PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

13 October 2004

(extract from Book 3)

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By authority of the Victorian Government Printer

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JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

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Joint Committees

Drugs and Crime Prevention Committee — (*Council*): The Honourables C. D. Hirsh and S. M. Nguyen. (*Assembly)*: Mr Cooper, Ms Marshall, Mr Maxfield, Dr Sykes and Mr Wells.

Economic Development Committee — (*Council*): The Honourables B. N. Atkinson and R. H. Bowden, and Mr Pullen. (*Assembly*): Mr Delahunty, Mr Jenkins, Ms Morand and Mr Robinson.

Education and Training Committee — (*Council*): The Honourables H. E. Buckingham and P. R. Hall. (*Assembly*): Ms Eckstein, Mr Herbert, Mr Kotsiras, Ms Munt and Mr Perton.

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Family and Community Development Committee — (*Council*): The Hon. D. McL. Davis and Mr Smith. (*Assembly*): Ms McTaggart, Ms Neville, Mrs Powell, Mrs Shardey and Mr Wilson.

House Committee — (*Council*): The President (*ex officio*), the Honourables B. N. Atkinson and Andrew Brideson, Ms Hadden and the Honourables J. M. McQuilten and S. M. Nguyen. (*Assembly*): The Speaker (*ex officio*), Mr Cooper, Mr Leighton, Mr Lockwood, Mr Maughan, Mr Savage and Mr Smith.

Law Reform Committee — (*Council*): The Honourables Andrew Brideson and R. Dalla-Riva, and Ms Hadden. (*Assembly*): Ms Beard, Mr Hudson, Mr Lupton and Mr Maughan.

Library Committee — (*Council*): The President, Ms Argondizzo and the Honourables C. A. Strong, R. Dalla-Riva and Kaye Darveniza. (*Assembly*): The Speaker, Mr Carli, Mrs Powell, Mr Seitz and Mr Thompson.

Outer Suburban/Interface Services and Development Committee — (*Council*): Mr Scheffer and Mr Somyurek. (*Assembly*): Mr Baillieu, Ms Buchanan, Mr Dixon, Mr Nardella and Mr Smith.

Public Accounts and Estimates Committee — (*Council*): The Honourables W. R. Baxter, Bill Forwood and G. K. Rich-Phillips, and Ms Romanes. (*Assembly*): Ms Campbell, Mr Clark, Mr Donnellan, Ms Green and Mr Merlino.

Road Safety Committee — (*Council*): The Honourables B. W. Bishop, J. H. Eren and E. G. Stoney. (*Assembly*): Mr Harkness, Mr Langdon, Mr Mulder and Mr Trezise.

Rural and Regional Services and Development Committee — (*Council*): The Honourables J. M. McQuilten and R. G. Mitchell. (*Assembly*): Mr Crutchfield, Mr Hardman, Mr Ingram, Dr Napthine and Mr Walsh.

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Heads of Parliamentary Departments

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

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

Hansard — Chief Reporter: Ms C. J. Williams

Library — Librarian: Ms G. Dunston

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

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT — FIRST SESSION

President: The Hon. M. M. GOULD

Deputy President and Chair of Committees: Ms GLENYYS ROMANES

Temporary Chairs of Committees: The Honourables B. W. Bishop, R. H. Bowden **,** Andrew Brideson, H. E. Buckingham, Ms D. G. Hadden, the Honourable J. G. Hilton, Mr R. F. Smith and the Honourable C. A. Strong

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Mr J. LENDERS

Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
The Hon. P. R. DAVIS

Deputy Leader of the Opposition:
The Hon. ANDREA COOTE

Leader of the National Party:
The Hon. P. R. HALL

Deputy Leader of the National Party:
The Hon. D. K. DRUM

Member	Province	Party	Member	Province	Party
Argondizzo, Ms Lidia	Templestowe	ALP	Jennings, Mr Gavin Wayne	Melbourne	ALP
Atkinson, Hon. Bruce Norman	Koonung	LP	Koch, Hon. David	Western	LP
Baxter, Hon. William Robert	North Eastern	NP	Lenders, Mr John	Waverley	ALP
Bishop, Hon. Barry Wilfred	North Western	NP	Lovell, Hon. Wendy Ann	North Eastern	LP
Bowden, Hon. Ronald Henry	South Eastern	LP	McQuilten, Hon. John Martin	Ballarat	ALP
Brideson, Hon. Andrew Ronald	Waverley	LP	Madden, Hon. Justin Mark	Doutta Galla	ALP
Broad, Ms Candy Celeste	Melbourne North	ALP	Mikakos, Ms Jenny	Jika Jika	ALP
Buckingham, Hon. Helen Elizabeth	Koonung	ALP	Mitchell, Hon. Robert George	Central Highlands	ALP
Carbines, Mrs Elaine Cafferty	Geelong	ALP	Nguyen, Hon. Sang Minh	Melbourne West	ALP
Coote, Hon. Andrea	Monash	LP	Olexander, Hon. Andrew Phillip	Silvan	LP
Dalla-Riva, Hon. Richard	East Yarra	LP	Pullen, Mr Noel Francis	Higinbotham	ALP
Darveniza, Hon. Kaye	Melbourne West	ALP	Rich-Phillips, Hon. Gordon Kenneth	Eumemmerring	LP
Davis, Hon. David McLean	East Yarra	LP	Romanes, Ms Glenyys Dorothy	Melbourne	ALP
Davis, Hon. Philip Rivers	Gippsland	LP	Scheffer, Mr Johan Emiel	Monash	ALP
Drum, Hon. Damian Kevin	North Western	NP	Smith, Mr Robert Frederick	Chelsea	ALP
Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Hadden, Ms Dianne Gladys	Ballarat	ALP	Theophanous, Hon. Theo Charles	Jika Jika	ALP
Hall, Hon. Peter Ronald	Gippsland	NP	Thomson, Hon. Marsha Rose	Melbourne North	ALP
Hilton, Hon. John Geoffrey	Western Port	ALP	Viney, Mr Matthew Shaw	Chelsea	ALP
Hirsh, Hon. Carolyn Dorothy	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

CONTENTS

WEDNESDAY, 13 OCTOBER 2004

Wednesday, 13 October 2004

The PRESIDENT (Hon. M. M. Gould) took the chair at 9.32 a.m. and read the prayer.

PETITIONS

Hazardous waste: Nowingi

Hon. B. W. BISHOP (North Western) presented petition from certain citizens of Victoria requesting that the Victorian government abandon its proposal to place a toxic waste facility in the Mildura area (356 signatures).

Laid on table.

Motor registration fees: concessions

Hon. W. A. LOVELL (North Eastern) presented petition from certain citizens of Victoria requesting that the Victorian government abandon the proposal to increase the cost of car registration for Victorian pensioners by $78.50 as it will detrimentally impact upon those who are financially unable to pay by jeopardising their freedom of movement, removing their independence and diminishing their quality of life (121 signatures).

Laid on table.

PAPERS

Laid on table by Clerk:

Budget Sector — Financial Report, 2003-04, incorporating the Quarterly Financial Report No. 4 for the period ended 30 June 2004.

Prevention of Cruelty to Animals Act 1986 — Code of Practice for the Housing and Care of Laboratory mice, rats, guinea pigs and rabbits.

Yarra Valley Water Limited — Report, 2003-04.

OUTER SUBURBAN/INTERFACE SERVICES AND DEVELOPMENT COMMITTEE

Membership

Mr LENDERS (Minister for Finance) — By leave, I move:

That the Honourable Lidia Argondizzo be a member of the Outer Suburban/Interface Services and Development Committee.

Motion agreed to.

MEMBERS STATEMENTS

Federal government: election result

Hon. J. A. VOGELS (Western) — I take this opportunity to congratulate Prime Minister John Howard and his team on their fantastic performance in winning last Saturday's federal election. This is a great victory for ordinary Australians whose wishes were reflected in the election results across the breadth of this great nation.

In the Western District of Victoria the sitting federal member for Wannon, David Hawker, and the sitting federal member for Corangamite, Stewart McArthur, were both resoundingly re-elected, results which depicted the respect of their constituents throughout hard-fought, clean campaigns. In stark contrast the Labor Party resorted to a dirty tricks campaign against Stewart McArthur orchestrated by a few Geelong state MPs which failed to misguide a smart constituency. After all, 'The General', as he is affectionately known locally, has delivered for Geelong for many years, the latest feather in his cap being the Geelong ring-road.

I also take this opportunity to congratulate the Christian Family First Party on its inaugural effort during this campaign. The bleating from the Labor and Green camps on how preferences could elect a senator who only scored 2 per cent of the vote rings hollow indeed. The preferential system of voting has been introduced by the Bracks government for future elections for this house and also for local government where councils are unsubdivided or have multimember wards.

What a great, historic fourth consecutive victory this has been for our federal coalition government formed by the Liberals and The Nationals, and I note with interest that the only Christian to lose last Saturday comes from McMillan.

Housing: low-income families

Hon. KAYE DARVENIZA (Melbourne West) — I take this opportunity to congratulate the Minister for Housing, Candy Broad, for the Victorian government's $70 million Strategy for Growth in Housing for Low-income Victorians initiative which will create additional affordable housing for low-income Victorians. At the last election we committed to creating housing associations to provide more choice and flexibility in affordable housing and to increase the amount of affordable housing available to low-income families.

I am delighted that three of the six successful associations chosen provide housing in my electorate of Melbourne West — Community Housing Ltd, Yarra Community Housing Ltd and Supported Housing Ltd. The latter provides supported housing across the state, including Melbourne's west, for people with a disability. I know constituents in Melbourne West will welcome the opportunity to get involved in the community consultation process regarding the draft legislation to regulate the operations of the new housing associations. In Melbourne West we welcome the additional money for this important strategy and we look forward to participating in the consultation process and the additional housing being available for low-income families in the electorate.

Federal government: election result

Hon. DAVID KOCH (Western) — I congratulate the Howard government on its winning election campaign that produced an outcome not experienced by any federal government in the last 30 years. Likely to also have the balance of power in the Senate, this is an outstanding result and is to be cherished by all thinking Australians. The contribution of all Victorian federal Liberal members was supreme, with the winning of McMillan and many marginal electorates and the growth of margins in many others creating blue-ribbon strongholds for years to come.

Some of these wins have come despite great odds and scurrilous attempts by a lame-duck federal opposition. No odds were greater that those faced in Corangamite by successful Liberal Trojan Stewart McArthur, who was subjected to a smear campaign ghosted by a member of this house.

There is no doubt that the nonsense that was introduced and peddled during this federal election campaign will in the next state election unleash campaigns never before experienced. All those on the other side of the house cannot see the train. They should be assured that we on this side of the house have the blinkers off and look forward to 26 November 2006 with unbridled enthusiasm!

Corangamite: federal election

Hon. J. H. EREN (Geelong) — As hard as it may be for me to say this, I congratulate the federal coalition on its success at the weekend. I spoke to Stewart McArthur on Saturday night and congratulated him on his victory.

Having said that, I point out that the Labor candidate for Corangamite, Peter McMullin, did a fantastic job. In fact he was one of a few Labor candidates in Victoria to fight against the tide of the national swing and reduce the Liberal margin. The fantastic efforts by Peter McMullin in fact show that, had there not been a national swing against Labor, we would certainly have picked up the seat. This is no doubt because of his strong campaign across the electorate highlighting important issues such as Medicare and the Geelong ring-road.

Honourable members interjecting.

The PRESIDENT — Order!

Hon. J. H. EREN — His achievement was remarkable.

Honourable members interjecting.

The PRESIDENT — Order!

Hon. J. H. EREN — Corangamite is no longer seen as a safe Liberal seat; it is seen more as a marginal seat.

Honourable members interjecting.

The PRESIDENT — Order!

Hon. J. H. EREN — Thus the pressure Mr McMullin put on the government forced it to fund the Geelong ring-road.

Honourable members interjecting.

The PRESIDENT — Order! I have asked Mr Forwood three times to desist from interjecting by calling the house to order. I ask him to take notice of the President when she makes a request. I ask all members to desist from interjecting and allow the member to continue his 90-second statement.

Hon. J. H. EREN — Mr McMullin was the reason why the Prime Minister visited the seat on two occasions in a matter of two weeks when he had not visited the area in more than 20 years.

While Labor did not do so well across the country at the weekend, the fact remains that Medicare is still in a mess. In the list of people who are the worst off with bulk-billing in the entire country, the Corangamite electors are no. 8. It is now crystal clear that it will be up to Labor people to keep the pressure — —

The PRESIDENT — Order! The member's time has expired.

Housing: Manningham

Hon. A. P. OLEXANDER (Silvan) — I rise to congratulate Warrandyte resident Leonie Needham, who recently worked tirelessly to assist a neighbour on social security benefits who has some part-time work in finding accommodation. Her neighbour's financial circumstances changed when her mother died, and she needed new and cheaper accommodation.
Mrs Needham worked with a variety of agencies — Salvation Army East Care, Eastern Access Community Health and Knox Care — to eventually place her neighbour, but with great difficulty.

Mrs Needham is now leading a lobby group to push for more public housing in Manningham, where there is a severe shortage. There are 250 rental and 40 transitional/crisis properties in Manningham. Agencies agree with Mrs Needham that that is completely inadequate. Commitments by the minister for another 59 properties to be added to the public housing stock have been described as completely inadequate by Mrs Needham and her group. I call on the Minister for Housing to urgently meet with Mrs Needham to discuss problems with the undersupply of public housing stock in Manningham and with eligibility criteria for those urgently seeking housing assistance.

Community jobs program: achievements

Ms ROMANES (Melbourne) — Recently I was very pleased to have the opportunity to participate in a graduation ceremony for eight people who had completed a 15-week course under the community jobs program at the Public Record Office Victoria (PROV). Their graduation means that they have now qualified to work in record keeping, in which there is a skills shortage in Victoria.

The program has as its objectives not only to train people who are disadvantaged so that they are work ready but also to benefit the community at the same time. The project at the Public Record Office Victoria has meant that there is an increase in the number of government records made accessible to the general public. It has resulted in the preservation of archives for future generations by the successful processing of 700 metres of records.

The training that the graduates undertook at the PROV was complemented by training at RMIT and as I said, benefits the Victorian community through the preservation of vital historic records from water authorities, the electricity commission, governor's office and the Office of Public Prosecutions, as well as repairing and preserving historical education department records which will soon be made available to the public.

Australian Labor Party: federal election

Hon. C. A. STRONG (Higinbotham) — It is interesting for the house to reflect after the cathartic events of last Saturday about what responses the result brings from individuals testing their honesty, realism and integrity — like Labor's Michael Costello and his comments about the Latham train wreck and his descriptions of Labor's structural reforms under Simon Crean as 'faux reforms'. Compare those honest comments with Simon Crean's comments in today's *Moorabbin-Glen Iris Standard*:

> Mr Crean blamed the election result on a 'dirty, deceitful and negative' campaign run by the Liberal Party. 'It is a triumph of the big lie', he said on election night.

Australian people have made it quite clear who is the master of the big lie. Australian people respect truth and plain speaking. They know who is the master of the big lie — it is the likes of Premier Bracks with his Scoresby lie. It is Simon Crean and all the Labor apparatchiks.

Emergency Services Week: open day

Ms ARGONDIZZO (Templestowe) — On Sunday 10 October I had the pleasure of attending the launch for emergency services open day at the Heidelberg police station. The family fun day was launched by the Minister for Police and Emergency Services, André Haermeyer, to mark the beginning of Emergency Services Week. The displays on the day included crime scene investigation with DNA, fingerprints and evidence gathering by police, booze buses, cardio pulmonary resuscitation (CPR) and first aid demonstrations, a tour of the Heidelberg police station, a Metropolitan Fire Brigade rescue 7 fire truck, a Country Fire Authority pumper and four-wheel-drive, ambulance, blood-pressure testing and defibrillator, community and home safety advice from Neighbourhood Watch, and the jaws of life demonstration.

The purpose behind open day is to inform the public of the services available in the case of an emergency, and even more importantly to encourage the community to think about the prevention of disasters and emergencies before they happen. Emergency Services Week also brings the community close to the people who will be protecting the lives and property of those in the community in the case of a tragedy or an emergency and showing them what to do in these situations.

I take the opportunity to congratulate all the emergency services who participated in this important event, and I especially wish to extend my gratitude to members of the volunteer community who commit a large part of their private time to ensure our community is safe and well prepared.

Commonwealth Parliamentary Association: Pacific region conference

Hon. D. K. DRUM (North Western) — As some members may be aware I spent last week over in Perth at the Commonwealth Parliamentary Association's Pacific region conference, along with my colleague David Koch.

We were there with members from countries such as Fiji, Samoa, Kiribati, Niue, New Guinea and Norfolk Island, as well as those from all other Australian states and territories.

It was great to be able to call on the experience of so many long-term members of Parliament throughout Australia, both Liberal and Labor. Michael Polley from Tasmania, with 30 years experience, and Graham Gunn from South Australia, with 34 years of experience, as well as an Independent Speaker from South Australia, who has had over 10 years experience in the chair, also attended.

I was able to present a paper on the subject of 'Accommodation choices for people with mental disabilities' and we also discussed other issues such as youth services, and the idea of a youth commissioner in Australia. The startling facts are that 34 000 children die every day in the world from malnutrition, starvation and related diseases. We need to be very mindful of those awakening facts.

I would like to thank the Parliament for the opportunity of attending the conference, and I recommend CPA conferences to parliamentarians in the future.

The PRESIDENT — Order! The member's time has expired.

Eureka: rebellion anniversary

Ms HADDEN (Ballarat) — In 1854 the Ballarat goldfields were simmering with discontent and unrest. The diggers were rebellious and agitated about the £2 gold licence fee and the harsh regulations which were cruelly enforced by Governor Hotham and the British redcoats and police. The colonial secretary told a cheering Legislative Council in October 1854 that no matter what the result of the trial over the riot and the burning of Bentleys Hotel the law would be upheld. Victoria, New South Wales and South Australia had been granted democracy by the British Parliament on 30 August 1853, 15 months before the Eureka rebellion. But this failed to prevent the carnage of 3 December 1854. The diggers met at the gravel pits on 23 October and condemned the violation of personal liberty. The Diggers Rights Society determined to confront authority whenever it acted unconstitutionally.

On 11 November 1854 a monster meeting was held at Bakery Hill, with around 10 000 diggers protesting, and the Ballarat Reform League was formed, with John B. Humffray as inaugural president. The Ballarat Reform League's articles were the right to full parliamentary manhood suffrage; no property qualification for Parliament; payment of MPs; and abolition of the diggers and storekeepers licences.

The Eureka flag, that Southern Cross starry banner, was flown and called the diggers to arms. Peter Lalor led the salute under the Eureka flag and the swearing in by the Southern Cross to stand truly by each other and fight to defend our rights and liberties.

Hospitals: ambulance bypass

Hon. D. McL. DAVIS (East Yarra) — My point today is that Steve Bracks has been caught out misleading Victorians and fudging the ambulance bypass figures. In an extraordinary set of comments by emergency department directors and from the figures that have been reported in the *Age* today — that there were 3471 hospital early warning system occasions but only 1054 bypasses were reported — we now know that there were more than 3000 ambulance diversion incidents, where ambulances speeding towards a hospital in an emergency were turned away and sent elsewhere.

It is clear that the Bracks government is trying to fudge these figures, underreporting the number. It is very interesting and instructive to see what was said. One emergency department director said:

> It's deceitful because the date is not being reported, and that's just wrong.

Another said it was:

> … a surrogate that wasn't going to be reported, that would just get the government out of hot water.

The minister was reported as saying:

> There's not the necessity to specifically report on it.

It is clear that this subterfuge, this attempt to fudge the figures, is a disgrace. Victorians should be told the

absolute truth about the number of times ambulances are being diverted. They deserve that, and nothing less.

Smoking: bans

Ms MIKAKOS (Jika Jika) — I enthusiastically welcome the Premier's announcement yesterday that Victoria's pubs, clubs and other licensed premises will be smoke free by 1 July 2007. This follows similar announcements in Queensland, South Australia and Tasmania and also an announcement yesterday in New South Wales.

The ban on smoking in restaurants introduced by the Bracks government a few years ago has been overwhelmingly well received, and the public's attitudes to this issue have gradually been changing. The three-year period before the introduction of this further measure will allow the industry to make any necessary changes. I note that in New York and California, where such measures are already in place, customer patronage has actually increased. Licensed premises such as pubs and clubs are frequented mostly by younger people. It is important that the smoking rates among younger people continue to decline if we are to reduce the long-term health impact of smoking. Tobacco causes thousands of deaths in Victoria each year and the dangers of passive smoking have been clearly established scientifically.

This ban will benefit both customers and staff of licensed premises, and I congratulate both the Premier and the Minister for Health on this very important announcement.

Banyule Community Health Centre: site

Hon. BILL FORWOOD (Templestowe) — I was delighted when the Bracks government kept its promise to fund the new facility for the Banyule Community Health Centre. I was horrified, though, when the member for Ivanhoe, his electorate officer, Sean Rawson, and the mayor, Jenny Mulholland, unilaterally decided that, instead of building it on the site which the Department of Human Services had decided to build it on, they wanted to build it on the only piece of open space in the area, Malahang Reserve.

Like many individuals, I was outraged at this, as were conservation groups, local residents and others. We set out to do what we could to ensure that the Banyule Community Health Centre was redeveloped on its existing site and not, as I said, on the only piece of public open space in the area — an area I am sure you know well, President. So I was delighted when I received a letter from the Minister for Health confirming that in fact the Banyule Community Health Centre would be built on its existing site and not on Malahang Reserve.

I was less impressed when the sore losers from the other side — the member for Ivanhoe in the other place and his electorate officer, Sean Rawson — decided to blame me for this action. I make the point that while I am very pleased to have participated, this was a community action by many people. I must say that I am very proud that Mr Langdon saw fit to put out a newsletter saying:

> Small minority dictate to the majority. 'We are sick of Ivanhoe do-gooders ... Bill Forwood is a prime example'.

I am proud to be an Ivanhoe do-gooder.

The PRESIDENT — Order! The member's time has expired.

Federal government: election result

Hon. S. M. NGUYEN (Melbourne West) — In relation to the result of the weekend federal election, once again it appears that the Australian people have been duped by the Howard government. The Prime Minister, Mr Howard, has yet again played on people's fears. We know back in 2001 that the Howard government played the race card commencing with the infamous Tampa fiasco.

On Saturday we again saw people voting for a return of the Howard government because he engendered fear in people's minds. The Howard government launched a relentless campaign against Mark Latham and the Labor Party's ability to manage the economy. We consistently heard Howard bring into question Labor's ability to keep interest rates low. My learned colleagues all know that interest rates will undoubtedly rise before the end of the year. We also know that 14 leading economists indicated that the size of interest rate movements would be the same no matter which party formed government after Saturday.

Howard also thinks he is a friend and ally of the workers of this country. I say to all the workers in Australia, 'Please don't delude yourselves that Howard is an ally of yours. Cast your mind back to the waterfront dispute in 1998'. Howard was determined to introduce contract labour but failed. He does not believe in the notion of collective bargaining.

His introduction of Australian workplace agreements has been so successful that only 4 per cent of the work force have been taking them up. We know Howard is making noises about introducing — —

The PRESIDENT — Order! The member's time has expired.

INDUSTRIAL RELATIONS: POLICIES

Hon. B. N. ATKINSON (Koonung) — I move:

> That this house condemns the state government on its failure to develop industrial relations policies that will secure job and investment growth in Victoria for the future.

It is a pity Mr Mitchell is not going to stay to listen to how well I do without notes.

We have in Victoria a very typical Labor government — a Labor government that tries to suggest it has credentials that are very different to the Labor Party administrations that have preceded it. But this is a very typical Labor government because it is a government absolutely devoid of vision for Victoria. It is a government that is making very little investment in the future of Victoria.

Whilst budget spending has increased by more than a third in just five years, there is very little to show for that increased spending: our schools are in disrepair; our hospital waiting lists are still blowing out; we have problems with ambulance bypass — the figures are worse than at any other time; and bridges and roads across Victoria are sorely in need of maintenance, as many members in this chamber will know. These are just a few examples of how little investment there has been in maintaining the assets of the state.

Whilst the government continues spending like a drunken sailor its focus on simply increasing spending absolutely ignores the real measurement of government performance — that is, outcomes. The government keeps throwing money at all sorts of issues, yet it does not focus on outcomes. It is a government that lacks innovation; it is a government that is often not tackling problems, but rather trying to deal with the consequences — in other words, it is never taking proactive positions. There is no investment in the future.

I make these remarks in the context of this debate because Victoria has performed well by most economic measures in the past decade. I have no doubt that the foundations of that performance over the past decade are firmly entrenched in the successful policies of the Kennett government in re-establishing the state's economic performance, in improving the small business sector and restoring it as the engine room of the Victorian economy and in addressing many of the issues that were left by the Cain and Kirner governments, which had an absolutely appalling record of economic management.

Also in that decade we had the election of a Howard federal government. A Howard government was returned last weekend for a fourth term — a Howard government that in its period in office has certainly had as one of its hallmarks a fantastic economic performance. Australia has led the world in terms of its economic performance under the federal coalition government. By any measure that government has been successful: we have prevailing low interest rates; we have strong trade performance; and we have strong economic performance across the board. Business confidence is strong because of the policies of the coalition government in Canberra.

It is not surprising that that government was re-elected last weekend and re-elected with a significant swing towards the government, because many people, particularly people who are involved as owners or employees of small businesses, recognise the contribution that government's policies have made to the prosperity of their companies, indeed to the viability of their companies, given the attacks they are suffering on many of the Labor policies of this state government.

I would concede that the Bracks government has taken some worthwhile initiatives in support of business during its five years in office, and I particularly acknowledge the establishment of the small business commissioner and the retail tenancy legislation. It has played with some business taxation, but most of that has been smoke and mirrors because the concessions made have been more than swallowed up by bracket creep and by including other areas in the assessment of taxes such as payroll tax. Certainly land tax has had absolutely no consideration from the government, despite the fact that it represents a significant bill to many small businesses.

Although the Bracks government has made some contribution to business in those areas, it is clear that the national coalition government's policies have underpinned small business performance and business performance generally in Victoria in the past decade. Obviously the Bracks government lays claim and tries to seek the glory for those economic performance figures, but I do not think we should be under any illusion as to what is at the heart of those figures and what has caused those businesses to perform successfully.

From a business point of view, the key or underlying issues that are threatening investment and growth are continuing high taxes imposed by the Bracks

government. The fact is that although it has record revenues, the government refuses to look at and achieve any real reform in that tax base that might benefit business, therefore ensuring the ongoing success of business and providing an ability for it to continue to create further investment and jobs.

There is ongoing concern about red tape and the increasing level of regulations visited upon business by government. At the core of the motion is significant concern about industrial relations policies of the government and the fact that the Bracks government is so much at the beck and call of the union movement. While it is perhaps a sidelight, there is no better example of that than when the Shop, Distributive and Allied Employees Association (SDA) snapped its fingers before the 2002 election and said, 'We want Easter Sunday as a holiday', and the government danced to its tune. In a farcical situation the house last year had to deal with three pieces of legislation to try to deliver that commitment made to a union, and it still has not got it right. That is an area where a Liberal Party will be making a change when it comes to government to ensure that business opportunities are recognised in that regard and that we do not simply play to the tune of a union.

I note that the SDA is also pressing to have additional public holidays declared for Christmas Day, Boxing Day and New Year's Day, despite the fact that the days in lieu have already been provided as public holidays. The Minister for Small Business refuses to provide any assurance that the government will not act to declare those days as public holidays. Very significant additional costs will be imposed on business if the government makes such a declaration. Business is already required to provide public holiday entitlements on those days in lieu and is now expected to double those entitlements simply because the union movement is pressing for a change in that policy area.

Government MPs in this debate may well point to current investment and unemployment levels and to employment growth as part of a justification of government policies. The motion is very much about the impact of the Bracks policies in the future. As I said, much of the success of business and the statistical information that government MPs might rely on in this debate today is a measurement of, if you like, federal coalition government policies rather than those of the state government.

There is a time lag in some of those issues, that where businesses are affected by policies they do not necessarily make snap decisions on things; they have to build in decisions over a period and plan for, say, a three or five-year horizon because in many cases significant changes need to be planned and accommodated in terms of financing, perhaps employee resources and even what new products it might start to develop.

