allowing the public to comment on those issues. Why therefore will the government not allow the public to comment on the home detention bill? The government tried to introduce the bill into the Parliament hastily and to rush it through both houses to get the proposal to an implementation stage. When the Freiberg report came out, a report that does not touch on home detention per se but does canvass a number of sentencing options, the government would not allow the

public to comment on home detention. Why did the government not impose a time limit and go through the consultation process as would be expected? I cannot understand the difference. Maybe in his contribution to this debate the Minister for Sport and Recreation would like to advise the house why the government decided to consult on one issue and not the other.

Hon. M. M. Gould — He has already made his contribution via a second-reading speech. Haven't you learnt that yet?

Hon. B. C. BOARDMAN — I am happy that the Leader of the Government is interjecting. If the Leader of the Government had been bothered to listen to what I am talking about she would know that I am talking about the Freiberg report.

Hon. M. M. Gould — Haven't you learnt after all these years that the minister has already made his contribution to this debate? You are a bit of a slow learner.

Hon. B. C. BOARDMAN — That is the Leader of the Government talking! I said the minister has an opportunity to contribute at the conclusion of the second-reading debate, as most ministers do. In fact, the minister with whom the Leader of the Government is conversing did just that and discussed some issues raised by members during the debate on the previous bill. There is no point in your talking about me and the parliamentary process.

The DEPUTY PRESIDENT — Order! Through the Chair!

Hon. B. C. BOARDMAN — Before someone who has such appalling support from her backbench makes any comments about how this house works I would like her to go and read the standing orders, because her contribution thus far, as with all her contributions, has been completely and utterly unimpressive. I am talking about the Freiberg report, which the government is allowing the public to comment on, being treated differently from the home detention bill, on which the government did not allow the public to comment.

A media release from the Attorney-General dated Monday, 13 August, states:

> Mr Hulls also said that the government would not be modifying its pilot home detention scheme.

Further down the press release states:

> The Bracks government is committed to being tough on crime and the causes of crime. We're working to introduce a sentencing regime that breaks the cycle of offending and reduces the causes of crime.

I cannot understand how in one sentence the Attorney-General can suggest that the government is attempting to be tough on crime and the causes of crime and in another say that the government will not be modifying its pilot home detention scheme. It does not make a whole lot of sense when one goes through what the bill intends to do.

As part of the review of sentencing in Victoria in August 2001 the government released the discussion paper I have alluded to. In the foreword the Attorney-General states:

> To help you understand the issues and their complexity, this brochure explains the general principles underlying sentencing and what options are available when sentencing offenders in Victorian courts.

The paper goes on to talk about a number of issues regarding the main principles behind the criminal justice system — the rules of sentencing, the options that are available, what orders can be made in the court, what maximum penalties are and so forth — but one particular point intrigues me. In the two paragraphs following the subheading 'Who decides guilt and who sentences offenders?' this document explains that in the Magistrates Court it is the magistrate's role to decide whether a defendant is guilty and whether to impose a sentence, and conversely in the Supreme and County courts the jury decides guilt and the judge determines sentence.

All honourable members would understand that one of the main tenets of the criminal justice system is undoubtedly that the judiciary has a degree of isolation from the executive arm of government and a degree of autonomy over sentencing and the principles at its disposal. If we interpret that philosophy literally it becomes quite difficult to understand why a government that supposedly espouses that philosophy and those virtues would want to go down the path of home detention, because the magistrate does not decide whether a person receives home detention. Under both the front-end and back-end proposals it is a bureaucratic process that allows judgment to be made on whether an offender is eligible for home detention and if so the length of that home detention.

The front-end provisions that apply to someone who is eligible for home detention at the commencement of his sentence dictate that the judiciary only has the ability to refer offenders for assessment by the home detention unit, which then makes the decision. It smacks of hypocrisy and what I would consider to be an unethical process. We believe the judiciary should have that

autonomy and the right to apply all the provisions of the Sentencing Act as best it can. Not allowing magistrates to impose a penalty and requiring them merely to refer offenders to a separate bureaucratic body to decide the process is not in the best interests of the criminal justice system and is certainly not one of the tenets we all hold dear.

A basic premise of criminal justice, an adage, a catchcry that offenders and law enforcement bodies use, is that if you do the crime you should do the time. It is not only a well-worn phrase but a relevant comment and something that is very much expected by the public. A custodial sentence passed on an offender by a judge or magistrate must be seen as punishment, and quite rightly the community views it as punishment. However, there must be two factors to get to a custodial sentence. The first is that the crime has to be sufficiently serious to justify such a sentence. Second, if it is not a serious crime there must be a history of repeat or prior offending, particularly involving similar or like offences, to necessitate a custodial sentence. To use a cliché, you have to be a pretty bad crook to end up in the slammer. There is no denying that.

For the welfare and safety of the community to be jeopardised as it would be under this proposed legislation by the bureaucracy having the option to release these people, who otherwise would deservedly be facing custodial arrangements, back into the community is not in anyone's interest. It is undoubtedly a soft option. The consultation the opposition conducted with a diverse range of community interest groups, individuals and people in the industry shows that the public agree wholeheartedly that it is a soft option.

It is a tag-and-release system. An offender who is assessed as being eligible for home detention would have to wear an anklet. It would be an electronic device tracked through a home unit connected on a telephone line to a base station to monitor whether they are abiding by curfews and so forth. The intensity of the program and what I would consider to be not a particularly progressive or logical way of doing it seems quite complex and one which once again has not been completely thought through.

It is ALP policy; it went to the election with this home detention scheme. But you really have to question the motives for going down this path. Specialists in the industry are saying the system is flawed, and most importantly, the system proposed could quite seriously jeopardise public safety and the safety in particular of those in the domestic situations in which offenders are placed.

I want to put forward what I consider to be the motives. The government undoubtedly is faced with a serious issue regarding the number of prisoners serving in Victorian jails at the moment. Victoria has the lowest rate of incarceration in the country. That is undoubtedly a very well-known fact. However, it has still seen significant growth in prison populations that has not been addressed by this government. In question on notice 1871 I asked about the design capacities of the various prisons throughout Victoria. I also asked about prison populations at various stages and dates. I was startled by the feedback I received in answer from the Minister for Corrections last week. I refer to the three biggest prisons in Victoria — Ararat, Fulham and Port Phillip Prison — and the Dame Phyllis Frost Centre, which is the former Deer Park women's metropolitan correctional centre.

Ararat is designed for 256 prisoners; Fulham, 590; and Port Phillip, 558. The answers the minister provided to me as of 31 May this year, were for Ararat — as I said it is designed to house 256 prisoners — 371 prisoners, and Fulham, with a capacity for 590 prisoners, had 688 as of 31 May year. Port Phillip Prison, with a design capacity of 558 prisoners, had a startling and completely unacceptable 705 prisoners as at 31 May. The Dame Phyllis Frost Centre, with a design capacity of 125 prisoners, had a prison population as of 31 May of 169.

Quite clearly, those figures are unacceptable. We can only imagine the conditions at those prisons. They would not be in the interests particularly of the prisoners or the people who work there. They are certainly not in the interests of the Victorian public. In that environment there would be tension, anxiety and restlessness among the prisoners that would only contribute to managerial problems that would see an exacerbation and escalation of some of the problems that have been all too prominent in Victorian prisons for some time.

On top of this, the government recently announced the closure of some prisons, particularly Won Wron in Gippsland. Won Wron has been operating as a prison quite successfully for a number of years, even though there is without dispute a question mark about whether the conditions are satisfactory. It is crazy to think that the government would continue to go down a path and advocate prison closures when a far better option would be to either update the facilities or use some of the land available down there to build a new prison.

The opposition understands that there has been a temporary bed strategy of 690 temporary beds. But what does that mean? Does that mean you have stretcher beds or someone sleeping on the floor in a cell? If you have a cell designed for two people, do they suddenly fit an extra one in there and then there are three? Even though it might be a temporary bed strategy, it is simply not in the best interests of the design of the corrections system.

The minister goes on to explain that the 2000 state budget funded the expansion of the prison system by 357 beds. The 2001 state budget approved a further building program that will hopefully result in a net gain of an additional 716 permanent prison beds by December 2004. That is simply not enough. If the prison population continues to expand at its current rate — and bear in mind that this is very much within community expectations because the community for some time now has been crying out for tougher penalties and prison sentences — the net gain of 716 beds the government is advocating will not be nearly enough. That net gain comes at the expense of closing existing prisons which, if the government had any sensible managerial responsibility in this matter, it would quite clearly be used as an upgrade rather than a closure and replacement, because the situation at Won Wron can be addressed.

With prisons running at 115 per cent capacity or in excess of 500 prisoners over the design limits, you know there is something wrong. The community understands there were a number of initiatives in place under the previous government. If they had been acted upon this government would quite clearly be releasing the resources and the strain that accompanies the number of prisoners in excess of design capacity. But, because of the fundamental issue this government is faced with by its opposition to private prisons, it is hamstrung even further. It does not understand the necessity to have private involvement when it comes to building correctional facilities.

It goes against the Partnerships Victoria policy the government advocated at the last election. It said it would enter into agreements with the private sector to build public infrastructure, but prisons were not one of them. Although the Treasurer has gone on the record as saying there will not be any further prisons built and operated by the private sector, the Minister for Corrections has been quite contradictory with his public remarks, suggesting that if push comes to shove, the government would have to consider the option of private prisons because using public money would not be a reasonable outcome when providing additional and necessary resources.

So home detention — irrespective of the fact that only 80 people at one time will be involved — will be a pilot program for three years. That is the way this government is justifying its lack of expenditure and investment in prisons — by taking people out of the prison system and putting them in environments that are completely against the public interest and unsuitable for their rehabilitation.

It is also quite bizarre when you think about the number of options available to judges and magistrates under the current sentencing provisions. Certainly you can have custodial arrangements or suspended sentences. You can have intensive correction orders or community-based orders. There are a number of other sentencing options such as fines, bonds and so forth. To introduce another sentencing option, particularly one designed like this, does not seem logical at this time.

I alert the house to a very successful program running through the Frankston Magistrates Court, which is a front-end diversion program that has been up and running for some months now and is having an extraordinarily high success rate. It is designed predominantly for first-time offenders, although depending on the severity of the offence, a diversion program could be undertaken at a later stage. It is predominantly arranged through an agreement with the court, the victims — if victims are involved — and with offenders.

The case is heard in a court as is normal: the evidence is read to the court and the magistrate rules that the matter be adjourned to a set period of time provided that the offender undertakes a number of tasks that could include training, detoxification or rehabilitation if drugs are involved, counselling, anger management — and those types of issues. It could even extend to curfews, work-related requirements and even providing restitution to offenders by way of written apologies or monetary compensation. Providing all those tasks are completed, the date to which the matter was adjourned is struck out and not recorded on a person's criminal record.

Rightly so, the basis for that is to give a chance to an offender who has committed his first offence or a second offence of a minor nature. The court has the option to put the offender into a diversion program that allows him or her to think about what they have done. Instead of getting entangled in the criminal justice system or the corrections system and the mess associated with them the person has the option of proving to the court, themselves and the community that they have some responsibility, can adapt to

community expectations and make a valid and worthwhile contribution.

With programs like that already running — programs that clearly are genuine sentencing options coordinated through a specific office appointed at the Frankston Magistrates Court — home detention is not required. As it stands, home detention would be seen as an alternative and the act does not allow to be implemented any of the other issues that I have referred to. It is a curfew-based program where a person is placed in a residential unit or other arrangement under some supervision. What would happen is that an offender placed on a home detention order would be on bail during the lag time required to enable the home detention unit to make up its mind. Honourable members should think about the technicalities of that issue.

A person convicted of a crime, given what is effectively a custodial penalty, is out on bail while the bureaucracy decides whether the person's domestic arrangements are suitable. That does not make a lot of sense and is against the judgment of the magistrate and equally community expectations. If the offender is assessed as not suitable for home detention the person has to go back into a custodial arrangement. During the time it takes for the person to be assessed he or she is effectively on bail and walking the streets. Members of the community will not cop that. You cannot have someone who has been convicted of a crime walking the streets after the conviction of the crime waiting for the bureaucracy to decide whether the person is suitable for this particular program.

That is at the front end of the home detention provisions, but the back-end provisions are seen as undermining a judge's right to impose an appropriate sentence. Bureaucrats and members of the Adult Parole Board will be making arbitrary decisions to release prisoners before the minimum term of imprisonment is served. It will be a crazy situation. A sentence will be passed, but the bureaucracy will go against the sentencing magistrate or judge saying, 'We know better; we will not take any advice from the judiciary. The ethics of the decision will not come into this debate; we will determine whether the sentence is appropriate and whether the person will be placed on a home detention scheme'. It does not make sense and undermines the authority of judges or magistrates.

The concept of truth in sentencing has no validity with this bill and the community, rightly, has good reason to be concerned about it. If judges and magistrates sentence criminals to a certain period of detention that time should be served. The concept of parole, which allows a person to re-enter the community on the proviso of suitable rehabilitation programs, is what home detention is trying to do. As I interpret the bill, a prisoner can go on to a home detention scheme, but as part of that scheme can be assessed by the Adult Parole Board for parole, which smacks of a completely idiotic situation because they are almost on parole. Would not commonsense dictate that if they are eligible for parole that is the way to go and home detention would therefore not be necessary.

Another concern of the opposition is that victims will not be notified when offenders on home detention are released prior to the completion of their sentence. There are requirements that victims be notified when prisoners are released from jail, but if released from home detention they will not be notified because it is considered to be still part of the custodial arrangements. Victim groups have made it clear to the opposition that it is not the way to do it.

Effectively the scheme will turn homes into prisons and families into jailers. There may be a voluntary agreement to allow the prisoner to return to the home, but whose responsibility would it be if there is any suggestion of emotional, economic or physical duress or even domestic violence? We will have a bureaucratic decision allowing someone to return to a domestic arrangement where the potential for something to blow up is quite high, so I can envisage considerable legal argument about liability or responsibility for that decision.

Victoria Police has indicated that it is a serious issue and has been vocal about the fact that its officers will be mobile prison officers. Under the provisions of the bill it will not be the bureaucrats or the custodial officials who will check these offenders; it will be the responsibility of the police if anything happens and no additional resources have been provided. If there are questions about curfew or the domestic stability of the arrangement the first call will be to the police, who will have to go around to that person's home to check what is going on. Knowing how police resources are stretched at the moment that is an untenable situation. The police rightly do not want to be subjected to unnecessary pressure because these situations will inevitably go wrong.

The 1999–2000 annual report of the New South Wales Department of Corrective Services says that in the year ending 30 June 2000 the failure rate was 27 per cent. So 27 per cent of offenders had their home detention orders revoked. It also states that 38.4 per cent of home detention orders were breached for the period February 1997 to August 1998, a period of slightly more than

18 months. In that period a further 24.4 per cent of the total number of offenders who had commenced or completed their home detention order either successfully or unsuccessfully had their home detention orders revoked. Any suggestion that schemes in other states are successful and have some credibility is not true. Although the national experience is not good the international experience is even worse.

Undoubtedly the place for convicted criminals is a prison. If a prisoner requires rehabilitation, counselling or skill-based training or additional services they will not get them in the community because if they avail themselves of a service run by a community organisation they will be denying someone who is equally entitled to that service from getting a place, but the difference is they have been convicted of a criminal offence and the other person may not have been convicted of any such offence. If they have been convicted of an offence they should be in custodial supervision where services and rehabilitation can be delivered because that is what prisons have been designed for.

