PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

15 March 2000

(extract from Book 2)

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Wednesday, 15 March 2000

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.02 a.m. and read the prayer.

The PRESIDENT — Order! I advise honourable members that the device on the table in the middle of the chamber is testing the ambient air quality. It is part of an occupational, health and safety review of the whole building. The device will be with us during the day and it may give the occasional beep.

ELECTRICITY: YALLOURN DISPUTE

Hon. PHILIP DAVIS (Gippsland) — I move:

> That this house condemns the government for its incompetence and mismanagement of the recent electricity crisis.

Victoria has not experienced such incompetence in public administration since the Kirner government of the early 1990s. Despite having all the necessary instruments and moral authority to maintain the security of our electricity supply, the Labor government sat on its hands until the lights went out.

Honourable members interjecting.

The PRESIDENT — Order! It is traditional to give the honourable member a few minutes to develop his case. I ask honourable members on both sides of the chamber, but particularly those on my right, to desist from interjecting and to listen to what Mr Davis has to say.

Hon. PHILIP DAVIS — Thank you for your assistance, Mr President. Frankly, I do not need any assistance from the Chair because the rabble on the other side, which calls itself the government, is so incompetent that any interjection has little effect, just as Labor had no effect while Victorians were anticipating the effects of a major crisis. The evidence was available for months. The issue was then allowed to develop into a crisis, which has been acknowledged by all commentators, industry organisations and the opposition.

Honourable members interjecting.

The PRESIDENT — Order! There is no way that members of the house who want to follow the debate can hear Mr Davis. I ask honourable members to desist from interjecting and allow the honourable member to develop his speech. The house will then hear from the Minister for Energy and Resources and other members of the government and opposition. I ask the house to allow Mr Davis to develop his speech.

Hon. PHILIP DAVIS — Thank you for your intervention again, Mr President. One can only conclude that the government does not want to hear what the opposition has to say. It has demonstrated over the past two sitting weeks that it is reluctant to face up to the issue. The Minister for Energy and Resources, who is responsible for this matter, has avoided answering any questions put to the government by the opposition. She has been obfuscating on straightforward matters. The minister could have dealt with the issue and satisfied the people of Victoria and Parliament that the government has addressed these matters appropriately. Instead, because of her and the government's incompetence and collective failure to address the management issues associated with the electricity industry dispute at Yallourn and subsequent power outages, Victorians have been bewildered at the anarchy in industrial relations, particularly in the energy industry.

Hon. Kaye Darveniza interjected.

Hon. PHILIP DAVIS — The minister will not be long in this place because she is not prepared to treat this place courteously. The government has treated Parliament with contempt and has ignored the opposition's specific questions put to the minister. If it continues to do that it will eventually pay the ultimate price. I am sure government members will respond to the opposition by blaming the former Kennett government.

Honourable members interjecting.

The PRESIDENT — Order! I ask Mr Davis to address his remarks through the Chair so that he does not develop as much heat from government members. I ask members of the government to desist from interjecting.

Hon. PHILIP DAVIS — There was a continuation of the denial until the government was confronted by complete anarchy. The government was eventually forced to step into the power dispute at the urging of Yallourn Energy, the opposition and industry organisations. Many Victorians knew about the government's incompetence and mismanagement because traffic lights went out when they were driving home from work. People on dialysis machines had their treatment stopped. Indeed, as Mr Hall has suggested, rotating milking platforms came to a standstill. Dairy farmers and their cows experienced considerable difficulties.

Clearly, the inconvenience of this interruption of electricity supply significantly affected all Victorians. The whole state suffered a significant economic loss, especially small businesses.

Hon. Kaye Darveniza — Did you think about that when you sold it off?

Hon. PHILIP DAVIS — You are so predictable. I said earlier that the government would blame the former Kennett government.

Honourable members interjecting.

The PRESIDENT — Order! The house can listen or proceedings can stop, but I will not have that cacophony going on all the time. I ask honourable members to let Mr Davis develop his speech. Government members may respond in due course.

Hon. PHILIP DAVIS — I am endeavouring to establish the opposition's argument that taking action in the matter is entirely at the discretion of the Victorian Labor government. All the instruments the government has available to it to deal with the electricity industry dispute are the same as those that were in place prior to privatisation. Indeed, the government had more instruments available to it to deal with a dispute that had the potential to and subsequently did interrupt electricity supply than were available to the Kennett government when difficulties arose in the restoration of production at the Longford gas facility early last year.