There is generally no immediate reaction to the policies of any government, but there is a trend in the performance of business. I dare say in the context of this debate the trend will be a negative one if the government continues with its performance; if it continues to impose some of its red tape policies and its overregulation, and if it continues with its regime of high taxes and particularly its industrial relations policies that it is pursuing hand in hand with the union movement — indeed, its pursuit is at the behest of the union movement.

It is interesting for the opposition to hear government members pick up their slogan for the week. We obviously have the document of all its slogans, which are interesting to read. That comes as no surprise given that opposition members have recited them like parrots over so many months.

Hon. J. H. Eren interjected.

Hon. B. N. ATKINSON — The really interesting slogan is 'Getting on with the job', Mr Eren, because following the federal election there is probably no slogan that demonstrates more the arrogance of the Bracks government than 'Getting on with the job'. In other words, nothing was learnt and nothing is wanted to be learnt from the federal election last weekend. 'Getting on with the job' — pure arrogance. The fact is that this government has picked up a slogan because it is far more focused on spin and self-delusional key message tags than on understanding and addressing the key issues and trends that are emerging in the community. It is ignoring the verdict of the people last weekend. We do not mind hearing government members saying 'Getting on with the job' because it indicates that they are not prepared to revisit the policies and address the issues involving Labor's administration that are of concern to all Victorians, particularly the policies and issues that affect small business.

We would like to thank the Minister for Planning, the Honourable Mary Delahunty in the other place, for her contribution to the election victory in McMillan with wind farms and also for contributing to the increased margin of Philip Barresi in Deakin with the Mitcham towers, as well as her contribution to a number of results in other areas, including in the western suburbs,

where her policies on Melbourne 2030 have proved to be a disaster so far as the electorate is concerned.

If the government chooses not to reconsider its policies on the hospital system or respond to concerns about substantial and indiscriminate spending without improved outcomes for Victorians in terms of health care, that is fine with us. Opposition members are not concerned if this government continues to talk about a fast train but fails to allow it to leave the station. We are not concerned if the government persists with the Scoresby tolls, because it will be at its own peril. We are not concerned about this government simply continuing on with policies that were repudiated by Victorians at the federal election last weekend.

One of the key things for Victorians, particularly those involved in business and especially small business, which is the area I represent in the Liberal Party's portfolio allocations, is that they are very much concerned about this government being so wedded to an industrial, social and political agenda that is driven by the union movement — a short-term, blind agenda, oblivious to the international marketplace — and has created so many more new challenges for Australian business. Very often we see that it simply does not matter if the pursuit of industrial objectives imperils the very industries themselves, as we saw with Saizeriya. The unions were hell-bent on playing out their turf war, hang the economic consequences for this state. It was a situation where we saw one plant opened by Saizeriya more than two years late, but seven other plants belonging to the same company were lost to this state as new investment because of the union movement's turf war. It was obviously not concerned about jobs and investment, because how many jobs were lost from those seven plants that have not materialised in Victoria simply because the unions were playing out a turf war? I daresay there are many other Japanese companies who in their boardrooms have elected not to make investment decisions favouring Victoria because they want to avoid the ignominy of the Saizeriya situation.

Small business gave a collective sigh of relief at the weekend when the federal Labor opposition's policies were repudiated by Australians and the Howard government was re-elected. In the context of the election campaign industry associations frequently raised with me the issue of competition policy as being very significant for small business. One of the things I said to many of those organisations, including the Victorian Automobile Chamber of Commerce and some of the grocery industry associations, was that while some of their members might well have been concerned about competition policies and changes to the Trade Practices Act, every one of their members in constituent industry association bodies was concerned about industrial relations and workplace relations.

Every one of them realised that the policies of the federal Labor opposition going into that election and the policies pursued by the Bracks government here in Victoria are policies that are constraining, and in some cases stopping, investment in Victorian plants, in new products, in new services, and investment in jobs in this state for the future — not for today, but for the future. We are seeing companies move offshore; increasingly companies are saying that it is too difficult to manufacture here in Victoria.

I suppose I might be almost a troglodyte but I still believe there is an opportunity for a viable manufacturing sector in Victoria and in Australia. I still believe there is a very significant opportunity, because I believe we can create quality products. We certainly have innovation, and we certainly have a capacity to develop products that will appeal to world markets and which are well designed and very functional. But our ability to produce those products in Australia is increasingly under threat because of an aggressive and very angry union agenda which is determined to destroy the very hand that feeds it.

I am amazed at the number of unions which just do not seem to care — perhaps do not understand but I dare say do not seem to care — that pressing unrealistic demands on the industry and on business, particularly small businesses, simply results in those businesses leaving Australia. They are closing down, reducing the scale of their operations or taking many of their operations overseas — outsourcing some of their operations perhaps, but certainly taking production overseas. Because of the incessant and excessive demands of the unions we virtually export jobs that could well be done here in Australia.

It is interesting for members of this house to look at other parts of the world. One of the areas that I have shown quite a bit of interest in lately is Europe, where many of the unions are moderating their positions in the European economy because they realise that to continue — —

An honourable member — In Germany.

Hon. B. N. ATKINSON — Particularly in Germany and France; they realise that to continue to pursue excessive demands results in an absolute Pyrrhic victory. You might win the platinum gold card, but at the end of the day you lose the company because the company simply transfers its production overseas — not because it wants to, but because it has absolutely no

choice. It is simply uneconomic and unprofitable to continue under certain conditions, particularly given that for most companies labour is their highest component cost in production.

Those companies are forced to make decisions to quit those marketplaces. In Europe, particularly in Germany, we see a winding back of concessions the union movement made in wages and award conditions and even in the working hours that are provided by employees, because those employees are saying, 'We would rather moderate our demands on our employer and keep our jobs here than to wander off on a redundancy payment and say that we had a good award for six months, but it is a great pity that our jobs are now in South-East Asia'.

When Australian unions start to wake up to that phenomenon and to some of the international trends, and when they start to make a judgment on exactly what the opportunities are for Australian companies and for Australian workers to share in the prosperity of those companies — should those companies be able to invest effectively here and build jobs, products and services here rather than offshore — then we might also see some progress in the thinking of the Labor Party, because the two are so closely wedded.

It is interesting to talk to business brokers — and I am not sure that government members get around in their consultations to talk with as many people in the community as many of my colleagues do — because as I talk directly to them and people involved in small businesses, and as some of my colleagues talk to them and refer some of their experiences back to me, I find that an increasing number of people who are looking at going into business for themselves are basically measuring up those businesses on the basis that they do not have to employ people. When they ring up about a business that is offered for sale they are basically asking those business brokers, 'How many employees are there?', and their decision as to whether they buy that business is based on whether there is a certain number of employees whom they think they can manage successfully within a business.

In other words if there are no employees, it looks pretty good; if there are a handful of employees, they think, 'Maybe we can manage that'. But they are shying away from investing in those businesses that have a large number of employees because they see that they would be buying problems from the points of view of industrial relations and of trying to manage those businesses effectively. From their point of view, it is simply not worth the risk.

That is an alarming situation particularly when we consider that here in Australia in the next 5 to 10 years there will be a very significant turnover of ownership of businesses in this country, because many people who have owned very successful businesses for extended periods — 20, 30, or 40 years — are now looking to retirement and to getting out of those businesses. They depend on the sale of those businesses to fund their retirement, because in many cases those businesses are their superannuation. But their ability to sell those businesses is increasingly becoming reliant on the perceived risks associated with them, particularly the risks associated with employing people in those businesses under an avaricious and aggressive union movement and a complicit Victorian government.

They fear staff issues. We have often heard from members that small businesses and businesses generally fear and are more concerned about taxation issues. I am here to tell members that in fact most businesses are way less concerned about tax than they are about staff. The very clear reason for that is that tax is proportionate to the success of the business. In other words, they pay tax, and the amount of tax increases, only if the business is successful and makes sales. So the taxation area is almost controllable because it is proportionate to the performance of the business.

However, the staff issues in their businesses become increasingly uncontrollable. That is their area of concern and where they see the major risks because very often one simple staff issue can destroy a small business. It can destroy the reputation of a small business and can cost it a considerable amount of money, even where that small business owner is in the right and the staff member is simply pursuing some vindictive campaign against that small business owner. In many cases the actions of that employee can cost it clients.

I am amazed at situations where employers are caught, no matter which way they act, and the law and this government must address this. The law does not provide sufficient protection to employers who are doing the right thing. Indeed, in many cases it punishes them.

Recently I met with a small business proprietor in Shepparton who that day had a staff member — a transport driver — turn up drunk at his office but wanting to get in the company's vehicle and do his deliveries. The owner of the business said, 'You are not driving the vehicle while drunk. We will send you home; we will drive you home'. They did that, but the union came knocking on the door and insisting that the employer pay additional wages and entitlements to that

employee for the time he was off because he was denied the opportunity to go about his work.

Hon. W. R. Baxter — Outrageous.

Hon. B. N. ATKINSON — Absolutely outrageous. Can you imagine if that employer had let that drunk employee step into a truck and he had then driven out on the road and hit somebody? Who would have been liable? Yes, the employee — but so, too, would be the employer. The employer expressed on behalf of the community, and indeed on behalf of the worker himself, a responsibility in that matter, and yet he suffered a penalty because of the blind and stupid thinking of the union movement.

If that were an isolated case I would not be so worried, but indeed I know of another one on a building site in Melbourne where again an employee turned up intoxicated and was to use heavy equipment on the site. They said, 'No, you are not to do it'. The man became aggressive; they warned him; and he continued to be aggressive. After another warning he tried to get into the equipment and operate it, so they sacked him. They then had to trot off to deal with an unfair dismissals claim.

Again, what would have happened had there been a workplace accident that day caused by that employee? His employer would have suffered severe consequences for not exercising that responsibility. But having done so in the interests of that worker and other workers on the site and maybe the public, he was penalised because this government is more interested in pursuing policies that are designed to support workers no matter what the merit of their case than to achieve fair outcomes in the community. These sorts of policies and incidents which are urban folklore amongst small business employers are becoming such that they are saying the risk is not worth it, and they are not going to invest in jobs in the future.

This government is playing almost a last-straw-that-breaks-the-camel's-back game, because it keeps on relentlessly bringing on one industrial relations matter after another, imposing one more commitment or responsibility after another on employers, and increasingly trying to make employers responsible for things that are well beyond the workplace. I notice in the federal Labor opposition's policy going into this election — and I dare say this is subscribed to by the Bracks government — that item 55 of chapter 3, 'Income, job and social security' states:

> Industrial relations arrangements should serve social as well as economic goals. There must be emphasis on both achieving fair outcomes for workers and contributing to efficient enterprises.

But there is a real and increasing focus — and it is found in other lines in this document which I will not go into today — on trying to visit a social responsibility on to employers. They are prepared to play their part, but they ought not to be required to deliver a range of benefits and opportunities for workers that the community itself is not prepared to support across the board. All it does is make them uncompetitive with employers in other places and puts at risk the very survival of those businesses. It certainly stops them investing in the future, because there is no point investing in things that are not going to deliver profitability in the future. From that point of view we simply lose all the opportunities.

As I said, this government will put on the last straw that breaks the camel's back. It just keeps trying, poking away and following the union agenda to try and find out how far it can go. We had a redundancy case that went before the Australian Industrial Relations Commission where the Bracks government failed to take a position on behalf of small business. Whilst the West Australian and Queensland governments took a position in favour of small business, not so the Bracks government. Fortunately the coalition re-elected last weekend is prepared to address that redundancy issue and restore the exemption for small business from the significant demands of those redundancy payments.

A small business does not make a decision to downsize simply on a whim or because of some new-fangled paper or convention that comes out of Harvard University; a small business only lets its employees go because it has to or because the business is in strife. To expect it then to meet some other commitment simply because big business meets that commitment and because the laws are based on the ways big businesses operate is absolutely ludicrous. I welcome the fact that the coalition government will address that issue. I am saddened that the Bracks government did not recognise the importance of that issue to small business.

We had the common-rule laws and the uniform systems bill that went through this house last year. Interestingly enough we now have a Bracks government that does not want to take credit for it. The government that initiated this bill does not want to take the credit for it. We have Minister Lenders and Minister Thomson in this place telling small businesspeople across Victoria that it is federal government legislation, and they cannot do anything about it. In fact this legislation was introduced by the Bracks government. It held a gun at the head of the federal government and said, 'If you do

not pass these amendments to the workplace bill, we will set up a new industrial system down here in Victoria based on a division of the Victorian Civil and Administrative Tribunal'. What an incompetent body that would be in terms of an industrial relations tribunal!

But simply because it is getting a little hot in the kitchen we have a government that now has some of its senior ministers failing to own up to the fact that this was its policy, its legislation and its demand on small business. Businesses throughout Victoria are alarmed about the impact of common-rule orders on their businesses. It will cost tens of thousands of jobs. The Australian Retailers Association Victoria, the Restaurant and Catering Association of Victoria and the Victorian Farmers Federation have all estimated that it will cost tens of thousands of jobs to see these new conditions come in.

Certainly there was a major rally in Bendigo recently where employers in that city expressed their concerns about this legislation and the common-rule orders and the impact they will have on their businesses and on employment opportunities and the fact that many jobs will be lost. Many members of the Liberal Party were recently in Wodonga and we met with many businesses there. No doubt Mr Baxter of The Nationals has heard from a number of those businesses also — —

Hon. W. R. Baxter — Indeed.

Hon. B. N. ATKINSON — He would have heard about the impact of this initiative on many of those businesses, particularly in the hospitality industry. We heard from them about job cuts they will need to make simply because they cannot afford to meet these obligations. Perhaps in the context of the management of their businesses these rules would not be so bad were they the only imposts, but what we are looking at is one thing after another — an increasing range of regulations, obligations and costs on those businesses that all together simply make it far too difficult for those employers to maintain the employment levels in their businesses. Some are looking at closing their businesses at certain times of the week when they have provided an important and convenient service to customers, because from a cost point that is now no longer viable for those businesses.

Last year we saw also the outworkers legislation, another piece of big stick legislation which, like so much legislation that comes before this place now, has a union right of entry as a trademark. That legislation also has a delegated right of prosecution. This is clearly one of those Pyrrhic victories in legislation. Many members would have noted that recently Fletcher Jones, one of the icons of the fashion industry, took its production overseas. All members of the fashion industry are now looking increasingly to sourcing their product overseas. They are unable to produce in Australia at a reasonable, competitive price to enable them to meet the demands of consumers in a competitive marketplace. They are simply unable to manufacture in Australia any longer. While that Pyrrhic victory may have been achieved, the reality is that many companies like Fletcher Jones are increasingly moving their production overseas.

It is interesting to note that even a company like Target is now talking about direct sourcing product almost entirely from China and not using even wholesalers and so forth any more. The fact is that it simply cannot make its business work in the context of the legislation, entitlements and costs associated with production onshore.

I understand that shortly we will have coming before us legislation to change long service leave entitlements. Again that legislation will add significant new costs and administrative requirements to the burden for small business by increasing the rate and reducing the qualifying period for long service leave for workers. There is also a move to extend long service leave to casual employees. In many ways that seems a rather odd position, given the status of casual employment and that casual employees receive a loading that recognises that they do not receive long service leave or sick or holiday pay and so forth. Already they are paid a 20 to 30 per cent loading in recognition of that. Now there is a move to ensure that they receive both the loading and long service leave as well.

I note that in a test case for redundancy payments in the metal industry the Australian Industrial Relations Commission decided that:

> We have reached the conclusion that it would be inappropriate to award severance pay for casual employees. Such an award would, in the case of the metal industry at least, be 'double dipping' and likely to be so in other industries. Although there are other cogent arguments for and against this part of the ACTU application, this issue is decisive. It follows that we reject this aspect of the application.

In other words, the AIRC found that if casual employees maintain their loading and also seek the extension of other entitlements enjoyed by workers in the permanent work force, they would be double dipping. Yet, as we understand it, legislation that will come before us will seek to include that sort of provision.

Certainly the state government supports the current unfair dismissal laws, which are a federal matter. The Minister for Small Business in particular has shown absolutely no empathy with those small businesses that have battled with unfair dismissal problems. They are not problems of their making. In many cases the issues in an unfair dismissal case are extraordinary in the sense that they could not be justified in any shape or form before any fair and reasonable tribunal. Basically those small businesses are told from the outset, 'It will cost you $15 000, win, lose or draw, so you might as well pay any settlement up to that amount now and get rid of it. Just buckle under and pay up because to defend — even though the merit of the case is on your side — will cost you money'.

The Labor government in Victoria has absolutely no empathy with the position of employers and is not prepared to encourage its federal colleagues to support changes to the unfair dismissal laws. Fortunately, again, the coalition victory at the weekend is likely to see some improvement in that, and that will certainly be welcomed by small business in particular. People who run small businesses tell me and my colleagues that one of the reasons they do not employ more people in their businesses is that they are not prepared to take the risk in such areas as unfair dismissal. It is simply too costly, difficult and confronting for many employers with small workplaces to deal with those sorts of issues.

I note that the Equal Opportunity Commission is also pushing for the abolition of youth wages. Youth wages have been used as a means of entry into the workplace for young people. Employers do not exploit young people coming into the workplace. They provide significant learning experience, skills development and training to young people entering the work force, and youth wages have recognised that. Yet now there is a move to abolish youth wages. That will be to the detriment of young people who are out there looking for work, because if employers have to pay the same amount of money for somebody who is starting with absolutely no experience and somebody who is employment ready and has had experience, in most cases they will have to go with the more experienced person. That is simply because they cannot afford to spend the extra money for training and skills development as well as meeting the full wage cost for those young people. Youth wages are a very important issue. I am fearful that small business will again be visited with extra costs and that the attempt by the government to achieve an outcome will result in fewer employment opportunities for young people.

I am also concerned that the Equal Opportunity Commission seems to be pushing for the abolition of the exemption of small business from discrimination laws relating to employment appointments. At this stage small businesses with fewer than five or seven employees — I am not sure of the figures — are exempt from having to meet the requirements of the discrimination laws. The Equal Opportunity Commission has indicated that they should come under those laws for every appointment. It simply does not recognise the dynamics of a workplace and the needs of small business. The ideology is fine, but applied to small business it simply does not work. Again I hope the legislation will not find its way through the Labor Party's policy committees and to this place.

As I said, I share the concerns of many small businesses about the continuing push for union right of entry. The union right of entry is really about membership recruitment and intimidation of employers rather than any other proper reason, because in most cases the union has no need to be anywhere near those workplaces. There are already more than 70 government agencies that have a right of entry to small businesses, and we have certainly seen Consumer Affairs Victoria storm-troopers exercise that right recently. The last thing we want are unions knocking on the doors and seeking to disrupt and intimidate small businesses by trying to recruit employees when no complaint has been made or there is no cause for them to be at that workplace.

I am concerned again at the Maxwell inquiry and the looming occupational health and safety legislation. Industry groups tell me that they have been unable to obtain a draft bill and have been unable to consult effectively on that particular legislation. I know the government will say, 'We have consulted exhaustively on this one because we sent Bob Stensholt to talk to everybody about what we were going to do after receiving the Maxwell report'. The fact is that consultation from an industry group point of view was fairly unsatisfactory because it was unable to find out the details of what was likely to be included in that legislation. The consultation only provided some feedback on the Maxwell recommendations, but there was no advance on what the government's position was on that inquiry.

From that point of view there is a great deal of concern at the prospect that the Bracks Labor government might again adopt the concept of industrial manslaughter. I note in the policies of the federal opposition during the election that there was fulsome praise for the Australian Capital Territory Parliament's introduction of industrial manslaughter legislation. This is certainly actively on the future drafting of legislation agenda of the federal Labor Party, and there is real concern about it and any

extension of criminal prosecutions and sanctions in this legislation for office bearers of companies under any legislation coming forth on occupational health and safety.

The Liberal Party obviously does not agree with or support in any shape or form the exploitation of workers nor do we agree with or support in any shape or form unsafe workplaces, but we simply do not want to see union power wielded in an abusive, political and aggressive way; where it is not genuinely pursuing valid industrial objectives, award wages and conditions that are relevant to and sustainable in an industry; stepping outside those parameters to pursue political and broad social agendas; and using intimidatory tactics to achieve industrial outcomes which will destroy many companies. This approach has already destroyed companies, and it certainly will impact on future investment and jobs.

Mr Viney — Name them! Which companies?

Hon. B. N. ATKINSON — Let us talk about Saizeriya to start with! We have already named that. Let us talk about Woolworths, Orica, Heinz and Arnotts — there is no shortage of companies.

Mr Viney — Destroyed by unions?

Hon. B. N. ATKINSON — Absolutely!

Mr Viney — There was no mismanagement in any of these companies?

Hon. B. N. ATKINSON — It would be very hard for the honourable member to argue persuasively that Orica, Woolworths, Saizeriya or Arnotts were mismanaged companies. The small business employers are good employers. They realise that their staff can be a point of difference in their businesses and indeed provide a competitive advantage. Good employers know how to look after their staff, and they recognise that it is important to do so because staff are often the highest cost centre of most businesses. All surveys show that people want to work in small businesses. They find that small businesses are a great place to work and that their relationships with bosses are good. They like to be part of close-knit teams and in the thick of the action as it happens.

In a small business you can understand everything that is happening within it rather than being an isolated employee within a particular division of a much larger company; they particularly and importantly like the flexibility associated with working in a small business.

What the Liberal Party does not want, what small business does not want and what employees in small businesses do not want are overregulated workplaces, a return to the central system and the old-time, archaic thinking of the Labor Party in terms of its industrial relations regimes. Small business particularly welcomed the election of the Howard government because it means that there will be greater choice in terms of the employment arrangements that employers and employees can make. Whilst the Labor Party characterises those as winners and losers — and says the losers are usually the workers — that is not in fact borne out by the evidence that is demonstrated right around Australia and particularly throughout Victoria by so many employees who are striking deals that they find to be very much in their favour. They are signing enterprise bargaining agreements and Australian workplace agreements (AWAs) — and I notice that the federal Labor opposition was trying to abolish AWAs that have been embraced by many small businesses and their employees.

The Labor Party fails to recognise international trends, changes in technology and increasing interest by workers — women, senior executives, young people — who are looking for quite different work structures in their lives. They are more concerned about their lifestyles than some regimented 9 o'clock to 5 o'clock job or shift work approach that is enshrined in most of the Labor Party's thinking, and which is being left behind by most workplaces today.

Many people now work from home. Many people are seeking alternate workplace arrangements in terms of the hours, times and places they work. The coalition arrangements and the Liberal Party's approach in supporting small business in terms of the way it is developing with many of its structures and opportunities for employment growth are very consistent with those trends and the needs of employees.

Invariably they are delivering businesses that are successful, that are earning better sales and profits and in many cases are entering successfully into export markets and developing new products and services and creating and sharing with their employees the proceeds of that success. Small businesses share that with their employees, but we are likely to see constraints on future investment and jobs. We are likely to see more economic investment lost to other states, particularly Queensland and Western Australia, and indeed even going overseas unless this government starts to recognise that it needs a more enlightened approach to industrial relations and workplace relations policies and until it starts to realise that it needs to more vigorously

appraise its relationship with the Trades Hall Council and to ensure that it develops policies in the interests of all Victorians not simply those unions who have chipped into its electoral funding.

Indeed the industrial relations policies of the Labor opposition in Canberra were very much repudiated. Whilst it tried to keep them out of the headlines, those policies were very much recognised by small business across Australia, and in our case across Victoria, as being an area of significant concern. They were a key factor in the votes that many small business owners and many of their employees cast last weekend. Frankly they do not want a nanny state. They do not want this state government to continue with its high-taxing policies, with its overregulation and with its red tape, particularly with an industrial relations agenda that is absolutely driven by Trades Hall Council and pays no countenance to international trends and the need for competitiveness for businesses and, more importantly, the need for choice and flexibility for employees working in those industries.

They are the ones who are increasingly driving the business practices of small businesses, because they recognise the importance of their staff and are responding to the needs of those staff. They need to keep their best people, and they are working out agreements and arrangements with those people that are delivering very good award and beyond-award conditions and entitlements to those people and a range of benefits that are not even included in the conventional awards and ought not be included in the conventional awards because every business workplace, particularly in a small business sense, is different and has different needs and demands and needs to be structured differently to meet the needs of that business and the people who work within it — the people who depend on it for their livelihood.

This government needs to do an about-face. This government needs to look very closely at its policies. If it simply wants to maintain this position of getting on with the job and ignoring the changes that have occurred in the workplace, if it simply wants to display the arrogance of the phrase 'getting on with the job' and to continue to pursue the union agenda in regard to industrial relations, to continue to visit additional costs on small businesses, to continue to prod those businesses and place more straws on the camel's back until that back is broken, then woe betide it because it will, as I have indicated in the wording of this motion, reduce future investment in Victoria and limit the number of high-quality, well-paid jobs that we can offer our children and grandchildren in the future. Businesses will not continue to invest if this government continues to pursue the industrial relations agenda it has been in its first five years of office.

Mr VINEY (Chelsea) — I welcome the opportunity to respond to Mr Atkinson's rather wide-ranging contribution across a range of areas not specifically related to the motion which I understood to be on industrial relations. He moved into social policy and social infrastructure, so therefore it is a great opportunity for us to set the record straight and to respond.

Let me say at the outset that there is no way this government will be showing any support for this motion, because it is deeply flawed. It is flawed in its assumptions, and the contribution from Mr Atkinson shows more than anything that the Liberal Party is stuck in an industrial relations policy that goes way back into probably the 1950s. That would be about as progressive as its contribution is. The record — —

Hon. Bill Forwood — You weren't even born then!

Mr VINEY — I was actually, Mr Forwood; I was born in 1954. It was a good year.

Let us deal initially with a couple of basic facts — the first one being that under this government industrial disputation is lower than it was under the Kennett government and, what is more, under this government there has been a partnership approach between government, employers and employees through their respective bodies — employer organisations, unions and employee associations. That is why we have been bringing industrial disputation down. That is why it has been coming down, because this government has been about building a partnership for the future investment and growth of this state. This government has been about investing in our future in a way that the Kennett government was completely unable to see — investing in our future in terms of putting substantial investment into the innovation economy.

Mr Atkinson raised this issue before. Over $1 billion has been invested into the innovation economy since we were elected, ensuring that we are seeing growth and development of the great manufacturing base that we have here in Victoria but at the same time making sure that employees have some protection, are treated fairly in the workplace and have some basic rights.

Mr Atkinson raised the issue of the outworkers legislation. What an outrage for any government to give outworkers some basic rights! According to Mr Atkinson, this was a dastardly thing for this government to do. All we were doing was giving outworkers who have been exploited and working

excessive hours for low wages some basic rights and conditions — some basic rights to a reasonable wage for the labour they are putting in and some basic rights in relation to leave and occupational health and safety. That is what this government was about with the outworkers legislation.

Mr Atkinson raised the example of Fletcher Jones. To my knowledge, I do not believe it was using outworkers. He talked about the Target chain importing from China. I do not know about anyone else, but any time I have shopped in Target and had a look at the labels, I have found that most of them are from China now.

I do not think decisions by this government have caused in any way employer organisations and companies to move offshore, particularly in relation to industrial relations. We know, for example, that the industrial relations system was largely moved to the commonwealth in 1996 under the Kennett government, and we know that since that time a number of workers have been left out of the system. This government has moved to ensure that they had some protection. That was done to ensure that those workers had some basic rights. We know, for example, that the Australian workplace agreements (AWAs) have been used by employers to reduce the rights and conditions of workers. Research done by the University of Melbourne shows that up to 50 per cent of AWAs are concerned not with major changes to the employment system but making specific changes to the relevant award, usually to working hours and/or pay.

So Australian workplace agreements have not been used in the system to make social shifts in our community or, as Mr Atkinson suggested, to provide more flexibility for the changing way that people are seeking to work these days. In fact 88 per cent of AWAs provide the employer with the capacity to unilaterally increase or decrease the hours of work of employees — 88 per cent of them do that! There is no flexibility in having Australian workplace agreements. What they are about is providing employers with an opportunity to unilaterally make those kinds of decisions. Some 25 per cent of AWAs provide that the employer can require an employee to work overtime without additional payment; 50 per cent of AWAs allow the employer to add duties without the consent of the employee; and 19 per cent allow the employer to transfer the employee to a different site without the consent of the employee. So AWAs have not been used in any way to provide increased flexibility for employees to have family-friendly arrangements in their work. What they have been used to do is restrict the rights and conditions of employees in the workplace.