The opposition is seriously concerned that home detention has the potential to allow serious drug traffickers and suppliers back on the streets. Honourable members will be aware that under the Drugs, Poisons and Controlled Substances Act a commercial quantity of heroin is 250 grams of pure heroin. A person arrested with a quantity up to 249 grams of pure heroin — not a commercial quantity, but an amount of heroin that could be easily cut down to in excess of 4000 caps on a street-based purity of heroin — is not deemed by legislative provision to be a commercial trafficker and would be eligible for a home detention scheme.

What kind of message does that send to the community? A person who has the potential to sell in excess of 4000 hits of heroin to the community can be arrested, charged, prosecuted and convicted but then has the option under home detention to continue living in that community. I am not particularly satisfied with that!

The response we have had equally justifies our concerns. Drug dealers who have extensive networks and entrepreneurial interests and who are trying to subject the community to their menacing deeds and products are not going to give up their arrangements as easily as that and will see home detention as a great way of getting their business back up and running with minimal interference. Their penalty should be going to jail and paying the price for their crimes. There are many issues which are undoubtedly of serious concern to the opposition and which justify the opposition's stance.

I am sure other honourable members will be bringing to the attention of the house the extensive consultation the opposition has had, particularly with some legal groups that are, surprisingly, in complete opposition to this format. You would assume that some of these groups would normally side with Labor Party ideology, but they have made justified and rational decisions that oppose the bill, and the opposition agrees with them completely.

The last comment I make is that Australia is faced with a situation where it is almost lagging behind the rest of the world in its custodial arrangements. For some time there has been extensive community debate about what are appropriate levels of sentencing, what types of jails and programs we should have and whether community expectation has been reached through the whole gamut of corrective services.

As the chairman of the Drugs and Crime Prevention Committee I can say that although we do not particularly examine custodial issues and sentencing provisions, we do from time to time receive strong evidence from a number of very informed sources as to what should be appropriate programs in prisons and what should be appropriate levels of sentencing, particularly in the community's interests but equally in the interests of the offender from a rehabilitative perspective. A number of these programs have been discussed at a government level through successive governments. They have been presented to people who have conducted reviews for governments, but they have not been implemented to the complete satisfaction of their intent.

I will finish my contribution by referring to two examples. The first program I saw was in Rikers Island jail in the state of New York some time last year. It was a high impact program for serious offenders who were unfortunately in a repeat cycle of reoffending — of being involved in a situation where their peers were criminals. Their demographics were very much based towards criminality and their whole lifestyle revolved around committing crimes to survive. This high-impact program allows a person to be isolated from that environment, to be placed in a fairly intensive, disciplined and highly managed environment that firstly teaches the virtues of self-respect, time management and personal responsibility. It then moves on to providing basic life skills that these people unfortunately lack from time to time. It is initially an eight-week program that is run in an isolated part of the Rikers Island correctional facility and is supervised

with a prisoner-to-staff ratio of 2 to 1. There is no doubt that it is a resource-intensive program, but it has reduced recidivism rates by 80 per cent.

At the completion of the program the offenders are placed into the general prison population, if a proportion of their sentence is left to be served, with very strict conditions as to how they then spend the rest of their time in jail. The most important part — and this is a part which I am yet to see work with any great success in Victoria or other parts of Australia — is that upon their release they are placed in a controlled environment where once again their behaviour and interaction with the community and their skill-based training are managed closely and supervised intensively to ensure that they are receiving the necessary skills that provide the return to the community that the community would expect.

This goes on for a time which is necessary as determined by the New York City Department of Corrections with the consent of the offender. I say that because so far they have only had a limited percentage of offenders who have not consented to be on this program because they understand that without the program, without the sense of belonging and the level of respect that they themselves receive from this degree of intensive supervision, they only go back into a cycle of criminality and find themselves back in jail again. It is a program that needs to be explored and discussed further in this country and one that I have seen work with a degree of success that is worthy of future government policy.

The second program is one the committee examined in Vienna. It is a similar arrangement to the last one but as an alternative to home detention there is a minimum security prison which acts, for want of a better description, as a home for the prisoners before they are released back into the community. Under this agreement the prisoners have complete responsibility for cooking, cleaning, washing their clothes and for all other domestic chores. They do this in a controlled and supervised environment where social workers instead of prison officers advise them on their roles, responsibilities and obligations because the social workers are trained and skilled and have an established rapport with the prisoners and are therefore able to relate to them and guide them through this process of going from a custodial environment to a semi-custodial environment where they are interacting and learning skills that are the basis for their release back into the community.

One of the interesting points observed by the committee was that it is not a full custody arrangement unless there are breaches of discipline or breaches of responsibility. The prisoners are allowed to leave the prison and go out into the community and purchase goods and services as long as they respect the curfew and participate in all their domestic obligations. The program has been constantly benchmarked and analysed because of its success. It seems in the Vienna context to be successful, and once again those types of programs need to be examined further and discussed in Victoria with a view to implementing them in the best interests of the community and the corrections system.

There are a number of very different and responsive alternatives to home detention, which puts the offender, the domestic environment in which the offender is placed and the community at risk. The government's non-acceptance of those three issues does not justify any support for this bill whatsoever. My colleagues will elaborate further on the consultation undertaken by the opposition that clearly justifies the opposition's stance. But the message the opposition wants to leave with the government is that this wacky idea does not deserve to be supported and there are a number of alternatives which are quite clearly more beneficial and should be explored much more closely than this proposal.

Hon. P. R. HALL (Gippsland) — I welcome the opportunity to speak on the Corrections and Sentencing Acts (Home Detention) Bill and put the National Party's view on this proposal. I will start by looking at the minister's second-reading speech because it was interesting. I noted that it gave just two reasons for the introduction of the bill, and I will paraphrase them.

The first reason the minister gave is that this bill will minimise the disruption to family life and employment and assist in prisoners' transition back into the community. The second reason is that it will reduce costs on the public purse. It must be understood that they were the only two reasons the government gave for the introduction of this bill. If I put aside the cost factor for the time being, because I do not believe costs should be the main driver of fundamental changes in such important public policy areas as sentencing, there is left just one reason for the bill's introduction — a consideration of the impact a custodial sentence taken in a prisoner's own home will have on the family.

What annoyed me most in reading the second-reading speech and considering the bill is that the government never argued its case for its introduction. The rest of the second-reading speech simply tells us how the bill will act; it in no way goes into any detail or gives sound and valid reasons to justify why the bill should be introduced. It makes bold statements, such as that it will minimise disruption to family life, help maintain

employment and assist prisoners with their transition back into the community, but it does not justify those statements and say how those things will be achieved. It simply says how the bill will work.

Whenever a government introduces legislation into Parliament it has a twofold responsibility. First of all, it should explain how it intends the bill to work — and in this case the government has done that; it has told us how it intends it to work. Moreover, the public should be convinced that we need the new legislation and that we will have a better society as a result of it. I claim that in no way could anybody argue that that case has been made by the government with the introduction of this bill.

The National Party is not convinced that home detention is needed, nor is it convinced that we will have a better society if it were to approve this piece of legislation. Its members will oppose this legislation and — unlike the government, which gave us one reason for its introduction — I will give six reasons why it will do so.

Firstly, we do not believe home detention is consistent with current community expectations on sentencing. Secondly, we believe the range of sentencing options currently available provide sufficient flexibility to deliver appropriate justice. Thirdly, we believe home detention to be more of a cost-cutting exercise than one of responsible government. Fourthly, we believe no evidence has been presented that home detention will reduce reoffending rates. Fifthly, we believe there are more appropriate means to foster rehabilitation of prisoners back into community life than the use of home detention. Finally, and overwhelmingly, the most important reason why we will not support the bill is that we believe it will potentially have a devastating impact on the families of people contained within the proposed home detention program. I will go through each of those six in turn.

The first reason is that National Party members do not believe home detention fits comfortably with current community expectations on sentencing. We appreciate that the prison environment can be particularly harsh on those who go to prison, but equally we argue that the impact on the victims of crime is equally as harsh, if not more so. We believe the needs of those victims of crime and the feelings of the community should be paramount. People are not sent to prison without very good reason. They are sent there as a result of committing a serious crime or crimes, and those actions impact very harshly on individuals or communities.

One of the main issues of concern to people out there in the community is the issue of law and order. We believe it is the view of a vast number of Victorians that we need to be tough, not soft, on the perpetrators of crime, and that the home detention option as proposed in the bill will be considered as a soft option generally by members of the community. So we do not believe home detention fits the current community expectations on sentencing.

There have not been overwhelming representations to the National Party members to suggest that we should support this bill. In fact, the opposite is the case; we have been overwhelmed with people suggesting that we should oppose this legislation — which we are doing. That is the first point.

The second reason why National Party members will oppose the bill is that we believe the current range of sentencing options already gives enough flexibility for those who have to adjudicate on such matters to deal appropriately with the perpetrators of crime.

Section 7 of the Sentencing Act 1991 lists a whole range of sentencing options available to judges or magistrates. It gives a whole range of different types of convictions that can be recorded with appropriate terms of imprisonment. Sometimes a conviction can be recorded against a person and that person can serve part of the term in prison and part of it in the community with a custodial order. A person may receive a conviction and serve a term of imprisonment by way of intensive correction in the community. And the list goes on. Various options are available for people with a mental illness, various options are available for young people, and various options are available for magistrates or judges to not record convictions but to fine people or make community orders for them to perform in the community. A whole range of options is now available to judges and magistrates. We simply do not believe the further option of home detention is needed.

The third reason National Party members will oppose the bill is that we believe home detention is more of a cost-cutting exercise than an action of responsible government. We know of the problems in this state with overcrowded prisons, and that prisoners are being kept in police cells rather than in prisons because there are not enough places in Victorian prisons — and the Honourable Cameron Boardman went through some figures and gave us an indication of the overcrowding that currently exists in the Victorian prison system.

We say that home detention will not address that problem one little bit. The pilot program talked about

up to 80 people being involved in home detention, but that will not even touch the surface of the problem with overcrowding in prisons in Victoria. It will give the government an excuse not to invest in the infrastructure that is required. Where is the plan that has been so often mentioned by the government for improvements to the infrastructure of prisons in Victoria? We have not seen it.

We say the government is putting forward home detention purely as a cost-cutting exercise. What annoys me most goes to another issue that was raised by the Honourable Cameron Boardman. It is that with its last budget this government decided to close prisons in Victoria. Some of those were minimum security prisons — the sorts of prisons that are close to the community and can best assist with rehabilitation back into the community.

The Won Wron prison in Gippsland is an example of one of the prisons the government announced it would close in the last budget. One reason given for the closure of the Won Wron prison was that it was too far away from Melbourne and would disadvantage prisoners and their families in having to visit the prison facility. Ironically, a couple of months later the government announced that it would build a new minimum security prison at Beechworth. Yet Beechworth — and I am not knocking a prison being built there — is even further away from Melbourne than the Won Wron facility is. So the suggestion that the Won Wron prison is to close because it is too far away from Melbourne is contradicted by the government's position that it plans to build a new minimum security prison at Beechworth. It is absolute madness for the government to suggest that it has a problem with overcrowding in Victorian prisons, yet then proceed to close four prisons nominated in the last budget it delivered.

The second-reading speech says it will cost about half as much to put a home detention program in place rather than keep people in Victorian jails. However, the National Party repeats that it does not believe cost cutting should be at the expense of good government in Victoria. We simply say that that is all that is being proposed here — a cost-cutting exercise, when the government's priority should be future investment in prisons in this state, where such investment is much needed.

I turn to the fourth reason for the National Party opposing the bill. We do not believe there is any evidence that home detention will reduce reoffending rates. In fact, in the New South Wales review of home detention, which has been referred to previously, 38.4 per cent of prisoners breached home detention orders. If that is any guide as to reoffending rates, how can the government make the claim that home detention will reduce reoffending rates? Once again there is simply no evidence to support that claim. The government has not put any evidence on the record through its second-reading speeches or through public comment. There is no evidence to suggest that home detention will assist in reducing reoffending rates, and on that point I need say no more.

I turn to the fifth reason for the National Party opposing the bill. We say there are more appropriate means by which to rehabilitate prisoners back into the community. Traditionally rehabilitation has been done through a period of parole, and that is achieved after serving the minimum term one is required to serve as part of a sentence. Parole is a supervised re-entry into the community, and if the government is serious about trying to improve rehabilitation into community services it should invest in improved parole services — that is, assist people in the integration back into the community after they have served their minimum time in prison.

On the issue of home detention, the National Party believes if home detention were introduced as part of a parole provision after the serving of a minimum term that a person is required to serve, perhaps it may well have a place, and it would be prepared to consider that. However, that is not what is being put forward in the bill before the house.

We also say that minimum-security prisons provide excellent means of assisting with rehabilitation back into the community. I again cite Won Wron prison as an example, only because it is a minimum-security prison in my electorate that I know well. That prison enables people to rehabilitate back into the community by allowing prisoners to go out and do work in the local community every day of the week, and members of the local community come to the prison. It all assists in the rehabilitation of those prisoners. The first parts of their sentences are often served at a higher security prison, and the latter part of their sentences are then served at this minimum-security prison. It means they get better feedback and better integration opportunities with community activities all around them. We say that that is the type of exercise the government should be embarking upon to improve rehabilitation for prisoners back into the community.

I listened with interest to the examples provided by the Honourable Cameron Boardman in his contribution to the debate about alternative ways to assist with the rehabilitation of prisoners back into the community.

They were commendable examples that are worthy of consideration by the government. There are ways by which people can be rehabilitated back into the community without going to the extent of introducing home detention.

The final reason for the National Party opposing the bill is the impact home detention could have on the families of those prisoners. There are some very emotional and sound arguments put forward by a number of people to suggest that home detention can have a very serious and negative impact on other family members. One of the most compelling arguments put forward to the National Party was by the Victorian Federation of Community Legal Centres, which strongly opposes the home detention bill. In comment provided to the National Party the federation said in part:

> Family and co-residents become both prisoners and prison officers. Having the offender at home the whole time, unable to leave for everyday tasks, creates enormous tension in families, children can't understand why their mum or dad must always be at home. Children and household members have months of interrupted sleep from phone calls all night. In New South Wales every child in the home must have a 'risk assessment' from Human Services. Many families of offenders are living in poverty in very marginal circumstances. Having Human Services checking up on them is what most such families fear.

The document continues:

> A home should be a place of safety and privacy, a place to enjoy each other. Turning people's homes into prisons has a serious psychological impact on every adult and child in the house. Families should not have to live with the knowledge that they are living in a prison. Families will be forced to cover up problems they are experiencing because if they don't they risk their family member going to prison. Some offenders will stand over their families to ensure this doesn't happen. When prisoners get out of jail, they look forward to getting home (if they have one), to a place of refuge away from the constant surveillance and control of prison. They live with the label of former prisoner forever. They and their families do not need their homes labelled as prisons too.

I think we need to take note of that view, and I think it is a very sound view expressed by the Victorian Federation of Community Legal Centres. There is no doubt that in some instances members of a family will be unduly subjected to pressures to ensure that their family member stays in home detention. All the reasons presented in the few sentences I have quoted to the house ring true to me. I can well understand the pressure family members could be subjected to. I can understand the psychological pressure that young children, in particular, would have upon them if their home was turned into a de facto prison. There could be long-term impacts on the development of young people if a parent is held at home in a prison-type environment. I do not think that situation is in the best interests of young people. I do not think in the majority of cases it will significantly help that family relationship overall.

I concede that there are probably some situations where there may be benefits for some families in home detention. However, it would take a pretty special type of family to make it work in a positive way for them. I think on the balance of things the probabilities tell us that the impact of home detention on the family environment will be a negative one, and it is a compelling reason for opposing the bill.