Honourable members will recall the significant industrial disruption that occurred while the refurbishment of the Longford gas processing plant was undertaken. Not only did the former state government provide moral leadership by articulating a position on the industrial issues that were threatening the completion of the works necessary to guarantee winter gas supply, but it joined with Esso and the contractor employers to put a case to the Australian Industrial Relations Commission to secure orders to ensure that the industrial disputation ceased. Consequently, the necessary work was completed, notwithstanding the hot industrial environment. The Victorian public was well served by the former government's action.

It is a pity that the Bracks Labor government and the Minister for Energy and Resources failed to understand their responsibilities to secure the electricity supply. They were given ample warning of the prospect of there being difficulties with supply. As I have done previously, I refer to letters sent by Yallourn Energy to the government through the minister on 11 November and 29 December last year and 5 January this year.

The government was well apprised of the problems. I note that notwithstanding questions put directly to her about the matter, the Minister for Energy and Resources has failed to advise the house of the correspondence she received, even though as I understood it she gave an undertaking to do so. She now has the opportunity to respond to those unanswered questions.

Hon. M. A. Birrell — Table the correspondence.

Hon. PHILIP DAVIS — As Mr Birrell says, it would be helpful to the house if the correspondence were tabled. Not only was advice from the employer about the specific dispute available to the government, it was evident to the public at large that there was a potential problem.

So far as I have been able to establish by referring to some newspaper articles, the warnings in the public domain appeared as early as 17 November last year. On that day the *Age* reported that:

> The threat of industrial action has sparked fears that Victorian households may face the risk of electricity shortages or price hikes.

That was reinforced progressively through January. The *Australian* reported on 11 January that:

> Victorians could face blackouts and electricity shortages this summer following the shutdown of one of the state's major power stations …

It is clear that the warning was given in the context of the advice offered about ambient temperatures and inevitable blackouts if other power stations failed.

As I have confirmed, Yallourn Energy was keeping the government informed, advising it of its difficulties and the risk to electricity supplies. The same was true of the national electricity market regulator, Nemmco. According to the *Age* of 11 January:

> Dr Charlie Macauley, the general manager of operations for the National Electricity Market Management Company … said power supplies in the three states would be 'grim' next week if the temperatures rose above 27 degrees for more than one day.

In answering questions and during debate on the issue in the house the minister has clearly said that she is fully apprised of the reports on power availability and reserve capacity that Nemmco is required to provide to the government. I am therefore surprised that the government and the minister have suggested there was nothing the government could have done until the lights went and load shedding occurred.

I note that the *Herald Sun* also gave similar warnings on 11 January, 12 January and so on. Without reciting

in full the information that was available in both the daily press and industry bulletins, clearly the government had been given ample warning — —

Hon. T. C. Theophanous — What, from the *Herald Sun*?

Hon. PHILIP DAVIS — You may not read newspapers, Mr Theophanous, but I am sure members on your front bench do. Perhaps that is the difference between you and them. The government was properly informed in a formal sense. The minister has acknowledged — —

Hon. T. C. Theophanous interjected.

The PRESIDENT — Order! Interjections relevant to debate will be endured, but those that are irrelevant will not. I ask Mr Theophanous to desist.

Hon. PHILIP DAVIS — The house has been given the evidence in the form of the minister's remarks that she was apprised of the reporting protocols of Nemmco. She has acknowledged that the information was available to her. What she has not declared is whether she sought separate briefings from Nemmco to better inform herself of the situation. I will be interested to know if she is prepared to say whether or not she did. I note with interest that as the state moved towards 3 February, when the unscheduled — —

Hon. K. M. Smith — Blackouts.

Hon. PHILIP DAVIS — When the unscheduled blackouts, if you want to use that word, occurred — —

Hon. T. C. Theophanous interjected.

Hon. PHILIP DAVIS — You are a dill, Mr Theophanous! Whose system is it? The electricity system is a regulated system that is in the hands of the state government to the extent that it is prepared to intervene and use the powers that are provided.

I quote for the edification of Mr Theophanous, given his acknowledgment that he does not read newspapers, an article in the *Age* of 12 February, which says in part:

> The restrictions that the state government had imposed in response to the industrial dispute at Yallourn Energy were apparently so rigorous that surplus electricity became available and was sold to New South Wales, where demand was high.
>
> By the logic of markets, this transaction was an efficient use of an available resource: surplus capacity must go somewhere.

The editorial further states:

> What is at issue here is not privatisation; the power utilities in other states remain in public ownership, but they too are part of the common market in electricity.

It is irrelevant who the owners of power stations are. What is relevant is the way the system is regulated. The system has been established to ensure there is a competitive market so that electricity is generated and sold at the most efficient price.