For every example Mr Atkinson can give of excessive union activity one can give at least 10 examples of excessive abuse of power by employers. I can talk about the case of Ali, the Afghani worker who started work at 4.00 in the morning and when his shift finished he would be asked to continue to work, sometimes until 10.00 at night. Because the machinery had broken down at this particular site he was required to push all the crates along a conveyor belt. As a result of all that he has now sustained a long-term injury. Does the employer care? The employer will just find another immigrant to do that work. That kind of exploitation does not happen with all employers, but I can give other examples.

I can give the example of the women working for $6 an hour making the sandwiches that are sold in service stations around Melbourne — $6 an hour is under award wages. They are too intimidated by the employer to ask for reasonable lunch breaks or for fair and reasonable wages. I can also give the example of the labour hire firm that provided labour for wages way under the award — the labourers were paid $6 or $7 an hour in a particular industry. When the union checked the labour hire firm out it found that its registered address was a vacant block with nothing on it but a tree.

We can find example after example. We can spend the debate listening to Mr Atkinson and others on that side take up their entire time giving examples of a union here or there taking what could be deemed to be inappropriate action. But equally we on this side can take the opportunity to use up our time by talking about some of the exploitative employers doing the same with workers, but that is not going to be constructive. What this debate needs to be about is building the partnerships between employers, unions and government and their various representatives to make sure that we can build and invest in the future. That is what this debate should be about. It is not about blame; it is not about saying who does what to whom.

What we need is a balanced system, but the coalition government in Canberra has not delivered a balanced system of industrial relations. What it has done is put in place a system of industrial relations that puts too much power in the hands of employers, and that is what unions are concerned about. Denying unions the right of entry into workplaces is not conducive to having a reasonable workplace that is pushing forward and growing our economy. Unions have no interest in seeing workplaces close down. Why would they have an interest in that? They would only lose members.

Unions have absolutely no interest in seeing workplaces close down.

Unions want to build relationships with employers to grow businesses, to grow employment and to grow the economy. Unions want that, and employers want that. What we need to put in place is a system of industrial relations that allows that to happen. It is no good approaching the system of industrial relations by throwing the balance to one side, as has been done by the coalition in Canberra. That is not going to be conducive to building that relationship, growing our economy and creating jobs. Unions have a strong interest in seeing the economy growing and workplaces, companies and other employers succeeding. They want their members to be better paid, and they recognise they can be better paid if companies are successful. If companies are to be successful, there has to be flexibility in the workplace. I cannot believe unions as a whole have an interest in restricting flexibility in the workplace, as is presented by the other side.

In fact in many ways unions have been at the forefront of encouraging flexibility in workplaces. Over the last 20 years it has been the unions in Australia that have been showing the way for reform. It has been the unions that have been pushing forward the arguments for reform in workplaces, and this has often taken place despite the conservative side of politics, which does not want to have that kind of partnership and cooperation whereby workers and employers work together, often through enterprising bargaining, and push forward with reform and innovation in the workplace. It is well known that the companies that succeed in Victoria are the companies that take that approach — the innovative approach, the approach of working with their employees to put in place quality management systems.

It is a testimonial to the union movement that it has been prepared to work with employers so thoroughly in this. Labor governments and unions have been looking outward in Australia, pushing reform of the economy and investment into new areas of technology and innovation to make sure that we are developing our export markets and focusing externally in this environment. It is of no benefit to have a debate here today that is as narrow as that presented by Mr Atkinson and casts unions and the Labor Party back into the 1950s mould. It is not constructive, and this kind of restrictive approach is not going to be of benefit to employers.

The Victorian government has not only rejected much of the federal coalition's approach to industrial relations, it has been positive in putting forward a 10-point plan for the reform of industrial relations in Victoria. This has been signed up to by all the other states, but the commonwealth government has failed to do so. The 10-point plan includes a raft of sensible reforms to the system. They cover things like increasing the Australian Industrial Relations Commission's capacity to resolve disputes on its own motion and increasing resources to ensure timely resolution of disputes. This is a direct response to the essentially silly system set up by the coalition in Canberra, with an adversarial approach that requires employers and employees to be in dispute before they can take a matter to the commission. It forces unions to put in place a clearly excessive log of claims in order to create a dispute to get some kind of move forward. This is a ridiculous system of industrial relations that has been put in place by the commonwealth, because it does not allow the resolution of issues between employers and unions without the creation of a dispute.

The 10-point plan includes removing the limits on the subjects on which the industrial relations commission can make determinations. It proposes requiring all agreements to provide effective dispute resolution mechanisms that allow the industrial relations commission to arbitrate. It suggests ensuring that dependent contractors receive fair minimum wages and conditions. It proposes establishing industry consultative committees under the auspices of the Australian Industrial Relations Commission. It proposes implementing a code of good faith bargaining similar to that in New Zealand. This is a sensible group of reforms to the industrial relations system that is about building that partnership, about building that relationship between employers and employees and about making sure that workplaces have a cooperative approach focused on moving forward, building businesses and growing jobs.

The contribution to the debate from Mr Atkinson also touched on areas of social policy and social infrastructure. The Victorian government has been about building the level of service it provides Victorians in health and education. It has also been about building the social infrastructure, not in the central business district, which was the hallmark of the Kennett government, but in the regions and in the outer suburbs. It has been about putting in programs like the black spot funding to improve our roads; building the social infrastructure projects like the new hospital in Casey or the redevelopment of the Austin and repatriation hospitals; putting in place the $20-odd million redevelopment of the hospital in my electorate in Frankston.

The massive investment that has gone into our schools has seen the biggest refit, rebuild and upgrade of schools probably in Victoria's history. There would hardly be a government school in Victoria that has not had a significant upgrade of its buildings under this government. That is in stark contrast to the Kennett government, which saw schools deteriorating, and if they deteriorated too much they were closed down and their teachers were sacked.

Mr Atkinson's raising issues of social investment and social policy is ridiculous. If anyone has not learnt it is the opposition in this Parliament. The opposition has not learnt from two losses that what people want is sound management, which they get from this government — year after year after year of budget surplus. They want that sound economic management.

The people also want a government that invests in its services, in the basic social infrastructure of the community, and that is what this government has been doing. It is in stark contrast to the lot on the other side, who still have not learnt that. Mr Atkinson came in here lecturing us about the lessons of last weekend. This opposition needs to think about the lessons of the last two elections in Victoria. The opposition shows no indication from Mr Atkinson's contribution today of having learnt a single thing about that. He has been putting up some straw man, if you like, about industrial relations. The opposition is out there trying to bash it down, when in actual fact this government has been about building a good relationship between employers and employees, as is shown by the significant reduction in industrial disputes in Victoria.

It has been shown that labour costs measured by average weekly earnings are lower in Melbourne than in Sydney, and employment in the building industry is up and dispute levels are down. All this is being achieved, despite a particularly onerous divisive and adversarial approach to industrial relations being set up by the commonwealth government.

Hon. J. H. Eren — It is a shame.

Mr VINEY — It is a shame, Mr Eren, because the government does not understand that growing our economy, export markets and jobs is about building partnerships in the workplace. The Liberal Party's whole model of industrial relations is to throw the system out of balance and give the power back to employers. We also have the recent Australian Industrial Relations Commission decision to extend federal awards to the vast majority of Victoria's lowest paid workers. That handover of the industrial relations system in Victoria to the coalition government in Canberra in 1996 left more than 300 000 workers with only the barest protection through schedule 1A of the Workplace Relations Act.

At the last election the Bracks government promised justice to those Victorian workers. We have been able to deliver that, despite a significant amount of federal obstruction. The Australian Industrial Relations Commission decision closed the door on policy the Kennett government had — the policy of putting at the bottom of the system the lowest-paid worker and bringing everything down to the lowest common denominator in industrial relations.

For the first time we now see those schedule 1A workers having basic conditions. There were outrageous things. The Liberals opposed such things as leave loadings, penalty rates, overtime and sick leave — basic things that every other worker enjoys. The Liberal Party thinks this is some kind of outrage, just as Mr Atkinson thought it was an outrage that we ensured that outworkers were paid award wages and received a decent wage for the work they do.

We need to put in the context of this debate that under the commonwealth's Workplace Relations Act we have seen the casualisation of the work force start to climb substantially. Only Spain in the Organisation for Economic Cooperation and Development has a more casualised work force than Australia. We now have 2.1 million Australians employed in casual jobs. Substantial social issues flow from that dramatic shift in the casualisation of our work force. Young people in casual work will not be able to get mortgages to buy homes, because they do not have permanent jobs. People in casual work will be vulnerable to fluctuations in the economy. People in casual work will not be able to plan adequately for annual leave and family commitments because of the casualisation of our work force.

These are serious and significant social issues that the commonwealth government needs to address. It has not addressed them. In fact, it is pushing forward with this program with further restrictions on unions to enter work sites. It is pushing forward with further changes to the Workplace Relations Act that will lead to further casualisation of the work force and reductions in the rights of employees. It is nothing but a blatant attack on the union movement to keep shifting the balance from a properly maintained system of checks and balances in the industrial relations system — checks and balances where you have unions protecting and advocating the rights of employees who are adequately represented through their associations and the arbitrator making the

decisions where resolutions and disputes cannot be resolved through negotiation.

That is unfortunately the dark picture that the coalition government in Canberra has for industrial relations in Victoria. It is unfortunately the dark picture that is clearly supported by the Liberals in this Parliament who have learned nothing from their two election defeats. They still see industrial relations as a system in which the balance has shifted to employers and that workers should regard themselves as damn lucky to have jobs let alone worrying about their rights and entitlements. That is what the Liberals are advocating.

The Liberal Party wants to put forward examples of unions using excessive power, but we can give dozens of examples of unscrupulous employers for each one it can bring. Fortunately we only have a small number of them in the state, but it is important that unions exist to protect those rights and to ensure that workers are properly represented in the workplace.

It is ridiculous to suggest that workers under Australian workplace agreements have equal negotiating ability to employers and human resource managers in those workplaces. It is absolutely absurd to suggest that ordinary workers have the same capacity in a workplace to negotiate an AWA with a human resource manager or employer in a workplace. For a couple of hundred years unions have had an appropriate role of being there to provide a balanced and fair process of negotiation.

It is the coalition's policy both in Canberra and clearly in Victoria to take away workers' rights to proper advocacy. They want to restrict them and to deny unions the right to be there even to tell the workers that the union exists to advocate and represent them if they wish. The coalition's policy is to even remove from unions the right to inform workers at work sites that unions exist. The coalition's policies are about restricting the rights of workers and about pushing forward with more reform of the workplace with more restriction on workers and of the rights of unions.

It will be a dark future for industrial relations if the legislation proposed by the coalition in Canberra is passed. The Victorian Liberals should stand up and say, 'We support a fair and balanced system of industrial relations and recognise that unions have an appropriate and proper role'. Certainly they need to work properly within the system, just as employers do. This government is about having a balanced system and an increase in the powers of the industrial relations commission to ensure that where disputes cannot be resolved, there is fair and proper arbitration. This motion must be condemned by the house and thoroughly opposed.

Hon. W. R. BAXTER (North Eastern) — What an extraordinary contribution we have just heard from Mr Viney!

Mr Viney — You always say that!

Hon. W. R. BAXTER — Because you make extraordinary contributions! The contribution you have made today has topped them all: it was absolutely startling. Prior to the election last Saturday, fear amongst small business was stalking this land with the prospect of wall-to-wall Labor governments in every state and in the commonwealth, particularly in relation to industrial relations. I thought that fear might have been a bit exaggerated but having listened to Mr Viney I can see it was not exaggerated at all. It was I who underestimated the fear that people have about what an unfettered Labor government would do to interfere in the workplace and what it would do to repay the debt it has to the unions, both financially and ideologically. We heard it all from Mr Viney — the 1950s revisited. Unions know best, employers are all bad and the workers have not got the nous to stand up for themselves. According to Mr Viney, they have not got the nous to even know there is a union out there if they want to join it. He wants the employers to tell the workers there is a union they can join if they want to. What a dreadful slight — —

Mr Viney — I did not say that!

Hon. W. R. BAXTER — You did say that! What a dreadful slight on the intelligence of the workers of the state of Victoria. Members should look at whether workers want to join the unions anyway. Look at the statistics on union membership; year after year they are on the slide. Look at the way union membership drops away when artificial props are removed, such as when the Kennett government removed the automatic collection of union dues from members of the public service who were coerced by the unions to sign up and who had their union dues deducted from their salaries.

What happened when the Kennett government removed that prop? Membership dropped dramatically virtually overnight, because people did not want to be members of unions. But because the system was in place the shop stewards, the heavies and the union thugs forced them to sign up to that arrangement. But when the union was no longer able to do that and it had to send out an account and the worker had to send in a cheque, the cheques did not arrive. There were a few classic illustrations in this place of where the union sent in debt

collectors to collect unpaid union dues going back two or three years from people who had written in resigning, saying they did not want to be a member of the union, yet the union was not prepared to accept that. Mr Viney has the gall to come in here today and try to convince us that the unions are there to look after their membership. Bully they are! They are there to engage in a power play by those who happen to be fortunate enough to be in the union leadership group, and we have all seen that time and time again.

Hon. Bill Forwood interjected.

Hon. W. R. BAXTER — I do not buy the ridiculous notion that is put up time and again that unions are there to protect the interests of workers, because when the chips are down, as Mr Forwood said by interjection, it is all about maintaining their position of power. It does not matter if at the end of the day that workplace closes down and the jobs go oversees. We have seen it with Saizeriya which did not even get off the ground, and we saw it with Arnott's and with others. Mr Atkinson is quite right in bringing this motion before the house today so we can shine the spotlight on what this government is and is not doing in terms of industrial relations.

Let us look at the Federal Awards (Uniform Systems) Bill mentioned by Mr Atkinson which was knocked back twice by this house. Unfortunately, our ability to do that was later somewhat dissipated, and this government passed the legislation. But as Mr Atkinson said, it does not want to claim the credit for it now. It wants to deny that it had anything to do with it, and none other than the very minister himself, who was in charge of the bill, has tried to blame it all on the federal government. Last month the Minister for Industrial Relations wrote a letter to the *Bendigo Advertiser* in anticipation of a meeting that was being arranged in Bendigo and which subsequently took place and was chaired by my colleague Mr Drum and attended by the Leader of the Opposition and the shadow Attorney-General from another place, and indeed Mr Forwood. In his letter the minister said that the fact that these restaurants are going to be under pressure, that they are going to have to put people off and that some of their casuals will no longer be able to be kept on was nothing to do with him at all and nothing to do with the state government of Victoria. He said it was the dreadful federal politicians who had done it, completely ignoring the fact that the Labor government in Victoria blackmailed the federal government into picking up the common-rule referral by saying, 'If you do not, we will set up a mickey mouse industrial relations division at the Victorian Civil and Administrative Tribunal'.

What a circus it would have been if we had had some sort of industrial relations outfit handling the schedule 1A workers at VCAT. Of course, the federal government was left with no option but to pick up the common rule and gradually extend it across the state. What result was it going to have? Exactly the result that those restaurateurs forecast at the meeting in Bendigo. Casuals will be put off. There will be less employment, particularly on Sundays and public holidays. Some restaurants, tourism operators and the like will go out of business, and we will have less opportunity for people to get on the employment rung and get some experience, so that when they apply for other jobs they can at least have on their curriculum vitae that they have had some experience in the workplace. They are going to be denied that.

Mr Viney said that if you work casually, you cannot get a home loan because you have not got a permanent job. What a lot of rubbish! The banks and the mortgage brokers are bending over backwards to lend people money to buy homes providing people can demonstrate some sort of capacity to repay and have some sort of savings history and regularity of employment. It has nothing to do with whether you have permanent employment: it is whether you have a capacity to repay the loan and you have a savings history. To come in here and suggest that this is going to deny people home loans is patent rubbish.

I attended a function in this building last night, organised by my colleague the Leader of The Nationals, Mr Hall, and the member for Shepparton in another place. Some 80 people attended in Room K. They were mainly small business people from Shepparton and Gippsland in the energy industry and so on. The no. 1 topic of conversation at my table was unfair dismissals. That is what they are concerned about, and that was their great relief from the election result on Saturday. They are going to see the coalition government in Canberra putting in place its longstanding policy on unfair dismissal to give businesses employing under 20 people a fair go. The obstructionist Senate has now had its comeuppance, and this legislation will be passed.

It has been rightly said by more people than Mr Atkinson, although he repeated it today, that unfair dismissals have been the bane of small business, because whatever happened — win, lose or draw — it cost you money and you had the galling prospect of it being a better option, even if you have been absolutely and entirely innocent, to pay up and shut up! What sort of a justice system is that? What sort of fairness is that?

What is the spin-off? The sort of thing that happens in my own family business — we go out of our way to avoid employing people. If we can put in a machine, if we can do it ourselves, and we can get out of engaging someone, simply because of unfair dismissal laws, we will do it. What is this doing for the employment of young people? It is doing them no good at all. I see that the reform of unfair dismissal laws will be one of the great employment generators of young people in this community. I hope the federal government gets on with the job as soon as possible, and I call on the existing Senate, which is there until 1 July next year, to face up to reality, to face up to the verdict of the electors last Saturday and allow this legislation to be passed rather than having to wait until the new Senate takes its place next July.

We also heard Mr Viney roll out that tired old statistic that there are less industrial hours lost under this government than under the former government. Well — surprise, surprise! — here is a government that kowtows to and does not get into fights with the unions, so that of itself has to reduce disputes, but of course it overlooks the very core of the previous coalition government in this state, which took on the unions and wanted to clean out the stable and get rid of some of the rorts. Of course that caused a bit of ruction, and of course due to the fact that we were reforming the way public enterprise was done in this state, particularly in the power industry and elsewhere, there were some union-inspired disputes and loss of time during that period of government. So it is absolutely not comparing apples with apples to be making the claim that Mr Viney made this morning. So I reject that part of his excursion as well.

One of the things that has always frustrated me in all my time in public life is: why is it that in this blessed nation of Australia, with tremendous natural resources of water and sunshine and mineral wealth, with plenty of land, and with a work force that by and large wants to get on with the job and do a fair day's work for a fair day's pay and be productive, we struggle so much to achieve productivity gains? Why are we stymied so often by the troglodyte views that we heard from Mr Viney, by the people who want to go back to the 1950s, of regulation, of someone else — whether it is a union or a government — telling a business how it should organise itself and employees how they should conduct themselves? I find it extraordinary that there is a mindset among some people who get themselves into positions of power that they know best and that they want to regulate how people run their operations. Somehow it is all done in the name of, 'We want to make sure we are fair to everyone'. Of course the end result of that is it is all lowest common denominator stuff, and we cruel the entrepreneurs on both sides — the employers and the good employees — who want to get in there and have a go themselves. I have seen this nation held back so often and for so long by pernicious unions which want to thumb their noses at everyone else.

One only has to read today's *Age* to see some comments from that well-known union thug, Mr Martin Kingham, who said that his union would:

> ... ignore moves to outlaw pattern bargaining and it would not obey laws forcing unionists to hold secret ballots before going on strike.

Here we have it — arrogance personified: a union heavy completely thumbing his nose at the election result of last Saturday. He is saying, 'It does not matter what the people decide, it does not matter who they want in government, I, Kingham, the head of this rogue union, will do what I like. I will disobey the laws that a properly and democratically elected Parliament might pass, having been given a huge mandate by the people of Australia only two days ago'. How can we expect to have a peaceful industrial climate in the future if this is the sort of arrogance we are seeing coming from the union leadership within 72 hours of the election result?

I congratulate Mr Atkinson for bringing this motion before the house today and for the spotlight he shone on some of the actions of this government, both already executed and those it might be contemplating for the future. I say to this government: have a look at last Saturday's election result. It is all very well to say that industrial relations was not up there in lights — maybe it was not, because certainly its side did not want to put it up in lights at all. Look at some of the things that crew wanted to do: reintroduce a federal payroll tax — we know they wanted to do that; increase rights for union officials to enter businesses; and abolish Australian workplace agreements. Well we heard that from Mr Viney; he does not believe that two people ought to be able to agree in their individual workplace. He wants the union to come in and do it for them. They also wanted to: abolish junior rates of pay — we know that is what it is doing; go back to the awards system — yes, we know all about that; treat self-employed contractors as employees; limit casual employment — too right they do, Mr Viney spent half his speech talking about that; remove redundancy payment exemptions; and so on and so on.

No wonder the people I sat with last night were breathing one helluva sigh of relief. If the election result last Saturday had been different, those people would have been in grave danger of their organisations going out of business. I commend Mr Atkinson and I applaud

him for putting this government on notice that everyone will be watching what it does in industrial relations between now and 2006.

Hon. BILL FORWOOD (Templestowe) — It is a pleasure to rise to speak on this motion that condemns the government on its failure to develop industrial relations policies to secure job and investment growth in Victoria for the future. I congratulate both Mr Atkinson and Mr Baxter on erudite, well-thought-out contributions on this important debate. I must say that I felt absolutely the same as Mr Baxter about the contribution from Mr Viney. Mr Viney pleaded with us for a more enlightened system. I thought, 'Where does he live? Where is he coming from? What is the basis behind a statement like that?'. I reluctantly came to the view, as I have in the past, that the history of the Labor Party captures these people so much that they do not have the capacity to think clearly about this topic. What we know is that, in historical terms, the union movement was born first and the Labor Party as we know it today came out of the union movement. So what we have is that the ALP is the political arm — —

Hon. B. N. Atkinson — Captive.

Hon. BILL FORWOOD — Thank you; 'captive' is the word Mr Atkinson used. It is the political arm of the union movement. While we know that this happened in the 19th century, nothing has moved on. As evidenced by the behaviour of the Bracks government and also by the policies of the Latham opposition, particularly as was just mentioned by my colleague Mr Baxter, the Labor Party of today is still owned by the union movement — lock, stock and barrel. It is naive for Mr Viney to come in here and talk about partnerships when his only idea of partnership is that the union says what is to be done and everybody else agrees. It is nonsense for people in this place to suggest that this government is anything other than an apologist for the union movement. It has been, and I am afraid it ever will be. So that is one of the reasons we will continue to highlight the major problems in this state associated with the industrial relations issues brought to this place by the government.

Mr Atkinson's motion touches on two things: investment in the future, and jobs. I want to turn to those two specific issues. The first is the issue of investment. We have heard the denials today of Mr Viney that this government's policies have anything to do with loss of investment. I am going to concentrate on just one example which has been mentioned by both Mr Baxter and Mr Atkinson — that is, Saizeriya. I have in my hand the witness statement of Ian Kennedy, the director of regional industries for the Department of State and Regional Development of 55 Collins Street when this matter came before the Industrial Relations Commission.

As a bit of background, Mr Kennedy's document makes it very clear in its first paragraph:

> In ... February 2000 Les Foster, manager of food groups for the Department of State and Regional Development ... led a delegation ... to a trade fair in Tokyo —

and met with Saizeriya, which —

> ... is a high-profile company ...

The document refers to a considerable period of time elapsing, during which there were two visits by the company to Australia and a dinner was held by the Victorian Treasurer. The statement says:

> I believe that the presence of the Treasurer at the dinner indicates the significance that the Victorian government attached to securing such an investment at the time.

Later that year the department prepared a written offer and got the company to accept that offer in July 2000.

In the early negotiations Saizeriya indicated that it was prepared to invest between $30 million and $40 million for a food-processing plant and that its long-term plan was to develop multiple plants on the site — as Mr Atkinson mentioned, there were to be eight — with further significant investment and further increase in employment.

At the time the Minister for Industrial Relations was the house's current President. In her capacity as industrial relations minister, but more to the point as a longstanding ex-official of the National Union of Workers (NUW), she provided the company with some advice. That advice was that they should enter into a greenfield site agreement with the NUW. The result of this certified agreement with the NUW was outrage on the part of the Australian Manufacturing Workers Union (AMWU) and the Construction, Forestry, Mining and Energy Union (CFMEU), and they set out to destroy this project. I put it in no stronger nor weaker terms than that — they set out to destroy this project.

Hon. W. R. Baxter — And succeeded.

Hon. BILL FORWOOD — Thank you, Mr Baxter, they succeeded. Despite all sorts of interventions, including by the Premier's chief of staff, Tim Pallas, and others, this government was unable to protect this company which it had invited here.

I make the point that Mr Kennedy is still the executive director of the office of regional industries and of the industry development and investment attraction branch of Regional Development Victoria. His first job was described as delivering a range of business services to assist industry sectors that are of strategic importance to Victoria, such as food processing. This was a strategic investment that the government had gone a long way towards attracting to this state. In his witness statement Mr Kennedy states:

> I believe that if we lose this investment and if the company were to walk away from the current project, Victoria's reputation as a place to invest would be significantly damaged throughout Japan. It would send a firm message to current and potential investors in Japan that the industrial relations system in Victoria has caused the downfall of this project and would damage our reputation as the place to do business in the future. I believe that the damage caused by the failure to stop the industrial action and the possibility that Saizeriya will not continue with this project will also impact on Victoria's reputation outside of Japan. I am advised that the company has a number of European and American shareholders. Consequently, such an incident as Saizeriya withdrawing or reducing its investment would cause significant damage to our reputation across Europe and the United States of America.

I make the point that he is a senior official of the government.

Hon. J. M. McQuilten — You have read that statement into *Hansard* four times.

Hon. BILL FORWOOD — Thank you, and I will continue to do so because it makes the point of this particular motion before the house today — that this government's industrial relations policies destroy investment and destroy Victoria's reputation. There can be no doubt about that, and everybody knows the sorry story of this. But will this government recognise it? Mr McQuilten, by way of interjection, pretends it did not happen.

Government members will not accept that it is their industrial relations system and that their mates in the union do this sort of stuff. We all know that in Victoria it costs 30 per cent more to build a high-rise building than it does in New South Wales, and we know it takes six months longer, and we know the construction area is ruled by rogue unions. We know this government is not prepared to sign up to proper industrial relations systems such as those evidenced by the federal government.

Let me turn to the second matter which goes to the issue of employment. Mr Baxter touched on the meeting that was organised by Mr Drum and held at the Boardwalk restaurant in Bendigo on 20 September. As I said, I was there. I want to put on the record that the *Bendigo Advertiser* has been covering this story for quite some time. At that meeting, Karen Kyle, the secretary of the Bendigo Trades Hall Council, was present and had her say. Employers and workers outlined the effect of the common-rule law on them as individuals, including a university student who said that if this place closed on Sundays, then her capacity to earn the money she needed to buy books would be compromised. Despite that Karen Kyle continued to defend it. She was interjecting, and I said to her, 'Ease up, you've had your say'. In a masterly stroke of petulance, she turned to me and poked out her tongue.

Honourable members interjecting.

Hon. BILL FORWOOD — I say to members that that is the level of sophistication of the debate we are getting from the Labor Party and the trade union movement in relation to this issue. I know Karen Kyle is the sister of Steve Gibbons, the federal member for Bendigo.

Mr Lenders — Only just.

Hon. BILL FORWOOD — Only just! Because he has been caught up in the swing against the federal Labor opposition and the Bracks government. There is no doubt that part of the swing in Bendigo was due to the behaviour of the Bracks government in bringing in this particular piece of legislation. The article in the *Advertiser*, headed 'Owners furious with new laws to hit Sunday trading, holidays', states:

> Bendigo cafe owners are considering closing their doors on Sundays and public holidays, in response to new industrial legislation they claim will be a bitter blow for tourism and business in the region.

I pick up the point well made by my colleague Mr Baxter that this government is running away from its own legislation and hiding behind the fact that this is in because they wanted it in. To say that this is federal government legislation, as the Attorney-General in another place said, is an absolute travesty. It just shows that members of the government are not prepared to put up their hands for their own decisions and say, 'This is something we're proud of', because they know that it will affect all sorts of people across the state. The article goes on:

> Management at five popular city cafes —

and it names them —

> yesterday said they could be forced to restrict their opening times in response to the new laws which would increase the cost of hiring staff ...

They said it would have a:

> ... devastating impact on tourism.

Cafe owners are reported as having said:

> This is not a case of the restaurant owners crying poor — staff are also going to suffer, because the weekend hours just won't be there ...
>
> A lot of restaurants and cafes aren't going to be open on Sunday — this might even see some smaller cafes shut ...
>
> Obviously, we don't want to ... (close on Sundays) but we are running a business — it is our livelihood ...

What did we get from Mr Viney? He said, 'It is not your livelihood; it is a field in which first the union should play, and if the union does not like what is happening, then we need to have an arbitrator back in the system'. As Mr Baxter said, they want to go back to the 1950s and bring in the arbitrator. Members on this side know that the Howard government has the right approach to industrial relations in this country. We need a flexible system that enables people to get on with the job. If people wanted unions, as Mr Viney suggests, they would be flocking to join up. But they are not. Union membership now is lower than it has ever been. It is below 20 per cent when those captives of the public sector are disregarded. If you take out the really large companies such as BHP and others, you discover again that fewer and fewer people are by choice joining a union. Why? Because they are irrelevant to the needs and lives of ordinary Australians today.