We do not believe the government has put a sound case forward for the introduction of home detention. We believe there are compelling reasons for not supporting the bill, and I have advanced some of those arguments today.

Finally, I refer to two other pieces of evidence that helped convince us to oppose the bill. The Criminal Bar Association of Victoria is opposed to the introduction of a home detention scheme for a number of reasons, which I will not elaborate on, but it is an organisation from which we appreciated receiving a view. The views expressed in an *Age* article by Amanda George on Friday, 4 May, also summarised some of the serious concerns we believe the Victorian community has with the bill. The article states in part:

> The Victorian government's electronic home-detention proposal, unveiled this week, is also a creature of fantasy. It can be applauded only for its good intentions, because the claims it makes for home detention have no substance.
>
> The most disturbing aspect of the plan is that it takes the pressure off actually tackling why prison numbers are so high, because as a department of corrections home-detention briefing paper noted: 'If we regard homes as potential prisons, (prison) capacity is for all practical purposes unlimited'.
>
> The government has failed to answer this question: why, if offenders are safe enough to be at home, aren't they considered safe enough to be in the community?

Amanda George then lists a range of other arguments in the article about why the legislation should not be supported. She goes through the issue about the impact the legislation will have on families. She says that there is no research to support the benefits of home detention. Some of those arguments I have put on the record this afternoon, and others are contained in the article by Amanda George.

If the government wanted the opposition parties to accept this legislation it should have done better and given us a second-reading speech which justifies the claim that the bill will be of benefit to the people of Victoria and the prison system in Victoria. It has not done that, and for the reasons I have outlined in the bill

and for the lack of the effort of the government in providing this project and justifying it, the National Party opposes the bill.

Hon. JENNY MIKAKOS (Jika Jika) — I am pleased to speak in support of the Corrections and Sentencing Acts (Home Detention) Bill, and record my disappointment that the Liberal and National parties will be opposing it. The government has never purported that home detention would be a panacea to our crime problem or to difficulties in the corrections system. It is a pilot program that should be supported, is worthy of consideration and examination, and demonstrates the lack of vision and commitment by the Liberal and National parties in solving deep-rooted problems in our society.

Since the ALP has been in government the Liberal and National parties have indicated clearly that they are not prepared to consider innovative approaches in the area of supervised injecting rooms and other areas to do with sentencing. They are taking a short-sighted approach to the proposal to introduce a home detention pilot program.

Hon. P. R. Hall — You tell us why we should support it.

Hon. JENNY MIKAKOS — I shall come to that shortly, Mr Hall. This is a three-year pilot program. We know that home detention programs have been introduced in other jurisdictions in Australia, with Victoria being the only jurisdiction not to have tried such an approach. We know that home detention is an approach that has also been tried in a number of overseas jurisdictions but with different criteria, eligibility requirements and approaches to what is involved. I am not suggesting that the Victorian government is seeking to replicate in their entirety approaches that have been adopted elsewhere.

It is important that we develop an approach and a model which is tailor made for Victorian conditions, tailor made to fit in with the current sentencing and corrections system in this state and tailor made to accord with community expectations about community safety and family safety — that is, the safety of offenders' families.

I shall address a number of issues that honourable members have raised so far in their contributions, in particular the points made by the Honourable Cameron Boardman on the matter of consultation. The Australian Labor Party went to the 1999 election clearly spelling out in its election platform that it was committed to introducing a program of home detention.

The government also made it clear to the community that it would be introducing such a program when the Minister for Corrections announced on 13 November last year that the government was proceeding with the commitment to introduce a pilot scheme for Victoria in 2001. As part of the development of the government's implementation of its election commitment it held a forum in February 2000 that was attended by a range of legal, welfare and community groups that were likely to be affected by the introduction of a pilot program. The government circulated draft copies of the bill to 20 stakeholder groups and also consulted on an individual basis with a range of those stakeholder organisations.

The government made it clear prior to the introduction of the bill through various media releases and information put to the media that it was proceeding to introduce the bill in the last sitting period. The government made a concerted effort to consult with affected stakeholder groups and sought to obtain the views of organisations, including community legal centres and community agencies which work with prisoners and offender families, such as the Victorian Association for the Care and Resettlement of Offenders and the Australian Community Services Organisation, which deal with resettling of offenders into the community and assisting them in obtaining employment.

The government also consulted with the Victoria Police, judicial officers and the Office of Women's Policy based in the Department of Premier and Cabinet. It is clear that the government made a concerted effort to consult with affected stakeholder groups. I believe the timing from the announcement last year to the introduction of the bill was more than adequate and reasonable to allow for community consultation.

Another issue raised by the Honourables Cameron Boardman and Peter Hall was the government's commitment to the corrections system. The government has clearly indicated that it is committed to making improvements to the Victorian corrections system as part of this year's budget, and committed $194 million to the development and expansion of the present system. The second-reading speech indicates that 900 additional beds have been funded as part of the budget initiative. The government has also developed a 10-year master plan for our present system, of which two new prisons will be the major feature, and has commenced a review of our correctional services.

Honourable members would also be aware of the Arie Freiberg review that has commenced, and the government is reviewing a range of sentencing options as part of the review.

It is important to view this proposal for a home detention pilot as part of the overall government approach to the corrections system and to the sentencing and justice system. The home detention pilot is intended to be only one part of the overall approach of the government to reducing crime and making Victoria a safer place to live. The Honourable Cameron Boardman spoke about a program that is working well in the Frankston area. I am not sure if his reference was to the Court Referral and Evaluation for Drug Intervention and Treatment (CREDIT) program.

Hon. B. C. Boardman interjected.

Hon. JENNY MIKAKOS — The CREDIT program that I am aware of also runs in the Heidelberg Magistrates Court and takes in the catchment area of my electorate. That program was introduced by the government and I am pleased at the impact it is having in rehabilitating, in particular, drug offenders and keeping them out of the prison system, which is a school for crime. The program ensures those individuals are provided with adequate drug counselling services to keep them out of the criminal justice system.

The other matter raised by the Honourable Cameron Boardman that I refer to relates to his assertion that bureaucrats will be making decisions as part of the home detention process.

Hon. B. C. Boardman — They will.

Hon. JENNY MIKAKOS — It is clear if one were to study the bill — and I hope the Honourable Cameron Boardman has done so — that the courts will be making the decisions. Bureaucrats may well be considering the suitability of offenders to serve home detention orders, but the courts must approve those orders and will make the orders. If a court feels an order is inappropriate for whatever reason, whether it be the reasons expressly stated in the bill or for any other reason, as proposed section 18ZA(3) of the Sentencing Act, inserted by clause 5, provides, the court is able to decline to make a home detention order for any reason. It is clear, therefore, that the amendments to the Sentencing Act would give the courts a broad discretion to seek to not make a home detention order for any particular reason. That provision is wholly consistent with the government's approach which places a great deal of importance on our judicial officers to make decisions about the sentencing of offenders.

Whilst we know the Liberal Party, in particular, is seeking to run a law and order campaign at the next election and favours mandatory sentencing, this government rejects that approach. It is committed to properly reviewing the state's sentencing processes as part of the Arie Freiberg review. The bill is consistent with the government's approach of ensuring our trained and experienced judicial officers make the final decision on whether a person is to serve a home detention order or any other type of sentencing order.

I turn briefly to points made by the Honourable Peter Hall in his contribution. He claimed that the minister's second-reading speech gave only one reason for the introduction of the bill. I remind him that in the second-reading speech a number of reasons are set out for the introduction of the bill. In particular, the focus of that speech and all the other announcements and press releases of the government on this issue focus on the government's desire to rehabilitate and reintegrate offenders into the community.

I reject his assertion that the measure is part of a cost-cutting exercise. As I said earlier, the government has already committed $194 million to prison expansion and development, which is the single most significant commitment to the corrections system for a long time. Whilst offenders who may serve home detention orders may represent some small savings to our corrections system, that is not nor should it be the motivating reason for the introduction of this pilot program.

Hon. P. R. Hall — We agree on that.

Hon. JENNY MIKAKOS — The Honourable Peter Hall also sought to assert that the current sentencing regime provides for an adequate degree of flexibility in the types of orders that the judiciary can now make. I agree there is a range of approaches that the judiciary can take in making an order for a particular offender. However, at present there is no intermediate measure between a community-based order and the prison system. It is clear that people who are ending up in the prison system would be able to be more properly rehabilitated and reintegrated into the broader community if they were able to serve a period of home detention and to continue to engage in their employment activities.

The Honourable Peter Hall also referred to research that has been done of a New South Wales program. Certainly the proposed pilot program for Victoria does not replicate the New South Wales system in its entirety. In fact, the proposed Victorian program is far more stringent in the criteria it sets for eligibility. However, it is important to note that a lot of the New South Wales figures and statistics the National Party and the Liberal Party referred to relate to breaches.

Breaches are not the same as reoffending. A breach can be an event that is, in itself, not a criminal act but is one that relates to a breach of the rules of the program and can be something as minor as a person being late in returning home and exceeding the specified curfew for that particular offender.

It is important to note that when we are bandying about statistics that we talk about reoffending and not breaches because the two are very different in nature. It is clear from the New South Wales experience that only 5 per cent of offenders placed on the New South Wales scheme under home detention have reoffended; of those revocations, about 75 per cent of offenders committed property or driving offences.

It is important to note that the majority of offenders in the New South Wales home detention program who reoffended committed crimes which may have been rather minor in nature. I am not seeking to suggest that there is any guarantee. No-one can suggest there is any guarantee that a person placed in the home detention program will never reoffend. However, the same can be said of offenders placed on community-based orders; there are no guarantees that any of those people will not reoffend. The important thing to remember is that unfortunately in large part our prison system serves as a school for crime. The statistics clearly show that once a person has been through a period of incarceration he has greater potential for recidivism than if he had not originally been placed in prison.

The final matter the Honourable Peter Hall raised which I would like to address is his concern about the impact of home detention orders on the families of offenders. A number of government members were concerned about this and I believe those concerns have been adequately addressed in the provisions set out in the bill. The provisions of the bill prohibit home detention orders being made if family members do not consent, and allow an order to be subsequently revoked if family members withdraw their consent. I specifically refer members to proposed sections 18Y and 18ZM of the Sentencing Act in respect of revocation of home detention orders. The bill seeks to provide a number of safeguards to ensure not only that families are consulted in the initial stages about their consent but also that they are provided with adequate support by corrections staff throughout the period of the home detention order. This is to ensure that they are not being adversely affected by a member of their family being incarcerated in their home.

It is my view that the provisions proposed to be inserted into the principal act provide ample opportunity for family members to be counselled, to receive independent advice and to go through a constant process of being able to withdraw their consent if the home detention order proves to be unworkable. If that is the major concern the National Party has with the bill, I draw to its attention the more than ample provisions in the bill which will ensure that family members are adequately supported and counselled throughout the period of the home detention order.

Hon. P. R. Hall — I do not think it is a matter of support and counselling; it is a matter of their being there. It is not something counselling will fix.

Hon. JENNY MIKAKOS — It is important to remember that if it proceeds this program will be made available to both female and male offenders. In the case of female offenders it would be safe to say that a large number of offenders' families, particularly in a situation where they have young children, would be better off having access to at least one parent, preferably their mother, during the period in which the female offender was subject to a home detention order. That would be better than the children being placed under community services protection and not being able to see their mother on a regular basis. It is important to remember that we are talking about offenders who have been convicted of minor offences. A number of provisions in the bill will ensure that the only people eligible for home detention orders would be people regarded as not posing any risk to the community as a whole or to their families.

As I indicated earlier, the development of the home detention pilot scheme is only one of several initiatives being implemented by the Bracks government to broaden the range of sentencing options currently available in Victoria. In essence, the home detention pilot program would enable low-level offenders to serve a period of imprisonment in their place of residence under very strict conditions. The Labor government believes serious criminals should continue to serve prison time when they have committed serious offences but it also believes home detention can be a better sentencing option for less serious offences.

Both male and female offenders subject to home detention orders would be confined to their homes under electronic monitoring except for agreed times when they would attend rehabilitation programs, training or employment. Enabling offenders to continue their employment would mean they could make restitution to victims of crime where a particular offence has a monetary impact on the victim.

Home detention programs have been introduced in all mainland states in Australia except Victoria and in a

number of jurisdictions overseas. The schemes seek to address issues of rehabilitation and reintegration. The Victorian scheme has been tailor made for Victorian conditions and does not seek to replicate all the features of the schemes which have been introduced elsewhere. However, the major reason for the introduction of this pilot program is to seek to achieve a greater level of rehabilitation and reintegration of offenders into the Victorian community.

It is in this respect that I emphasise how important it is to ensure that offenders are able to continue in the employment in which they were employed at the time of their convictions. It is extremely difficult for people coming out of the prison system to go back to work or to find new jobs. I personally have had discussions with constituents who have served small periods of incarceration and who find it extremely difficult to go back to their jobs or to find any kind of employment after that as many employees are reluctant to accept the fact that once a person has done their time, they are entitled to be treated as another member of our community and to assume that that person is wanting to get on with their life and be reintegrated into the community. It is unfortunate that people have these prejudices. I guess the level of recidivism acts as a reason why people tend to be suspicious of people who have criminal records, but it is important that we seek to ensure that people are not put on a path of crime for the rest of their lives.

It is quite clear that once they have gone into the prison system, not only are they able to learn the various criminal techniques from their fellow inmates and to make contacts and networks that might get them into trouble further down the track when they are released, they are in the majority of cases unable to access jobs that they may have had in the past.

The home detention program would allow offenders subject to home detention orders to be able to work at their normal place of employment. Of course conditions would be reached between the offender and the supervising corrections staff as to what the curfew time would be and what the other conditions would be in terms of travelling to and from work and other conditions associated with the person continuing in their place of employment.

As I indicated, the ability to continue in employment would provide an opportunity for offenders to make restitution to victims for crimes that they have committed in the past and would also enable offenders to provide financial support for their families.

The eligibility for the home detention program is clearly spelt out in the bill. The bill is exhaustive in the types of criteria it sets out. It specifically excludes offenders who have histories of sex offences or crimes of violence, who have breached intervention orders, have committed commercial drug trafficking offences, firearm offences or have been convicted for stalking. The protection of the public has been regarded as being paramount by specifically excluding these types of offences. As I indicated the consent of the family and other co-residents of the offenders would be required to be obtained and would be regularly reassessed in order for the orders to continue.

The offender would be subject to regular monitoring and it is expected that monitoring would be done on a daily basis and would be by face-to-face interviews, particularly at the early stages of the home detention order. The process of evaluation over this three-year pilot period would ensure that there would be an annual report to the Victorian Parliament as to the success of the program and, if the pilot proved to be ineffective, the government is committed to discontinuing it after that three-year evaluation period.

The main component of supervision for the program would involve supervision by the public correctional enterprise which is already involved with the community correctional services division of the Department of Justice in supervising other individuals who are subject to community-based orders.

There would be two classes of offenders who would be eligible for home detention. As I indicated, eligibility is not the same thing as being the recipient of such an order, as the ultimate decision and evaluation of suitability would be made by the courts. However, those classes of offenders who would be eligible would be newly sentenced offenders and soon-to-be-released prisoners. More specifically, offenders facing prison sentences of 12 months or less would be eligible for home detention orders, and assessments would be made by the community correctional services unit of the Department of Justice over a lengthy period involving interviews with the offender, the offender's co-residents, employers and other relevant parties.

If the offender was assessed to be suitable for a home detention order, an application would then be made to the court seeking approval, and the court would be able to make such an order or in fact to deny making such an order for whatever reason it thought appropriate in the circumstances. If an offender was assessed as being unsuitable for home detention, the original order of imprisonment would stand and the offender would be required to serve out the full period of the sentence.