The reality is that the power to intervene available to the current government is the same as the power to intervene that was available to the previous government. Clearly the previous government was prepared to act in response to a threat to the supply of energy, as it did during the Longford gas crisis.

It is evident that the government has failed to understand that it has a responsibility to govern. At issue is the competence of the government and its responsibility for public administration.

Mr Theophanous wants to join the debate. I invite him to do so subsequent to my contribution. All the public references I have seen were consistent in warning the government to take action to prevent a disaster that was self-evident, because all Victorians were being informed on the issue. I can only presume that the government was informed because we know that Yallourn Energy and Nemmco were providing briefings.

I am advised that Nemmco briefed the Victorian government on 13 January about the possible blackouts from the Yallourn W dispute. Given that the South Australian government was provided with the same briefings on the subsequent day, it would be extraordinary if the minister and the government maintain the position that they did not know those events could occur. If they did not know I question their competence.

During January with the advice provided through the normal briefings from Yallourn, through daily correspondence and via the media, clearly the government failed to take action. It is an indictment of the government that it was reluctant to act; that was evident in its continual denial that there was an issue and that it had any responsibility. The excuses were based on the premise that the government had no responsibility to secure Victoria's electricity supply. On 8 December the *Age* refers to correspondence from Yallourn Energy. Mr Johnston, the CEO, is reported as saying that he:

> … had written to Mr Bracks in an attempt to brief him on the dispute, but the Premier had not responded.

> Mr Bracks said yesterday the government had no role in the dispute because Victoria did not have any industrial relations system.

What a cop out! What weasel words! The Premier is condemned by his own words because ultimately he intervened and must have known that he did have that power. In reality, he had the opportunity to put a case in the public domain and to make a moral argument. As has been demonstrated previously he had the capacity to make representations in the interests of the state through the Australian Industrial Relations Commission. He had the capacity to talk to the employers and employees under the powers vested in the Essential Services Act and the Electricity Industry Act. The Premier was ultimately compelled to intervene.

The Acting Premier also tried to weasel out of taking responsibility. Many would say that a political career was finished by his inability to understand that he had a responsibility as a competent member of government to take a competent position. I suggest that if the minister, who has been trying to weasel out of it in this house for the past couple of weeks, does not show more commitment in taking responsibility she will also suffer the same political fate to which the Deputy Premier has been consigned.

Hon. T. C. Theophanous — What's new? It's all in the papers.

Hon. PHILIP DAVIS — Mr Theophanous obviously has not read the press. If he had he would know, as I do, that those warnings had been made. Although the Deputy Premier tried to weasel out of his responsibility, it is clear that the National Electricity Market Management Company had advised that if the dispute was not resolved power demand increases during hot weather would cause shortages. All that evidence is well documented.

One of the important aspects of the parliamentary process and the Westminster system is that it provides a forum to create community leadership through the appointment of a government. Notwithstanding the change of government, I am disappointed that Victoria has gone from having clear, direct and well understood leadership on policy issues to one of confusion in many respects. The Premier had an opportunity to show leadership. On 18 January the *Herald Sun* editorial headed 'Time to lead, Mr Bracks' reports:

> The government has invoked the same Pontius Pilate approach to justify doing nothing about the Yallourn power station strike threatening our electricity supplies …

That encapsulates what the government is missing. It does not understand the role of government as a community leader and of taking a position on issues that affect the whole community not only when dealing with a simple, clear commitment to the nuts and bolts of administration but when dealing with agenda setting. It is unfortunate that the government has been negligent in leading the community on any issue, let alone the electricity industry dispute. The editorial was coincidental to the day of load shedding. On 3 February the *Herald Sun* editorial reports:

> The Bracks government must stop taking the Pontius Pilate option while allowing industrial chaos to crucify the state.

Later that day load shedding occurred. From that point intervention measures came into play. The Premier returned from overseas and, unlike the Acting Premier and the responsible minister, recognised that Victorians would not tolerate the difficulties imposed by an unnecessary level of load shedding in ways that were inconsistent with maintaining an orderly society. That led to some degree of overreaction by the government about the level of restrictions imposed. Unfortunately, given that the government clearly does not understand and has not understood the way the electricity market operates, it and the Premier were expressing disappointment that electricity that was generated in Victoria was sold interstate while restrictions were in place.

If the government had not misunderstood the nature of the marketplace and had not imposed restrictions that were more draconian than necessary during the days following load shedding some of the interstate sales may not have occurred. As the crisis unfolded the government failed to clearly and concisely comprehend what was required to manage through those few days.