So I say: bring on the workplace agenda of the Howard government. Bring on the unfair dismissal bill so that businesses with fewer than 20 employees are exempt from unfair dismissal legislation; bring on the termination of employment bill to extend federal unfair dismissal laws to 700 workers; bring on the protect the low paid bill, to require the Australian Industrial Relations Commission to consider the impact on employment rates of any decision on rates of pay; bring on the better bargaining bill to allow third parties affected by protected industrial action to force unions to end industrial disputes; bring on the simplified agreement-making bill to extend enterprise bargaining agreements from three to five years and simplify approvals processes for Australian workplace agreements; and bring on the protecting small business employment bill to exempt small businesses from redundancy payments. Bring on those bills. We look for the Victorian government to get behind the Howard government and bring in an industrial relations system that provides opportunities for all, work for all, and investment and growth so that we have a flexible, vibrant workplace system leading to a flexible and vibrant economy.

Hon. KAYE DARVENIZA (Melbourne West) — I am delighted to have an opportunity to rise and make a contribution to this debate and speak in opposition to the motion that has been put by the opposition. I always enjoy this opposition business.

Hon. J. M. McQuilten — You love it!

Hon. KAYE DARVENIZA — I love it, Mr McQuilten, because no matter what those guys put up it gives us an opportunity to contrast what the Bracks government has been doing in the past five years of government with what the opposition is putting up in the way of policies and ideas on a particular issue. It certainly gives us an opportunity to look at how the opposition behaved when in government. It is a pleasure to be able to again highlight the opposition's actions in industrial relations when it was in government. In industrial relations its track record was despicable, and members opposite should be ashamed of it. Shame on all of those who have already spoken, because each and every one of them was part of the government when the opposition was in government!

Hon. Bill Forwood — And proud of it!

Hon. KAYE DARVENIZA — Exactly, Mr Forwood — and you are proud of it. I am sure Mr Baxter is equally proud of it. Those members should be ashamed of themselves. When in government members opposite were not able to demonstrate that their industrial relations system looked after workers and ensure that they had, as Mr Baxter said, an opportunity to do a fair day's work for a fair day's pay. Members opposite were hell bent on not doing that when they were in government.

In comparison, members of the Bracks government have been very upfront about industrial relations. We have said that we want to have a fair and equitable system that allows us to have as much flexibility in our workplaces as we possibly can and also the greatest opportunities for increased productivity as well as being able to give workers fair and reasonable pay and conditions of employment for the work they do. It is not about just the pay but also about security of employment and opportunities to have some career structure so that they are able to progress through their jobs and employment.

What do we have to work with here in Victoria? We have the federal Workplace Relations Act — that each and every one of the speakers on the opposition side supports. They support the system provided for in the act with a great deal of enthusiasm. What is the workplace relations system? It is nothing more than a

system that creates disputation, animosity and disruption in the workplace. There is no other way to work within that workplace relations system other than having that as an outcome, because it requires workers to demonstrate that they have a real and live dispute — —

Hon. B. N. Atkinson — Where is the evidence?

Hon. KAYE DARVENIZA — That just indicates that Mr Atkinson knows nothing about the Workplace Relations Act. If he had worked under the Workplace Relations Act he would know that, whether he was the employer or employee, a real and live dispute has to be on the ground before the Australian Industrial Relations Commission is able to have it conciliated — even to be heard for conciliation — or arbitrated.

Let us face it, it is not just about workers taking industrial action. When you look at the industrial disputation that happens in this state and right across this country when each and every group of workers comes up for its enterprise bargaining, what you have is not only workers giving notice and taking authorised industrial action under the Workplace Relations Act but also employers locking workers out. This is a form of industrial action that employers are given under the Workplace Relations Act. So it is a system that sets workers against employers and employers against workers. You have to have that real and live dispute on the ground and be thrashing it out in order for the Australian Industrial Relations Commission to even be able to conciliate it, let alone arbitrate it. It is a system that is flawed, and we as the Victorian government have recognised this. That is why we have put up a 10-point plan that does not pit workers and employers against each other.

To see the problem you just have to take a look at enterprise bargaining and all the different areas involved in industrial disputation. It is not just about factories. We are not just talking about a workplace relations system that applies to certain factories where manufacturers have machines; this Workplace Relations Act and the system for dealing with disputes applies to all workers including human service workers. What you have here are health professionals, direct care workers, medical scientists and emergency service workers — all of whom are very important workers within the work force — who have to be involved in this system which has workers and employers pitted against each other either taking industrial action or locking workers out. We do not like this system. The opposition does. The opposition supports it and is as happy as Larry because it is going to see this industrial relations system strengthened even more.

Let me just talk a little bit about productivity, because that has certainly been one of the things raised by the opposition. I would like to talk about how the Victorian Bracks Labor government has been supporting businesses and productivity and supporting the members of the work force to ensure that they have proper pay and conditions of employment. Let me also talk about some of the employment figures while the Bracks Labor government has been in power. The Victorian labour work force is currently 2.4 million, which is a record high. It means 224 000 jobs — stay with me, Mr Baxter — —

Hon. Bill Forwood — Don't you call me Mr Baxter!

Hon. KAYE DARVENIZA — I beg Mr Forwood's pardon. He should not be offended. I will withdraw if he likes. Stay calm. Mr Baxter should be offended, and if I could I would defend his honour, but it is probably not the right thing to do in the circumstances, and I am limited for time.

It means 224 000 have been created since the Bracks government came to office in October 1999. We must be doing something right. Something must be happening in our workplaces in terms of productivity; something good must be happening out there. This is an increase of 10 per cent above the national average for this period. Employment in country Victoria — and Mr Baxter will be interested in this statistic — is up 8.4 per cent, with 27 000 new jobs since October 1999. I wish we had had this debate yesterday, so those folks who were in last night, the good folks from Shepparton and Gippsland, could have been told that. I could have told them all last night when I was out having a drink if I had realised that they were so interested in it. I would have been happy to tell them, because I was having a chat to a few of them myself. In December 2003 the unemployment rate in Victoria had been below the national average for 42 consecutive months. So that is our unemployment rate — below the national average — below the national average for 42 consecutive months. We are doing something right!

Through its jobs policy our government has really delivered on its commitment to increase employment right across the state, and we have a whole range of new targeted programs that are obviously working and are helping people to find employment. This demonstrates the confidence that business and industry have in Victoria. The opposition does not like it. I know it does not like this, but it is the truth and it demonstrates the confidence that business and industry have in this government.

I also wanted to talk a little about one of the other good things we have been doing — we are doing so many, and I have so many to talk about — which is reflected in the disputation levels. Mr Baxter has left; he does not want to hear any more. I have distressed him. I know that the previous speaker from the government side, Mr Viney, talked about this at length, but I want to mention it as well, because it really contrasts beautifully what the opposition did when it was in government and what we are doing.

The most recent Australian Bureau of Statistics figures indicate there has been significantly less industrial disputation under the Bracks government. The statistics released in the June quarter for 2004 — so they are very recent — show fewer working days were lost due to industrial disputation compared with the same period under the former Kennett government.

Hon. Bill Forwood — But miles more than in New South Wales and Queensland.

Hon. KAYE DARVENIZA — Stay with me, Mr Forwood. In the last years of the Kennett government, when Mr Forwood's party was in government and when he was having a say, the number of working days lost per 1000 employees averaged 27.3 days across the year. This is in very stark contrast to the average quarterly figure of 19 days for the 12 months to the 2004 June quarter.

So we are improving again. Here is another improvement for us — we are up 25 per cent. We are doing something right about working more cooperatively with workers, with unions that represent workers, and with businesses, whether they be large or small. We are clearly doing something right, as opposed to the way we saw the previous Kennett government operating.

Mr Baxter talked about businesses and said they should be left to organise themselves and should not be interfered with in any way. We need to have a cooperative approach because not all employers are good employers. Mr Baxter would know that not all employers are good employers; some take advantage of workers. It is very important that we have a system where we can work cooperatively, where people are able to have a dialogue, and where it is possible to diminish the amount of time lost.

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! The member's time has expired.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I am pleased to join the debate this afternoon on the fine motion put forward by my colleague Mr Atkinson. If you listened to Ms Darveniza quoting statistics on industrial disputation across a range of periods of time it is easy to forget that this debate is not about the past but about the future. It is about making the Australian economy as competitive as possible. The beauty of Mr Atkinson's motion is its simplicity. It talks about securing job and investment growth in Victoria for the future. That is what any debate on industrial relations has to be about. There are only two ways in which we can grow our economy, whether it be in Victoria or Australia: either through the addition of capital and labour, or through using the capital and labour we have more efficiently.

The approach to industrial relations must be one which allows us to make the most of our existing labour resources through a more flexible and adaptable work force. Ms Darveniza spoke in her contribution about flexibility and increased productivity — they were the buzzwords — but then went on to talk about things that are contrary to improving productivity and flexibility in the work force.

Earlier this year I had a curious discussion with a friend or acquaintance in the United States Congress. The topic of the Australian industrial relations system came up. We spoke at some length about some of the provisions that are unique to Australia and, I must say, completely baffling to someone in the United States of America. The issue of leave loading came up in this discussion. My colleague was baffled to learn that people get paid more to be on holidays than to work. The issue of four weeks annual leave was raised. My colleague from Washington said, 'Surely that is a matter for the employer and the employee to negotiate themselves', not a top-down system where a uniform set of conditions are imposed on the employer-employee relationship, irrespective of individual negotiations. For someone in what is the world's largest economy it was a completely baffling situation to hear of some of the constraints we have on our labour force here in Australia.

I turn briefly to the commonwealth industrial relations record, because Mr Viney in particular but also Ms Darveniza were critical of the commonwealth Workplace Relations Act and the whole industrial relations environment generally. So it is worth bearing in mind some of the achievements over the life of the Howard government in respect of the work force. It is a fact that in the eight and a half years now that the Howard coalition government has been in power in Canberra real wages in the Australian work force have increased by 13 per cent — that is 13 per cent after inflation. That is in eight years.

Under the previous industrial relations environment of the Hawke-Keating system, which was in place for 13 years, real wages for Australian workers increased by only 2.5 per cent. We hear the mantra in this place about the current commonwealth industrial relations system oppressing workers and keeping wages down. The reality is that after eight years under the Howard government and its industrial relations system Australian workers are far better off than they were after 13 years of the Hawke-Keating accord industrial relations system.

Under the current industrial relations system employment levels are at a record high: 1.3 million jobs that have been created in the life of the Howard government. We have the lowest unemployment rate in more than 23 years.

Hon. R. G. Mitchell interjected.

Hon. G. K. RICH-PHILLIPS — I will come to the issue of the Hawke and Keating foundations. There is no doubt that during the 1980s there were substantial reforms of the Australian economy, but those reforms were not completed and one area that still lags is industrial relations. It is true that during the 1980s there were certainly reforms to the capital side of the equation, but sadly the work force side of the equation was not reformed to the extent that it needed to be, and further reforms are still required.

Both Mr Baxter and Mr Forwood have spoken about the meeting that took place in Bendigo two weeks ago. It bears repeating that the people we met with in Bendigo who attended that public meeting made very clear their position on the Victorian government's approach to common-rule awards. These people were happy with their working conditions and their work opportunities; they will be disadvantaged under the proposals put in place by this state government.

Yet during his contribution to the debate Mr Viney effectively said, or implied, that workers in this state — and in this country, if he had his way — are not capable of looking after themselves; that workers in this state are dumb and they need the help of the Victorian government; and that they cannot negotiate with their employers and they need the dead hand of government to intervene in their employment situation for a better outcome. So we have a group of employees in Bendigo who will be disadvantaged as a result of what this government thinks it needs to do for Victorian employees, despite the fact that they do not want it done for them.

This is a government that says, 'We know better than the employers and employees concerned, and we are going to impose this environment on you whether you want it or not and whether or not it is going to cost jobs in those particular areas'.

It was interesting to look at the state government's approach to industrial relations. This morning I had the opportunity to go back through the announcements that have been made by the Bracks government over its five years just to get a feel for its approach to industrial relations. Sad to say it was clear from reading the press releases of the three ministers for industrial relations — the Honourable Monica Gould, Mr Lenders and now the Honourable Rob Hulls — that the government's approach to industrial relations is not about developing and improving the Victorian economy. It is not about creating a more flexible and adaptable work force. It is clear, particularly from the utterances of the current Minister for Industrial Relations, the Honourable Rob Hulls, that he sees industrial relations as a social policy tool. The majority of his recent utterances on industrial relations are about work and family balance and peripheral issues like that. It is not about achieving a better, more adaptable work force for Victoria. It is very clear that Minister Hulls's approach is to use industrial relations as a social policy tool rather than as an economic tool, as it should be.

One of the other approaches this government has taken is with respect to Australian workplace agreements (AWAs). On coming to power in 1999 one of the first things the Bracks government did was to move away from a system of AWAs for the Victorian public service. We heard Mr Viney quote some research from Melbourne University this morning. I have the press release Mr Viney was quoting from, a press release put out by the current industrial relations minister, Mr Hulls.

Mr Viney — I wasn't quoting from a press release.

Hon. G. K. RICH-PHILLIPS — Mr Viney says he was not quoting from a press release. That is fine, but curiously the statistics Mr Viney chose to quote from that research were also the ones the minister chose to quote in his press release. I can run through them, but I will not because Mr Viney has already covered them. The emphasis Mr Viney was putting forward is that these statistics and what they imply about the discussions and negotiations that took place between employees and employers in arriving at the AWAs were somehow wrong, and that employees and employers should not be able to negotiate these terms and conditions in their AWAs.

Mr Viney spoke about certain entitlements that employers would have under AWAs, implying that employers should not be able to negotiate those entitlements under AWAs. The list went on and on, but the fact is it is the nature of AWAs that they are negotiated between employees and employers and then signed off by the employment advocate. So even if there is any doubt as to the negotiations between employers and employees, you then have the independent Office of the Employment Advocate to sign off on the individual agreements on the basis of a no-disadvantage test. It is fine for Mr Viney to selectively quote statistics from that research by the University of Melbourne, but it ignores the fact that employers and employees, despite the opposition of the Bracks government, are embracing these agreements.

Earlier in the debate we heard mention of Saizeriya. This is probably the worst indictment of this government with respect to industrial relations. Listening to the debate both today and more particularly at the time the factory was being constructed, the impression people walk away with is that the state government just does not get it. It just does not understand why that project is so significant. It was fine for the Premier to say, 'We have not lost six additional plants because they were never guaranteed. There was never any contract signed that we would get the additional six plants'. The Premier's attitude was, 'Okay, this plant has been a disaster. We are not going to get any more investment from Saizeriya, but that does not matter because there was never anything in writing saying that we would get it anyway'. But that ignores the industrial problems on that site and the publicity that surrounded it. The government is ignoring the impact that has had on the investment outlook for this state.

Does anyone in this house or indeed in the government really think that Victoria's reputation among Japanese investors was not damaged by that? I look at Mr Smith over there.

Mr Smith — I said nothing.

Hon. G. K. RICH-PHILLIPS — Mr Smith did not say anything, but his facial expressions did.

Mr Smith — I was laughing at you, Comrade.

Hon. G. K. RICH-PHILLIPS — I give Mr Smith credit. He knows what he is talking about. Mr Smith would accept that the situation with Saizeriya was damaging to Victoria, yet the government as a whole does not. It goes merrily on its way. Members of the government do not want to intervene with industrial relations disputes of the sort we saw on that site in the belief that if they close their eyes and ears the problems will simply go away. The reality is it is damaging the Victorian economy, it is damaging prospects for foreign investment in this state, and it will take a long time for Victoria to recover, particularly in Asia, from that loss of investment, because it has sent a very clear message to investors from South-East Asia that this government is not serious about industrial relations in this state.

Mr SMITH (Chelsea) — I thank the previous speaker for informing the house that I do know what I am talking about when it comes to this particular issue, and I am about to prove it. Let me say I do not fall for the trap that this is about industrial relations in Victoria and the government's performance et cetera, because I have been around too long for that and I see through the facade of the conservatives opposite. What it is really all about is the headline in yesterday's *Australian*, 'PM urged to go hard on IR reform says big business'.

So the game begins. The attack dogs are about to be set loose once again on ordinary working people in this country. That is what this is about. This is the start — laying the foundations for what the Tories are going to do to working people over the next six to nine months in this country to bring about their philosophical view of the world in the workplace. I talk about letting the dogs loose. Who will forget those attack dogs on leashes — thank God they were kept on leashes — and those balaclava-clad hoons attacking wharfies, their families and their supporters. I know I will not. I can guarantee that some opposite were having a nice little giggle about it, sitting at home chortling, 'That's it, that's it. Go get 'em', and to what end? Anything they could do to knock down ordinary working people's ability to defend themselves and improve themselves was fair game as far as they were concerned.

Hon. W. R. Baxter — We won't forget Craig Johnston either!

Mr SMITH — Craig Johnston; some claim him to be a political prisoner.

Hon. Bill Forwood — You are joking!

Mr SMITH — I am not one of them; I said, 'some'! But, really, we know in this house the Prime Minister has won the power and control he has craved for all his life — to bring about the reforms for this country he has dreamt about; to mould it into his vision — and now at his behest he will use them. He is infatuated with unfair dismissal laws, so much so that he now wants to call them fair dismissal laws. I suppose after 41 attempts to

get unfair dismissal laws through the house he had to change something!

But when you reflect on the realities of the situation you realise this: last year there were 6000 unfair dismissal claims lodged with the commission. Out of all the workers in this country only 6000 lodged a claim. What is the big deal? It is almost infinitesimal in reality, but it is philosophical — that is what it is about. It is about their view of the world: the employers have a right to control the workplace totally and run it in the way they want. I was tempted to respond to some of the comments made by the previous speaker, Mr Rich-Phillips, about Australian workplace agreements (AWAs) and enterprise bargaining agreements (EBAs). I just cannot help myself now because he demonstrated that he just does not get it. He does not understand the difference. Let me inform Mr Rich-Phillips that I have never been opposed to AWAs — never! They have never held any fear for me; I have had no problems with them at all so long as workers have had the capacity to negotiate, understand exactly what is on the table and get a fair outcome. There are two lots of workers in this country: those who need collective strength to bargain to get a fair go and those who have consummate skills or skills of such value they can negotiate — I talk about professionals and the like.

For instance, in the last six months mining engineers in Western Australia have received a 10 per cent increase. They have been able to negotiate on their own terms because of the shortage of engineering skills in the Pilbara and places like that. They do not have any problems with AWAs; none whatsoever. As I say, if people are capable of negotiating to protect themselves, there is no problem. I am about flexibility in the workplace: I have a track record of delivering flexibility in the workplace.

Hon. Bill Forwood — So why did Latham want to ban them?

Mr SMITH — I am not Mark Latham; talk to him! By way of evidence: the very first substantive enterprise bargaining agreement negotiated in this country was for the workplace I come from, the Western Port steel mill. The Australian Council of Trade Unions wanted to use that as the model for what can be done. By the way, our top operators now earn over 100 grand a year. If you walk in off the street, you will start on 52 grand a year to do shift work. I think that is winning. I have some figures here that also demonstrate how it benefits both sides. I want to get back to BHP in particular. People may or may not know that that site is currently on strike — a rare occurrence for our union at the Western Port steel mill; others have a different track record there, but our union has had a very long and credible record at the steel mill. Right now it is on strike over an EBA. The company is offering an increase of 4.5 per cent a year over three years, but the union and the workers are saying it is not enough. Based on the productivity and profitability that has been delivered to the place, it is not enough. It is not a fair share. People might say, 'Oh, 4.5 per cent a year for three years is plenty', but our philosophy has always been like the Chinese: together we bake a bigger cake, then we get a bigger slice. What we are saying is, 'We want a bigger slice; we have baked the cake'. The current annual profit at that site is $584 million. It is the jewel in the crown of BlueScope Steel. This is a record; it is up by 29 per cent on last year's record of $452 million. I say that is a fantastic result by any stretch. No steel mill in the world is making that sort of profit. The workers are saying they want their fair share of it, and I say they are entitled to negotiate and get it.

The chief executive officer was so enthralled by and appreciative of those record results he gave himself a $1 million pay rise. His package went from $3.4 million last year to $4.4 million this year. He did all right! He loves AWAs! He was able to negotiate; there was no problem! It was just a lazy extra million! The top six BlueScope executives this year gave themselves a combined 35 per cent increase! I am not necessarily critical of that. If the profits are generated, let us share them. We want our share, and we are saying 4.5 per cent is not enough.

Hon. W. R. Baxter — Does it ever make a loss? Does it work in reverse?

Mr SMITH — Loss at Western Port? That is an oxymoron! It has never made a loss down there even in the bad times, because the unions and workers have set the place up for the productivity and flexibility that was required to deliver these sorts of outcomes. We changed the culture down there many years ago so that people could focus on how they could benefit. We did that elsewhere as well. That is not enough for those opposite; they do not care about that. If you think I am wrong, I will tell you another little story.

John Howard paid a visit to the Alcoa smelter at Geelong one day — not when he was the leader; I do not think he was even deputy leader, he was in the wilderness doing a Paul Keating — to have a look at how the new EBA was performing. He was gobsmacked by the presentation. All he could say to the company was, 'Oh, yes, but you had to pay for those changes. You had to pay for that massive increase in productivity, quality, efficiency and profitability'. Well,

hello! Of course they did; does he expect that people are going to do it for nothing? Of course not. He took that away and talked to all his federal colleagues and some of those opposite to the point where former Premier Jeff Kennett went down there. They could not believe it — 'Jesus, workers can actually deliver; they can set up and work in a cooperative environment'— with their unions, I might add! But that, as I said, is not enough. Those opposite are on a roll now, as they see it. They got the result they wanted in the Senate, and they are going to cut loose.

Hon. Bill Forwood — Bring it on!

Mr SMITH — Let me say to Mr Forwood in reply to his comment of 'Bring it on' that there have been many who have tried. My advice is be careful of what you ask, Mr Forwood, because the union movement has proven over 100-odd years that it is quite resolute and resilient. It survives. Some fall by the wayside, but others survive and they come back. I also remind Mr Forwood that the Australian union movement has been here longer than his party, and it will see him out — —

Hon. Bill Forwood — It's been here longer than your party.

Mr SMITH — My union — the AWU — made this party. I say again, my union has seen governments come and go, it has seen political parties come and go; it has survived. The union movement survived under Thatcher, who did everything in her power to destroy it. The Taft-Hartley Bill in the US — its industrial relations bill — which Mr Gordon Rich-Phillips talked about was designed to destroy the union movement after the Second World War. They brought in extreme measures to curtail, corral and prevent the union movement over there from doing its job of benefiting workers. They are still in, but so are the unions.

People say, 'They are of no effect'. There are millions of union members in America, and everyone knows that union workers in America do on average 25 per cent better than non-union workers. It is the same here. If you compare Australian workplace agreements (AWAs) with enterprise bargaining agreements (EBAs) for working-class people, EBAs are 15 per cent better. That is why those opposite want EBAs done away with. That is why they want ordinary working people exposed to the markets and not protected by collective bargaining, because it will enhance the profits of companies. We think to ourselves, 'Is that a bad thing?'. Not necessarily. Workers have a lot of investments now in a lot of companies through their industrial superannuation schemes — which the Liberals tried to get rid of and still want to do over, and it will be interesting to see what the federal coalition will do now that it has power — but they have to perform magnificently.

The reality is this: the more power they take away from the unions, the more they have; the more they will use; the more they can force or push people down — suppress them — the more they will generate profits for themselves, the greater their bonuses, their share-option plans — and we have seen an explosion of them in the last 10 to 15 years, but there has been no comment from members opposite about that!

Hon. Bill Forwood — We say they're obscene.

Mr SMITH — Speak up, Mr Forwood, no-one heard that. Let's hope Hansard did. He says it is obscene. Hallelujah! There is one over there!

The other long-term tactic here and a dream of those opposite for many, many years is to destroy the resources and financial base of the ALP — that is, the union movement. That is what this hidden agenda is about. The opposition wants to come after us, and it thinks that by doing that it will lock out its main opponent. The upside of that, of course, is that corporations will be very happy with those results, and they will increase their contributions to the opposition's coffers, so it is a double-whammy blow.

If anyone feels that I am going on as a matter of course and do not really believe what I am saying about the conservative attitude to working people and the difference with ourselves, just reflect on this: Mr Koch made comments in the house yesterday — and I will paraphrase — about dogs in the workplace who are much easier to control and suppress as they do not answer back and do not cost their owners any penalty rates or any such thing. He said working dogs on his property are much better. This goes to the very heart of what the opposition thinks about working people. It is a disgrace — and it goes to the opposition's attitude!

This motion needs to be defeated, but it is the start of what is coming for working people in this country. We have to batten down the hatches. As I said before, the opposition should be careful for what it asks, because when the union movement has to fight, it will. It fights long and hard. The opposition parties have tried for over 100 years to get us: they have not and will not!

Hon. C. A. STRONG (Higinbotham) — It was a pleasure to listen to Mr Smith make his presentation. It is just like the good old days of class warfare — up the unions and down with the bosses! They were the

rallying cries of the masses to overcome the downtrodden workers in the mines.

It reminds us of the way things used to be, because the labour market has fundamentally changed. It is a pity that the union movement does not see that. If you rolled the clock back to the turn of the century, maybe the bosses had the whip hand, but certainly in this day and age of skill shortages and low unemployment the working man has enormous power to command wages and to command jobs. We live in a different environment.

Another issue I take up in the short time available to me, in response to what Mr Smith said, concerns again this talking about the wharf strike, dogs, balaclava-clad men et cetera. What needs to be remembered is that these dogs were trying to keep out the union thugs who were trying to break into the property of the wharf. These people were protecting the property of Patrick. And if there had been a bit more protection, probably we would not have had the disgraceful episode of Craig Johnston running through and breaking facilities, and endangering and threatening people as happened at Skilled Engineering and Johnson Tiles.

Why should employers faced with this sort of thuggery by the union not protect themselves? Mr Smith talked about thuggery. My background before I came here was in the building industry, and if you want to see union thuggery that is where you see it. People's tyres were let down, people were being threatened and windscreens were being broken. Why should employers not protect their property from this sort of thing? If the unions resort to this type of approach, then clearly employers will protect their property, and why should they not?

It is amazing to see what has happened to the wages and salaries of employees who have come through the flexibility of the workplace, because the record clearly shows that working people have got more out of flexible working conditions than they did under the more rigorous conditions. People who want to work in the workplace as it is today want to work in a way that suits them. If they are prepared for family reasons to work on a Sunday rather than a Monday or Tuesday, then why should they not be able to negotiate with their employer to work on those days for the same wages as they would during the week? Why do we have a situation where the unions try to put these people out of the working patterns that they would like to have by saying that they need to be given double or triple time and so on? They would rather work hours that would suit their families so long as they can negotiate the same wages that somebody who works from 9 o'clock to 5 o'clock on a weekday would get. If they would rather work on a Saturday or Sunday, then why should they not? Such impositions inhibit the flexibility of the work force and the economy.

It is amazing when you look at the way the economy has gone ahead under flexible working conditions. I look forward to the changes the federal government will make in workplace relations, because they will give Australia's economy an enormous boost. They will increase productivity across the work force and in so many areas that they will reignite boom conditions. It will reignite those conditions to the benefit of everybody — unionists, non-unionists and bosses.

Everybody who works has a chance to prosper in a growing economy, and the economy will grow if workplace relations are freed up, because the more rigidities in the system the harder it is for people to work. People are discouraged from working because bosses and employers are discouraged from employing people. We have heard numerous examples today of how businesses simply would rather not employ people because of the strife and trouble the rigidities in the system cause. They would rather work or have their families work longer hours than employ people. That is clearly bad for the economy, because we want an economy that employs as many people as possible.

I lay to rest two matters: one is the argument of the likes of Mr Smith about thuggery on the docks. There is a history of thuggery on the docks going back, as Mr Smith said, many years — hundreds of years. So do not talk about thuggery on the docks, because there is no question where thuggery on the docks has come from; it has come from the unions for many decades. I put that to rest. The other matter is that if there is more flexibility there is more freedom in working conditions and thus a better economy, and as a result the better off the working man will be. We have seen that clearly under the Howard government compared with what happened in the time of the Hawke government, with that wonderful former Australian Council of Trade Unions president there to protect the worker. The fact is that during his stewardship and that of former Prime Minister Keating, the average wages of Australian workers increased much less than they have done under the Howard government. That stands as an absolutely stark example of how freedom creates economic activity and benefit for all.