The other class of offenders who would be eligible for home detention would be minimum security prisoners who have served at least two-thirds of their sentences and are within six months of their release. In those cases the Adult Parole Board would make a decision based on community correctional services investigations. That process is quite similar to an individual being placed on parole under the current sentencing regime. However, the process would be far more exhaustive in that in this particular case the offender's family, employers and other relevant parties would also be consulted prior to such an order being made.

The conditions of a home detention order are set out in the bill, but broadly speaking they would include a requirement to abide by a time curfew, would involve conditions relating to the offender submitting to random visits from a supervising officer, and a requirement for the offender to wear an electronic monitoring device either around their wrist or ankle. They would be also required to submit to random drug and alcohol testing and to participate in programs that would assist the offender in the process of rehabilitation.

Predominantly these programs will be delivered by community-based agencies to pursue the government's stated objective of community reintegration. As I said earlier, supervision will be regular, involving face-to-face contact in the early stages of the home detention order and then daily contact, most likely by telephone. The electronic monitoring component of the conditions will involve a high-tech monitoring bracelet to be worn by the offender and will require a secure monitoring unit to be kept in the offender's home linked to a central computer system that the government will introduce — a state-of-the-art system used by other jurisdictions.

The government will monitor curfew compliance by offenders through minimal intrusion into the lives of the offender's family or co-residents. The condition of requiring an electronic bracelet is not intended to be overly intrusive but to ensure the offender complies with the conditions of the home detention order, and it will be a breach of the order if the offender tampers with any of the monitoring equipment.

Any serious breaches by offenders may lead to a home detention order being revoked, and it is likely that offenders subject to these orders will have a clear disincentive to tamper with such monitoring equipment, given that is the case.

They are the key features of the home detention program, but the bill also makes a number of other amendments to the government's corrections system and introduces a number of amendments to the Corrections Act. In particular, it clarifies some uncertainty relating to the definition of 'custody'. At the present time there is some ambiguity as to when the period of custody starts and ceases, particularly relating to individuals who are in custody when attending court for various court proceedings. The bill seeks to ensure the term 'custody' is used only in relation to the Secretary of the Department of Justice's legal custody of prisoners. There are provisions in other acts which relate to the transfer of prisoners to mental health institutions and institutions for people with intellectual disabilities which the bill does not seek to replicate. The bill does seek to clear up this ambiguity to make sure we are talking about custody of prisoners who are directly under the secretary's legal authority.

The bill also seeks to address other issues relating to confidentiality. It will enable information to be released to victims of crime in certain circumstances. The release of that information will relate to things such as the prisoner's release date and will be made available only to primary victims, and will not be disclosed if the Secretary to the Department of Justice reasonably believes the information may endanger an individual.

The bill introduces a system of home detention that is worthy of examination by the government. It is unfortunate that the opposition parties have decided to embark on a law and order scare campaign at the next election and are not prepared to seriously look at various approaches that have been adopted by other Australian and international jurisdictions which seek to address the severe problems we face in the community related to the scourge of drugs. It is clear that most offenders in our prison system are there due to drug offences, and the home detention pilot program would enable such offenders, where they have committed minor offences, to be diverted to a drug counselling program and to be kept off the path of crime they find necessary to feed their drug habit.

I express my disappointment with the decision of the opposition parties to oppose the bill. It is a position the community will remember at the next election. To date the opposition has prevented the government from examining an innovative approach to supervised injecting rooms and is now taking a similar approach to the examination of the home detention pilot scheme. It is a disgraceful position to take because it will not enable the government to examine every possible approach to eliminating the drug scourge from our community and from making our community a safer place to live. For these reasons I support the bill, and I urge other members to do likewise.

Hon. ANDREW BRIDESON (Waverley) — The house has just heard some 20 to 30 minutes of passionless speeches from a member of the government benches on what is supposed to be an important change to the Sentencing and Correction acts. No honourable member would be convinced by the arguments put forward by the Honourable Jenny Mikakos because nothing compelling was put forward. In fact, her contribution could be summarised as an ideological airy-fairy approach that is soft on crime. They are soft options. After listening to her initial statements members of the opposition could be forgiven for thinking the Honourable Jenny Mikakos was agreeing with the opposition because she said that you could not give any guarantees that people placed on the home detention program would not reoffend. She also agreed with the concerns expressed by opposition members about the effects the home detention scheme would have on families, particularly the children of those under home detention. She referred to some safeguards built into the bill, particularly proposed sections 18ZI and 18ZM, but in examining those provisions we see they do not give cause for comfort.

The Federation of Community Legal Centres, one of the many groups who corresponded with the opposition, said that the scheme would coerce families into lying or minimising problems in the home because no family member would want to feel responsible for the offender in their family going to prison. It would have a different effect to that claimed by the Honourable Jenny Mikakos.

As I said earlier, the honourable member's contribution did not convince anyone on this side of the house that we should change our course of action. In fact, I would be pleased to go to the next election on this legislation because it is important for the community to discern the differences in what the two major parties are offering. This is one point of major difference. It is of some concern to the community that people who offend against the community are punished according to community expectations. I think that is one argument we would surely win.

It is no news to the government that the Liberal Party will be opposing this legislation. We have consulted extremely widely during the autumn recess. It is the role of the Legislative Council to review legislation, and this is one of the pieces of legislation that we have reviewed very carefully. We have thought long and hard and consulted widely with groups who take a close interest in this subject, and we have come to the very solid decision to oppose it. Members of the opposition concur 100 per cent with the six points put forward by the Honourable Peter Hall on behalf of the National Party.

I will touch briefly on the fact that we on this side believe the bill to be a soft option. We are concerned that police resources will be used inappropriately, and I will elaborate on that. We do not believe home detention is a deterrent. We think it will undermine the authority of judges and magistrates. We believe research done both interstate and overseas does not reinforce the view that this legislation will have a major effect. We are concerned about its effect on families.

To elaborate on those points, the purposes of the bill as set out in the legislation are relatively brief. They are to amend the Sentencing Act to empower a court to make a home detention order where it has imposed a sentence of imprisonment, and to amend the Corrections Act to empower the Adult Parole Board to make a home detention order where a prisoner nears the end of a term of imprisonment.

As I said, we believe this is a soft option. It certainly does not meet community expectations. As Mr Boardman and Mr Hall have said in their contributions, we believe the bill is totally unnecessary, because a wide variety of non-custodial sentences are already available through intensive correction orders and community-based orders. We do not believe any further changes are required.

The opposition believes police are not jailers. We pay police to patrol the streets and keep the community safe. In the event that home detention orders were implemented we would consider that the time of police would be wasted in overcoming problems created by those who break their home detention orders. It could be that these people breach the curfew or that they commit acts of domestic violence or breach any other orders that have been imposed. I put on the record that police resources for prisoners are already stretched to the limit. Information leaked to the opposition last week indicates that 350 prisoners are currently held in cells that were designed to hold a maximum of 120 prisoners. The average stay in the cells is approximately four weeks. It is absolutely outrageous that this is continuing.

On Tuesday, 4 September, the *Bendigo Advertiser* reported on a letter written by prisoners who described the conditions in the town police cells as absolutely appalling. They claimed that eight prisoners were sharing five beds and some were sleeping on the floor next to toilets. After four days in custody inmates were experiencing muscle spasms from being exposed to fluorescent lighting 24 hours a day — an absolutely

shameful fact. I am sure the United Nations, which has set very definite conditions for the way prisoners are treated in cells, would be absolutely appalled at the conditions these prisoners are kept in. Their hygiene facilities are extremely limited — there is no tap and no soap in the cells, and they have only cold showers. Two inmates in the cells tried to commit suicide, and other prisoners have been refused access to doctors. This is an example of what is occurring today. If the home detention scheme were implemented police would be called out to deal with many more serious breaches. As I said earlier, the role of the police is to look after community safety, not to act as jailers.

There are other examples I do not need to go into, but for the purpose of putting it on the record I point out that there are major problems in the Geelong, Kyneton, Shepparton and Mill Park police stations where the cells are grossly overcrowded and police are not being used in the most appropriate fashion.

I said earlier that home detention is not a real deterrent because it cancels out the minimum sentence in the front-end scheme whereby home detention may be used as an alternative sentencing option. An order for front-end home detention allows an offender to serve the full time of imprisonment at home, as opposed to the other form of home detention outlined in the bill, which we will call the back-end order, whereby the Adult Parole Board makes the decision to release offenders from serving their full sentence on home detention orders. We have heard from other speakers how this would undermine the decision-making powers of judges and magistrates because the Adult Parole Board and bureaucrats would have ultimate control over sentencing options.

I mentioned research. We have heard from previous speakers about the research that has taken place in New South Wales. Ms Mikakos made some assertion suggesting that we should not place too much importance on that research and should not look too closely at the figures. But the point to be made is that there is no hard evidence from either interstate or overseas showing that this form of incarceration is successful and will stop people from reoffending. I refer to correspondence from the Federation of Community Legal Centres — one of the groups we consulted with — which has written to us and has obviously put much time and effort into its submission. The letter states:

> The Labor government's contention that their scheme will make the community safer by keeping low-level offenders from the polluting effects of prison is not supported by the UK and Canadian research.

It goes on to say that the research from overseas has shown that home detention does not have any impact on rates of reoffending either when it is a front-end option or a back-end option, and that supports the contention of the opposition.

This correspondence is representative of the peak body of Victoria's 43 community legal centres. The opposition has not had one letter of support for the bill from any community legal centres.

Sitting suspended 6.31 p.m. until 8.02 p.m.

Hon. ANDREW BRIDESON — I again place on the record that the opposition opposes the Corrections and Sentencing Acts (Home Detention) Bill. It is against the scheme because it does not meet community expectations. There are plenty of current options available for judges and magistrates when sentencing people and there is no need to bring in an inferior system. No research and evidence compels us to believe home detention would be successful.

Before the suspension of the sitting I was talking about the impact of the scheme on families. I will outline some of the impacts it will have on families that have been expressed to us by organisations and groups with which we have consulted.

I do not believe enough consideration has been given to the families that will ultimately have to carry the burden of the home detention system. Essentially this bill relies on the expectation that a home can successfully be transformed into a prison without considering the long-term effects that will have on the home or the family. I place on the record the thoughts of some of these organisations. Mr Hall previously put on the record the concerns of the Federation of Community Legal Centres, and I added to some of its comments.

The Criminal Bar Association, an organisation of some repute, is totally opposed to the Corrections and Sentencing Acts (Home Detention) Bill. I raise a specific point about its effect on families, and in so doing I refer to a letter from the association. It states that it:

> … shares the widely held concern that home detention schemes can operate unfairly on those women and children who have little choice in accepting an order confining an abusive spouse/parent to the home.

That is a very telling point, to which the opposition has turned its mind. It is the main area of opposition that attracted me to oppose this bill. In its correspondence the association raised other points about home detention, but I will leave those issues to other contributors.

The Women's Coalition Against Family Violence also wholeheartedly opposes home detention. There is probably no need for me to put its specific words on the record, except to say that it was acutely concerned about the effect of family violence on women and their children, which, as we all know, occurs in greater numbers than we would all like to believe.

A very interesting letter was received from Dr Debbie Kirkwood, an associate lecturer in criminology and police studies at Deakin University in Geelong. In it she states:

> My main concern is that home detention is a 'bandaid' solution which will do nothing to address the problem of crime in our community. In order to reduce crime and its impact we need to address the issues and the social problems which cause crime —

And Mr Hall alluded to the same item of correspondence. She goes on further to say:

> I am also very concerned about the impact of HD —

home detention —

> on families. Given the prevalence of domestic violence in our community it is dangerous to lock families in their homes. If an offender assaults his/her family they will be unlikely to report this crime to the authorities because it will result in instant imprisonment. This is a lot of responsibility to place primarily on women and children.

That was also one of the concerns raised by the Honourable Jenny Mikakos.

In addition, it is of some discomfort to me that five or six women's organisations are totally opposed to home detention. These organisations were afraid to put anything in writing to the opposition, the reason being they were afraid their funding from the government may be terminated or cut in some way. It is an absolutely appalling state of affairs that in Victoria today women's organisations are afraid to say they are opposed to home detention for the reasons I have outlined.

Hon. P. R. Hall — They are intimidated.

Hon. ANDREW BRIDESON — They have been totally intimidated. I will put the names of these organisations on the record. Over the ensuing 12 months to 2 years the opposition will watch very carefully to see whether these organisations receive cuts to their funding. They are: the Victorian Women's Trust, the Women's Information Referral Exchange (WIRE), the Women's Domestic Violence Crisis Service, Women's Health in the South-east, and centres against sexual assault (CASAs).

All these organisations are very reputable and work diligently and hard for their respective constituencies. It is important to put on the record that these organisations which deal very closely and intimately with prisoners and their families are totally opposed to this home detention scheme.

By way of conclusion it is worth looking at the history of home detention and where the idea originated from.

I do not know how accurate it is, but I cite an article entitled 'Stir crazy: don't try this at home' by Amanda George, the community lawyer at the Brimbank Community Legal Centre, that was published in the *Age* of Friday, 4 May. I have no reason to doubt the words. Ms George says that the home detention scheme originated in New Mexico after a judge read the comic *Spiderman*. In *Spiderman* electronic bracelets were used to monitor and control prisoners. It seems a rather fanciful idea, but all I can say is that it would appear that the Victorian Minister for Police and Emergency Services has probably read the same comic and has decided that this would be a worthwhile scheme.

As I have said, and as the Honourables Cameron Boardman and Peter Hall have explained, there really are no compelling reasons why the opposition ought to agree to the home detention trial. Certainly the Honourable Jenny Mikakos did not argue forcefully in favour of home detention.

In conclusion, maybe the general philosophy of home detention has some good points. I do not think any honourable member would denounce the idea of trying to keep people out of the prison system. For all the wide variety of problems created by incarcerating a person we all agree with the principle of trying to keep people out of prison. However, I do not think the home detention scheme has been considered deeply enough by the government, and the bill does not warrant passing by the opposition.

Hon. R. F. SMITH (Chelsea) — I rise to speak in favour of the home detention bill. I am a little surprised that the conservatives opposite have the typical conservative view, which is inconsistent with the view of conservatives in other states. I suppose it is a Victorian thing; I do not know. I suspect their opposition has more to do with restricting anything that may save Victorian taxpayers money, and by that I mean anything that would benefit the budget surplus. Members opposite will do anything to reduce the budget surplus and put government members in a position to offer less, and I think that has more to do with their opposition than any genuinely heartfelt, realistic view.

I have no doubt that the bill will benefit all the relevant parties — that is, the prisoners, their families, the victims and taxpayers.

Hon. B. C. Boardman — The victims?

Hon. R. F. SMITH — Yes. I will get to that point, Mr Boardman.

I also remind the conservatives opposite that all mainland states have a home detention act or bill, and they work and are successful. I will cite some examples in my contribution. These schemes have been effective in rehabilitating prisoners — that is, prisoners who pose no risk to the public.

The schemes have a dual benefit — one for the community and one for the prisoners. I will outline those benefits at a later stage. If the bill is passed prisoners will be closely monitored, and I wish to stress that this scheme is for low-security offenders. Surely no-one believes any government would put the community at risk by allowing anyone other than low-risk prisoners to have access to such a scheme. These schemes promote the objectives of rehabilitation and reintegration.

The Office of the Correctional Services Commissioner has looked at a number of schemes both in Australia and overseas and has proposed a model for a three-year trial. I would have thought that that sort of expertise would carry some weight in the opposition ranks; obviously it does not. I personally like to depend upon expert advice when making a decision on these sorts of issues. I believe the opposition has a hidden agenda that is more to do with economics than social justice or commonsense.