Hon. T. C. Theophanous — What would you have done?

Hon. PHILIP DAVIS — I don't mind the interjection, but I become frustrated when it appears that Mr Theophanous has taken no interest in anything I have said today. I have already been through it, Mr Theophanous.

Ample warnings were given that the government should provide leadership and move to resolve the dispute. It should have ensured the parties to the dispute understood that the government would have no recourse but to invoke measures available to it to guarantee the supply of electricity throughout Victoria. Those measures are far more significant than those available during the former government's management of issues associated with the redevelopment of the

Longford gas installation; that process could have put winter gas supplies at risk.

Mr Theophanous may or may not take note of what I have said. However, the government had the opportunity to anticipate events. The opposition was advised by the government that the major incidents committee of cabinet had been meeting throughout January to monitor developments. The Minister for Industrial Relations and the Minister for Energy and Resources have talked about monitoring the situation and about being in constant touch with what was occurring as developments evolved, but I am intrigued to learn that the government seemed to have no plan of action. It was in a state of denial, as has been demonstrated. The government claimed it was not responsible for attempting to settle the dispute; it claimed it had no powers to intervene.

Only after the electricity supplies failed was the government coerced by public outrage to act. I note that the blackouts and load shedding that occurred on 3 February resulted from the government's failure to deal with what were, essentially, critical issues — that is, the point at which it had to judge that power supplies in Victoria were at risk. It failed to make that judgment competently. The argument made by the opposition about the issue revolves around what options were available to the government, as I said earlier.

It is with some regret that I have moved the motion. I did so to give the house the opportunity to express its view about the performance of the government on a serious issue of public administration. My preference would have been for the government, through the Minister for Industrial Relations and the Minister for Energy and Resources, to have responded precisely to questions asked by the opposition during the first few days of this sessional period. But the Minister for Energy and Resources has tried to avoid any responsibility and, more importantly, has not answered questions put to her two weeks ago by me, my colleagues on the front bench and the Honourable David Davis. The minister has consistently avoided her obligation to give an account of herself in this place. Her performance has been disgraceful, which is a shame because as a new minister she has displayed a failure to understand the forms of Parliament; she has failed in her responsibility through Parliament to the Victorian public.

Hon. C. C. BROAD (Minister for Energy and Resources) — It will be no surprise to any honourable member to learn that I reject the motion. I will demonstrate to the house that the problems that arose in the electricity industry in the past months were the direct result of the policies of the former Kennett government and its break-up and privatisation of the former State Electricity Commission of Victoria.

A recent newspaper article described the privatisation of the SECV as a pancake hitting the kitchen floor rather than landing in the frypan. The article said that former Treasurer Stockdale conveniently bequeathed to Labor — —

Hon. Bill Forwood — On a point of order, Mr President, will the minister outline the source of her quotation, the document from which she quotes, its date and author?

Hon. C. C. BROAD — I was paraphrasing, but I am happy to be more explicit. The article was under the headline 'My admonishments to Victoria's new chief'. It appeared on page 15 of the *Age* of 3 March. Its subheading states:

> Steve Bracks must tear up Alan Stockdale's recipe for disaster.

Hon. Bill Forwood — On a point of order, Mr President — —

Hon. C. C. BROAD — The next line contains the name of the author. The article is by David Hayward.

Honourable members interjecting.

The PRESIDENT — Order! The idea of a quotation is to refer to the nature of a report. Obviously the minister has an article written by a person with a certain view. It could be an editorial that carries a different meaning or a report of some document tabled elsewhere. It is important to give full information about the nature of the quotation to which a member intends to refer.

Hon. C. C. BROAD — In any event, the article goes on to outline the mess the Kennett government, under former Treasurer Stockdale, has bequeathed the Bracks government.

Honourable members interjecting.

The PRESIDENT — Order! Mr Philip Davis was able to make his contribution; the minister is entitled to the same courtesy from the house.

Hon. C. C. BROAD — The opposition has placed great emphasis on what it now refers to as the recent electricity crisis in Victoria. That is something of a dramatic turnaround in the policies and attitudes pursued by the former government and the actions it undertook. As all Victorians are now aware, the

national electricity market arrangements put in place by the Kennett government mean that private sector generators lack the incentive to ensure security of electricity supply — that is, to generate electricity for customers. If anything, the incentives under the system put in place by the former government worked in the opposite direction.

There is a startling exposition of how those incentives work in a report a copy of which I do not have with me in the house but which can certainly be provided if members of the opposition want to know the document's source. The Victorian Power Exchange report contains the following statement about the expectations of electricity market participants:

> Many market participants believed that the market needed to experience some interruptions for the market to appropriately value supply and thus to determine the supply/demand balance.