Hon. B. N. ATKINSON (Koonung) — I thank members who contributed to the debate. It was interesting because of some of the matters raised and covered. Of all of the government members who spoke to the motion, I found Bob Smith to have made

probably the best contribution, because he touched on a number of issues that are of importance in industrial relations as we move forward.

He actually established a position on enterprise bargaining agreements (EBAs) which is at the core of some of the motion. It is not the intention of the coalition government in Canberra, and certainly not the view of the Liberal Party in Victoria, that we should be going about abolishing EBAs. But they are about ensuring that a full suite of opportunities is available in industrial relations to suit all businesses and their employees to ensure that we have productivity and to ensure that the businesses are able to grow, expand and provide new jobs for people in the future. The issue is not about EBAs versus AWAs; the issue from the Liberal Party's point of view is about having as much flexibility of employment models as possible and about ensuring that businesses have a choice and can develop industrial relations regimes through agreements for employment that best suit their needs and the needs of their individual employees.

One of the problems we have with the view of the Labor Party — both in the Bracks government at a state level and certainly as expressed by the federal opposition in the election campaign — is that there is a belief that one size fits all in industrial relations. Adapting industrial relations regimes and conventions to suit big business may well be important to achieving suitable workplace arrangements between large organisations and their many thousands of employees, but the situation in small businesses is very different, and one size fits all is simply not appropriate. Small businesses are being burdened by regulation, high taxation and a Bracks government agenda on industrial relations policies that is making it very difficult for them to operate. That is adding to their costs and management stress and making many people in business question whether or not they wish to continue into the future and, more importantly, whether they are prepared to invest for the future and create more jobs.

From the Liberal Party's point of view, this motion is a warning shot across the bows of the Bracks government, because we accept that the economic conditions in Victoria have been quite good for the past decade. As I indicated previously, that is because at state level the foundations for that economic growth and success were laid by the Kennett coalition government in the early 1990s. At a federal level the coalition government has played a significant role in maintaining that economic growth and the very rigours that the government has relied on today to measure its performance.

Liberal Party members believe that it is very important for future investment and jobs growth that this government review its policies and directions, because at the moment many small businesses are concerned about the direction of the industrial relations agenda and the fact that the Labor Party and the union movement are far too cosy, and that the Trades Hall Council is driving so much of this government's political, social and industrial agenda. Many businesses are simply being visited with costs that they cannot afford and, more importantly, with an inflexibility in their working arrangements that suits neither those businesses nor their employees. I urge the house to pass the motion.

House divided on motion:

Ayes, 16

Atkinson, Mr	Forwood, Mr
Baxter, Mr	Hall, Mr
Bowden, Mr	Koch, Mr (*Teller*)
Brideson, Mr	Olexander, Mr
Coote, Mrs	Rich-Phillips, Mr
Dalla-Riva, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr (*Teller*)
Davis, Mr P. R.	Vogels, Mr

Noes, 23

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Carbines, Ms	Nguyen, Mr
Darveniza, Ms (*Teller*)	Pullen, Mr
Eren, Mr	Romanes, Ms
Hadden, Ms	Scheffer, Mr
Hilton, Mr	Smith, Mr (*Teller*)
Hirsh, Ms	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr	Viney, Mr
Madden, Mr	

Pair

Lovell, Ms	Buckingham, Ms

Motion negatived.

Sitting suspended 1.05 p.m. until 2.07 p.m.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Wind farms: planning

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Energy Industries. Given a decision announced yesterday by the commonwealth minister for the environment that the Bald Hills wind farm project in South Gippsland

has been put on hold, I ask: is it not a fact that the guidelines for development of wind energy facilities in Victoria are inadequate?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — What is a fact is that the new federal minister — I think he has been a minister for a couple of months — is meant to be a minister for the environment but he turns out to be a minister against the environment, because all he has done in order to try to grab some votes is promise a number of people before the election that he would take action against the Bald Hills wind farm. This is him playing out this political stunt, this deal that he did with some local people down there to try to get some votes.

Do you know what? He failed — because the truth of the matter is that his public comments in relation to this matter show he has been highly irresponsible. I have no difficulty with his department asking for information; it is entitled to do that, but it is a different thing to put out a media release in which you say that the Bald Hills wind farm has been put on hold. What has happened is that they have asked some questions. Let us be clear about this process. There were two environment effects statement processes conducted down there; there was six weeks of public consultation. Everyone had an opportunity to have their say.

Hon. Philip Davis — And they said no!

Hon. T. C. THEOPHANOUS — And an independent panel came up — —

Hon. Philip Davis — You won't listen!

Hon. T. C. THEOPHANOUS — Because a number of people did not like that decision, what does he put out in this statement? I want you to listen to this, because this just shows you the level of hypocrisy. He says in his media statement:

> ... more information was required about economic and social factors and the environmental impacts of the 35 kilometre power distribution line, especially on bird life.

It did not worry the federal government when it agreed to a powerline — a high-voltage transmission line — which will go over hundreds of kilometres for Basslink.

Hon. Philip Davis — That is a lie!

Hon. T. C. THEOPHANOUS — They approved that.

Hon. Philip Davis — That is a lie. You know that to be not true.

Hon. T. C. THEOPHANOUS — They were happy to approve that, but he is trying to come in and suggest that what is a relatively low-level distribution line to take power from this wind farm should be ruled out of order. He has put in doubt an industry that is potentially worth billions of dollars to Australia. Let me tell members that Australia would be the only country in the world that is not pursuing wind energy if we were to go down the path that is suggested by this press release. It is not just on the coastlines that there might be impacts on bird life.

Hon. Bill Forwood — So you admit there is!

Hon. T. C. THEOPHANOUS — No, I do not admit that there is, but let me tell you this, Mr Forwood: if we were to take this seriously, you would not get a wind farm anywhere in the world. That is the kind of policy this federal government has got and that this opposition is supporting.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — The minister managed to speak for 4 minutes without responding to the question, so I will develop the question further. It is a fact that insufficient information has been provided by the Victorian government assessment process to enable the Department of the Environment and Heritage to consider the referral. Therefore I ask: will the government review its flawed guidelines and assessment process?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — What I can assure the honourable member of is that we will continue to promote wind energy in this state. We will continue to promote it in appropriate locations and we will use appropriate procedures. All of the issues were considered during the environment effects statement process, and it is the sort of misinformation that is put out by the coastal guardians that are mates of the opposition — they put this kind of misinformation out.

They claimed today that there were swings against the Labor Party of 40 per cent in some of the seats. That is interesting, because there was a swing of 40 per cent, and that is because there was no Liberal candidate before. It went from zero to 40 per cent because there was no Liberal candidate standing at the last election! That is the sort of misinformation that you support on your side!

The PRESIDENT — Order! The minister's time has expired.

Aged care: government initiatives

Hon. KAYE DARVENIZA (Melbourne West) — My question is to Gavin Jennings, the Minister for Aged Care. Can the minister inform the house of the latest efforts to support senior Victorians to be active and healthy?

Mr GAVIN JENNINGS (Minister for Aged Care) — I take the opportunity that the member's question has afforded me to outline to the house some important projects that have been designed to firstly, support the quality of life of older members of our community and encourage them to be active participants in community life, but more importantly, to improve the quality of their life in terms of their individual health status.

There are a variety of reasons why it is very important for older members of our community to be healthy and active and be participants in physical activity. That is what was at the heart of $600 000 worth of programs that I recently announced. They work through primary care partnerships which bring together service providers right throughout Victoria so that community organisations, GPs, community health centres, local government and other providers can provide a network of services that are responsive to the needs of the older members of the community and encourage them to become active participants in healthy activity. It is a very exciting program and in fact the opposition spokesperson recognised the importance of this by commenting a few minutes ago that this was part of a fantastic event that was held in the City Square only a couple of weeks ago. It afforded me the opportunity to get back on a bike.

An honourable member interjected.

Mr GAVIN JENNINGS — I had not actually thought about that, but I am glad that there had been some commentary on the issue. It got me back on a bike for the second time in 30 years. If I can be resurrected in the name of this program, then anybody who has been off a bike could be encouraged to get back on it and be physically active.

These programs are going to run throughout Victoria through the primary care partnerships in the following regions: the second round of funding goes to Barwon Primary Care Forum in Geelong; Kingston Bayside Primary Care Partnership; Bendigo Loddon Primary Care Partnership; North Central Metropolitan Primary Care Partnership; Boroondara Primary Care Partnership, Banyule-Nillumbik Primary Care Alliance, the Outer East Health and Community Support Alliance and the Goulburn Valley Primary Care Partnership.

They build on a further network of primary care partnerships which were funded in the first round. They will do very innovative things to try to increase the opportunities for older members of the community to participate. That includes training older members of the community to be leaders in physical activity, whether it be dancing, tai chi or a range of low-impact activities such as pumping iron or strength training, to encourage older members of the community to take leadership roles to persuade their fellows to come out and participate, showing by example the great capacity of these activities to lead to more confident living.

The programs build on other important programs such as the falls prevention program. Together we will look at ways in which to enhance the capacities of people to get around their homes and neighbourhoods confidently and work against falls.

The reason I want to draw this to the attention of the house is because this is very important not only for the quality of life of older members of the community, but it also plays a positive role in reducing the incidence of falls and the times that people end up in hospitals or receiving care. That certainly affects their quality of life and makes a major impact on health care provision.

A study that came out of Monash University indicates that a sum that may be as high as $127 million can be attributed to the medical costs of treating people who have fallen down and broken their hips. This is very costly for the medical care system, but most importantly it has a big impact on the patients' quality of life. The further we can get into the falls prevention programs and healthy and active living programs to enhance the capacities of the older members of the community, the less likely they are to end up in hospital.

The PRESIDENT — Order! The minister's time has expired.

James Hardie: asbestos compensation

Hon. D. McL. DAVIS (East Yarra) — My question is to the Minister for Finance, Mr John Lenders. Did the Victorian government request or receive any advice regarding the compensation fund set up by James Hardie Ltd and its intention to move its company headquarters to the Netherlands? If not, why not; if so, what was the nature of the advice?

Mr LENDERS (Minister for Finance) — I thank Mr David Davis for his question. I welcome his asking

a question in this place of a general nature which I can probably assist him to some extent with an answer.

It is absolutely appropriate to state at the start that different ministers have differing responsibilities for dealing with parts of this, so I cannot answer his question about whether each or any individual minister received advice, but I can certainly talk in general terms about the government's response to this and how it is dealing with it.

Firstly, clearly the disgraceful decision of James Hardie to go to the New South Wales Supreme Court with what I think history will show was a shonky set of figures to try to get out of its obligations to workers who had been injured through using their products will be universally condemned by our community as intolerable. Certainly the government was obviously not aware of those Supreme Court decisions at the time, or that something had been done under a New South Wales jurisdiction, but after the event the community has had its eyes opened wide to that fact. A lot of victims of James Hardie would have felt incredible anxiety when they heard that there was insufficient money in the James Hardie reserve, and that is something this government, like the rest of the community, is absolutely aware and cognisant of.

The fact that James Hardie was seeking to minimise its losses and put a statutory scheme in place that would quantify for its shareholders what was the amount of exposure, but potentially leave those injured workers — its victims — exposed is something this government and the whole community is now aware of.

The next step is to find out whether there is any particular exposure to the Victorian government over this, or more pertinently, exposure to the Victorian community. Everybody is watching with interest and supporting the bid of the James Hardie victims coordinated by the Australian Council of Trade Unions (ACTU), the peak union body, under the very strong leadership of Greg Combet, to bring James Hardie to the table to take responsibility. The first and foremost criterion is that there is certainty for the victims that their claims can be dealt with. The second is to add to that certainty that in everyone's interest the company continues to trade so it can pay for the victims' claims and can deal with them in the long term.

On the specific question of what advice the Victorian government had received about it, I say to the house and the community that like everybody we have watched this situation in shock, in disappointment and with empathy for the victims who are trying not to be dudded in this process. We will continue to work cooperatively with the ACTU, with the victims groups, with the commonwealth government, all other state governments and with whoever we can to get an outcome that gives certainty of an income stream for these victims to be looked after and fundamentally stops practices like this happening again — where a company can deliberately go out of its way not to deal with its own finances, which you can understand, but to clearly leave on the shelf people who have been exposed to its product for a long time in a way that no other corporate citizen appears to have done. President, I think that answers Mr Davis's question and I look forward to his supplementary question with interest.

Supplementary question

Hon. D. McL. DAVIS (East Yarra) — First I thank the minister for his comments and indicate that of course everyone in this house is outraged about the behaviour of this firm and the potential impact on the people whose health has been influenced by the actions of people at James Hardie and others. The minister did not precisely answer the question I asked about the Victorian government. He made a more general comment, and I welcome that. Let me be quite specific: when did he or his department first receive advice that the company would move its headquarters to the Netherlands?

Mr LENDERS (Minister for Finance) — I am not sure of the purpose of Mr Davis's question. My first knowledge of its move to the Netherlands was like everybody else — that is, when I started to read it first in the financial pages of the newspapers and then beyond them in the more general press. I am not aware of any advice that has been given to the Department of Treasury and Finance. I am certainly not aware of my being particularly briefed about that. Certainly it came to my attention when I started reading it through the financial pages and following the general debate and then discussing it with other people.

A lot of ministers in the government have some responsibility in this area. Whether it be the Minister for WorkCover, the Attorney-General or the Minister for Planning, there are a number of ministers who have different portfolio responsibilities. But our collective view on all this is that it is unacceptable corporate and social behaviour, and we will do what we can to help the victims and stop it happening again.

Electricity: Snowy Hydro plant

Hon. S. M. NGUYEN (Melbourne West) — I direct my question to the Minister for Energy Industries. Can the minister inform the house how the Bracks

government's financially responsible approach resulted in Snowy Hydro's decision to build a new power station in my electorate at Laverton North?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the honourable member for his question. As he has indicated, this announcement is about a power station in Laverton North, in his electorate and that of Ms Darveniza. It will provide an additional 100 jobs during the construction phase. This is another day and another energy announcement for Victoria — another development. Recently I announced the $200 million Santos development, and today I am able to announce a $150 million development to build a 320 megawatt peaking power station at Laverton North, which will run with natural gas. The emissions from that power station will be at about half the level of those that come from brown coal-fired power stations.

Hon. Bill Forwood — How often is it going to run?

Hon. T. C. THEOPHANOUS — It will not run very often. As Mr Forwood would be aware, it will be a peaking power station and will run for probably 5 per cent of the time.

What is true about the direction of our community is that people are increasingly going out and buying airconditioners. That is putting a load on the system at a particular time — when the weather is hot during summer — because people want to turn on those airconditioners. They draw an enormous amount of electricity. This is a worldwide phenomenon. The energy industry has no option but to try to find ways to have available infrastructure that will provide for that energy requirement. We cannot say to people, 'Don't buy airconditioners'. People are going to buy them, so it is up to us to find ways to deal with that.

For members who do not realise, when it first came to power, the government had a significant problem with an acute shortage of peaking power in this state. During the course of the past five years under the leadership of my predecessor and continuing now, we have been able to facilitate 1300 megawatts of additional capacity in Victoria. That will place Victoria in a position to be able to cope with peak power requirements. That 1300 megawatts does not even include the additional 600 megawatts due to come on from the Basslink project, which is another very important project that the government has facilitated.

So it will be a $150 million dollar project with 100 new jobs during the construction phase. It will be another piece of infrastructure for Victorians. This industry is just making investment after investment. It is a show of confidence in this government and the Victorian economy and augurs well for us being able to proudly say in this state that we have a AAA state and will continue to have a AAA state.

Energy: solar power

Hon. B. W. BISHOP (North Western) — My question is also directed to the Minister for Energy Industries and I ask: why is the government focusing its renewable energy policies on wind farms when solar power has far greater potential to reduce demand for brown coal-generated electricity?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I genuinely thank the honourable member for his question, because it gives me an opportunity to explain to the house the economics of producing power using renewable sources. It is true that the use of solar power is an important thing that we can pursue. It is most effective when it is provided directly, as in hot water services. If we add a solar panel to a roof we are able to use that to boost the heating of a hot water service, whether it be gas or electric. That is its most effective use.

However, when talking about producing electricity using solar power, the economics are slightly different. Just to give a ballpark figure, the situation is that we can produce power from the wind for approximately double the cost of base-load power out of the Latrobe Valley. That is the rough cost of producing wind power. The cost of using photoelectric cells and other techniques of producing electricity from the sun is roughly eight times the cost of the power that comes out of the Latrobe Valley.

Hon. P. R. Hall — Only if you try to do it on a commercial scale, not if you are supplementing local use.

Hon. T. C. THEOPHANOUS — There are particular circumstances, in areas where you might not have electricity connection or a remote region, where you might decide to use that form of power because it can give you a supplementary form of power. But as a general rule we have not had a technological breakthrough that would allow us to use solar power to produce electricity in an economic way for the foreseeable future. I would be very happy if we did have a breakthrough, because we would be able to produce that power. There are some limitations, and beyond that there is also the limitation that while wind operates only when the wind is blowing, if you like, solar operates only while the sun is out. That means it does not operate at night.

All those renewable energy sources of power have some limitations and some strengths. The general view around the world is that the most economic way to produce renewable energy at the moment is through the use of wind power, and we will hopefully be able to pursue that target which we have set ourselves of 1000 megawatts of wind capacity in this state. We want to do it in appropriate locations. We would like it to become more bipartisan. We would like to bring the opposition parties on board to what is an important new way of producing power and also something which will provide a huge number of jobs for regional Victoria. I look forward to members opposite coming on board with wind and supporting the government in its endeavour.

Supplementary question

Hon. B. W. BISHOP (North Western) — I thank the minister for his answer. Given the fact that in Victoria we do have a substantial amount of sunlight, particularly in the northern parts of the state, I ask how much the Bracks government is investing in solar energy research.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — We have a number of projects that are involved in solar research through the Sustainable Energy Commission of Victoria and a number of other initiatives, but I might say one thing: the federal government made available some money under its Solar Cities program in order to try to promote the use of solar power, and it decided to do this in a number of locations around Australia. We put up Bendigo as a good place to have a set of Solar City trials under its proposal but the federal government knocked Bendigo back, saying it was not interested, and unfortunately it has not given Victoria a place under the sun.

Credit cards: government initiatives

Ms MIKAKOS (Jika Jika) — I direct my question to the Minister for Consumer Affairs, Mr Lenders. The Bracks government is committed to financial responsibility. It is important that a focus is given to this across government. With credit card debt throughout Australia last recorded at over $27 billion, what is the Bracks government doing to ensure that Victorians who may have overcommitted on their credit cards have access to credit advice services?

Mr LENDERS (Minister for Consumer Affairs) — I thank Ms Mikakos for her question. I am sure she would not be one of the people with credit card debt, because she would prudently manage her credit card, although there are a number of other people in the house who are admitting that they do have issues with credit card debt.

It is actually a very serious issue, and we need to keep in perspective that most people who actually use credit cards manage them well and will often use them to utilise either the customer rewards programs, frequent flyer points or other benefits. However, there is also clearly an issue that some people do not manage their credit cards or their debt effectively and that a number of consumers are overcommitted. So what the Bracks government has done is to recognise that this is a growing problem, and it has put into Consumer Affairs Victoria a number of specialists dealing with credit card debt and giving advice. People can now easily ring our call centre hotline and get specialists who can give them further and more extensive advice during more hours than was previously offered.

Last year approximately 2 per cent of the quarter of a million calls received by the call centre were on the issue of consumer debt. In response to that we have enhanced service delivery by putting these extra people into the centre so that they can offer advice on consumer credit regulation, consumer disputes, ethical lending, selling credit and overindebtedness and whose responsibility it is. These are all issues of critical importance. The long and the short of this is, though, that consumer debt and overexposure to credit cards are problems. These problems will be magnified if interest rates go up.

There is clearly a responsibility here on the federal government to keep its word and manage interest rates, to deliver the trust on which the Prime Minister went to the Australian electorate saying he could do it, because a lot of people have a lot at stake. In the state sphere this government is in with sound economic management to set the conditions in place so that the credit can be better managed.

This government has a AAA credit rating. This government is managing its finances prudently, unlike the rabble opposite, whose members promise at every single step that they will throw money at every item, whether it be promising billions of dollars for roads, billions of dollars for services or billions of dollars for undergrounding powerlines. The Liberal Party jeopardises credit and security in this state when its members go about recklessly undermining the Victorian economy by making imprudent, careless and negligent promises. In the end the Victorian community expects governments to exercise sound economic management of the finances of the state.

Honourable members interjecting.

The PRESIDENT — Order! There have been enough interjections from both sides of the house. The minister has a short time and I know he is winding up his response. I ask members to desist from interjecting.

An honourable member interjected.

The PRESIDENT — Order! I have already asked members to desist from interjecting, and I had not even resumed my seat when the member started again. I ask the member to desist.

TipStar: revenue

Hon. B. N. ATKINSON (Koonung) — I direct my question without notice to the Honourable Justin Madden, Minister for Sport and Recreation. I note with interest that the 2003–04 annual report for Footy Consortium Pty Ltd reports a $2.8 million operating loss on the TipStar competition. The latest result takes the accumulated losses of TipStar to almost $9 million and demonstrates that the competition continues to be a commercial disaster. Given that this competition was established by the Bracks government to generate funds for women's sport and sports medicine initiatives — and I might say to help save Waverley Park — I ask the minister how many dollars generated from the TipStar competition have been directed to women's sports, sports medicine or other sports initiatives in 2003–04?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Can I just compliment the honourable member opposite on asking his first question on sport and recreation since he has taken up the role of the opposition spokesperson on sport and recreation in this Parliament. For those in the chamber who may not be fully appreciative of the fact, I point out that he is the fourth opposition spokesperson for sport and recreation in the five years I have been in this position. It would be interesting to see if I can remember all of them, because we have had a fair turnover.

Hon. B. N. Atkinson — On a point of order, President, the Minister for Sport and Recreation has had a minute to address this issue, and he is making no attempt to address the question. He is seeking to debate the question and to introduce all sorts of extraneous material. I ask that you direct him to address the question.

The PRESIDENT — Order! The minister was asked a question about TipStar and how much of it had been distributed to various organisations or sporting groups. The minister has been leading into it. I ask him to come to the point of responding to the member's question.

Hon. J. M. MADDEN — Thank you very much, President. As I mentioned, there have been as many shadow spokespeople on sport and recreation as the years we have been in government. Mr Atkinson, I think Mr Rich-Phillips, Mr Cover and even Mr Hall have had roles in those positions. But I will get to the nub of the member's question. I am happy to answer any inquiries about sport and recreation from the members of the opposition, and I encourage them to ask more questions in relation to sport and recreation.

As members opposite would appreciate, the way this system works is that the TipStar competition is delivered by the private sector. We receive revenue in the form of a licence fee for delivery of the service. It is a commercial enterprise. It lives or dies by the profits it makes. That is up to the organisation, of course, but we will continue to receive licensing revenues from it as we have been receiving licensing revenues from it. We would expect more licensing revenue this year than in previous years. We are also pleased that we have been able to allocate those funds to an array of areas that the opposition ignored when it was in government — grassroots sport and women in sport initiatives — whether they be scholarships or initiatives to women in sport or whether they be associated with research projects in relation to health and sport initiatives. The government is pleased to stand by its record in relation to initiatives it has brought in and initiatives it will roll out as a consequence of the revenue derived from the licence related to the TipStar competition.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — Incidentally I am not surprised that the minister could not remember all the sports spokespeople because he got the number wrong. Does the minister accept that the TipStar competition is a total failure and has not generated any effective new funds for sport in Victoria that have been hypothecated to actual sports projects and that Tattersall's has been forced to continue underwriting this commercially unviable venture to safeguard its lotteries licence in the current government review?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome the member's first supplementary question in his role as shadow spokesperson on sport and recreation. What I have said stands — that commercial decisions made by those organisations stand, as they do with any other commercial organisation, and the revenue we derive from them will be invested in sport and recreation, as I have mentioned, in relation to women's sport and sports medicine.

We are pleased to have been able to have done that on top of the enormous investment we have already made. There is the almost $80 million I announced yesterday that we have spent on facilities that will increase to $100 million in terms of facilities. Every way you measure it, as mentioned in the ministerial statement on sport and recreation, this government has achieved over and above anything the opposition achieved in relation to sport and recreation in its term in government.

Information and communications technology: Indian investment

Mr SMITH (Chelsea) — I refer my question to the Minister for Information and Communication Technology, the Honourable Marsha Thomson. Last week the minister informed the house of the information and communications technology (ICT) trade mission she is about to lead to India. Can the minister inform the house of any benefits the government's relationship with India is having for the Victorian ICT industry?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I thank the honourable member for his question. In September 2002 the Victorian government welcomed the establishment of a software global development centre here in Melbourne by the Indian multinational company Infosys. This time it came with some criticism from people unable to see the potential long-term economic value in such a development here in Victoria. Amongst those to criticise this development was the education shadow minister and member for Doncaster in the other place, Victor Perton. He did not consider that this was economically responsible; rather, he engaged in his typical grubby politics. What the Bracks government saw and what the Liberals failed to see was the opportunity that Indian multinational ICT firms would have here in Victoria to grow our economy, to grow the sector and to provide jobs for Victorians.

I am proud of the relationship that the Victorian government has with Indian companies based here in Victoria. We are confident, and we have demonstrated on many occasions now the benefits that it provides to the Victorian economy and to the creation of jobs here in Victoria. Infosys since 2002 has established Infosys Australia, which now has over 500 employees here in Victoria.

In September Indian multinational software developer Satyam opened a 300-seat state-of-the-art software development centre that will position Victoria as a hub for Satyam in Asian-Pacific projects. The global development centre will perform software development work for local and international Satyam clients in the Asian-Pacific region and will also include clients within Japan.

These developments mean jobs and opportunities for Victorians in the ICT industry and provide opportunities for ICT companies to partner with leading IT developers like Infosys and Satyam. The ICT industry also recognises the opportunities that come from these developments. That is why there has been such an overwhelming response to the trade mission I will be leading to India later this month.

Victoria is the no. 1 investment destination into Australia for Indian companies, and Victoria is a popular choice for Indian students and for skilled migrants. I look forward to the opportunity of strengthening Victoria's relationship with India.

The Bracks government welcomes the investment of the 300-seat global software development centre here by Satyam, just as it welcomed the development centre by IBM in Ballarat — also a 300-seat global software development centre — but it really makes you wonder about the real reason the Liberals did not welcome these investments in the same way and sought to differentiate between Satyam and IBM. The Bracks government is conscious of the importance of providing jobs for the future, is economically responsible and will continue to welcome investments that see the growth of the Victorian economy.

Local government: planning schemes

Hon. J. A. VOGELS (Western) — I direct my question without notice to Ms Candy Broad, Minister for Local Government. According to Municipal Association of Victoria president, Geoff Lake, height controls over high-rise developments will cost ratepayers up to $70 million in the next two years to shore up the increasingly unpopular Bracks government's Melbourne 2030 blueprint. I ask the minister: does she intend increasing the miserly $5.6 million offered by the Bracks government to assist councils in developing structure plans or is it her intention that ratepayers should wear the $64.4 million shortfall?

Ms BROAD (Minister for Local Government) — The member opposite will be well aware of the planning minister's responsibilities and my responsibilities as the Minister for Local Government. I support the assistance which the planning minister, through her department, the Department of Sustainability and Environment, has provided to

councils in relation to their engagement with the government's very far-sighted Melbourne 2030 policy.

Those resources are assisting councils for the first time to be engaged in a partnership with the state government in providing for the long-term needs of residents of Melbourne. You would have to say that this is in stark contrast to the approach taken by the former Kennett government on planning matters and the role of local government — that is, when it was not sacking councils across Victoria!

It is well known that at that time the then Liberal planning minister made it pretty clear to councils that they did not have any role or say in planning — it would all be taken care of by the state government, thank you very much! In contrast, the Bracks government believes in having a partnership with state government, and it is assisting councils to work alongside the state government not only through the funding which the member referred to but also through technical and practical assistance in developing much-needed structure plans to assist with the needs of councils in the planning area.

Supplementary question

Hon. J. A. VOGELS (Western) — Whitehorse City Council is about to spend $300 000 to fight a proposal for a 17-storey tower in low-rise Mitcham. That money is known locally as the Tony Robinson re-election fund. Does the minister's government intend to pay any of Whitehorse council's legal costs in defending this matter, given that the increasingly unpopular Melbourne 2030 blueprint is the direct responsibility of her government?