The scheme will cater for up to 80 prisoners at a time and will run for a three-year trial period. Despite what the National Party has said in expressing its strong opposition to the scheme, I would have thought that given that the trial is to take place only in metropolitan Melbourne its members may have taken the view, 'Well, let's have a look and see'. I suppose being the ultraconservatives that they are, it was just too big an ask.

The cost advantage to taxpayers is significant. The scheme will reduce the costs involved in looking after prisoners, which currently runs at approximately $51 000 per prisoner annually. It is estimated that the scheme would reduce the cost by some 40 to 60 per cent. That figure is not insignificant.

One of the major advantages of the proposed scheme is that prisoners will be able to work and therefore pay restitution, thereby benefiting the victims as well as themselves. And obviously if they are family men or women and able to continue to work they can provide for their families. Therefore the view expressed by the previous speaker, that it is all about looking after the family, is I think a little thin. If you want to look after the family and you are genuine about that, you would allow the parent to be home. I argue that it is far better to have the parent at home than to have him or her continuously locked up.

It was suggested that there may be a risk of some sort of violence on the part of the prisoner. I remind honourable members that there are conditions that govern the sort of people who will be eligible for the home detention scheme, and they exclude those who are guilty of sexual crimes or domestic violence. I will outline the other categories. I would have thought the concern about families being put at risk through domestic violence is just a furphy. Prisoners who will be eligible for the scheme will be carefully screened by experts from the department of correctional services, which will ensure that public safety takes precedence. Selection will not be easy and will require consent from families and co-residents. To suggest that families would be concerned about prisoners staying at home when they have the right to simply say no just does not wash; it is a bit thin. Any co-resident has the ability to consent or disagree. The situation will be regularly reassessed or monitored.

As I stated previously, not all prisoners will be eligible for this scheme, and those with a history of sexual offences, violent crimes, breaches of intervention orders, commercial drug offences, firearms offences or stalking will not be eligible. I argue that those restrictions protect the interests of families and society in general.

Each year the pilot program runs a report detailing its progress will be tabled in Parliament. If the pilot is failing it will immediately be discontinued. I do not understand the concern about a three-year trial. As I said earlier, strict supervision of prisoners who get access to this program will be maintained by the Public Correctional Enterprise, known as CORE, which has considerable expertise.

Only two groups of prisoners will be eligible for the program, newly sentenced prisoners and soon-to-be-released prisoners who qualify. Prisoners facing a 12 month sentence or less may be considered by the court for home detention. If this is to happen the actual sentence is stayed pending an assessment. Assessment by correctional services staff should take approximately three to four weeks. If the process takes

place and prisoners are considered to be unsuitable the original sentence will be served immediately. The other categories are those who have served two-thirds of their sentence and have less than six months to complete their sentence. In that case the Adult Parole Board will make the assessment.

The conditions that apply to home detainees are that they have to abide by a curfew, submit to random visits, wear electronic devices, submit to drug and alcohol testing, and participate in rehabilitation programs. That is not particularly easy. If I were subjected to that I would consider myself a prisoner, even if I were confined to my home. It is not exactly a freebie.

Electronic monitoring consists of three elements: a high-tech bracelet which must be worn at all times; a monitoring unit at home; and a central computer using advanced technology. One would have to say if that is the case then Big Brother is certainly watching! I stress that home detention is for less serious crimes. We have all heard examples of people unfortunately being put in either watch-house facilities or in jail for minor offences such as parking offences for the non-payment of fines, where people have tragically been beaten up, sometimes quite severely. Nobody wants to see people who are jailed for such offences mingling with the hard nuts of this world and subjected to the contamination they would obviously get in jail, in particular having their safety put at risk. What a tragedy that would be for their families. It has happened in the past. One of the advantages of this scheme is avoiding that in the future.

The scheme is a three-year program aimed at offenders. It applies to only metropolitan Melbourne and can be cancelled at any time. Strict security will apply, with the compulsory wearing of electronic bracelets, and high levels of personal contact will occur. All mainland states have similar schemes, including those led by the conservative parties.

Cost savings to the Victorian taxpayer will be of the order of 40 per cent to 60 per cent. The Northern Territory has a 95 per cent success rate — that is, 95 per cent of home detainees have not reoffended or breached their orders, which is significant. The government believes this will help reduce crime in Victoria, and for those reasons I commend the bill to the house.

Hon. R. H. BOWDEN (South Eastern) — I oppose the Corrections and Sentencing Acts (Home Detention) Bill because it conforms to an interesting envelope of opportunity. In the commercial world there is such a thing as an invitation to make a mistake. The government in many ways has with a great deal of thought manoeuvred itself into a situation where it is inviting members of this house to make a mistake.

The bill sends a message to the community that the government is soft on crime or softer on crime than it should be in the expectation of the community. It exhibits a degree of insensitivity to the feelings of the community. Time and again we see appalling crime situations on television. They do not have to be major dramas because even a small crime can have an enormous impact on an individual who is the victim. It can have a lifelong impact on the person who is the recipient of the offence or the violence.

Even with goodwill the government has unwittingly strayed into an area of insensitivity to the community's feelings. This is also a classic example of the value of the Legislative Council. This legislation was passed by the Legislative Assembly. In a legislature or jurisdiction where there is one house this bill would become law. The value of the Legislative Council is that we have a review responsibility and a jurisdiction to deliver a review of legislation. This is a good example of where the community is being spared a significant mistake by the review capability of the Legislative Council.

I am particularly concerned about allowing people who have transgressed in a significant way to rejoin family circumstances where it may not be suitable and will cause stress and difficulty.

I have some concerns about certain features of the bill, such as front-end and back-end home detention. I understand that it is a pilot period with a sunset clause and with a three-year estimated running time, but many difficulties and problems can be created within three years. I do not believe this is the sensible way to go.

I am concerned a wrong message will be sent to those elements of our society that disrespect the law and will say, 'It's okay mate, you can get home detention, you will be out earlier'. In some cases it would be unrealistic to expect that those individuals would get home detention, but I do not believe the expectations should be given to the uncooperative elements of our society as an expectation of a benefit that they could have. It comes back to how meaningful and realistic is our sanctions program within society. I believe the sum total of the proposals are an inadequate response to the expectation of our community. That is my fundamental concern with the legislation.

The bill perpetuates a suggestion that Labor is soft on crime. There is a false but widespread myth in the community that there are no criminals, that they are victims of society. That is absolute rubbish! To some

extent the bill is a means of extending that false situation. It is not proper to introduce such measures in our community in Victoria.

The victims will not be notified when offenders are released on home detention orders. I can envisage circumstances — they need to be reasonably serious circumstances — where a 12-month jail term would be considered and where the victim impact statement is a major exercise within the proceedings of the court.

It is unacceptable that victims will not be notified if offenders are released on home detention. I understand there will be electronic bracelets, tracking devices and so forth, but as other honourable members have said during the debate, there have been instances in other states where a large number of people under detention fail to understand their responsibilities. It is inevitable that unscheduled or accidental confrontations will occur and victims will meet the perpetrators of their crimes. That is unacceptable.

I am also concerned that home detention could allow drug traffickers and suppliers back onto the streets. As I understand the bill I am not aware that it contains serious deterrents to people visiting the detainees. Therefore, it is possible for a person who is engaged in several illegal activities such as car theft, the readjustment or rebuilding of cars and the marketing of illegal goods, particularly drugs, and who is on home detention to continue those undesirable activities from their home.

A drug trafficker can trade and be in possession of up to 249 grams of pure heroin but not be deemed to be a commercial drug trafficker. I have it on good authority that 249 grams of pure heroin could produce 4233 caps because 1 gram of pure heroin, when reduced to 20 per cent purity, will produce 17 caps. The realistic scenario is that an offender or several offenders in a short time through their transgressions could enjoy home detention to the extent of inflicting 4233 caps of heroin on the community. That is totally unacceptable.

The New South Wales statistics for 1999–2000 reveal that 27 per cent of New South Wales offenders who had been placed on home detention breached their orders to the extent that their home detention orders had to be revoked. I believe 27 per cent is too high. It would be realistic to expect that the tracking and the experience in New South Wales would be similar to the experience expected in Victoria.

Also, the impact on families could be significant. For instance, it is necessary for the other cohabiters in the family home to agree to home detention. When the authorities say to other members of the family, 'This person is eligible and could be given a home detention order, but that needs your approval' what will the other family member do? Will they say no? That is a pressure and there are many circumstances where sadly the domestic arrangements of the families involved could best be described as dysfunctional and, therefore, if the other person says no, the person who is being offered or being considered for access to home detention suddenly faces a major family conflict, which is a situation I would not like to see arise or be perpetuated.

The impact on children can be severe. Honourable members may or may not know that between 1980 and 1984 I regularly sat in the magistrates courts, second division, in Springvale, Frankston and Hastings as a justice of the peace. I heard many hundreds of cases and in several the court delivered custodial sentences. In arriving at what is a serious decision the impact on the person and families, and particularly on the children, had to be taken into consideration. Under certain arrangements and in expected combinations of circumstances home detention will be traumatic for children who may or may not be the natural children of the parents in the home.

It would be difficult for children to cope with somebody who may be known in the community being convicted in the courts and returned to their home; usually the neighbours up the street and the general local community will know that that person in that dwelling is under home detention. That is a potentially devastating and totally unacceptable consideration for young children.

Children can be cruel to each other. I envisage a circumstance where the children go to school and find that their school friends have discovered that a relative or person is living in the same house under a home detention order. I can imagine how that could be devastatingly unacceptable and an entirely awful emotional experience for the children. That, in itself, is a significant argument against the home detention idea.

I suggest to honourable members that the possibility of rehabilitation is enhanced through professional, ongoing, regular access to rehabilitation services. Having read and considered the bill I do not believe the opportunity for rehabilitation is strong enough in the home detention circumstances described in the bill. Those circumstances would not be as good as or even approach the level of competency that would be expected to be available to offenders in a regular minimum security, low security or custodial arrangement that may meet their level of risk in the

community. The bill is unacceptable with regard to its rehabilitation measures.

Victoria Police is the finest police force in Australia. I have had a long and interesting association with Victoria Police over many years as a justice of the peace, a bail justice and member of Parliament. I very much respect members of Victoria Police; they are hardworking people with a very difficult job.

Circumstances could arise with home detention where a difficulty or problem occurs through a family argument. Then the police have to attend and make the hard decisions. Those circumstance can be extremely difficult because many of the difficult decisions to be made by the police fall into the general category of the type of service the police hate — that is, attending domestics, as the police call them.

In some instances the stakes would be high. If the police are called to attend and sort out a domestic problem they could find that a person involved could have a home detention order revoked if the problem is not solved sympathetically or carefully. That means the stakes for the individuals involved would be high and the potential for violence becomes severe.

When I was sitting on the bench in the Magistrates Court in the 1980s I remember the police saying that among the jobs they hated the most were domestics. Often the highest exposures to personal injury faced by members of the police force occur during emotional domestic arguments or situations.

The proposal is stretching the resources of the Victoria Police into an area which I believe is undesirable. It is putting police further at risk in the already dangerous and difficult tasks they have to carry out. In effect they will become mobile prison officers, and I have real problems with that: I do not believe it is acceptable. It will divert substantial community resources away from the many other urgent responsibilities police officers have at any given time and day.

An aspect which has been emphasised in other parts of the correspondence put before members is the cost saving to the community. I do not believe you can have justice on the cheap. I do not believe you can provide professional rehabilitation and correctional services on the cheap. If it is possible to retrieve someone and make them a productive person in the community that is wonderful, but I do not believe that taking a cost-cutting approach to custodial circumstances is wise. Given that belief I cannot support this bill.

I have had to hand down custodial sentences in the past, and it is not easy. As I read the second-reading speech, the bill itself and other literature relevant to the bill, I think the taking away of the custodial aspects of sentence provision and judgment from the hearing in court and from the judge or magistrate who has heard the case is a negative and backward step. The person who knows the circumstances of that sentence better than anyone else is the judge or magistrate who has heard the case.

The provisions of this bill are totally unacceptable to me. It is unacceptable to have third parties or members of the bureaucracy other than the court officers who have heard the case arrive at custodial decisions. That is a step down a path I have real trouble with. I am not a lawyer, but I have had considerable experience in the law. We are not going to do it, but I suggest that if we were to take that step down the path of letting outside bureaucracy determine or adjust sentences handed down by the courts as described in this bill we would be taking the first step down a very difficult path.

I will conclude my remarks by indicating that I have received correspondence from a considerable number of responsible organisations which are clear in their opposition to the provisions of this legislation. In a letter dated 17 September 2001 and signed by Amanda George, lawyer for the Federation of Community Local Centres, the Brimbank Community Legal Centre states:

> The Federation of Community Legal Centres, the peak body of Victoria's 43 community legal centres supports and applauds your opposition to the government's home detention bill.

I believe that that statement alone rings major alarm bells about the efficiency and appropriateness of this legislation.

I spoke earlier about the impacts on the family, and I would like to quote from a fax received from the Fitzroy Legal Service on 18 May. Under the heading 'Impact on families' it states:

> The role played by the family and the severe impact of a home detention order on parents, partners and children living with a person on home detention cannot be justified. This includes the enormous pressure to consent to the order for adults and not even the ability to refuse consent for those under 18.

The fax goes on at length about several other aspects.

In conclusion, I believe the government is probably well intentioned. It is trying to broaden the aspects; it is trying to be humane and sympathetic, and I respect that. I do not have a problem with that at all. However, I believe that the practical aspects of this legislation are out of sync. The bill is out of step and it is outside the envelope of community expectation of the way people

are to be penalised and rehabilitated. If they go home they will sit on the lounge and watch television and there will be problems. The domestic problems that could arise from this and the pressures and the various permutations of circumstances mean it is not worth the risk.

I come back to where I started. It is an invitation to make a mistake, and I advise honourable members that I cannot play my part in making that mistake, so I cannot support the bill.

Hon. J. M. McQUILTEN (Ballarat) — I would like to begin by stating on the record that I am not using notes. I have not said this before, and it is about time I went on the record to say that I speak from the heart and from my head, and I speak without notes.

I fully support the comments made in this place by my colleagues the Honourables Bob Smith and Jenny Mikakos. They went into some detail about the bill and why this house should support it. I will not go over that ground again. I would like to address my disappointment in the opposition for not supporting this bill. You cannot stand still in this world. I think that over the past two weeks everyone in this place and the world has come to realise that this world is not stagnant but is changing very quickly, and we need to respond and review how we do things. That is at all levels; it is not just in relation to terrorism or the containment of people who have broken the law, which is what we are talking about tonight. You need to be flexible; you need to be able to look at new concepts and new ideas.

That is the basis of my disappointment in the views of the opposition tonight. In my view members opposite are just standing still, and in life you cannot just stand still. As a society we must keep trying to make improvements on how our society works. If we do not try, we will not improve. That is the story of humankind — you must try to improve things.

This bill is just one small attempt to improve the way mankind does things. It is no great piece of legislation in the order of what has been happening over the past two weeks but it is an important step towards trying to do things better and trying out some new methods.

But my disappointment again is that the opposition is not prepared to even try. Despite all their protestations and what I consider to be their slightly twisted logic — although I can see some of it — members of the opposition are still in my view denying us an opportunity to take a step forward in an attempt to improve the way our society works. I know there are a lot of good people on the other side of the house, and I am disappointed that they have not prevailed in taking a much longer term view. It is only a trial. It is not something that is set in concrete that you have to report back to Parliament to change.