It goes on to say any intervention to keep the power on — that is, to keep the lights on in the state of Victoria — would be seen as resulting in an unacceptable market distortion. In other words, the expectation of the participants in the electricity market system put in place under the previous Kennett government was that the market would operate much better if there were some interruptions to the electricity supply. That is again something of a contrast to the professed concern that the opposition now has about ensuring electricity supply in this state.

As a result of recent events all Victorians are also now well aware that the former Kennett government sold the electricity generators to the private sector without including any obligations whatsoever in the sale contracts requiring the purchasers to supply electricity. One would think that if, as they would now have us believe, the opposition while in government were concerned to ensure that electricity would be supplied to customers — that the lights would stay on, that the power would stay on — —

Honourable members interjecting.

Hon. C. C. BROAD — One would think members opposite might have ensured that there was a requirement in the sale contracts for the electricity generators to do something as fundamental as supply electricity.

Hon. R. M. Hallam — You don't understand the basics!

Hon. C. C. BROAD — I think the opposition did not understand the basics.

Hon. R. M. Hallam interjected.

Hon. C. C. BROAD — Victorians should also be aware that under the memorandum of understanding (MOU) signed by the previous Kennett government the role of the National Electricity Market Management Company (Nemmco) in managing electricity supply shortfalls was also explicitly recognised. All jurisdictions involved in the national electricity market, including Victoria under the previous government, gave a commitment to use the mechanisms contained in the national electricity code for dealing with supply shortfalls until they are no longer manageable under the electricity market mechanisms.

Honourable members interjecting.

Hon. C. C. BROAD — The commitment given by the previous Kennett government was specified in the MOU, which states:

> The jurisdictions recognise that the rules for the operation of the national electricity market provide for procedures to manage major electricity shortages.

Hon. N. B. Lucas — On a point of order, Mr President, I have been listening carefully, while I have been able to do so, to what the minister has had to say. I direct you to the fact that the motion says:

> That this house condemns the government for its incompetence and mismanagement of the recent electricity crisis.

That occurred in February. From what I have heard in the minister's contribution to date, she started by talking about the former Kennett government's activities and how contract agreements were set in previous times. In the past 10 minutes the minister has still not mentioned anything to do with the recent electricity crisis, which is the subject of the motion. I ask you to direct the minister to commence addressing the motion before the Chair.

The PRESIDENT — Order! The doctrine of relevance applies to everything the house debates. If, for example, the house debates a proposed statute, that is central to any surrounding issues that are discussed. It is obvious that the minister must respond to the motion before the house. However, the house does not impose a discipline that says a minister must respond directly to the issue within the first 15 minutes or even within the first 30 minutes. A minister — or a member of the opposition — is entitled to give the background in some detail. The house does not have any time limits.

Although I uphold the requirement that ultimately the minister's response must be directed to the motion

before the house, the house does not dictate the manner in which she puts that response together.

Hon. C. C. BROAD — I can well understand the opposition wishing that the actions of the former Kennett government had no bearing on the events in February, but that is patently not the case. I am in the process of outlining how the actions of the previous Kennett government directly affected the events in February.

As I was saying, the memorandum of understanding (MOU) signed by the previous Kennett government on the matter of major electricity shortages — which by any definition is what we experienced in February — also states:

> Consequently, the jurisdictions acknowledge that as far as practicable these procedures should be allowed to operate to deal with major electricity supply shortages before the exercise of emergency powers is considered.

So under the MOU signed by the previous Kennett government the Victorian government was prevented from exercising emergency powers when confronted with major shortages in supply until it had been demonstrated that the electricity market procedures had failed. That happened courtesy of the previous Kennett government — so much again for the opposition's professed concerns about the state government intervening to ensure electricity supplies.

As Victorians are aware, the Bracks government imposed restrictions as a response to load shedding. The shedding that occurred under the Nemmco procedures — that is, the protocols signed by the previous Kennett government — were, as we all know, extremely destructive to communities generally. They were destructive not only to households and businesses, including those operating traffic lights and important health facilities, but also in a number of other areas to which I have already referred.

The restrictions put in place by the Bracks government provided much greater certainty of supply to business and households, and certainly in the consultations in which I was involved, they were welcomed.

Hon. R. M. Hallam — The lights went out! How was that certainty?

Hon. C. C. BROAD — No, they did not. The restrictions were welcomed by business in preference to power interruptions. Power restrictions were certainly successful in reducing the demand for electricity, and as a result any further power cuts were avoided.