Ms BROAD (Minister for Local Government) — I can only assume from these questions that the shadow spokesperson for planning is not able to get a guernsey in terms of asking the planning minister questions which are clearly in her area of responsibility. I have clearly answered the member's question, and I suggest that these matters should be pursued with the planning minister in the other place.

Victoria Grants Commission: appointment

Hon. R. G. MITCHELL (Central Highlands) — My question is also addressed to the Minister for Local Government, Candy Broad. Would the minister inform the house of recent action taken by the Bracks government to strengthen the work of the Victoria Grants Commission?

Ms BROAD (Minister for Local Government) — I thank the member for his question and his interest in the very important work of the Victoria Grants Commission. The Bracks government appreciates and strongly supports the important work of the Victoria Grants Commission in the allocation of financial assistance grants from the federal government to Victorian councils. I am pleased to announce today that the Bracks government has appointed Ms Carolyn Hogg as a member of the Victoria Grants Commission.

Honourable members — Hear, hear!

Ms BROAD — The government believes — and I am pleased to note the 'Hear, hears' on the other side — Ms Hogg is eminently well qualified to serve as a member of the Victoria Grants Commission. Not only is Ms Hogg a former Minister for Ethnic, Municipal and Community Affairs, which means that she once had ministerial portfolio responsibility for the Victoria Grants Commission and therefore understands its very important role and purpose extremely well, but as well as that she spent some nine years as a councillor of the former Collingwood City Council, including becoming in 1978 the first female mayor of that municipality. She also held the very significant ministerial portfolios of community services, education and health, as well as a number of shadow ministerial portfolios while in opposition.

As she was a member of this place for some 17 years, she is well respected by members on both sides of this chamber, particularly the ones who have been here a little longer perhaps. Most recently Ms Hogg has served on the board of Beyond Blue, the national initiative dealing with depression, and has chaired the ministerial advisory committee on women's health and wellbeing.

Today I would also like to take the opportunity to place on record my thanks to the member of the Victoria Grants Commission whose appointment will expire at the end of this month, Mrs Joanne Anderson.
Mrs Anderson has put in some seven years of work on the Victoria Grants Commission under both this government and the former government, and I certainly want to record the government's appreciation of the contribution she made for those seven years and wish her well in her future endeavours. I look forward to the type of contribution which I expect Ms Carolyn Hogg will make on the Victoria Grants Commission in the future.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 1596–98, 1604, 1608, 1614, 1615, 1617, 1624, 1625, 1627–30.

LIMITATION OF ACTIONS (ADVERSE POSSESSION) BILL

Second reading

Ordered that second-reading speech be incorporated on motion of Ms BROAD (Minister for Local Government).

Ms BROAD (Minister for Local Government) — I move:

That the bill be now read a second time.

The Limitation of Actions (Adverse Possession) Bill 2004 implements an important aspect of this government's recognition of local government as a distinct and essential tier of government.

This bill effectively exempts council land from claims of adverse possession through amendments to the Limitation of Actions Act 1958. This act sets limitation periods for the commencement of legal actions, including actions to recover land.

The aim of this amendment is to ensure the protection of community interests by preventing the unintended loss of public land to individual claimants.

What is 'adverse possession'?

The rule of adverse possession dates back as far back as the 1623 Jacobean statute of limitations. Adverse possession allows a person occupying another's land to acquire the land in certain circumstances. To acquire the land, the occupier must have been in possession of the land for a prescribed period of time.

In Victoria this period is 15 years as provided by the Limitation of Actions Act 1958. The occupation must also have been without the permission or licence of the legal owner of the land and must have meant that the legal owner was no longer in possession of the land.

Under the Limitation of Actions Act 1958 the person claiming a 'possessory title' must show either:

(1) discontinuance by the actual owner followed by possession; or

(2) dispossession of the actual owner.

Where these circumstances are satisfied, the legal owner of the land can no longer sue to recover possession of the land.

The land will only be transferred to the occupier upon application to the registrar of titles under section 60 of the Transfer of Land Act 1958 for an order vesting the land in him or her in fee simple. The process set out in the Transfer of Land Act 1958 provides for public notice to be given and allows for caveats to be lodged against such a claim. The application can be made anytime after 15 years of possession of the land.

The philosophy behind adverse possession is that land should not lie 'unused' and that the title of the land can be altered to reflect the fact that there is a new 'possessor' of the land by making them owner.

Why exempt council land from claims of adverse possession?

Both Crown land and land owned by Victorian Rail Track (a statutory authority established under the Rail Corporations Act 1996 which owns all land in Victoria used for rail purposes) are protected from claims of adverse possession by virtue of sections 7 and 7A of the Limitation of Actions Act 1958.

Like the Crown and Victorian Rail Track (VicTrak), many Victorian councils (especially rural councils) hold large areas of unfenced land which people can easily encroach upon and not be detected to be doing so or be detected at significant cost.

The loss of council land through adverse possession is a loss of community assets, which is against the public interest. Council land is held by a distinct and essential tier of government on behalf of the community. Council reserves are used by the public for recreation, drainage or access.

Such land should be protected in the same way that Crown land and Victorian Rail Track land are protected in the public interest.

Local government has for some time experienced the loss of public land through adverse possession.

It is in the public interest to prevent the loss to local residents of access to public land, the loss of community management of council land and the loss of potential revenue from the use or sale of council land.

Key features of the bill

I now turn to some of the key features of the bill.

Process for protecting council land

The Limitation of Actions (Adverse Possession) Bill 2004 provides for the amendment of the Limitation of Actions Act 1958 to exempt land of which a council (or a former council) is the registered proprietor under the Transfer of Land Act 1958 (clause 3).

Most roads and reserves created after 1988 are registered in the name of the local council. However, reserves (including those created prior to 1988) that are not registered in the name of the council will not be protected under this amendment.

Councils will be required to weigh up the costs of transferring these reserves into their name compared with the cost of losing such land.

Applications to place such reserves in the name of the council will need to be made under section 24A of the Subdivision

Act 1988 to the Department of Sustainability and Environment (Land Victoria).

Local roads and laneways

A number of adverse possession claims have been made over suburban laneways at the rear of properties. Landowners adjoining the laneway have often encroached onto the laneway and, over time, lodged adverse possession claims. Laneways may or may not be public highways.

Many councils have also closed some laneways that are no longer being used and gained ownership of the land under section 207B of the Local Government Act 1989. Under this section, where a road is discontinued, the land on which the discontinued road was situated vests in fee simple in the local council. These councils can then sell the land to adjoining owners.

Roads (including laneways) that are public highways cannot be the subject of a successful adverse possession claim as, by its nature, the public has a right to use a public highway and access must not be blocked by fences or other possessory actions.

The newly commenced Road Management Act 2004 also provides that the rights of the public in relation to a public highway can only be extinguished under that act or under another act.

Transitional provisions

The interests of parties who have lodged claims or who have occupied land adversely over 15 years are protected under the proposed amendment.

The Limitation of Actions (Adverse Possession) Bill 2004 provides that:

> any claim for adverse possession of council land lodged prior to the commencement date will be processed by Land Victoria as if no amendments were made;
>
> potential claimants (those who have occupied council land for over 15 years) will have 12 months from the date of commencement of the bill to lodge a claim with Land Victoria.

Formal stakeholder consultation

This bill has been the subject of public consultation through the release of a draft bill and explanatory paper. Twenty-nine formal submissions were received by Local Government Victoria in response.

The Municipal Association of Victoria has expressed concern that this bill does not give comprehensive protection to land that is vested in or managed by councils.

The Municipal Association of Victoria has suggested that councils should be empowered to 'certify' whether land is or is not council land.

This suggestion is not reflected in this bill.

This government believes that a 'certification power' given to councils would place disproportionate power in councils to determine what land can be adversely possessed and what cannot.

There would be no independent third party (such as the registrar of titles) to determine the claim. To require unsuccessful applicants to appeal to the Supreme Court would place an unfair financial burden on applicants compared to their current access to the independent assessment of the registrar of titles.

This bill protects land of which a council is registered proprietor. This will ensure clarity and certainty for applicants, councils and Land Victoria. Councils need to audit their land-holdings to ensure that their ownership is recognised by Land Victoria.

Conclusion

The Limitation of Actions (Adverse Possession) Bill 2004 is evidence of this government's commitment to the recognition of local government as a distinct and essential tier of government. This bill will ensure the protection of community interests by preventing the unintended loss of public land to individual claimants.

I commend the bill to the house.

Debate adjourned for Hon. J. A. VOGELS (Western) on motion of Hon. Philip Davis.

Debate adjourned until next day.

MAGISTRATES' COURT (FAMILY VIOLENCE) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

The problem we face

We like to think that our homes are where we can feel protected and safe. We like to think that our families will protect us from harm. Disturbingly this is not the case for thousands of Victorians. Many Victorian homes are a place of fear and harm.

> In 2002–03, almost one half (42 per cent) of all Australian homicides occurred between family members.
>
> In 2002–03, 21 per cent of homicides in Australia were between intimates.
>
> In 2002–03 Victoria Police submitted 28 000 family violence incident reports. In this same period there was an increase of 21.3 per cent in police family violence incident reports.
>
> Police estimate that over 30 per cent of all family violence incident reports involve repeat attendances by police.

> In 2002–03 children were present at 48 per cent of police attendances at family violence incidents and 40 per cent of parents involved in child protection matters in 2001–02 had experienced family violence.

What is more, these figures represent the tip of the iceberg. It is estimated that up to 80 per cent of violence against women is not reported to the police.

The scope of the family violence problem across society is hard to comprehend. The personal, social and economic cost to individuals, families, communities, business and the state is immense and unacceptable.

The recently released VicHealth report, *The Health Costs of Violence — Measuring the Burden of Disease Caused by Intimate Partner Violence*, found that intimate partner violence was the leading contributor to death, disability and illness in Victorian women aged 15–44, being responsible for more of the disease burden than many well-known risk factors such as high blood pressure, smoking and obesity.

The effect of family violence on children — whether they are physically or emotionally abused or witness harm to others — is now apparent in child psychiatry and child development research.

Responses

Family violence is a justice issue, health issue and an education issue. The breadth and shocking severity of family violence requires a strong response from the community and government. The response needs to be extensive and across government if we are to have an impact on family violence. This government has accepted this challenge.

The whole-of-government women's safety strategy was launched in 2002. This strategy, along with government's safer streets and homes policy, has guided work in a range of areas to reverse this staggering trend and prevent family violence.

As part of this government's 2002 election policy statement, *Working for Women — Labor's Plan for Victoria's Women*, we pledged to establish a family violence division of the Magistrates Court.

The statewide steering committee to reduce family violence is a high-level committee of community peak bodies and government. It advises the government on ways to combat family violence. It is also developing a framework to promote a fully integrated system of services for families experiencing violence.

A response to the indigenous family violence task force report is being developed which takes into account the different cultural contexts for family violence and the most effective solutions.

In addition, the Victorian Law Reform Commission has been given a reference to review the Crimes (Family Violence) Act 1987 and the philosophy that underpins our approach to family violence. Victoria Police will shortly release its new code of practice for the investigation of family violence, and a database of family violence statistics has been designed by the Victorian Community Council Against Violence which can inform further policy initiatives. The Magistrates Court now has a supervising magistrate who monitors and oversees the court's response to family violence. Family violence prevention projects are working to create healthy, respectful family relationships and so avoid cycles of violence forming.

A justice system response

The Magistrates' Court (Family Violence) Bill 2004 is part of this government's response to family violence. It has been developed in extensive consultation with those who work with families experiencing family violence. I would like to record my thanks to the members of the two reference groups who have provided advice in relation to the development of the bill, especially the representatives from community organisations. Your insights and perspectives, commitment and time have informed this important work. Your input is both essential and appreciated.

Key features of the bill

The Magistrates' Court (Family Violence) Bill 2004 is a significant piece of legislative reform. It will:

> establish specialist family violence courts in Ballarat and Heidelberg;
>
> enable the two new family violence courts to direct a defendant subject to a family violence intervention order to attend and participate in counselling;
>
> provide further protection for children from family violence and minimise their involvement with court proceedings;
>
> provide a number of reforms to make court processes more responsive and less intimidating for those experiencing family violence.

Establishment of the family violence court

The justice statement recognises the principles that our judicial and administrative processes should respond to the needs of victims with compassion and respect for dignity. It emphasises that victims should receive medical, psychological and social assistance. The justice statement also promotes problem-solving courts that can address the underlying causes of behaviour which lead people to come before the courts.

The establishment of two family violence courts at Heidelberg and Ballarat as divisions of the Magistrates Court is based on these principles. These specialist courts, due to commence operation in early 2005, will be development courts. They will enable us to trial a new court-based approach to family violence and evaluate a suite of new approaches, procedures and services located within the court.

How will the family violence court be different to other magistrates courts?

A specialist court

Magistrates assigned to the family violence court will have knowledge and experience in family violence matters. All staff appointed to the family violence court or working within the court — registrars, police prosecutors, lawyers — will have training in the nature and dynamics of family violence.

Concurrent jurisdictions

At the moment, the Magistrates Court has separate lists for each division which means that from the one family violence

incident the victim, children and defendant may be required to come back to the court numerous times to different divisions without any continuity of dealings with the matters and have to repeat their stories many times over to different court staff and service providers.

After one incident of family violence, the Magistrates Court currently deals with matters as follows:

intervention orders in the crimes family violence division;

summary offences and bail applications in the criminal division;

contact and residency matters in the Family Court;

crimes compensation applications in the Victims of Crime Assistance Tribunal.

Each court and tribunal has different personnel, different parties to proceedings and a different set of professionals from varied disciplines, which may require a mother and child to relive traumatic events several times in the different jurisdictions for different legal purposes.

The family violence court will have concurrent jurisdiction to hear any matters currently within the jurisdiction of the Magistrates Court, which arise from or include allegations of family violence. The family violence court division will be able to hear:

family violence intervention order proceedings in relation to adults and children, including breaches of intervention orders;

civil damages claims for personal injury;

all matters over which the Magistrates Court currently has jurisdiction under the Family Law Act 1975;

all matters over which the Magistrates Court currently has jurisdiction under the Child Support (Assessment) Act 1989;

charges proceeding summarily against an adult defendant, including breaches of intervention orders, bail and compensation applications following any finding of guilt;

crimes compensation applications under the Victims of Crime Assistance Act 1996;

committal proceedings for indictable offences where the defendant is an adult; and

proceedings in respect of counselling to change violent behaviour.

In the family violence court, it is not legal categories or remedies which will shape the court's jurisdiction. Rather, the needs of those who experience family violence set the court's jurisdiction.

Alternative arrangements for reducing the trauma of giving evidence

The bill recognises that for many, coming to court to give evidence can be a frightening and overwhelming experience. Improving the court experience for witnesses may result in a lower 'drop-out' rate among those who come to court and apply for an intervention order.

The bill provides that a witness in the family violence court can apply to give their evidence by closed-circuit television or with a person beside them to offer emotional support. The court can also be requested to order a person to leave the court while a witness gives evidence. If the witness is under 18 years of age, there is a presumption that the family violence court will make such orders unless there is good reason why such arrangements are not necessary. For example, the child may want to give evidence from the witness box in court.

There has long been concern about children being exposed to the legal aftermath of family violence in the courts. This bill provides that a child who is the aggrieved family member or a child of parties to the proceedings can only be present in court or give evidence if a court makes an order to this effect. Such a provision does not bar a child from participating in proceedings if necessary to achieve procedural fairness or natural justice. The provision is intended to make the participation of children in such proceedings a considered and conscious step by a magistrate, bearing in mind the need to shield children from the damaging effects of family violence and the distress of legal proceedings about that violence.

Court assistance program

Whilst it has not been necessary to set out the nature of the court support program in the bill, a crucial component of the family violence court will be trained staff to assist court users. Care has been taken in planning the court assistance program to ensure that the needs of culturally and linguistically diverse communities and indigenous communities will be addressed. This will be achieved in training and recruitment programs, signage, access to interpreters and translated materials.

It is anticipated that the court assistance workers will explain the court processes and procedures to court users, carry out risk assessments, develop safety plans for those in fear and ensure there are timely referrals made to outside agencies with respect to housing, finances, employment and ongoing counselling and support. In this way, the family violence court will be an integrated part of the service system that responds to family violence.

Family violence court intervention program — a pilot

The family violence court will have the power to order a defendant subject to an intervention order to attend counselling to address their violent behaviour. This is an important aspect to the family violence court problem-solving approach.

Family violence, despite changing police practices, shifting community expectations and the use of intervention orders by Victorian courts since 1987, shows no sign of abating. Clearly we must take some bold steps to address the causes of violent behaviour rather than simply deal with the outcomes and count the costs.

This pilot will run for approximately two years in Heidelberg and Ballarat. It will be carefully evaluated to assess its ability to be transferred to other courts and regions. The provisions relating to the counselling program are due to sunset on 30 October 2007

The counselling programs will be specified by the Secretary of the Department of Justice and will conform to practice standards endorsed by the Department of Human Services. The counselling will be primarily conducted in groups and will aim to change the underlying values and beliefs which contribute to violent behaviour. The counselling will include:

education about types of violence and the social context of violence;

awareness of one's own violence and the need to accept responsibility;

awareness of feelings;

becoming non-violent and non-controlling; and

advocacy to prevent violence.

International evaluations of behaviour-change counselling programs addressing violent behaviour indicate promising results. The most comprehensive study conducted in the United States canvassed outcomes for 618 men over seven years. It found that:

> The vast majority of men eventually were not violent for a sustained period. At the 30-month follow-up, more than 80 per cent of the men had not reassaulted a partner in the previous year …

The model for the behaviour-change counselling draws on the New Zealand system, which has operated for nearly 10 years, but is the first of its type in Australia. The aim is to prevent violent behaviour rather than to wait until an offence is committed and harm is done.

The pilot will operate in the following way.

> A defendant to an intervention order application will have access, at court, to a defendant liaison officer who will explain the court processes and possible outcomes.
>
> If the family violence court makes an intervention order, an adult defendant may be assessed for eligibility for the counselling program. The eligibility test will focus on the capacity and ability of the defendant to participate in counselling. Most defendants will be eligible to participate, but not if the defendant suffers from a disability or health condition which would rule out their participation.
>
> After the court receives the eligibility report, it then decides whether to order the defendant to attend counselling. The defendant's lack of interest in counselling however, will not be relevant to the court's decision to order counselling.
>
> Court orders to attend an eligibility interview or to participate in counselling will be made of the court's own motion and are not part of an intervention order. Accordingly, the applicant for an intervention order will not be associated with the court's order for counselling.
>
> The court will not delay making an intervention order while a defendant is being assessed for a counselling order.
>
> The defendant will participate in counselling over approximately 20 weeks to address his violent behaviour.
>
> Counselling services will also be offered to the family of the defendant.
>
> If the defendant fails to attend either the eligibility interview or the counselling without reasonable excuse, the matter may be referred to local police for investigation and possible prosecution. Attempts will be made to encourage compliance with the court order. Criminal sanction will not be the first resort of those administering the pilot as the purpose of the pilot is to get these defendants to counselling and achieve long-term behaviour change.
>
> Legislative safeguards protect the defendant's confidential relationship with the counsellor and ensure that he/she can test the findings in the eligibility report in open court.

Protection for children

The bill makes a number of reforms to the Crimes (Family Violence) Act 1987. These reforms will apply to the Magistrates Court at all locations when hearing intervention order applications, not only the family violence court.

The bill recognises the harm caused to children when they are subjected to family violence or witness family violence being perpetrated. Studies report a number of childhood problems which are statistically associated with a child witnessing family violence. These problems can include:

more aggressive and antisocial behaviour;

fearful and inhibited behaviour;

anxiety;

depression;

trauma symptoms; and

temperament problems.

The bill provides that an intervention order will now be available to protect children who witness or hear family violence and are likely to do so again. The child must be a family member of either the person who has experienced family violence or the person using the violence.

The bill ensures that if children do become involved in intervention order proceedings as a result of family violence, their dealings with the court are minimised. By ensuring that children affected by the family violence can only be present in court or give evidence with court permission, children will be shielded from the distress of legal proceedings.

The bill also clarifies that a court hearing an intervention order in respect of a child may inform itself in any way it thinks fit. It is not bound by the rules of evidence and does not need to hear evidence from the child. The court may satisfy itself about the need for an order from the testimony of others, preferably adults.

The bill also requires the Magistrates Court at all locations when hearing an intervention order application (or applications to vary or revoke) to consider whether there are

child family members who may satisfy the grounds for an intervention order. If there are children in need of this protection, the court may make an intervention order for the child's protection even if no-one has applied for such an order. Under this provision, the needs of children will be examined in every family violence intervention order hearing.

Responsive and flexible courts

Court processes must be fair and accord all parties procedural fairness and natural justice. However, there are many ways of achieving just processes and just outcomes. The bill makes a number of amendments to the Crimes (Family Violence) Act 1987 to give courts greater flexibility when hearing intervention order applications and to ensure it can cater for the needs of all parties.

The bill provides for the use of affidavit evidence in family violence intervention order matters to minimise the stress of giving evidence in court. Naturally witnesses would still be available for cross-examination if required. This provision recognises that an applicant who is intimidated by the court process or afraid to give oral evidence may never initiate an intervention order.

Currently the Crimes (Family Violence) Act 1987 requires an intervention order application to be heard in the court closest to either the place where the alleged incident occurred or the defendant's residence. The bill now allows the residence of the 'aggrieved family member' to be taken into account when considering the proper venue for an intervention order hearing. This means the needs and convenience of the person who may have experienced family violence can be considered in deciding the appropriate court. This may be important if, for instance, a woman has moved to avoid her ex-partner and wants the matter to be determined in a local court.

The bill also provides that a person affected by family violence in urgent need of protection can now make their application for an interim intervention order to the Magistrates Court in any location in Victoria. This makes Victoria's Magistrates Court more responsive and more accessible to those in crisis and needing protection.

Finally the bill will require a defendant who is subject to an intervention order to show a change in circumstances before he or she can seek a revocation or variation of an intervention order. This provision will discourage defendants from bringing unmeritorious applications to the court when the factors that founded the court's order are still present.

Conclusion

The establishment of the family violence court and the piloting of the family violence court intervention project represent a significant shift in the way our courts and justice system respond to family violence. These reforms signal a repositioning of our courts within the community to better align legal responses to family violence with the responses of other agencies tackling the physical, psychological, financial and social effects of family violence. The family violence court intervention project, in particular, draws a line in the sand and points to a new way for our courts to address violent behaviour — by tackling its causes, not just its effects.

The changes to the Crimes (Family Violence) Act 1987 will ensure a greater focus on the needs of children experiencing family violence. It recognises the need to protect them from seeing and hearing family violence but at the same time shield them from the court processes that respond to family violence.

The effect of these provisions will be a more responsive, flexible and effective justice system for those experiencing family violence.

I commend the bill to the house.

Debate adjourned for Hon. C. A. STRONG (Higinbotham) on motion of Hon. Philip Davis.

Debate adjourned until next day.

CONSTITUTION (RECOGNITION OF ABORIGINAL PEOPLE) BILL

Second reading

Ordered that second-reading speech be incorporated for Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

This bill formally recognises the Aboriginal people of Victoria and their contribution to the state. This bill is an important step towards reconciliation with indigenous Australians.

Reconciliation is about:

respect;

treating others as equals;

making right as best we can past injustices.

That is why this bill is so important.

It is proper that the constitution of Victoria should describe the circumstances of our founding and tell of the first people of this land. It is proper that the constitution should acknowledge the unique and irreplaceable contribution they have made and continue to make to this place where we, who came here after 1835, have made our home.

The bill amends the Victorian constitution to recognise that the events described in the preamble to the constitution occurred without the due consultation, recognition or involvement of Aboriginal people.

The bill also recognises that Aboriginal people, as the original custodians of the land on which the colony of Victoria was established:

have a unique status as the descendants of Australia's first peoples;

have a spiritual, social, cultural and economic relationship with their traditional lands and waters; and

have made a unique and irreplaceable contribution to the identity and wellbeing of Victoria.

While the bill will not confer any legal rights, it is an important step towards reconciliation between Victorian indigenous and non-indigenous communities.

The bill provides for the amendments to be entrenched by a special three-fifths majority to enable the provisions to form an important and enduring part of the constitution.

This bill will make Victoria the first state in Australia to lead the way by formally recognising the Aboriginal people in its constitution.

I commend this bill to the house.

Hon. Philip Davis — On a point of order, President, given this involves an amendment to the constitution, does not the second-reading speech require to be read?

Mr LENDERS — On the point of order, President, Mr Davis is correct for all section 85 statements which require an amendment. But this is not a section 85 amendment; this is a different one.

The PRESIDENT — Order! On the point of order raised by the Leader of the Opposition and some explanation by the Leader of the Government, as I understand it under the standing orders if it is an amendment to section 85, section 4 requires it to be read. This is amending the constitution but it does not require it to be read, and the standing orders prevail.

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

Debate adjourned until next day.

DRUGS, POISONS AND CONTROLLED SUBSTANCES AND THERAPEUTIC GOODS (VICTORIA) ACTS (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated for Mr GAVIN JENNINGS (Minister for Aged Care) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

This bill seeks to amend the Drugs, Poisons and Controlled Substances Act 1981 and the Therapeutic Goods (Victoria) Act 1994 to give effect to recommendations arising from two national competition policy reviews, and to make other miscellaneous amendments to improve the operation of the legislation.

All states and territories have legislation governing the supply of medicines and poisons. In Victoria, the relevant legislation is the Drugs, Poisons and Controlled Substances Act 1981.

A major objective of this act is to promote and protect public health and safety by preventing:

accidental poisoning;

deliberate poisoning;

medicinal misadventures; and

diversion for abuse or manufacture of substances of abuse.

Victoria participated in a national competition policy review of state and territory drugs and poisons legislation.

Many of the recommendations arising from the review require action at a commonwealth level. This bill gives effect to a number of recommendations that can be progressed by Victoria immediately, as a demonstration of Victoria's commitment to the reform process.

I now turn to the specific provisions of the bill.

The bill will allow Victoria to adopt national drug scheduling decisions automatically.

The Standard for the Uniform Scheduling of Drugs and Poisons contains the decisions of the National Drugs and Poisons Schedule Committee regarding the classification of drugs and poisons into schedules. The particular schedule in which a drug is classified determines the degree of control intended to apply to the substance. The standard also includes a number of related provisions that concern the substance (for example, labelling, packaging and advertising) or interpretation of the schedules.

The process for determining the schedule is set out in the commonwealth Therapeutic Goods Act 1989 and associated regulations. Scheduling decisions require the support of the majority of jurisdictions and do not have effect until they are included in state and territory legislation.

In Victoria, scheduling decisions require the approval of the Minister for Health before coming into effect in this state, via a mechanism in the act called the Poisons Code.

This system was introduced because the previous wording of the standard made it unsuitable for legislation, and because there were no notice provisions in the commonwealth act for the publication or announcement of the effective date of amendment to the standard. These issues have since been addressed, allowing for automatic adoption of scheduling decisions and the related provisions in the standard. This will remove an unnecessary bureaucratic process and further promote national consistency in this area.

Some aspects of the Poisons Code will be retained to allow Victoria to:

continue its pilot of developing a list of Chinese herbs for inclusion in schedule 1 of the poisons list, that will one day be included in the standard, subject to national agreement;

specify a list of substances not for general sale by retail, and

specify exemptions from schedule 1 of the poisons list or the schedules of the standard.

The bill will repeal licences to:

manufacture and sell or supply by wholesale or retail any schedule 5 or 6 poison; and

sell or supply by wholesale any schedule 5 or 6 poison.

Schedule 5 poisons include household poisons such as methylated spirits and turpentine with a relatively low potential for causing harm. Schedule 6 poisons include agricultural and industrial chemicals such as strong acids and pesticides with a moderate potential for causing harm.

The national competition policy review considered that the costs of the schedule 5 and 6 licensing provisions for industry and government were not justified and recommended that they be repealed.

All products in these schedules will continue to be labelled with the required signal headings, first aid directions, warning statements, and safety directions, and the containers must comply with performance standards and requirements to identify them as containing poisons that may have an untoward effect on humans or animals.

The government will offer a pro-rata refund for licences that expire more than six months after the date on which the relevant licence provisions of the act are repealed.