I have had some experience with people who have been in jail. I am 51, and as you go through life you meet people. I used to work in Sunshine when I was a kid. There were quite a few people working in the factory who had been in jail. Jail is a very unfriendly place. When I was a candidate for Ripon I used to visit what was called J ward for the criminally insane and other places. They are very unfriendly places. To have a trial over three years putting 80 low-level offenders on a home detention program makes much more sense than to put them in with the worst and the nastiest of criminals. It is regrettable that members of the opposition have not been more intelligent and far-sighted in their view on this bill.

I finish with the statement that I am incredibly disappointed my opposition colleagues in this place were unable to take the long-term view and take a chance and investigate the system. The Northern Territory government, which until recently was the most extreme government in Australia, implemented a program like this and had a 95 per cent success rate. The Northern Territory government did it. They make you blokes look like a bunch of lefties! I cannot see how members of the opposition cannot support this moderate experiment. That is why I am disappointed.

Hon. M. T. LUCKINS (Waverley) — I am pleased to have the opportunity to oppose this legislation. To pick up one of the last comments made by my colleague the Honourable John McQuilten from the Labor Party, who suggested this would be an experiment, the fact is that the home detention bill we are debating today is a social experiment that would be introduced at enormous cost to families. It further articulates the fact that the Labor Party is soft on crime and is looking at dollars and cents before looking at the needs of the community it purports to represent.

I believe the legislation before us is ill conceived. Having listened to the debate I am still not convinced of the government's commitment to this bill or to the whole concept of home detention, because the government has failed to provide any compelling evidence or information to enable the opposition parties to support its legislation.

The legislation before us undermines the judiciary. It undermines the right of a judge or a magistrate to make provision for a prison sentence in cases where the crime is severe enough to warrant it. Bureaucrats will be

making decisions about who is eligible for home detention. The Labor Party is presenting the Parliament with legislation for a three-year social experiment — or as they refer to it, a pilot program — that will be limited to 80 offenders at any time, which is up to 300 people over three years, to commence this year.

There are many compelling arguments against the proposals we are debating today. One is that the judiciary will only be able to refer offenders for assessment to the administering home detention unit. The members of the judiciary cannot make the decisions themselves. The legislation effectively makes provision for front-end or back-end home detention orders — front-end orders being made by the judiciary and back-end orders being made by bureaucrats at the end of an offender's sentence. Bureaucrats will make the decision about a prisoner's eligibility and suitability for home detention.

Under the provisions in the bill most offenders waiting for assessment decisions to be made, which can take up to one month, will be released on bail and will be out in the community. I find that totally unacceptable. A sentenced prisoner who may be assessed as being not suitable for home detention will be allowed to walk the streets. That places the community at risk, because during the period when they are being assessed prisoners are free.

Under the bill the Adult Parole Board will make arbitrary decisions on the release of prisoners before their minimum terms of imprisonment are served. That will undermine a judge's decision. If a judge sentences an offender, the judge has taken into account all the evidence presented to him or her about the offence that has taken place and the prior offences of the criminal. Judges are basically undermined by the legislation, because even if they sentence an offender to a minimum sentence the Adult Parole Board will have the authority to make amendments to that sentence and have the prisoner serve a lesser sentence under home detention. Home detention basically means that a prisoner will be sent home to their family — whether that be a spouse, a parent or parents or a spouse and children — to serve out the remainder of their sentence. That basically makes the family the jailers. I find that concept completely unacceptable.

The Victorian community and victims of crime expect that offenders who are sentenced to a prison sentence will serve that sentence. Under the legislation before us victims will not be notified when offenders are released on home detention prior to the completion of their minimum sentences. The government has made claims through press releases and media reports, but interestingly not in the second-reading speech or in the bill, that offenders on home detention will be in a position to make restitution to victims if they are able to work during the period of their home detention, but the bill does not mention anything at all about that. Therefore that is either a lie or a furphy made up by the government.

In 1999, prior to the election, the Labor Party made a number of promises on justice. I quote from just one:

> Victorian Labor is committed to a tough public prison policy that guarantees the safety of the community and ends the drug culture and violence in Victoria's prison system.

Clearly that provision has not been expanded on in this bill. Another Labor policy entitled 'A more just Victoria' issued in 1999 states:

> Labor will expand programs that have been effective as alternatives to imprisonment and will develop better programs to prepare criminals nearing the end of their sentences to return to the community and receive bridging support after their release.

Nowhere in the Labor Party policy is there mention of a proposal for home detention. The Labor policy document 'A more just Victoria' refers to criminals nearing the end of their sentences having access to support to make their transition to the community a lot easier. The home detention program is policy made on the run and, as I said earlier, the policy is ill conceived.

The failure of the Bracks government to deliver on its election promises to increase police numbers is relevant to this bill. Police resources will come under increasing pressure if the home detention program does not work. It will not be members of the correctional services calling on a prisoner serving a period of his or her sentence at home, but a member of the police force. The police will be responsible for righting the wrongs and intervening in domestic disputes. I will refer to that issue in more detail later. Police will become mobile prison officers. The detention scheme will turn families into jailers.

A number of submissions have been made to the Liberal and National parties from community organisations concerned about the home detention program proposed by the government. My opinion and my party's opinion is that the government is putting dollars and cents before community safety, which is totally unacceptable. Home detention is available only to those people found guilty of offences so severe that a judge or magistrate determines that the offenders be remanded in custody. The minister's second-reading speech referred to the New South Wales experience, but its experience is that 38 per cent of people on home

detention breach their conditions and that 27 per cent of all people on home detention breach their conditions so severely that they are returned to prison. That is the risk the Labor government is taking, but it is not a risk that I personally as a member of Parliament and a member of the community and the Liberal Party am willing to take.

The Liberal Party has received many submissions from the community and from peak bodies about their valid concerns regarding the bill. I refer to the advice I received from the Brimbank Community Legal Centre dated 17 September, which states:

> The Federation of Community Legal Centres, the peak body of Victoria's 43 community legal centres, supports and applauds your opposition to the government's home detention bill.
>
> There are irreconcilable problems with home detention, in particular the risk that arises from creating homes as prisons and the potential for violence in the home … research into the effects of home detention on families in New South Wales, by their Department of Corrective Services, has revealed that domestic violence is essentially hidden in these schemes. If a family member reveals that there are difficulties or violence in the home, then the offender can be sent back to prison. Clearly this identifies the family members as informants and jeopardises their safety. Indeed, the Victorian bill gives offenders the right to see reports which have resulted in them being returned to prison.
>
> … The decision to incarcerate should be up to the state, such a heavy burden should not be put on families. The families of prisoners are already under enormous pressure and intensifying this pressure can only make the position of these families even more precarious.

The Liberal Party received a further submission from the Women's Coalition against Family Violence, which states:

> I am writing to urge that the Liberal Party maintain its opposition to home detention as a sentencing option. The prospect of families having to live with a member who is sentenced to stay at home raises grave concerns re the potential for families to be subject to family violence, and being under even greater pressure to not report …
>
> The prospect for women prisoners who are sentenced to home detention is also of concern. Many are victims/survivors of violence and abuse. The prospect of them being incarcerated at home with a violent partner is horrendous.
>
> The supposed safeguard of informed consent is naive. It is hard to imagine how anyone could really know what they are going to be subject to when living with a person who is incarcerated at home, for example being subjected to search and entry by prison officers. This is an extreme invasion of privacy which nobody should feel they have to consent to in order to save a loved one from being in prison.

Dr Debbie Kirkwood, associate lecturer in criminology, police studies, at Deakin University states in her submission to the Liberal Party:

> I am writing to you to express my concern about the possible introduction of home detention in Victoria. Home detention is problematic on a number of levels …
>
> I am also very concerned about the impact of home detention on families. Given the prevalence of domestic violence in our community it is dangerous to lock families in their homes. If an offender assaults his/her family they will be unlikely to report this crime to the authorities because it will result in instant imprisonment. This is a lot of responsibility to place primary on women and children.

The opposition has received verbal reports from women and community groups about the bill and they do not accept any of the provisions.

The Victorian Bar in its submission on the possible effect of a home detention order on household members states:

> While most of the issues to be considered in structuring a sentence for an offender are appropriate, serious issues arise in relation to the household members affected by home detention orders.
>
> Proposed section 18Y(1) provides that an order for home detention may not be made if residents 'of or over the age of 18 years who will be residing with the offender' object. The Victorian bar accepts that this is an essential provision in circumstances where electronic monitoring equipment will be installed in a residence, thereby affecting all who live there.

The provisions will not only affect the spouse of the individual who is incarcerated and who will take advantage of home detention, it will also have a terrible effect on the children in that environment. Not only are they having a parent restored to the home who may be violent — he is certainly a criminal — but one who may be increasingly frustrated, even if he were not frustrated in the past by his incarceration. The children will not have the opportunity to have a normal relationship with that parent because he will be restricted in the activities he is able to partake in and have regard to in the case of a child.

Proposed section 18Y is ordered not to be made if other residents object. It states that a court must not make a home detention order unless a court is satisfied that all persons of or over the age of 18 years who will be residing with the offender have been consulted by the Secretary of the Department of Justice or a delegate, have acknowledged in writing that they understand the requirements of the home detention order and are prepared to live in conformity with them, and have consented in writing to the offender residing with them under a home detention order.

That is all very well if you are over the age of 18 years as stipulated in the provisions I have just read, but if you are a child under the age of 18 having to live in this environment with a parent who is incarcerated at home

with an electronic monitoring device attached to them and who is restricted in what they can do with and for you — indeed, they may even be restricted from taking the child to school or going up to the local park — I suggest that does not go far enough in seeking to protect the interests of young people in our community. In addition, proposed section 18Y(2) states:

> The court must not make a home detention order unless the court is satisfied that —
>
> (a) so far as practicable the wishes and feelings of any person under the age of 18 years who will be residing with the offender under a home detention order have been ascertained; and
>
> (b) due consideration is given to them, having regard to the age and understanding of the person.

A child if asked frankly will say they would prefer that parent to reside with them rather than being separated from them in prison. My whole concern about consent arises from the duress placed on a family by the proposed sections. A spouse will feel they have no option but to have the husband or wife back in the family home. A child will have no opportunity to object because they will not necessarily have the capacity to object; they will blindly want that parent home with them. I can clearly understand why they would prefer to have someone in the family home as opposed to being separated from them, and I am very sympathetic to that. But the provisions of the bill make the families the jailers — they make the families undergo the pressure of being subjected to search and entry, and they make the family responsible for what the offender does.

The fact is that due to family loyalty or love for an offender, family members, whether they be children or spouses, will make allowances for that offender. I have real concern that domestic violence may be pushed under the carpet — that is one term — to ensure that the offending party who is on a home detention order does not go back to prison.

Proposed section 60J outlines the core conditions governing home detention. It states that the offender must be of good behaviour and must not commit any offence during the period of the order, and that the offender must advise the secretary as soon as possible if arrested or detained by a member of the police force. There are many other provisions, but in the real world what does any of that mean? The fact is that a family will feel compelled to protect their loved one, their family member, and either because of love or duress will try to ensure that the family member does not go back to jail.

Proposed section 60K refers to special conditions and states that the board may at any time attach special conditions to the home detention order. This is without consultation with members of the family who will be responsible for ensuring that the offender meets those obligations as set down by the board. The special conditions attached by the board do not take effect until written notice of the conditions is given to the offender. Proposed section 60K(3) states that the board may at any time vary or revoke any special conditions it attaches to an order. So a family being asked in advance to give consent to a home detention order for their spouse, their father or their fellow resident in the community will be subjected to a variation or possible variations to the order that is made, without their consent at any time as determined by the secretary of the department. I find that completely unacceptable.

Proposed section 60L refers to the withdrawal of consent and states:

> (1) A person residing with an offender who has given consent under section 60 may at any time by notice in writing withdraw the consent.
>
> (2) A notice of withdrawal of consent must be served on the Secretary.
>
> (3) An offender must cease to reside in the residence to which the notice relates on being notified by the Secretary that a notice of withdrawal has been served under this section.

That puts a family in an extremely difficult position, because in the case of family violence a family member will effectively have to dob in the offender and seek to have that order for home detention revoked. In that case irreconcilable differences will eventuate within the family. As a parliamentarian, an individual and a member of our Victorian community I have a problem with having the responsibility for the offender being ascribed to the family, because the offender will be made aware of who has made the complaint and of why the complaint has been made, and will never forgive that family member for turning them in and returning them to incarceration in prison.

I have not seen anything in this bill or in the second-reading speech that gives me a compelling and realistic argument, as a member of the Liberal Party and as an individual to support this legislation. I will never be party to social experiments being conducted in this state, and I have real concerns about the provisions being put forward by the government. I have very grave concerns for the families who will be subjected to this home detention provision in that they will feel compelled to accept that family member back into their home regardless of their previous or subsequent

behaviour, and they will feel the terrible weight of their conscience if they hand to the secretary of the department evidence to suggest that this person should not be eligible for home detention because they have broken the law or have made life more difficult for the family which has given them permission to reside with them under the provisions of the bill.

Families have enough challenges. A family member of a loved one who has gone to court, has been charged with an offence, has been convicted of that offence by a Victorian judge or magistrate and has been sentenced to a jail term for that offence has been through enough. They should not be asked to be a nanny service for the offender, particularly those charged with drug-related crimes, which is the case with the majority of crimes currently committed in Victoria. These families should not be subjected to any more.

I acknowledge the argument that some prisoners, particularly young offenders, may serve more of an apprenticeship than rehabilitation time in prison, and that is something that needs to be addressed. As to returning them to their families and their families being asked to be jailers for and to keep an eye on and monitor their loved ones, I do not think they can, nor should they be asked to. If they had the capacity to monitor what their loved ones were doing prior to their being charged with the crimes, I do not believe the crimes would have been committed in the first instance.

I have a real problem with this bill on many levels. Family retribution is one issue, the needs of the offender is another and the rights of the community is a third issue. I cannot support the legislation on any of the criteria I have set out. I am very pleased to vote against this bill. I hope that in future the government will not come to the opposition with such ill-conceived legislation, advocating social experiments to the detriment of families and our community.

Hon. S. M. NGUYEN (Melbourne West) — I am delighted to speak in favour of and strongly support the Corrections and Sentencing Acts (Home Detention) Bill. It is quite clear and there are reasons why the minister wanted to introduce the bill — that is, to make society more workable and the Victorian prison system more affordable.

As honourable members know, crime in Victoria has increased because of the changing drug situation not only in Australia and Victoria but around the world. The number of drug-related crimes is higher than a decade ago because more people have started using drugs and have become involved in drug-related criminal activities. In Victoria we cannot afford to keep locking up people because they are using drugs. When thinking about how it can cope with the issue and what it can do to make the situation better, the government has come up with a positive way to change people's lifestyles and the way they think.

It is easy to say, 'No, we do not want to do it', and give heavy penalties and strong punishment. But to solve the problem we have to think clearer and more carefully. The government is not trying to make life easy for people who are keen to break the law in Victoria; it is trying to solve the problem practically and in a way everyone can share.

Victorian statistics show that crime is increasing. Not only Australia and Victoria but everywhere in the world is copping the same problem. The problem is that people are smuggling drugs from overseas and breaking the law to get the drugs into Australia. There are smugglers everywhere. We have to have strong laws to stop people smuggling drugs into Australia. At the same time we have to extend the message to the Victorian community, especially young people, not to get involved with drugs. People are still using drugs, and the problem the government has to face is how the issue can be better controlled.