Victorians should be aware that it was a deliberate policy of the former Kennett government to leave planning in the energy sector to the national electricity market and the wider market.

To ensure opposition members are well apprised of the situation I will provide details from an article by John Legge in the *Age* of 21 February entitled 'Power failure exposes flaws in state gripped by market vice'. The article makes some interesting observations about the deregulation of the electricity supply market by the former Kennett government and points out that commonsense did not enter into the decision to deregulate electricity supply in Victoria or, before that, the decision to deregulate the electricity industry in Britain, on which the Kennett model was clearly based. The failure of the British system is explicitly recognised and the regime has been drastically revised.

The recent power shortages in Victoria reflect a fundamental flaw in the approach the economists took to the electricity market. People in ordinary households and businesses expect the lights to come on when they turn on a power switch, and there must be sufficient capacity in the system to cope with peak loads. Unfortunately the economists advising the former government regarded such an expectation, which ordinary people might regard as a necessity, as taking something of a gold-plated approach to electricity supply — hence the policy to quite deliberately drive down the capacity of the system in the interest of driving up prices.

It is now evident to all Victorians that in deregulating the electricity industry the former Kennett government paid too much heed to the views of the economists and precious little heed to the needs of the Victorian community and Victorian businesses.

The Bracks government is taking action to address the failure of the system put in place by the Kennett government and will secure electricity supplies. The government has formed a ministerial committee, which I will chair, to review the events of the year. The review is examining the inadequate protocols for load shedding put in place by the former Kennett government. The government will put new protocols in place to ensure the relevant bodies regulating the privatised electricity companies provide the community and the government of the day with accurate and timely advice and information whenever there is a threat to power supply.

The ministerial committee will also examine issues relating to the security of supply and in particular will assess the expected future demand and supply options for increasing capacity where that is required. A

number of options will be examined as part of the work of the committee, including the value of interconnects, greater use of demand management such as interruptable power contracts, co-generation and, in line with an important initiative agreed to by both sides of the house yesterday that reflects the importance of renewable energy, sustainable energy will also be examined as an important facet of managing those issues in the future.

In line with an important election commitment the Bracks Labor government will also create the Essential Services Commission, which will be given the necessary teeth to ensure the electricity industry is properly regulated, balancing the interests of suppliers and consumers, including businesses and households.

I direct the opposition's attention to the poll published in yesterday's *Herald Sun*, which presumably the shadow minister read before moving his motion today. The poll asked Victorians who they thought was to blame for the recent need to impose power restrictions in Victoria. The results were quite interesting: 42 per cent of Victorians blamed privatised electricity companies; 29 per cent blamed the unions; and 13 per cent blamed Jeff Kennett. Perhaps opposition members might ponder these figures and their decision to privatise Victoria's electricity supply.

Hon. N. B. Lucas — On a point of order, Mr President, the minister is still not addressing the basis of the motion. The motion before the Chair specifically deals with the mismanagement of the recent electricity crisis. The minister has given a long diatribe about the Kennett government and electricity in general and has quoted a number of people, including John Legge, of whom I have never heard. Opposition members wanted to hear, through debate on this motion, how the minister justifies her position that the government has not mismanaged the situation or been incompetent. We have not heard an answer to that quite specific accusation by opposition members.

Hon. C. C. BROAD — I have concluded my remarks, and I believe there is no point of order.

The PRESIDENT — Order! The Chair is in some difficulty. It cannot force a minister to say anything if he or she makes remarks that are relevant to the matter before the house. The minister, at the very most in a partial way, has dealt with the issues raised by Mr Philip Davis. The minister has concluded her remarks. I can say that she has not addressed the motion, but I cannot force her to add to what she has said. The minister has clearly said all she wishes to say on this occasion. Unless there is a suggestion from the house to shorten the rack, I am not aware of any other action that can be taken by the Chair. I uphold the point of order, but I cannot enforce the result the honourable member is seeking.

Hon. M. A. BIRRELL (East Yarra) — I have just seen the most extraordinary abrogation of responsibility I have witnessed in this place in 17 years. Honourable members have seen from the Minister for Energy and Resources an unwillingness to address the motion before the Chair. No comment was passed by the minister on the motion before the Chair. The words 'electricity crisis' were not mentioned. The words 'January' and 'February' were not mentioned. The difficulties of individuals during the electricity crisis were not mentioned. The disconnection of electricity that affected the lives of people and the livelihood of businesses throughout the state was not mentioned.

The minister thinks she can come into this place and not be held accountable for her actions — she is mistaken. She believes ministerial standards can be lower for her than can normally be expected in this state — she is mistaken. The minister believes the issue will go away.