The repeal of these licences will remove the ability of the Department of Human Services to inspect the premises to which the licences had related. Therefore the bill authorises those who manufacture and sell or supply by wholesale or retail, or sell or supply by wholesale, any schedule 5 or 6 poisons. This will permit inspection by authorised officers under the existing powers and maintain regulatory oversight of schedule 5 and 6 poisons.

Schedule 11 to the act lists drugs of dependence and sets out the associated trafficable quantities.

Buprenorphine is used to treat heroin dependence and is not currently included in schedule 11. Since its introduction in 2001, there have been reports of its trafficking and abuse following diversion by pharmacotherapy clients. Accordingly, the bill adds buprenorphine to schedule 11 and sets a trafficable quantity of 2 grams.

The bill will repeal section 12M of the act, which allows the drugs and poisons regulations to add, delete, substitute or alter an item in schedule 11. It is not appropriate that the addition of a poison to schedule 11 be undertaken by regulation, due to the high level of penalty that is imposed. Changes to schedule 11 will in future need to be made by amendment to the act.

This bill also makes minor changes to improve the operation of the legislation. In particular, it:

clarifies the operation of division 4 (which relates to licences, permits and warrants);

clarifies that health service permit-holders may sell or supply poisons and controlled substances through authorised persons;

allows for required records to be kept electronically; and

clarifies what constitutes administering, supplying or prescribing a drug of dependence over a continuous period of time for the purposes of the act.

As I stated previously, this bill also amends the Therapeutic Goods (Victoria) Act 1994.

Part 5 of the Therapeutic Goods (Victoria) Act 1994 currently provides for the licensing of wholesalers of therapeutic goods. However, no application fee has ever been determined and no licence granted. An in-house national competition policy review of the act recommended the repeal of the licensing provisions for wholesalers of therapeutic goods, which is in accord with the national position on this issue. The bill repeals these provisions.

The national competition policy review of drugs and poisons legislation recommended that state and territory drugs and poisons legislation be amended to make compliance with the code of good wholesaling practice a condition of licence for wholesalers. In response to this recommendation, the 1991 code of good wholesaling practice is being updated nationally. It is proposed to be developed by stakeholders including pharmaceutical and medical devices industries and all levels of government.

Rather than amending drugs and poisons legislation, the bill will allow the code to be adopted through therapeutic goods legislation so that it will apply to wholesalers of all therapeutic goods (not merely medicines).

In this respect, the bill sets up a generic process for adopting or making codes of practice in Victoria that relate to therapeutic goods. This will allow Victoria to adopt the code of good wholesaling practice once it has been updated, and implement any other relevant codes that may be developed in the future. In order to ensure sufficient parliamentary oversight, the bill sets out the process for making and approving a code, for publicising it so that stakeholders are aware of it and can comply with it, and for the tabling of codes in Parliament.

Victoria is a national competition policy reform leader, and has been a model for implementing reform in a manner that best reflects the interests of the community. This bill is yet another example of the government's commitment to the reform process.

I commend the bill to the house.

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

Debate adjourned until next day.

PRIMARY INDUSTRIES LEGISLATION (FURTHER MISCELLANEOUS AMENDMENTS) BILL

Committed.

Committee

Clause 1

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I want to make a couple of points under clause 1 to try to assist. There was an issue of consultation with the seafood industry that was raised with me yesterday.

I am advised that there was some consultation in that Ross McGowan, the executive director of Seafood Industry Victoria, was briefed on the bill by officers of the Department of Primary Industries on Friday, 1 October. Mr McGowan advised that he did not have any immediate concerns with the bill.

I am also advised that the bill includes a framework to enable the development of a seamless audit trail for the trade in high-value fish, to reduce the illegal trade in each state and across state borders. The national docketing system was agreed to by resolution of the Ministerial Council of Forestry, Fisheries and Aquaculture in November 1995.

There is bipartisan national support for the scheme, and the bill reflects the outcomes of the ministerial council. The implementation of the national docketing system will be substantively developed in the making of regulations, and these regulations will deal with obligations on industry, and the nature and level of documentation required will be developed in close consultation with the industry.

A regulatory impact statement will of course be made as part of this process. Ross McGowan of Seafood Industry Victoria was advised of this by Department of Primary Industries officers on 1 October 2004.

The main points are that the principles have been nationally agreed to and have bipartisan support, and the main consultation with the industry will also begin once the bill is passed and is implemented.

The other issue raised with me related to a reduction in the mandatory registration age for cats and dogs from six months to three months. The rationale behind it is that most puppies and kittens are purchased or obtained between the age of 8 to 12 weeks but are not required to be registered with a council or identified until six months of age. As a result, puppies and kittens that are impounded are not identified and therefore are unable to be returned to their rightful owner.

The reduction in the registration age from six to three months of age will more closely align the time of purchase with the requirements for registration and means that these animals have a greater chance of being reunited with their owners as opposed to being rehoused or euthanised. Additionally, it is envisaged that the lowering of the registration age will encourage early age desexing, thus reducing the number of unwanted cats and dogs in the community.

I understand opposition members will be raising questions about particular clauses, and I will endeavour to respond to requests about those clauses.

Hon. PHILIP DAVIS (Gippsland) — If I may respond to the minister's initial comments about consultation, I make the point he has been advised that the department briefed Seafood Industry Victoria on 1 October. I note that the bill was introduced in the Legislative Assembly on 17 September. Clearly it is the fact that in the preparation of the legislation, Seafood Industry Victoria was not consulted; it was consulted after the legislation was in the Parliament.

I note, and I will read for the record, the email sent to me from Ross McGowan of Seafood Industry Victoria, which says:

> Just one point that needs to be made in the debate is that SIV as the peak industry body was not consulted in the preparation of the bill. In fact we were made aware of the bill by your office and the Nats!

I am a little perplexed that that occurred. As I said in the second-reading debate, that is totally inappropriate. Perhaps we will get to it in due course, but to expedite a response from the minister may I respond also to his second point about the age of registration. I raised concern about the age of registration not as a generic issue but as a particular problem for farming communities.

I would be delighted to be apprised during that part of the consideration of the bill in detail, given that the advisers will have noticed that I am looking for a fuller explanation, as to how this will impact on farming properties particularly where it is the case that dogs are bred as working animals and may not be adjudged to have the proper qualities by six months of age, and that three months is clearly too early to make that assessment. It would mean that many pups would be registered unnecessarily.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I do not want to make further comment on the consultation issue because the member has made his point succinctly. Obviously ideally the industry body should be consulted before the preparation of the bill. I again point out that when Mr McGowan was consulted he did not have any major concerns with the

bill. As to the other issue, it may be useful to deal with it under clause 23.

Clause agreed to; clauses 2 to 22 agreed to.

Clause 23

Hon. J. A. VOGELS (Western) — Clause 23 states:

> In section 10(1) of the Domestic (Feral and Nuisance) Animals Act 1994, for '6 months' substitute '3 months'.

If a dog breeder has to register pups under the age of three months, what is the situation if the breeder sells one or two out of a litter, or maybe three, when there are sometimes 10 in a litter? Many councils in Victoria have limits on the number of animals registered on one's property. If a council says that you can only have two or three registered dogs on your property and you have a litter of six or seven pups which you hope to sell when they are over 6, 7 or even 10 months old, how will they deal with that because they are breaking council bylaws? I am a little concerned about that clause.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — With regard to whether the lowering of the registration age will impact on the breeder local law planning permits, which is the issue the member is going to, the 1994 act does not define when a puppy becomes a dog. For the purposes of the act, a dog is a dog from birth. The act merely defines the age when the dog is required to be registered with a council. As the age of the puppy is not defined under the act, council local law would be required to have its own definition of when and at what age it is required to be before the local law would apply.

Similarly planning permits relate to the keeping of animals and relate to a specific property and therefore the permit should contain clarification of the age of animals able to be kept, and similar requirements also apply to cats.

I also point out that in relation to working dogs, which I think the Leader of the Opposition was referring to regarding farm dogs. the information I have is that those puppies retained by the farmer for the purposes of working stock would be eligible for a reduced registration fee of one-third of the maximum fee set by the council.

In addition, under sections 15(2) and 15(3) of the act, councils may charge a pro rata fee for that registration which represents the portion of the year for which the animal is registered and provides for a similar refund if the animal is disposed of.

So as you can see, there is quite a lot of flexibility with respect to local councils being able to deal with the circumstances that have been identified.

Hon. PHILIP DAVIS (Gippsland) — I thank the minister for his response which clarifies the situation, in particular in relation to working dogs,. However, it proves what a bureaucratic nightmare and administrative burden will be imposed on both farmers and rural municipalities by registering a lot of young working dogs that potentially need not be registered.

Clause agreed to; clauses 24 to 29 agreed to.

Clause 30

Hon. PHILIP DAVIS (Gippsland) — Proposed section 44AI relates to contracting out the management of the register and states:

> The Secretary may enter into a contract with a person under which that person maintains and manages the register.

Representations have been made to me by the Dobermann Club of Victoria which has raised a specific concern about who will oversee the third party who maintains the register. Having referred to the principal act and looked at the provisions in the amending clauses of this bill, it was not apparent to me other than by way of penalty what constraint there is for parties who should not necessarily have access to information contained in the register to have that information. But more importantly, there does not seem to be set out a process to oversee the confidentiality of matters contained in the register. Essentially, the Dobermann Club of Victoria is concerned about privacy issues.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — Perhaps we should go back and try to understand the purpose of this clause. We are talking about the registration of dangerous, menacing and restricted breed dogs. The amendment attempts to establish a register that will provide councils with the ability to determine whether a dog that has changed ownership or been moved to a new municipality has been previously declared as dangerous, menacing or a restricted breed. Currently, if a council declares a dog to be dangerous et cetera, only the municipal council involved in making the declaration has a record of it. So if a dog is moved to a new municipality, the new municipal council is not able to rely on its own records to determine the status of the dog and may not have access to the other municipal records. To establish whether another municipal council has already made a declaration in relation to the dog, the new council would currently need to contact every other council in

Victoria to ask them to access their records to determine that. The proposed amendment will enable the Department of Primary Industries to keep a central statewide register of all such animals, and this will assist with the tracking and identification of declared dogs.

I believe the Department of Primary Industries is a reputable government department and that the sort of fears that the honourable member has identified are not real fears any more than they would be if similar points were made in relation to the local councils who currently keep the records. I think the Department of Primary Industries is an appropriate authority to have faith in for maintaining confidentiality.

Hon. PHILIP DAVIS (Gippsland) — While I am desirous of resting on the minister's initial response, I am not sure that the Doberman Club of Victoria would be satisfied with it, and therefore nor am I. The club has made the reasonable point that it is concerned that because of the context of the legislative framework that is being established to provide a mechanism to contract out this data management system, it simply does not know who the contractor will be. I can find no clear provisions about what the obligations will be, both on the contractor and on the department in terms of overseeing the protocols that would protect privacy. Perhaps it is assumed in the way that a contract may be let, but it is not explicitly set down in the legislation, and I wonder if it is possible to get some embellishment on that point?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — Without looking at the specific detail which the member may wish to pursue further, let me make a general point along these lines. Obviously, there are plenty of circumstances in government where this kind of thing is contracted out, and what is clear and should be noted is that the responsibility for confidentiality does not rest with the contractor; it rests with the department. In identifying a contractor to do the work for it, the department obviously takes responsibility for ensuring that processes are in place to maintain confidentiality, just the same as a local council would have to take responsibility for its contractor maintaining that confidentiality if it did the same thing. I am fairly confident that the Department of Primary Industries is a responsible body and would ensure that confidentiality was primary in any arrangements it had with contractors.

Clause agreed to; clauses 31 and 32 agreed to.

Clause 33

Hon. PHILIP DAVIS (Gippsland) — Concerns have been expressed by the Victorian Farmers Federation that farmers may be unintentionally caught by the provisions of clause 33. The clause appears to be limited to domestic animals. However, we are looking for a clear assurance that a farmer selling his working dog or pups, and not being a breeder under the act, would not be disadvantaged by this provision as there is a $1000 fine per offence, and under the changes made in clause 32, such an action would be subject to an infringement notice. Can the minister therefore advise the house about the implications in clause 33 on a farmer in relation to working dogs and pups?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I am advised that selling from a residential property, whether it be a farm or another property, is not an offence unless more than 10 breeding dogs are sold.

Hon. PHILIP DAVIS (Gippsland) — So for the purposes of this provision then, a commercial farming enterprise where there is a residential dwelling on the property would be regarded as a private residence?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — Yes, that is correct, and therefore it would be covered.

Hon. PHILIP DAVIS (Gippsland) — Thank you.

Clause agreed to; clauses 34 to 39 agreed to.

Clause 40

Hon. J. A. VOGELS (Western) — This provision concerns licence fees and states that the authority may, in consultation with the dairy industry, determine that licence fees may be paid in instalments, and the timing and method of payment of the instalments. There was a huge uproar among dairy farmers when Dairy Food Safety Victoria decided to charge a volume charge and take farmers' licence fees directly out of their milk cheques. After a lot of argy-bargy et cetera, Dairy Food Safety relented and allowed dairy farmers to pay their licence fees by cheque; however, it slapped a $50 administration fee on farmers who chose to pay by this method. I want to ask: is that still the case?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I am not sure Mr Vogels is going to like the answer to this, but I am advised that Dairy Food Safety Victoria says the $50 administration fee is expected to continue where farmers elect to pay DFSV directly via a single, up-front payment. DFSV has been encouraging and will continue to encourage all farmers and dairy companies to use the automatic monthly

deduction system, which avoids such a fee. The $50 fee reflects simple equity principles where individual farmers elect to use a system that imposes avoidable costs on DFSV. Those farmers should bear the cost. In the absence of the $50 fee, all other licensees would be paying those costs and cross-subsidising those farmers choosing to use the high-cost system. The current arrangements are open, transparent and equitable. DFSV has had two independent assessments conducted on the costs of administering the single, up-front payment system. Both confirm that the costs exceed $50.

Hon. PHILIP DAVIS (Gippsland) — The minister just said the current arrangements are open, transparent and equitable. They are also illegal, because at clause 43 this bill proposes to validate the arrangements which are in place and which the minister says are open, transparent and equitable. The reality is that the collection of this administration fee has been ultra vires — that is, beyond power — and that is what this bill is seeking to do. It is seeking to validate an action which has been taken, which in my view is unconscionable. Should the government not instruct Dairy Food Safety Victoria to reimburse all of those dairy farmers who have been obliged to pay an administration fee the full amount of that administration fee, given that the charge had no validity at the time?

In any event, I simply make the point that I disagree with the government's position on this. I think the industry is quite entitled to have arrangements in place that reflect appropriate mechanisms for collecting licence fees. Certainly for some farmers a point of sale transaction levy may be an efficient method. However, others, who as a matter of principle do not like anybody touching the proceeds of their milk cheques or indeed livestock sales or any other transaction and would prefer to deal with this by receiving an invoice for the licence fee and paying it on an annual or other regular basis, should not be burdened with an additional impost for doing so, particularly where it is clearly the case that up to this point the charge has been collected without there being the proper statutory authority to do so.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — Again I am not sure that the member will like the answer, but I am advised in this way: the bill does not acknowledge that the new monthly deduction payment fee is unlawful, but it does seek to remove any ambiguity by explicitly providing DFSV with power to determine timing and method of licence fee payment after consultation with the industry. There will be no refunds of the $50 administration fee. They have not been made by DFSV, nor is there any intention to do so. Finally, farmers can avoid the $50 administration fee by arranging to make a single up-front payment to their dairy company.

Clause agreed to; clauses 41 and 42 agreed to.

Clause 43

Hon. PHILIP DAVIS (Gippsland) — I had not necessarily intended to pursue this matter, but the minister has effectively invited me to do so now by his last response.

Hon. T. C. Theophanous — I take it back!

Hon. PHILIP DAVIS — If there is no doubt about the validity of the actions taken by Dairy Food Safety Victoria, please explain why this validation clause is required.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I did not say that there was no doubt; I think my words were that it seeks to remove any ambiguity by explicitly providing that power. I think that answers the question.

Clause agreed to; clauses 44 to 46 agreed to.

Clause 47

Hon. PHILIP DAVIS (Gippsland) — This provision relates to the collection of duty on the sale of sheep or goats for payment to the Sheep and Goat Compensation Fund. There is a fine point here that I would just like to clarify; it is a matter that was raised in the briefing with officers.

Firstly, proposed section 79HA(1) uses the words 'produced in'. It reads:

> (1) An owner of sheep or the carcases of sheep that were sold in Victoria and that were not produced in Victoria ...

I am not quite clear what 'produced' in this sense means. Are we talking about a place of birth? And given that any livestock in proximity to the boundaries of the state of Victoria are often traded in and out of the state, does this capture stock that happens to have been bred in Victoria but has since been transported interstate? And when the animals return to Victoria, are they exempt or not? What does the term 'produced in' mean in this case?

Secondly, in relation to the reference to carcases, the Victorian Farmers Federation makes the case in respect to proposed sections 79HA and 79HB that the use of the term 'carcases' is not appropriate, because stamp duty is collected on sales of live animals, not on

carcases. So the question arises as to why in these provisions we are including the reference to carcases.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I will try to clarify this for the honourable member, but again I am not sure that he is going to concur with the response I give. In relation to sheep 'produced in Victoria', I am advised that this is really sheep that are introduced into Victoria and the way the example he gave — of a sheep that was in fact born in Victoria, went interstate and then came back again — would be looked at is that the sheep was produced outside of the state. I suppose it depends on whether you think birth is production or whether being raised interstate is production, but if the sheep came from interstate even if it was born in Victoria it would come under the definition. Secondly, in relation to carcases, I am advised that the stamp duty does actually apply to carcases.

Clause agreed to.

Clause 48

Hon. PHILIP DAVIS (Gippsland) — This clause extends the application of the Prevention of Cruelty to Animals Act to wildlife. At present pest animals such as rabbits and foxes are exempt from the act. Because native animals are being brought under the act there is a concern that the next step could be to bring pest animals under the Prevention of Cruelty to Animals Act. The Victorian Farmers Federation, through the opposition, is seeking assurance that that is not the intention of the government.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — There are two points: this covers research only, so that is important to note. Secondly, it is wildlife only. It does not cover feral animals, and it is not envisaged that it would cover those circumstances.

Clause agreed to; clause 49 agreed to.

Clause 50

Hon. PHILIP DAVIS (Gippsland) — I have had representations expressing concern about the intention of and reason for clause 50, which enables part-time officers of the Royal Society for the Prevention of Cruelty to Animals to be authorised to be inspectors. Could the minister explain the rationale for this proposal?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — The Prevention of Cruelty to Animals Act only allows the minister to approve a full-time officer of the Royal Society for the Prevention of Cruelty to Animals to be an inspector under that act. That precludes a number of experienced RSPCA officers from working as inspectors on a part-time basis and is affecting the RSPCA's ability to retain staff. The proposed amendment will enable the minister to appoint a full-time or a part-time officer of the RSPCA to be an inspector under the act.

Hon. PHILIP DAVIS (Gippsland) — The points that have been made to me by both representatives of breed organisations and the VFF are that while there is generally a very high regard for full-time officers of the RSPCA in regard to their inspectorate functions, there is concern about the consequences of the appointment of part-time officers who do not have the appropriate level of experience and skills that are required to undertake the duties of an RSPCA inspector. In particular there is concern that there may be an attempt to use these provisions to in effect appoint people to be inspectors as a device to enable them to enter private premises on the basis of their being interested in animal welfare issues rather than being full-time, professional RSPCA inspectors discharging obligations in the welfare of animals. Rather they would be asserting a lobbying and political role, representing a lobby group interest. Creating this device means there is a risk that inappropriate people could be appointed as part-time inspectors and could therefore exercise the powers that are at present given to inspectors.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I think this is a bit of a long bow, to be honest. As I indicated in the comments I made previously, this is about the fact that the act precludes experienced RSPCA officers who are available only part time. It is an attempt to be able to use their expertise. I can assure the honourable member that the minister would not approve officers undertaking these functions except those who are capable, experienced and able to carry out those functions.

Clause agreed to.

Clause 51

Hon. PHILIP DAVIS (Gippsland) — Initially I ask for an explanation of what this clause seeks to achieve.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — This clause amends section 21(1) of the act to extend the inspector powers under that act to also cover the enforcement of the Prevention of Cruelty to Animals Regulations 1997. Two separate classes of inspector are appointed under the Prevention of Cruelty to Animals (POCTA) Act. General inspectors, including RSPCA officers, have limited powers to enter

private premises other than a dwelling without a warrant. These powers are confined to entry where certain offences are suspected and in cases where an animal held on private property is in need of assistance. Specialist inspectors, who are appointed by the minister, have all the powers of general inspectors but can also enter certain premises, with the authority of the minister, for the purposes of inspection and observation. I stress the phrase 'with the authority of the minister'.

The powers of both general and specialist inspectors are exercisable only in respect of offences under the POCTA act. However, as specific cruelty offences are now provided for in the Prevention of Cruelty to Animals Regulations, it is necessary to ensure that general and specialist inspectors are able to exercise the same powers in respect of those offences as well. Therefore it is necessary to provide that inspectors have their powers for the purposes of the cruelty offences under both the POCTA act and the POCTA regulations.

Hon. PHILIP DAVIS (Gippsland) — The minister's answer highlights a concern expressed to me by the Victorian Farmers Federation, which indicates that if it is the intention to allow farmers to be prosecuted for a breach of a regulation without having to be proven to be cruel, this is particularly concerning in conjunction with the part-time RSPCA inspectors and more rights of entry. The point is properly made that regulations are not subject to the same parliamentary scrutiny as legislation. Indeed, under this act, as a result of amendments made in a previous session, there are no powers for Parliament to disallow POCTA regulations.

Section 21(1) allows for very wide powers of entry and searches. It is therefore a great concern that significant authority is now reposed in inspectors who may be part time and that the government is bringing into the act the same enforcement powers as are in the regulations. Because the regulations have not had parliamentary scrutiny, the potential is for farmers to be prosecuted for breaches without having been proven to be cruel.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — In trying to respond, I understand the member's concern about the issue as he has expressed it, but this is about simply clarifying the two classes of inspector available under the act. One class is that of general inspectors, who have certain limited powers to enter private premises, and the other is specialist inspectors, who are appointed by the minister and have additional powers. It is appropriate that those inspectors are able to act in respect of offences under the act. In order to cover the specific cruelty offences currently provided for in the Prevention of Cruelty to Animals Regulations it is necessary to extend that power to those inspectors.

Clause agreed to.

Clause 52

Hon. PHILIP DAVIS (Gippsland) — Again, concern has been expressed to me. On this it has been from the Doberman Club of Victoria and in particular in relation to the new provisions and the implications for privacy under search warrants for premises. Therefore I simply ask that the minister clarify for the committee how warrants will in effect be issued as a consequence of these amendments.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — This particular clause amends sections 21A, 21B and 21C to allow for the issue of search warrants to enable an inspector to enter premises, including a person's dwelling, in which an inspector believes on reasonable grounds there is an abandoned, diseased, distressed or disabled animal or an animal in respect of which a contravention of section 9 of the regulations is occurring.

General inspectors may apply to the Magistrates Court for the issue of such a warrant to search a dwelling where a cruelty offence under the POCTA act is believed to have been committed against an animal in the dwelling, or there is an animal in a dwelling requiring assistance. However, a general inspector cannot apply for a search warrant to enter premises where an offence against the regulations has occurred. The proposed amendments will rectify these anomalies.

Clause agreed to.

Clause 53

Hon. PHILIP DAVIS (Gippsland) — We have touched on specialist inspectors previously, so without belabouring the point, concern has been expressed by the Victorian Farmers Federation again about the powers of specialist inspectors. The proposals taken together allow very strong powers to be used under regulations without ever having to prove cruelty. In this case it will be with the written authority of the secretary, which is indeed more acceptable, but we are seeking a commitment that it is not the intention to use specialist inspectors powers except in exceptional circumstances.

Clause agreed to; clauses 54 to 56 agreed to.

Clause 57

Hon. PHILIP DAVIS (Gippsland) — Clause 57 relates to a significant increase in penalties provided for in these provisions. Could the committee have an explanation, please?

Hon. T. C. THEOPHANOUS (Minister for Resources) — Yes, it is true that the maximum penalty goes from 2 to 10 penalty units, which, in lay terms, is from $200 to $1000, and I think that the rationale is that the maximum has not been increased since the act was made in 1987, which is a very long time ago. This is a maximum penalty and is commensurate with other similar provisions such as in the Plant Health and Plant Products Act 1995 for which the maximum was recently increased to 10 penalty units for individuals and 40 penalty units for companies. Many acts do not include a full infringement notice but leave it to regulations to set the amount. The amendment by itself will not increase any infringement notices. Any increase will require an amendment to regulations on a case-by-case basis but this simply sets the maximum.

Clause agreed to; clauses 58 to 61 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I move:

That the bill be now read a third time.

I would like to thank honourable members for their contributions to the second-reading debate and also on the committee stage, which I think was informative and was able to provide answers to the questions the opposition asked.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

MAGISTRATES' COURT (INCREASED CIVIL JURISDICTION) BILL

Second reading

Debate resumed from 7 October; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Magistrates' Court (Increased Civil Jurisdiction) Bill I indicate to the house that the opposition does not intend to oppose this particular piece of legislation. It is very simple and straightforward, and if one looks at the bill it basically has a purposes clause and three other clauses. It is one of those bills, as the opposition and The Nationals have said on many occasions, that would be a very good candidate for an omnibus bill and so allow this place to function more efficiently and expeditiously.

All the bill does is to increase the money amounts for cases in various jurisdictions. It goes without saying that the various levels of courts deal with different amounts of money in particular cases. As the legislation now stands, the Magistrates Court is able to send complaints involving amounts of $5000 or less to arbitration and is able to deal with cases involving less than $40 000. All this bill does is simply raise those limits for complaints that can be sent to arbitration from $5000 to $10 000 and raise the limit for cases that can be heard in the Magistrates Court from $40 000 to $100 000. Quite clearly you need to keep those limits up to date with the cost of inflation, the general rise in doing business and the types of cases that come before the courts. There is a necessity obviously to update these as time goes by.

The only concern the opposition has — I do not think we have any concern at all about the principle of updating these levels — is that it will bring an extra workload to the Magistrates Court. Theoretically it will relieve workload in the higher courts, but as we know, the Magistrates Court already has a huge workload. It is covering more and more activities, and this will put a lot more activity into that court. It is the court where most citizens of this state who have an experience with the law would go, and therefore it is important that it dispatches its work expeditiously.

The opposition's concern is that this extra workload may have an impact on the speed with which the court can handle its work. Our plea to the government is for it to ensure that the court is adequately staffed. As I said, the Magistrates Court is the court with which most citizens interact, so there is a need to ensure that it is adequately staffed so that it can deal with its work expeditiously, given that it will receive a significant amount of extra work. With those few comments, I commend the bill to the house.

Hon. W. R. BAXTER (North Eastern) — I think Mr Strong may have outdone me on the brevity of the speech I was intending to make! I concur with Mr Strong's comments that this bill really does nothing

more than simply lift the financial limits of the matters dealt with by the Magistrates Court and we have had these bills before — that is true — but I think it needs to be observed that this bill goes somewhat further than that. This is a fairly dramatic increase, and certainly one that is much greater than it would have been if we were basing it on, say, the rise in the consumer price index since the last increase was made. That does not seem all that long ago. I think it was probably in the time of the Kennett government, but it is not that many years ago.

Now the limit is to be increased from $40 000 to $100 000. I do not object to that, but I think what it means — and I think Mr Strong alluded to this — is that it will to a degree change the nature of the Magistrates Court. It will bring, in the one fell swoop, so to speak, a surge of business to the court. A lot of cases that would have been required to go to the County Court, with all the costs that attend appearances before the County Court, which would have previously discouraged people from going there, will now go to the Magistrates Court. Those people will have no compunction about going along to the Magistrates Court, which is seen as being a much cheaper option. I think we will see not just a direct transfer of cases from the County Court to the Magistrates Court but an exponential increase, in the sense that people will now have a jurisdiction they can go to at a much lower cost. They may be tempted to give it a fly, even if their chances of winning are somewhat remote.

My concern is whether the government has turned its mind to resourcing the Magistrates Court sufficiently to enable this added workload, which could be quite a heavy workload, to be accommodated. It has to be observed — and I think we would all agree — that the Magistrates Court is really the workhorse court. It is where all the odds and ends are dealt with, to which the average citizens take their disputes, and it sits in country towns and regional cities on a regular basis, whereas the Supreme and County courts go on circuits to regional cities usually only annually or biennially. But a lot of towns have a magistrates court sitting at least weekly, and in towns like Shepparton and Wodonga have the magistrates courts usually operating more than one day a week.