I am sure that most of the crimes for which people are in prison today are drug related. Some people sell drugs to support their habits. A lot of people do silly things to get the money, such as stealing by breaking into cars and other crimes. We cannot afford to keep locking them up for 6 months or 12 months, only for them to go back to their old circles once they have been released. We have done that for years. The problem has not been solved because more people have become involved. Strong punishment and heavy penalties have not solved the problem. The government is trying to distinguish between commercial drugs people and non-commercial drugs people.

When they are released people need to be looked after and helped to cope so they can be integrated back into the community and into their families. Some of those people have young children. How can they go back to their children without help? They are issues that have to be tackled. I have visited some of the prisons in Victoria and I know a number of people who have been locked up. But how can we solve the problems? What happens once they are released? They have paid their price; they have finished their jail terms. But that does not mean things will improve, that the issue has been solved, that their families will welcome them back, or that they will get jobs. They face difficulties, and many people have said to me, 'I do not know what to do when I get out. Who will help me? Who will welcome

me? Will I get a job, or will I have to struggle to find every dollar and cent to cope with a normal life?'. They are good questions to ask before they are released. Some of them say, 'I had better stay here longer so I do not have to worry about these things; I get meals, there is someone to look after me every day, and I do not have to do my duties and be back to normal'.

It will be hard for them. Opposition members talked about the safety of the community. The government would not allow anyone to be put on home detention if they were known to be a desperate case. There are some people who would not be eligible for home detention. People will be eligible only if the government is sure the community will not be at risk and is confident that the scheme will be workable for the people who are eligible.

A three-year pilot program will be trialled. The minister will report to Parliament every 12 months to ensure the program is working. The number of people who have broken the conditions of their home detention can be assessed, and the government can examine what has gone wrong. The issue can then be debated and we can try to find a way through any problem.

It is a sensitive issue, and I know some people in the community do not feel confident. However, judges will assess every single case and interview every person who is hoping to go on the home detention scheme. Not everyone will be suitable for home detention, and we know that not every case will work, so every case will be monitored and screened very carefully. Dangerous people will not be eligible, but people who respect and obey the law will have the opportunity to rebuild their lives.

We want to see non-violent, low-risk, low-security offenders on the scheme — people who will make the program work. I am sure some people will try to abuse the scheme, but we will keep an eye on them. There will be officers, supervisors, computer systems and electronic devices to make sure people do not abuse home detention.

The government will give offenders the opportunity to rebuild their lives. If they are drug users they can take part in government programs designed to help them with their rehabilitation. For example, today the Premier and the Minister for Health launched a program called Tackling our Drug Problem, which is very clear about the government's commitment to divert 7000 offenders from the criminal justice system into drug rehabilitation treatment. The program is available, and offenders should be allowed to attend it during their term of home detention.

People can study, gain experience and gain from employment during home detention. The Department of Education, Employment and Training could introduce programs to help people so that once they are released they can find a job and can be confident about looking after themselves and their children. Young people know they have to be at home, so they learn to behave themselves, and I am sure the department will work with young people with families to ensure the family knows how to cope. The program can be built up so the family can be encouraged.

The government does not throw people out; we do not send them home because we think they are a problem. People can be supported by friends who can visit them and can provide encouragement to change and have a better life. At the moment many people reoffend and go back to prison again and again. Some people who are charged with minor offences and serve three months in jail mix with killers and professional criminals in prison and become bad people when they are released because they have been mixing with bad people in prison. They become more involved in crime when they are released because they have connections with bad people in prison.

Some people should not be in prison. Somebody charged with a minor offence can be forced to mix with professional criminals in jail. People are often recruited to gangs because they are sent to prison. The big organisers in prisons have connections with people outside, and after three months in prison a minor offender can have those connections. The problem grows and is not solved. The longer the prisoner is in prison, the more professional they become at crime. We are not solving the problem.

Under the bill the scheme will be fully supervised and a report will regularly be provided to Parliament. Information will be provided on whether the trial is working or not. Questions can be put directly to the minister and the Premier. The pilot program will give families a chance to help each other and other people. I am sure the concern about safety I heard from opposition members is dealt with by the bill. The government is concerned about the safety of the community generally and the safety of neighbours and the local community in which offenders live. The program is 100 per cent supervised 24 hours a day, 7 days a week. People will use other programs available to them to build up a new life.

I have spoken with people from China who have informed me that they are already using such a program.

The program will ensure the safety of the community and provide prisoners with the opportunity for rehabilitation. The government has a choice to put prisoners on appropriate programs. The Bracks government is committed to tackling the problem by providing more beds, drug withdrawal, rehabilitation and treatment programs.

The government is spending more money on the drug rehabilitation program. If someone has committed a minor offence they will not be locked up with criminal offenders, because there is a network in prisons where professional criminals recruit minor offenders, and once minor offenders are released from prison they have more connections with criminals rather than returning to normal lives. In many cases once they are released they have no opportunity to obtain jobs or undertake training programs.

They must build a new life by finding accommodation, furniture and so on, but often they cannot afford to do so. The bill provides for them to get back into society. I have seen many cases in the Footscray area where a person who has been released after spending six months in jail is back on the street again because there is no alternative and no program. The government is trying to cut out the network of people who should not be in prisons by using other systems such as home detention to help families so they will not be a burden on society. For those reasons, I support the bill.

House divided on motion:

Ayes, 12

Broad, Ms	Mikakos, Ms (*Teller*)
Carbines, Mrs	Nguyen, Mr
Gould, Ms	Romanes, Ms
Jennings, Mr	Smith, Mr R. F. (*Teller*)
McQuilten, Mr	Theophanous, Mr
Madden, Mr	Thomson, Ms

Noes, 27

Ashman, Mr	Hall, Mr
Baxter, Mr	Hallam, Mr
Best, Mr	Katsambanis, Mr
Bishop, Mr	Lucas, Mr
Boardman, Mr	Luckins, Ms
Bowden, Mr (*Teller*)	Olexander, Mr
Brideson, Mr	Powell, Mrs
Coote, Mrs	Rich-Phillips, Mr (*Teller*)
Cover, Mr	Ross, Dr
Craige, Mr	Smith, Mr K. M.
Davis, Mr D. McL.	Smith, Ms
Davis, Mr P. R.	Stoney, Mr
Forwood, Mr	Strong, Mr
Furletti, Mr	

Pair

Birrell, Mr	Hadden, Ms

Motion negatived.

ADJOURNMENT

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

That the house do now adjourn.

Bail justices: immunisation

Hon. N. B. LUCAS (Eumemmerring) — I raise a matter with the Minister for Small Business for the attention of the Attorney-General in the other place. I refer to the excellent work done by bail justices, of whom there may be 350 in Victoria. Citizens who take on the role of bail justices should be commended for their service to the public. The role of the bail justice is not always pleasant, nor are a number of the accused persons with whom they deal. Persons accused of a wide range of crimes, including those involved with drug addiction and drug trafficking, appear before bail justices.

The incidence of hepatitis A and hepatitis B among those associated with drugs is at a higher level than in the general community. Given the enhanced potential for bail justices to come into contact with persons with hepatitis A and hepatitis B I request the Attorney-General to provide an allocation of funding for the provision of immunisation against those diseases for all bail justices and to encourage all bail justices to take up the availability of such immunisation.

Paterson's curse

Hon. W. R. BAXTER (North Eastern) — I raise with the Minister for Energy and Resources, representing the Minister for Transport in the other place, the issue of noxious weeds, which would normally be in the province of the Minister for Environment and Conservation. The matter goes to the incidence of noxious weeds on roads under the control of Vicroads. I refer particularly to Paterson's curse, a notorious weed in north-eastern Victoria which is slowly but surely advancing westwards.

As honourable members would know, weeds on adjoining roads are normally the responsibility of the adjacent landowner but on declared roads they become the responsibility of the road authority — that is, Vicroads or its agents. I particularly draw attention to an outbreak of Paterson's curse on the Shepparton–Katamatite Road, a declared road. It is in a region that has traditionally been and still is basically free of any infestation of Paterson's curse. Most of the

adjoining farms are free from that weed, but there is a quite serious although not intensive infestation along the roadsides at present. If those plants are to be prevented from seeding this season the problem needs to be attended to in the next 10 days or so. I invite the minister to take up with her colleague the need for urgent attention to be given to this particular location on the basis that a stitch in time saves nine.

Belgrave–Hallam Road–Hallam North Road: upgrade

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise with the Minister for Energy and Resources for the attention of the Minister for Transport in the other house the upgrade of Belgrave Road and Hallam North Road. In July I wrote to the outgoing Vicroads chief executive officer, Mr Jordan, and asked his advice as to plans the government or Vicroads had for upgrading Belgrave Road. In particular I sought his advice about upgrading the section of Hallam Road north of the Hallam bypass, which is currently under construction. I asked about the need to duplicate that section of road and to provide for an improved intersection at the junction of Hallam and Belgrave roads.

I received advice from Mr Jordan's successor, the acting chief executive officer, that Vicroads is giving consideration to upgrading the southern end of Hallam Road but at this stage is not considering work on the northern section, which will require considerable upgrading once the Hallam bypass comes on stream. I ask the minister to consider the upgrading of the road by duplicating Hallam Road between Heatherton and Frawley roads and improving the intersection of Hallam and Belgrave roads.

Tongala and District Memorial Aged Care Service

Hon. E. J. POWELL (North Eastern) — I raise an issue for the Minister for Small Business as the representative of the Minister for Aged Care in the other place. The issue I raise is about the Tongala and District Memorial Aged Care Service, which wrote to me recently asking for my urgent assistance. The aged care service has made application for capital assistance funds for the completion of the fire safety upgrade to the R. M. McHale Hostel and Koraleigh Nursing Home. These upgrades are to meet the new building code certification requirements and the certificate of occupancy requirements for their activity centre.

The service applied for $125 000 for the installation of fire sprinkler systems for the hostel and nursing home. Representatives of the service have had discussions with the Department of Human Services, which has been very positive and said the application has a good chance of success. They now are required to proceed with the installation of the fire sprinklers to meet the building code requirements.

The problem is that this will jeopardise their chances of receiving the grant because they have been informed that the grant cannot be approved retrospectively. The application was originally submitted on 5 December 2000 with a specific variation to the original application being made for the fire sprinklers on 17 July 2001. The director of nursing understood that a decision on the application would be made around 31 July 2001.

The service faces a dilemma because the sprinklers were to have been installed by June 2001 and this date was extended on the understanding that they would be put in as soon as possible. However, if the service goes ahead and installs the sprinklers it will not be able to receive the grant. Therefore, I ask the Minister for Small Business to ask the Minister for Aged Care to make a positive decision on the application urgently to allow the fire upgrades to go ahead so that all of the requirements are met.

Trams: dynamic fairways

Hon. ANDREA COOTE (Monash) — The issue I raise with the Minister for Energy and Resources representing the Minister for Transport in another place concerns trams in Toorak Road. I am interested in the dynamic fairway trial in Toorak Road and the electronic signs mounted over the road which are supposed to save an enormous amount of time and effort. How much has travel time for trams along Toorak Road been improved as a result of the dynamic fairway?

Gippsland: education precinct

Hon. P. R. HALL (Gippsland) — I raise with the Minister for Sport and Recreation representing the Minister for Education in another place an item mentioned on page 39 of the *2001–02 Public Sector Asset Investment Program*. That page contains a list of some of the capital works planned within the Department of Education, Employment and Training. In particular I refer to an item labelled 'Education precinct in Gippsland — modernise facilities (Churchill)'. There is a sum of $10.5 million against that item.

Hon. T. C. Theophanous — Do you support it?

Hon. P. R. HALL — Of course I do, and the Honourable Theo Theophanous knows that. I chaired a

working party on the whole thing when we were in government. The Premier commissioned a Latrobe Valley task force, and one of the outcomes of that ministerial task force was a recommendation that $12 million be spent on a Gippsland integrated learning centre at the Churchill campus of Monash University; one presumes that they are one and the same thing, or I would hope they are. I raise the disparity between the $10.5 million listed in the capital works program and the $12 million listed in the press release. I seek clarification of whether this precinct will be new facilities, an upgrade of the existing Kurnai College years 7 to 10 campus located in Churchill as indicated with the refurbishment of facilities in the asset investment program booklet, or whether it is a new stand-alone facility attached to the Gippsland campus of Monash University.

Western Port Highway–Thompsons Road: traffic control

Hon. R. H. BOWDEN (South Eastern) — The matter I raise is for the attention of the Minister for Energy and Resources in her capacity as the representative of the Minister for Transport in the other place. In concerns an item I raised many months ago about safety and traffic flow at the intersection of the Western Port Highway and Thompsons Road in Skye. Thompsons Road runs east-west and the Western Port Highway runs north-south.

This particular intersection is a dual-lane divided road but between 7.15 a.m. and 8.30 a.m. the traffic flow northbound on the Western Port Highway travelling towards Melbourne is held up at the roundabout and put at great risk by a heavy flow of traffic westbound on Thompsons Road. The reverse happens in the evening when the southbound traffic from Melbourne on the Western Port Highway is held up by traffic heading east on Thompsons Road because it has priority as it is on the right. It is not uncommon to have a delay of several minutes at the roundabout and sometimes a bunching of traffic for half a kilometre or more on the main road.

Many months ago I suggested that the installation of timed traffic lights in Thompsons Road would be an acceptable and perhaps good engineering solution. The matter is getting more urgent as there has been a significant increase in traffic in the peak travelling times. It is now a high-risk intersection with the uncoordinated approach to it even though there is a roundabout. I ask for early attention by the minister.

Sunraysia: grape growers

Hon. B. W. BISHOP (North Western) — My adjournment issue is directed to the Minister for Energy and Resources representing the Treasurer and concerns the plight of the table grape growers in the Sunraysia area. I suspect the group worst affected are those in the Robinvale area as growers there have been subjected to four years of unique seasonal conditions. In past years there has been heavy unseasonal rain followed by humid conditions, and last year there was severe heat which placed the table grape crop under tremendous pressure. There was such pressure on the crop that growers in the Robinvale area believe they lost 60 per cent of it, which is a huge financial loss.

The Minister for Agriculture visited the area in March following a meeting organised by the honourable member for Swan Hill in another place and me. Data was gathered by the Department of Natural Resources and Environment and the Sunraysia Rural Counselling Service. For the information of the house, the financial counsellor for that area, Michael Pullen, has done a fantastic job in responding to the huge demand for his services. The Minister for Agriculture was in Sunraysia in July this year and again met with the growers in the industry. I was not involved in that discussion, but it was reported to me that the minister had said the growers would be granted interest assistance in relation to the financial pressures they were under so they could get through the production process and provide for next year's crop.

The financial commitments of these growers are increasing. They have council rates, water rates and inputs such as chemicals. The banks are tightening up and properties are being forced onto the market. I have been advised that the issue is on the Treasurer's desk and I make an urgent request for the Treasurer to immediately activate the financial assistance package including interest rate assistance to these growers.

Knox hospital

Hon. W. I. SMITH (Silvan) — The matter I raise with the Minister for Industrial Relations representing the Minister for Health concerns emergency services and hospitals in the outer east. I refer to two letters I have received from the local councils: one is from the Shire of Yarra Ranges and the other is from the City of Maroondah. They both say that they have reviewed the recommendations of the *Outer East Metropolitan Health Services Review* and are very disappointed that the final recommendations do not address the pressing need for acute emergency services within their municipalities. They go on to talk about the difficulties

people have with accessing emergency services in the area because they are very limited.