Hon. C. C. Broad — It has gone.

Hon. M. A. BIRRELL — Let that go on the record — 'It has gone'. The minister tries to evade scrutiny and avoid being held accountable. She tries to avoid talking about the topic, saying, 'It has gone'. The issue will stay with her because that issue marked the beginning of a ministerial career that she thought promised so much. The first thing the minister did as a minister of the state was to decide deliberately to not tell the truth. She came into this place and decided she would not tell the people of Victoria what happened during those days in January and February. She decided she would try to cover up the truth. She came into this place with standards that could be expected of some minor apparatchik who thought she was not accountable.

Honourable members know ministers are accountable and we know the minister should own up and admit her activities, but she has not done so. The house heard no mention in debate of the issues my colleague Mr Philip Davis so wisely raised and asked questions about. The minister decided not to mention in any way what happened regarding the advice she was given in January that an electricity crisis was impending — advice she took no action on.

The minister decided there should be no scrutiny of her failings as Minister for Energy and Resources. She

believes the way of securing no scrutiny is to be silent, to cover up and not be frank and honest. The minister personally decided in January that the advice she was receiving was not sufficient to tell the public about. As a consequence, the public was left literally in the dark and can attribute the responsibility for that situation to the negligence and incompetence of the minister who has just finished her speech.

Is the opposition alone in asking those questions? Is the Honourable Philip Davis all on his own? Of course not. Will it be the opposition in future asking such questions all on its own? No, it will not be. Will it be the minister who is eventually personally held to account? Yes, it will be. I say to you, Ms Broad, very deliberately that it will take the crooked little smirk right off your face.

Through you, Mr President, the first questions I would like the minister to answer are the ones posed by the *Age* newspaper in its editorial of 5 February 2000. If the minister does not want to give the Parliament an answer, she might want to give the public an answer. Under the editorial heading 'Too much heat, not enough light' the *Age* editor makes the point that the cuts to electricity raise important questions about the power industry and political power. The editorial states:

> It is not good enough. The Deputy Premier, Mr John Thwaites, who was Acting Premier when the cuts were first imposed on Thursday, seemed confused and unconvincing in his response to the problem. The state Minister for Industrial Relations, Ms Monica Gould, seems utterly out of her depth and incapable of making any impact at all.

It continues:

> The public deserved more action and more spirited responses from the government than it received.

I agree with that conclusion. Today the opposition has asked the government to explain what it was doing in January and February — but this pathetic minister does not want to talk about January and February; this pathetic minister did not even mention the electricity crisis; this pathetic minister thought that by saying nothing the issue would go away. Keep writing, Minister, because you would not want to look up. You will be held accountable. Beavering away at your desk will not help you to avoid scrutiny. Looking at your books will not help you avoid the questions. Do not think for a second that the issue is over. Through you, Mr President, it is part of you, minister — it is part of the measure of your competence, and it is part of your failings as an individual.

The opposition wants to know what the minister knew. It wants to know what the minister was doing in January. Was she asleep at the wheel or simply not there at all? The minister has taken responsibility for the issue. The Leader of the Government in the house has said the minister is responsible for the issue. Why is it then that the minister will not talk about what she did regarding the issue?

In January the minister was told there was a shortage of electricity pending as a result of the recent extreme strike action in the Latrobe Valley. She was told a power station was going to be shut. She knew that would be likely to lead to electricity shortages. No wonder the minister does not want to be held accountable. She will be caught out. The opposition has made freedom of information requests that tackle the very issue of what the minister knew.

It is notable that on every occasion that members of the house have asked the minister to table information and documents, the minister has deliberately failed to answer questions. On not one occasion has the minister said she will make available to the public the information she had because that information would prove one thing: the minister knew about the electricity crisis and did nothing — not a single thing.

Hon. R. M. Hallam interjected.

Hon. M. A. BIRRELL — As Mr Hallam interjected, since then the minister has tried to cover up what happened. She knew what was going to occur and let it happen. What does 'let it happen' mean? In simple terms letting it happen meant that people went without the electricity they needed. Letting it happen meant massive social and economic dislocation for the state.

Hon. R. M. Hallam — No chance to prepare — that is what it meant.

Hon. M. A. BIRRELL — It meant no chance to prepare because no notice was given by the government. If people had been given notice, the most extraordinary situation experienced would not have come about. In Melbourne traffic lights went out and people had car accidents as a direct result. As Mr Philip Davis indicated, individuals on home dialysis machines found their machines stopped because there was no electricity. In the extreme heat of that day elderly people found their airconditioning, vital to their wellbeing, shut down, and there was no explanation. What was the source of the first information regarding the crisis? It was not the government. The information came by way of a rumour announced by radio station 3AW. So 3AW told us what was happening before the government did!