I do not want persons involved in what are currently run-of-the-mill matters who are to appear before the Magistrates Court to find themselves being placed in a queue because the court is now dealing with matters that are coming to it because of this more than doubling of the jurisdictional limit.

My plea to the government is this: we will go along with this increase in financial limits, but we want an assurance from it that sufficient resources will be put in, and that presumably means the appointment of additional magistrates. Do we have a pool of suitable applicants? Are they sufficiently trained? Do we need to retrain some of the existing magistrates to deal with some of the cases which will now come to their court because of the higher jurisdictional limit and which may be much more complex and may have much more serious effects on persons?

The last thing we want is a group in the community feeling they have been hard done by because a matter which previously would have been tested in the County Court, with all the legal trappings, knowledge and experience that is within that court, is now suddenly to be decided in the Magistrates Court in what might seem — even if they are not in actuality — to be somewhat more amateurish conditions.

I simply make that plea to the government, that it make resources available in the form of buildings, staff and training to ensure that detriment will not be accorded to ordinary citizens who use the Magistrates Court in a much more everyday, fact-of-life way.

Ms MIKAKOS (Jika Jika) — I am very pleased to be able to make a contribution to the debate on the Magistrates' Court (Increased Civil Jurisdiction) Bill. I note that, although it is a relatively short bill, it is nevertheless an important one. The bill seeks to increase the civil jurisdiction of the Magistrates Court from $40 000 to $100 000 and to increase from $5000 to $10 000 the amount under which the court must refer matters for arbitration. These changes will commence from 1 January 2005, although the bill includes a transitional provision that sets out that the amendments apply only to proceedings commenced on or after this date.

As has already been recognised by previous speakers, the reason for these changes is that the Magistrates Court is in fact the court with which litigants do have the most contact. It hears the majority of cases in our state and, being one of the courts at the lowest end of the jurisdiction, it is a bit more affordable and speedier to access. The Bracks government has sought throughout the whole time it has been in office to open up our justice system and make it more accessible to and affordable by Victorians. In making these changes it is seeking to minimise costs and delays to litigants.

I note that the Magistrates Court changes were outlined in the commitments prior to the 2002 state election and also more recently in the Attorney-General's justice statement, launched in May this year, which sets out the government's vision for our justice system for the next

5 to 10 years. The theme of the justice statement was modernising our justice system and also protecting rights and addressing disadvantage. Those themes flow throughout the 25 varied initiatives set out in that document.

Reforming the civil jurisdiction of the Magistrates Court is clearly consistent with the themes contained in the justice statement and also with other changes we have made to the jurisdiction of the Magistrates Court. I note very briefly that in the last few years we have seen a number of reforms to the Magistrates Court jurisdiction.

I note in particular that we have set up specific divisions of the court to address the needs of particular defendants, including the drug court, the Koori court and a proposed family violence court. We have also recently legislated to allow for part-time magistrates, continuing this government's commitment to employment conditions that promote a work-life balance.

In respect of the area of the bill that relates to the increase to the amount under which the Magistrates Court is required to refer a claim to arbitration, I note that, as the second-reading speech states, arbitration is an extremely cost-effective way of resolving disputes and a speedier method of resolving small disputes.

In the context of the Magistrates Court, arbitration involves referring a dispute via an informal court hearing conducted by a magistrate. It is a process that dispenses with many of the formal rules of litigation provided that natural justice is observed. A decision by the court in arbitration has the same effect as if it were made at an ordinary hearing. I note that many of the cases that go to arbitration in the Magistrates Court are uncontested debt recovery proceedings. The figure of $5000 that is set out in section 102 of the Magistrates' Court Act has remained unchanged since the act was originally introduced in 1989. Since then a considerable time has elapsed and it is appropriate that we revise that monetary threshold upwards to reflect a more realistic figure, and $10 000 is a more appropriate figure to allow for such matters to be referred to arbitration.

I note very briefly that in the other place the shadow Attorney-General raised an issue in relation to cost caps in arbitration proceedings. He claimed that under the current regime a successful defendant is better off in relation to costs than a successful plaintiff. I note in respect of this issue that whilst there was an anomaly in the past, this issue has been resolved by amendments to the Magistrates Court regulations passed last year, and it is now the case that costs are capped for successful plaintiffs, defendants and third parties.

I note that both previous speakers and also speakers in the other place raised the issue of the impact this bill would have on the courts' resources. It is not expected that the implementation of this change will impose any extra costs on the government. To account for the change in the workload of the Magistrates Court, reallocation of resources from the County Court will be possible. This might be in the form of additional registrars for the Magistrates Court if that were deemed to be necessary.

We have to remember that no extra cases will be added to the entire court system as a result of these amendments. Plaintiffs with matters falling between $40 000 and $100 000 will now have the option to choose to bring their action in either the County or Magistrates courts. For example, litigants may prefer to have a case heard before a jury in the County Court, although I would expect that most litigants would prefer the more accessible and lower cost forum of the Magistrates Court.

I note also that the opposition in the other place raised an issue to do with expert witnesses. Expert witnesses are prescribed in the Magistrates' Court Civil Procedure Rules. Witnesses giving evidence in an expert or professional capacity are paid up to $200 an hour or part thereof, but not more than $1400 a day. These rules are maintained by the Magistrates' Court Rules Committee, which includes representatives from the legal profession.

The process of making and reviewing the courts' rules are, of course, completely independent from government. Expert witnesses are frequently used in civil cases especially where forensic scientists are called to give evidence, and the court has technology available to it to allow data shows and video conferencing equipment to facilitate the provision of expert witnesses in any of the courts in our state, including the Magistrates Court.

The Leader of The Nationals in the other place raised a concern to do with transcripts which are not provided by the Magistrates Court in civil cases. I note that the Magistrates Court, however, records cases on magnetic audio tape and can make copies available on request to parties at a small cost at the conclusion of the proceedings. In most cases the tapes are retained for three months from the end of the hearing, but if an appeal is lodged or a copy requested, the recordings are retained for two years. A party who wishes to obtain a transcript can obtain a copy of the recording and then

have it transcribed at their own cost by a private transcription service provider. I believe these arrangements balance appropriately the need for parties to have access to a record of the proceedings and to give them an opportunity to take a matter on appeal if that is warranted.

In relation to the matter of court listings, I note that the Magistrates Court presently uses a system of court listing staff and prehearing conference registrars to manage the listing of civil cases. Under the prehearing conference system all cases above $1000 except for motor vehicle accident damage cases are preheard before a trained and experienced registrar. This provides an initial platform for parties to discuss issues in a without-prejudice environment and encourages a negotiated settlement of cases and obviously an initial hearing of what the issues are in the case. The special listing court envisaged by the Leader of The Nationals in the other place is therefore not required as there are currently arrangements in place, which I have just indicated.

In respect to a concern raised both in this place and in the other place to do with the training of magistrates, I note that members would be aware that not too long ago we passed legislation establishing the Judicial College of Victoria as an independent statutory authority in this state with the primary function of assisting the professional development and continuing education of Victoria's judicial officers, including our magistrates. I note in this respect that magistrates are also entitled to a library allowance as part of the remuneration, and there is no plan for this allowance to be altered. The library allowance was increased from 1 July this year following a determination by the Judicial Remuneration Tribunal.

I was seeking to address some of the concerns that were raised by members in this house and in the other place. I believe I have addressed all the issues that were raised. I say by way of conclusion that the passage of this legislation is aimed at making our justice system more accessible and affordable to litigants in this state. The changes contained in that legislation will seek to strengthen our court at our lowest level. I believe it is an important initiative and one which I warmly welcome.

Hon. R. H. BOWDEN (South Eastern) — I rise to make comments on the Magistrates' Court (Increased Civil Jurisdiction) Bill. I would be pleased to be corrected but I may be the only member of this house who has ever served on a Magistrates Court bench. I did that for a period of about four years from 1980 to 1984 as a justice of the peace (JP). I had experience in Frankston, second division, Hastings, second division, and sat regularly at Springvale, second division, and I found it a very rewarding experience to serve the community on the bench as a JP.

I found that my service in that role at the time was able to bring to me an appreciation and understanding of many circumstances in the community which I would not have otherwise had the opportunity of learning about. My comments on this bill — if I may be forgiven the comment — are based on some little experience and some thoughts that I would like to share with honourable members.

First of all, as we know we have three fundamental levels of jurisdiction in the state: the Supreme Court, the County Court and the Magistrates Court. In recent times, particularly over the last 10 years, there has been a very noticeable increase in the use of the Victorian Civil and Administrative Tribunal (VCAT). That tribunal has heard a number of cases which in past times would have been referred to the County Court. I do not know whether VCAT is a jurisdiction in terms of a level, but it is certainly much more visible.

I will concentrate on the Magistrates Court. It has two fundamental divisions: its criminal jurisdiction and its civil jurisdiction, within which it is authorised to hear matters. This legislation will be helpful because it will involve lower costs for both litigants and the court system. The Magistrates Courts will now be able to hear civil matters involving sums of up to $100 000, which level has been raised from the current level of $40 000. That will enable more rapid finalisation of litigation involving substantial amounts of money. It will be helpful to the community if complaints involving sums between $5000 and $10 000 are referred to arbitration, because its less formal arrangements mean cases can be handled expeditiously and without a lot of the cost and difficulties associated with more formal court hearings.

It has been said that the Magistrates Court is intended to be the court that is the closest to the people. I am faced with a slight dilemma with one aspect of this bill. I have no quarrel with the belief that the Magistrates Court is the court closest to the people; it has been and it must be in the future — on the statistics it is the court where about 95 per cent of the interaction between the law and the people takes place. It is the closest court to the people, and there is within the government and also within many circles of the community an acute sensitivity to the need for the court to be always very responsive to and understanding of the need to dispense justice openly, fairly, compassionately and expeditiously in its operation.

I have concerns about lifting the jurisdiction of the Magistrates Courts up to $100 000. Even by the inflated dollar standard of the current year, that is a large amount of money. It is not so long ago — maybe 10 or 15 years ago — when $100 000 was a major amount of money, and it was beyond dispute that those cases should be subject to consideration by either the Supreme Court or the County Court. The difficulty I have with it is that if the Magistrates Court is able to make decisions involving $100 000 or thereabouts, I am not sure that it will be functioning closest to the people.

It is good that there will be a mechanism that will involve lower costs, and it is good that arriving at decisions will be faster, but I think the practices and deficiencies of the Magistrates Courts in recording and processing documentation leave a fair bit to be desired, particularly because its decisions will inevitably be challenged in superior courts. The government has a major obligation to provide enhanced documentation capability and substantial staff training, and it must recognise that the facilities and the abilities of the Magistrates Court system throughout the state must be enhanced so that the extra responsibility can be handled in a very professional way.

There will be a big difference — even though there should be no difference in the quality of decisions — between a decision made in a Magistrate Court for a few thousand dollars and a decision made for a case involving $100 000 and the impacts they may have. Therefore the capabilities and resources available to the Magistrates Court have to be given a great deal of contemplation and positive treatment by the government.

I asked the parliamentary library to research some information, which I found interesting, and I hope honourable members will also find it interesting. The number of magistrates in Victoria in 1981 is not precisely known, but it is believed by the department to have been around the 60 mark. We have no figures for 1984. In 1990 there were 88 magistrates, in 1996 there were 94 magistrates, in 2000 there were 96 magistrates and currently we have 100 magistrates plus 9 acting magistrates. The present salary of a magistrate is approximately $167 000 per annum plus benefits, so the cost of the 100 magistrates plus the 9 acting magistrates, each with a base salary of $160 000 per annum, is quite substantial.

I also suggest to honourable members that we are now approaching a figure where we should look at the cost of the Magistrates Court in relation to the volumes handled. The Council of Magistrates, Victoria publishes statistics in its annual reports, which the parliamentary library has been able to provide, and I will refer to these just to give honourable members some basic idea of the numbers of cases we are talking about.

The annual report for 2000–01 indicates that just fewer than 100 000 cases were finalised in the criminal jurisdiction. In the period 1997–98 to 2000–01 there were just under 5000 annual disposals in the civil jurisdiction in formal hearings.

And there are some updated statistics. During 2001–02, the total number of civil complaints was down 7.7 per cent to 71 485; defence notices were down 3.1 per cent; defence notices filed in the $10 000-plus category were up 41.5 per cent since 1997–98. In the criminal jurisdiction the number of criminal prosecutions during 2001–02 was up by 5.3 per cent, and there were 96 006 criminal prosecutions finalised — some 0.9 per cent above the previous year. Interestingly intervention orders were up 18 per cent since 1998–99.

The annual report of 2002–03, under the section headed 'Criminal prosecutions lodged', shows that a total of 116 812 arrest and summons cases were initiated, which is an increase of 16 per cent. Criminal prosecutions finalised were up 24 per cent to a total of 120 057 cases.

In the short time remaining I would like to suggest to honourable members that the time has come to take a good, hard look at the benefits for the community of having justices of the peace. Justices of the peace have a long and credible history going back more than 900 years in the British system that we have adopted and operate with our local variations and legislative base.

As a justice of the peace of some considerable years membership I have to suggest to the chamber that the justices of the peace are honorary. Many justices of the peace would be willing to take appropriate training, and the cost to the community is quite modest. There are no reimbursements or salary considerations whatsoever.

There are also important considerations where if we truly believe — I and others do — that the Magistrates Court should operate as a credible hearing place in the community close to the people in the interests of maintaining and being able to apply justice under a legislative framework close to the people, then for those classes of cases and those types of cases where the community can be relied on to maintain, hear and judge those cases according to its standards there are significant benefits in a consideration of returning the justices of the peace to the bench. I know there is

substantial opposition by the professional legal fraternity to such a concept, but they come from a position of interest that should be factored in.

In terms of maintaining standards and community service and being able to tap community values and sentiment under a legislative umbrella, the justices of the peace have done that successfully for more than 900 years. It is my understanding that Victoria is the only state in Australia where justices of the peace may not sit on the bench and hear cases under jurisdiction of the statutes. In other states justices of the peace often do not sit, but Victoria specifically legislated that they must not sit. It is time for a review.

With the Magistrates Court approaching the $100 000 limit I think the court is getting to one extent, on one factor at least, away from the concept of being close to the people. There are real benefits in giving the Magistrates Court the ability to hear cases of greater value and import. Of course the cost considerations are important, but the remoteness now of the court system from the people is not good. A careful and detailed evaluation of the benefits of justices of the peace would be quite rewarding, potentially of great cost value to the government and of great value to the Victorian community at large.

I support the changes — they are sensible and logical — but I respectfully suggest to the government that the time has come for the justices of the peace situation to be properly and honestly reviewed.

Ms HADDEN (Ballarat) — I rise to speak in support of the Magistrates' Court (Increased Civil Jurisdiction) Bill. It has been a long time coming, because I can remember the days when the top limit in the Magistrates Court was $25 000. Things have progressed; salaries have progressed. The cost of items has increased, and most small claims are often for more than $5000. Civil matters are often over the $40 000 limit, which has certainly made the closure and settlement of a dispute difficult and restrictive.

The bill increases the civil jurisdiction of the Magistrates Court from $40 000 to $100 000 and increases the jurisdictional limit under which a small claim must be referred to arbitration from $5000 to $10 000.

The bill comes into operation on 1 January next year, which gives time for the Magistrates Court and the Chief Magistrate to gear up for any anticipated workload. I am confident that the Chief Magistrate will monitor the increase in the Magistrates Court jurisdiction in respect of civil claims and the rise in the arbitration limit and will certainly monitor the question of resourcing.

Earlier I was asking around the chamber how many magistrates we have, because I thought we had about 97 or 98, but I thank Mr Bowden for telling me that we have 100 magistrates plus 9 acting magistrates. From my long experience working at the coalface in the Magistrates Court before coming to this place and my keen interest in the Magistrates Court generally across the state, I do not see a need to increase the number of magistrates, even with an increase in the jurisdiction. From the information that has been provided to this chamber by Mr Bowden, from the annual report and from Mr Baxter's contribution to the debate, there are enough magistrates to deal with the load that may be expected. I could cite some courts where the magistrates like to clear the list by lunchtime so they can go off to play golf in the afternoon. That is not a rare occurrence either, but I will not name them for fear that I might have to come before them in the future. One never knows one's luck. I believe there is room for an increased workload for the magistrates so that they sit a full day. I appreciate that they have to read, but we all have to read. I do not know anyone in this chamber who is able to get out of reading and researching outside the sitting hours of this Parliament. We all do it, and it is expected of us. I certainly do not complain about that.

As I said, the resourcing issue is one that the Chief Magistrate will have in hand, and I am sure he will not be backward in coming forward in putting a case to the Attorney-General and the government if the situation looks like getting out of hand. The maximum in the civil jurisdiction of the Magistrates Court was increased to $40 000 in 1996 and the limit for claims that had to be referred to arbitration was set at $5000 in 1989. Some 15 years have passed, and I do not see too much of a jump from $5000 to $10 000 for those sorts of claims. It will make the court more accessible and low cost for the general population. A $40 000 limit for a civil claim was certainly a problem, in that it denied people the right to go to court to seek civil redress if they were a few dollars over the $40 000. If your claim was $10 000 or $20 000 over the $40 000 cap, then you either had to forgo the difference in the claim or go to the County Court and issue proceedings. It is a much more complex jurisdiction and is much more expensive, and it certainly takes a lot longer to resolve the matter.

I welcome the increase in jurisdiction. I have been waiting for this for a long time. It was a commitment of the government leading up to the 2002 election to increase the jurisdiction to these limits, so it has been

not something we have suddenly introduced by surprise. I look forward to the Magistrates Court going from strength to strength.

Mr Baxter raised the issue of resourcing, which I have dealt with from my practical experience in the jurisdiction. There always has been and always will be a cost penalty for frivolous claimants and vexatious litigants. That was pointed out by magistrates early in the piece and was also pointed out by the registrar at the counter of the court. I agree with Mr Baxter that the Magistrates Court is the workhorse court for the average citizen. I do not see it taking itself away from the people because of the increase in jurisdiction. The increase has been a long time coming and will work itself out. We have 100 magistrates who are all qualified and should be able to deal with any increase in jurisdiction. No doubt there will be an increase in workload, because people will have an increased limit within which to access the court with their disputes.

In finalising my contribution to the debate, which is probably one of the shortest speeches I have made in the house — —

Hon. C. A. Strong — It is a short bill.

Ms HADDEN — Yes, it is a short bill, Mr Strong, of only five clauses. The legislation comes into operation on 1 January 2005, which gives enough lead time for the court to look at accommodating an increase in the jurisdiction. I welcome it and commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In so doing I wish to thank honourable members in the chamber for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

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

That the house do now adjourn.

Mitcham–Frankston freeway: tolls

Hon. A. P. OLEXANDER (Silvan) — I wish to raise for the Premier a matter regarding tolls on the Mitcham–Frankston tollway. This week is a little bit of election deja vu for Victorians in the outer east of Melbourne. This week Victorians in the outer east began to hear for the first time of the daily tolls that they will be required to pay for using the Scoresby. They will be being tolled $6.50 for a one-way trip on a daily basis. This week we have begun to hear that the Premier will soon announce the company that will build and operate the tollway, and this week we have heard that Mr Bracks and his government are to consign us forever to paying tolls and that the tolls will rise each year with inflation.

If anyone believed Mr Bracks did not knowingly deceive electors at the last election when he promised no tolls, this week they realised that the Premier has real form. For months the Premier has deliberately delayed awarding the tollway contract. He has deliberately delayed and suppressed details of the tolls we are to pay, and he did it to improve the Labor Party's election prospects. In 2002 he deceived, and last week's leaked documents proved that. Now the Premier has been caught putting votes before the community yet again.

I ask the Premier to explain to the people of the outer eastern region why not once but twice he has deceived voters there, treating them with the contemptuous arrogance of a Premier who cares more for votes than for the people of the outer east.

Community services: funding

Hon. P. R. HALL (Gippsland) — Tonight I wish to raise a matter for the attention of the Minister for Community Services in the other place regarding care packages. In recent months I have received a number of calls from carers and recipients of community care services protesting about increases in the cost of these services. In particular Latrobe City Council and Co Care Gippsland have been the target of those criticisms, so I pursued the matter with both those organisations.

Co Care responded in part by sending me a copy of its media release dated 9 September, in which it outlined the difficulties it faces as a service provider. It listed

seven programs under which it delivers services, including Linkages, which is part of the home and community care program, and a range of others. They are a mixture of both commonwealth and state government-funded programs. Importantly, in its media release it said:

> In Gippsland ... there are a number of different streams of funding for care in the community, funding levels have not kept pace with demand. Increasingly the community are demanding complex and high-care needs previously provided in residential care to be provided in the home. The actual funding provided for packages has not kept pace with CPI or the real cost of delivering those services. For example, the Linkages program —

that is the home and community care program —

> has had no additional funding provided and not received any CPI growth in 12 years, therefore over time the value of the package diminishes.

In its reply Latrobe City Council outlined that Co Care purchases the services from it and mentioned that because of the award under which its workers operate it is required to increase the payments and the overtime rates, particularly for its service providers, which have now had to be passed on to the recipients of community care services.

The problem is both a state and federal government one. I am certainly not apportioning blame to Co Care Gippsland or the Latrobe City Council, because I can understand the cost pressures on them in delivering their services. Unfortunately though it is the people who can least afford it who have been asked to bear the difference in cost between what is provided by the state and commonwealth governments and the cost of the services, and that is placing real financial hardships on those least able to afford to make those increased payments.

It is a state and commonwealth problem, and my request to the minister tonight is in the first instance to increase funding to those state government programs, in particular to meet the needs of the recipients, and also to lobby the federal government so that we have a better coordinated system of delivering these important programs for people in such need.

Cowes: wharf

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Transport in the other place in relation to an aspect of port infrastructure. For a long time the wharf at Cowes has served Phillip Island and the Western Port region in quite a substantial way, but according to the standards it is regarded as a small wharf and it is certainly quite limited in the types of vessels that it can bring alongside or service.

We understand that next February Phillip Island will be fortunate enough to host a visit from the *Queen Elizabeth II* — the QEII — as part of its cruise program, and as honourable members know the QEII is a vessel of very large proportions. It will be a substantial visitation by a well-noted and important cruise line vessel, so we are all looking forward to February next year when the QEII visits Cowes.

Prior to the 2002 election it was the opposition's policy to commit — and we did — to the enhancement, expansion and construction of a much more substantial wharf at Cowes to better cater for opportunities for Victoria in the tourism area, in particular by enabling cruise ships to visit Western Port and to make Victoria more attractive as a destination and tourism area for cruise operators. In the past few months I have been unable to obtain any information about what is happening. I have written letters but not been able to get any real information. I would value the minister providing a clear-cut idea of exactly what is happening and, if he is able, giving some time frame.

If the wharf at Cowes is expanded and made capable of handling large cruise ships, it will have the ability to accommodate a possible car ferry link between the Mornington Peninsula and Phillip Island. That is the missing link on an acknowledged tourist route from New South Wales to South Australia. Should the upgrading of the wharf at Cowes happen — and I hope it will — we will have the opportunity to accommodate a car ferry service to the peninsula and by providing that missing link make a valuable contribution to tourism opportunities for our state. So my question is: will the minister examine the wharf at Cowes as an upgrade possibility and let me know what is happening?

Disability services: accommodation

Hon. D. K. DRUM (North Western) — My adjournment question is addressed to the Minister for Community Services in the other place and relates to shared supported accommodation, and in particular the government's policy on Kew. I have been looking at some research by a lady called Deborah Holmes, who runs a place in Melbourne called the Avalon Centre, which provides support services for people with disabilities. She has been to the United Kingdom and visited a number of institutional-style care units, and she has done a very extensive report on some of those places.

She visited the Hansell organisation, which has over 250 clients. It offers a whole range of activities, obviously depending on the varying abilities and disabilities of the people there. She also visited Botton Village, which has 350 'villagers' in care. She also travelled throughout Scotland and northern England. Formerly there were 350 residents at St Catherine's on a big farm. That number has been cut back by putting into the community people who are more able and fit to be there, but there are still 80 residents in the facility who are simply unfit to go back into the community. At Ravenswood in Berkshire there are 180 residents.

Ms Holmes's report talks about the people in Victoria, in Australia and overseas who, like all of us, deserve a choice of accommodation being made available to them. We all enjoy being able to live in the type of accommodation that suits us best. I ask that the Victorian government also provide that same choice of accommodation for people who have mental disabilities. I call on the minister to supply examples of other governance areas where they have totally done away with any form of congregate or institutional care and to look at the type of literature that is backing up the government's current attitude.

Emergency services: Wallan

Hon. E. G. STONEY (Central Highlands) — I raise a matter for the Minister for Police and Emergency Services. It regards an opportunity to establish a co-located emergency service facility in the township of Wallan. In a letter the Mitchell Shire Council says it:

> ... has been briefed on the proposed establishment of a 24-hour police station in Wallan and the upgrade of the CFA complex —

in the area. It requested that, because Wallan is expanding so quickly and there will be a lot of future expansion, it would be a good idea to establish a co-located emergency service facility incorporating the police, Rural Ambulance Victoria, the Country Fire Authority and the State Emergency Service, and suggested that this action might happen simultaneously.

The Mitchell shire is growing like topsy; it is the fastest growing municipality in regional Victoria, with a growth rate of 4.5 per cent. The township of Wallan is expected to reach a population in the vicinity of 15 000 very soon. The shire believes a wonderful opportunity exists for an excellent co-located emergency service facility to be developed at a key location in Wallan, and it cites successful complexes that have been co-located at Lorne and Diamond Creek. I understand that funds are available to prepare plans for such a complex. I ask the minister to facilitate the finance to create such concept plans with a view to creating a very important facility in a fast-growing area in Victoria.

Rail: Shepparton crossings

Hon. W. A. LOVELL (North Eastern) — I wish to raise a matter with the Minister for Transport in the other place regarding the Shepparton section of the Melbourne–Tocumwal rail line. That line currently passes straight through the middle of Shepparton, where it crosses two major roads: the Goulburn Valley Highway just south of Victoria Lake on Wyndham Street, and the Midland Highway on a busy section of High Street.

At around 8.30 a.m. yesterday the boom gates on the Goulburn Valley Highway crossing in Wyndham Street came down and, due to a malfunction, stayed down for 90 minutes. This caused havoc in peak hour traffic, with traffic banking up and impatient drivers attempting to drive over nature strips to do U-turns. The delay on the main thoroughfare leading into the central business district caused many people to be late for work.

The other main crossing on the Midland Highway in High Street has been the subject of contention for many years. The crossing is just near the Shepparton railway station and is often closed for long periods while trains shunt backwards and forwards across the highway. Debate about ways to improve this crossing and whether an overpass is needed has been continuing in the Shepparton community for over 30 years.

With the building of the new Shepparton ring-road due to commence in the near future and with the new freight hub to be built on the Toolamba Road, now would be the ideal time to investigate realigning the railway line to skirt around the outskirts of Mooroopna and Shepparton; it could follow the route of the new ring-road. The removal of the rail line from the city centre would significantly improve safety and traffic flow in the city of Shepparton as well as allow for significant development to occur on the current railway land.

I call on the Minister for Transport to conduct a feasibility study into the relocation of the Shepparton section of the Melbourne to Tocumwal railway line. It should study the removal of the rail line from the city centre and its relocation so it runs parallel to the Shepparton bypass road.

Responses

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Andrew Olexander raised the matter of the Mitcham–Frankston freeway and issues in relation to that. I will refer this to the Premier.

The Honourable Peter Hall raised a matter in relation to the coordination and costs for community service programs in the Latrobe Valley and Gippsland region. I will refer that to the Minister for Community Services in the other place.

The Honourable Ron Bowden raised the matter of the potential for a wharf upgrade in Cowes. I will refer that to the Minister for Transport in the other place.

The Honourable Damian Drum raised the matter of shared supported accommodation and the alternative models which might be considered. I will refer this matter to the Minister for Community Services in the other place.

The Honourable Graeme Stoney raised the matter of co-located emergency services in the Wallan area and the potential for the development of some concept plans. I will refer this to the Minister for Police and Emergency Services in the other place.

The Honourable Wendy Lovell raised the matter of the Melbourne–Tocumwal railway line and the crossing on the Midland Highway. I will refer this to the Minister for Transport in the other place.

Motion agreed to.

House adjourned 5.01 p.m.