I quickly refer to the *Hospital Services Report* which has just released a comparison of figures on elective surgery and ambulance bypass at Maroondah Hospital and Angliss Health Services. The waiting list for elective surgery has increased over the past two years from 190 to 267. The number of occasions on bypass has also increased in the past two years. Angliss has experienced a 200 per cent increase and Maroondah has risen from 25 to 76 occasions on bypass. In regard to patients staying in each hospital emergency department for longer than 12 hours there has been an outrageous increase. At Maroondah, for example, it has gone from 16 to 316. At Angliss it has risen from zero in June 1999 to 184 in June 2001. The same is true of people on waiting lists longer than the ideal for semi-urgent surgery.

I raise this matter because the need for a tertiary training hospital is an issue throughout the outer east and the Shire of Yarra Ranges. I ask the Bracks government and the Minister for Health when the government will commit to building a tertiary hospital in Knox.

Housing: western suburbs homeless

Hon. S. M. NGUYEN (Melbourne West) — I raise a matter with the Minister for Small Business representing the Minister for Housing in another place. The issue of housing for the homeless in Melbourne West has been raised by local welfare groups as an important issue. An area which has been identified by the local community as having been neglected by the federal government is that of housing for the aged. Will the minister talk to the Minister for Housing and ask what her department has done to assist the aged and homeless in Melbourne West to obtain suitable and adequate housing for their needs?

School buses: supervisor checks

Hon. ANDREW BRIDESON (Waverley) — I raise an issue with the Minister for Sport and Recreation in his capacity as the representative in this place of the Minister for Education. During the adjournment debate on 24 October last year — that is, the year 2000 — I raised a matter concerning police checks for school bus supervisors, in particular in relation to an incident in my electorate involving a special school. I received replies from the Minister for Police and Emergency Services and the Minister for Education. The letter from the Minister for Education is dated 20 November last year, so we are looking at almost 12 months. The Minister for Education said she would refer the issue on to the parliamentary secretary for education who is 'currently conducting a review of school bus services'. In February this year we received a progress report, but the issue I raised is not mentioned in the progress report. I now seek from the Minister for Education advice on whether a recommendation has been made regarding the issue I raised in October last year and when the final report of the school bus review will be released.

Legend Park Preschool

Hon. M. T. LUCKINS (Waverley) — I raise with the Minister for Small Business, as the representative of the Minister for Community Services in the other place, concerns that have been raised with me by the vice-president of the Legend Park Preschool, Heidi Froelich. Ms Froelich says she is writing to me because she needs to beg for financial assistance. Her letter states:

> Our preschool has found itself this year in the very unfortunate position of financial despair. We suffered very low four-year old enrolments this year which you will understand reduced our funding. Coupled with this we started the year with very low funds and the very real possibility of having to close the preschool because we would not be able to afford to trade our way out of the trouble.

She goes on to say that the committee has been very active in raising funds so that the preschool can stay financially viable and has received the support of local schools as well as preschool parents. The letter goes on to say:

> Please help us. We don't need much, but it will make the difference of being able to keep the doors open beyond 2002 for a preschool that is nearing its 30th year of life. The preschool has been a cornerstone of our small community and it has a history of growing preschoolers into good community members.
>
> We love the preschool and we are fighting so hard to keep it going. We realise there is little funding available, but we beg you to please do the right thing for our community and help us by supporting our needs.

The City of Monash has a central registry for enrolments for the following years for preschools, and the Legend Park Preschool has a very good opportunity with government funding of only $2000 to be completely viable for the next financial year. I urge the government to consider providing this $2000 so the preschool can meet its obligations and provide a very good learning environment in its 31st year to four-year-olds in the Legend Park area in my electorate.

Taylors Lane, Rowville: traffic control

Hon. G. B. ASHMAN (Koonung) — I raise a matter with the Minister for Energy and Resources, who is the representative in this house of the Minister for Transport. It concerns Taylors Lane in Rowville, where the City of Knox is seeking to reduce the speed limit from 60 kilometres an hour to 50 kilometres an hour. Taylors Lane is about 2 kilometres long and carries something in the order of 6000 vehicles a day. There have been a number of collisions on this section of road over the past five years, so there is some justification for some traffic management on the road. What would be most suitable is provision for left and right-hand turns, but I believe the volume of traffic on the road warrants the speed limit remaining at 60 kilometres an hour. The council is seeking something in the order of $30 000 for traffic management works on the road, which I would support, but I ask the minister when he considers the application to also consider the volume of traffic using the road and the retention of the 60 kilometres an hour speed limit.

Sidney Myer Music Bowl

Hon. P. A. KATSAMBANIS (Monash) — I raise with the Minister for Sport and Recreation, who represents the Minister for Major Projects and Tourism in this place, a matter that relates to the Sidney Myer Music Bowl, which is located, as most Victorians know, in the Alexandra Gardens in my electorate. It is a very valuable community asset that has for the past couple of years been being renovated. Initially as a result of the work of the previous Kennett government, the project was due to be completed by the middle of 2000. Unfortunately for various reasons the project was not completed last year, and as a result the Victorian community was denied access to and use of a very important cultural asset for the summer period of 2000–01. Mysteriously the completion date on the official web site of the Office of Major Projects was altered from the year 2000 to a bland ‘expected completion date mid-2001’.

The middle of 2001 came and went, and the bowl had yet to be completed. Interestingly on Sunday, 16 September, the minister held an inspection of the Sidney Myer Music Bowl prior to the official handover and completion of the work at the site. He praised the site and said what a wonderful asset it would be for the Victorian community. Unfortunately it is an asset that has been denied to the Victorian community for far too long. Given that he decided to go and visit the project last weekend, I seek an explanation from the Minister for Major Projects and Tourism as to exactly why this project’s completion has been delayed for so long and why Victorians have been denied access to the Sidney Myer Music Bowl for so long.

Boating: licences

Hon. PHILIP DAVIS (Gippsland) — I direct an issue to the attention of the Minister for Ports. Victoria’s pensioners are concerned about what they see as the unfair financial impost of the government’s boat operator licensing scheme. Many pensioners own small boats, particularly fishing boats, which come within the ambit of the legislation and regulations. Will the minister assure Victoria’s pensioners that consideration will be given to concessions on fees and charges?

ALP: membership forms

Hon. D. McL. DAVIS (East Yarra) — The matter I raise on the adjournment debate tonight is for the Minister for Industrial Relations. It concerns an issue I have raised in this house on a previous occasion — ALP membership forms. I raise the matter of the membership form because there is a new edition of the membership form headed ‘Our party’, and Premier Bracks invites people to join ‘our party’.

One of the problems with the form, as the minister will be aware, is that it contains a number of clauses that require people to sign a pledge — I repeat ‘a pledge’. If they are willing to join the Australian Labor Party there is a question:

> Do you employ labour?

If the answer is yes, it states:

> I undertake to employ only trade union members.

They are being required to sign that clause. There has been an alteration to the form making the pledge more specific than it has been in the past. It is also true it requires a person applying for membership to be a member of a union, if eligible, with an affiliated union.

Prior to the state election the Australian Labor Party state secretary, David Feeney, promised to review the clause, but after the election he rejected a review of the clause and indicated that he would revoke his previous commitment to review the clause. This membership provision is important because I believe it almost certainly infringes the Equal Opportunity Act and the Workplace Relations Act. There is no doubt the Labor government has a serious issue to face. It infringes on the rights of workers and may infringe on our international treaty obligations.

Hon. G. W. Jennings interjected.

Hon. D. McL. DAVIS — I believe it does, Mr Jennings. I have some legal opinions about that. The key point of this issue is that it interferes with people's rights in the workplace and interferes in the workplace. I ask the Minister for Industrial Relations whether she is prepared to undertake a review and ensure the Australian Labor Party in Victoria complies with the laws of the land.

Tourism: Yarragon

Hon. BILL FORWOOD (Templestowe) — I raise a matter for the attention of the Minister for Sport and Recreation in his capacity as the representative of the Minister for Major Projects and Tourism in another place. I have a copy of a letter from the Yarragon Tourism Association that I understand was written in mid-August. The letter, addressed to Ian Maxfield, the honourable member for Narracan in the other place, states:

> We members of the Yarragon Tourism Association would like to bring to your attention our concerns of consistent avoidance of Yarragon in all tourism matters pertaining to the region. Tourism Victoria either knows nothing of Yarragon village or deliberately avoids promoting our town for reasons unknown. Yarragon Motel is prepared to offer accommodation to the minister for tourism and Tourism Victoria management in order they visit and experience what this town has to offer.
>
> Yarragon village is not typical of small rural towns as it is the only town in Victoria to reverse rural decline. Yarragon has been treated more harshly than most rural towns because not only did we lose the police, bank, doctor, chemist and most rural services but Vicroads tore half the shopping block down for an 80 kilometre dual-lane bypass through its centre. Remarkably all the modern industrial vandalism missed the heart and soul of the town and it has regenerated itself into the most vibrant tourist town in Gippsland.

I can attest that it is a vibrant town. I have been there a couple of times. The Minister for Small Business also indicates that she has shopped there. A number of people come from Dandenong to shop in Yarragon, and I recommend the sweet shop.

The town is avoided by tourism promotion people. Yarragon has a legitimate and genuine concern. The Phillip Island and Gippsland Discovery publication does not use its photographs or promote the town in any way. Over a month ago the town invited the minister to visit it, but it has received no response. I ask the minister to consider getting out of his tower block in Melbourne and visiting Yarragon.

Ministers: adjournment responses

Hon. C. A. FURLETTI (Templestowe) — I raise for the attention of the Leader of the Government the matter of timely responses to issues raised by honourable members during the adjournment debate. It has become apparent that the government is treating with disdain sensitive and important matters raised in this chamber by opposition members. A large number of adjournment issues raised by honourable members are still awaiting the courtesy of an acknowledgment, let alone a reply. I have two outstanding requests for information, the first dating back to 20 March — more than six months ago — directed to the Premier and a second dated 2 May — almost five months ago — to the Minister for Transport in the other place, both on very significant issues relating to my constituency.

In view of the Premier's conduct in these matters it is difficult to lay blame on junior ministers for their tardiness. I ask the Leader of the Government to raise my complaints with the Premier with a request to strike a ministerial code on time frames within which matters raised on the adjournment should be responded to.

Porepunkah: sewerage scheme

Hon. E. G. STONEY (Central Highlands) — I seek the assistance of the Minister for Energy and Resources regarding an issue for the attention of the Minister for Environment and Conservation. I refer to the sewage ponds at Porepunkah, which are leaking. A strong group of residents have been attempting to have the sewage ponds sealed, and the local member, Denise Allen, is not supporting the group. In fact it is not happening.

Today's *Border Mail* quotes the honourable member for Benalla as saying:

> Who do the voters think they are?

The residents will not support the installation of a new sewerage scheme until the sewage ponds are sealed. I hope the Minister for Environment and Conservation will intervene, because it appears the local member is unable to communicate correctly with the residents. Ms Allen is further quoted in the paper as saying:

> I don't make an appointment with them, they make appointments with me.
>
> Who do they think they are?

A petition is being circulated which will be presented to Parliament, and I ask the minister to respond to that petition and assist the residents of Porepunkah to have the sewage ponds sealed.

Industrial relations: employee entitlements

Hon. R. M. HALLAM (Western) — I refer to the attention of the Minister for Industrial Relations her response to a dorothy dixer earlier today when she was at pains to assert repeatedly that the Bracks government was determined that workers caught out in any corporate collapse would be entitled to their full benefits.

Hon. M. M. Gould — Full entitlements?

Hon. R. M. HALLAM — You used the expression full entitlements and used it several times. Will the minister describe to the house what is included in her description of full entitlements?

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Wendy Smith raised with me for referral to the Minister for Health the emergency services in the outer east, and particularly the request of the Shire of Yarra Ranges and the City of Maroondah for a tertiary training hospital in Knox. I will ask the minister to respond in the usual manner.

The Honourable David Davis asked me to investigate the Australian Labor Party's rules and my response is no, I will not investigate the rules of the Australian Labor Party.

The Honourable Carlo Furletti asked me to raise an issue with the Premier, and I will do that.

The Honourable Roger Hallam asked me to give a description of what workers' full entitlements are. They are the notice of termination, long service leave, annual leave and redundancy payments that they are legally entitled to receive.

Hon. R. M. Hallam — Which redundancy?

Hon. M. M. GOULD — Redundancy payments. In the case of workers who may lose their jobs at Coles Myer the company has indicated they will receive their full entitlements, just as those workers who may lose their jobs at Daimaru should receive their full entitlements.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Bill Baxter raised a matter for the Minister for Transport concerning roadside infestation of Paterson's curse and called on the minister to take urgent action. I will refer that matter to the minister.

The Honourable Gordon Rich-Phillips raised a matter for the Minister for Transport concerning upgrades required to the Hallam, Belgrave and Hallam North roads, and I will refer that matter to the minister.

The Honourable Andrea Coote requested information from the Minister for Transport in relation to the performance of trams along Toorak Road and fairways, and I will refer that matter to the minister.

The Honourable Ron Bowden raised a matter for the Minister for Transport concerning early attention to traffic management at the intersection of the Western Port Highway and Thompsons Road, and I will refer that matter to the minister.

The Honourable Barry Bishop raised a matter for the attention of the Treasurer concerning an assistance package including interest rate assistance to growers in Sunraysia and the requirement for early action, and I will refer that matter to the minister.

The Honourable Gerald Ashman raised a matter for the Minister for Transport concerning traffic management measures required at Taylors Lakes, Rowville, and I will refer that matter to the minister.

The Honourable Philip Davis raised a matter about boat operator licensing. I draw his attention to the fact that advertisements were placed last weekend advising the availability of the draft regulations and regulatory impact statement, including the matters he has raised. I point out that the government has kept the proposed fees to a minimum, and I also point out that there are no concessions for motor vehicle licences, which are a great deal more costly than what is being proposed in these draft regulations.

The Honourable Graeme Stoney raised a matter for the attention of the Minister for Conservation and Environment concerning a petition calling for the sealing of the sewage ponds at Porepunkah. I will refer that matter to the minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Neil Lucas raised a matter for the Attorney-General concerning the number of bail justices — they are now over the 300 mark — at risk of contracting hepatitis A and/or B. He asked for an allocation of funding for immunisation of bail justices against that risk. I will pass that on to the minister for his response.

The Honourable Jeanette Powell raised a matter for the Minister for Aged Care concerning attempts by the Tongala Aged Care Service to meet fire safety standards, the need to install fire sprinklers and an

application by the service for funding. She asked that the minister consider the matter urgently so that installation could occur as soon as possible. I will pass that on to the minister for her direct response.

The Honourable Sang Nguyen raised a matter for the Minister for Housing concerning housing for the homeless in Melbourne West and referred to the fact that the federal government has neglected funding. He asked what the state government has done to assist the homeless in Melbourne. I will pass that on for the minister to respond directly.

The Honourable Maree Luckins raised a matter for the Minister for Community Services concerning the Legend Park Preschool, which had a low enrolment rate of four-year-olds. The preschool is suffering from a lack of funds and seeks assistance from the minister of around $2000. I will pass that on to the minister for her response.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Peter Hall sought clarification of published figures relating to the Gippsland educational precinct. I will refer that request to the Minister for Education in the other place.

The Honourable Andrew Brideson asked about the release of the school bus review. I will refer that to the Minister for Education in the other place.

The Honourable Peter Katsambanis asked a question about the Sidney Myer Music Bowl building project schedule. I will refer that question to the Minister for Tourism in the other place.

The Honourable Bill Forwood asked a question about the Yarragon Tourism Association and Yarragon Village. I was very impressed when I passed through Yarragon yesterday, particularly by the specialty shops there. I will refer this matter to the Minister for Tourism in the other place.

Motion agreed to.

House adjourned 10.36 p.m.