The opposition asks the question: why didn't the government want to tell us? The answer is simple, even

if that answer underlines a capricious and devious motive — that is, the government did not want to be at all involved in the industrial relations dispute in the Latrobe Valley. Therefore it invented the line that it had no powers. It could not afford to make a public announcement that the industrial relations dispute was causing a loss of electricity because that would have led to the public suggesting that the government not sit on its hands but instead try to resolve the dispute.

The government was paralysed with fear about being involved in and being seen to have to settle industrial relations disputes and therefore offend its union allies. It was a clear strategy; we all witnessed it. The Premier, the Acting Premier and the ineffective Minister for Industrial Relations said, 'We've got nothing we can do to solve these disputes. We've got no powers. We can't do anything.' Of course they did not want to put out a press release saying that the dispute could lead to electricity cuts, because then the heat would have been put back on them. They avoided that by saying nothing, at great social and public expense. All the difficulties that occurred during the blackouts and unpredicted, unannounced electricity cuts to Melbourne and other parts of Victoria occurred because of the government's negligence.

The minister dares to come into the house and not even mention January. What happened to January? Did it disappear? There is as much mystery about January as there is about Mr David Legge!

An Honourable Member — No, John Legge.

Hon. M. A. BIRRELL — John Legge, whom the minister relied on in her incompetent speech. When challenged by interjection to say who the hell it was she was quoting, the minister could not even respond to say who it was because she did not know. She just takes a speech that is put into her hands, reads it out and makes an absolute fool of herself. The minister is not in charge of her portfolio; she is not even in charge of her own speech making. As a result, when the opposition asks questions such as, 'Who the hell are you quoting?', she does not even know. The opposition has no understanding of why the quoted material had any bearing on the debate, because the debate is about the electricity crisis.

I almost expected the minister to say that the electricity crisis resulted from the Howard government's introducing of the goods and services tax, because that is the other line she uses! Everything that goes wrong in Victoria is because of either the Kennett government or because of the Howard government's introducing of the GST, and nothing else! The opposition has witnessed a government that not only manages a public crisis incompetently, but does not want to explain its behaviour in managing that crisis. That really raises the question: if the crisis was all the fault of the national electricity system, which was somehow unilaterally created by the Kennett government, why do the faults cause problems only in Victoria under the newly elected Labor government? How curious it is that the system did not cause any faults elsewhere? How curious it is that it did not cause any faults under the Kennett government? Dare I say that this minister's incompetence, inability to lead during a crisis and inability to impart proper information to the public was at the heart of the crisis?

What do we know about January and February 2000, the early days? Two surprising things about January and February are that it was summertime and it was hot. Apparently being hot in summer is an unexpected phenomenon for the Minister for Energy and Resources, because people are expected to believe that heading into the hottest time of year an entire power station could be shut down without the need to tell the public about the problem. Of course there was prior warning, but even that did not lead the government to inform ordinary citizens about the problem.

I will refer to a random and by no means comprehensive selection of articles. The *Age* of 20 January contains an article headed 'Power cuts fear over legal fight'. An article in the *Australian* of the same day starts with the words:

> A dispute that threatens to interrupt Victoria's power supply escalated dramatically yesterday …

The *Herald Sun* of 15 January contains an article commencing with:

> Victorians could face power restrictions as early as next week.

Hon. R. M. Hallam — Didn't you read them, minister? Didn't they reach you on holiday?

Hon. M. A. BIRRELL — Were you asleep? Through you, Mr President, I ask the minister: were you, like most ministers, away on holidays and not treating it seriously? Didn't it really matter?

In January the industrial dispute increased radically. Although under the Kennett government the fighting went on for some months it never led to a shutdown of the facility, but under the Labor government it did. When opposition members read the newspaper clippings of 15 January, 20 January and other dates they asked, 'Will the dispute lead to an electricity shutdown?', and, 'Where is the government?'.

An Honourable Member — Where is the minister?

Hon. M. A. BIRRELL — And, 'Where is the minister — either of the ministers who are supposed to be in charge — the Minister for Energy and Resources and the Minister for Industrial Relations?'. The bottom line is that the government was in denial.

Hon. C. C. Broad interjected.

Hon. M. A. BIRRELL — You had better worry about your reputation, Minister. The government was in absolute denial. It did not want to be involved in the industrial dispute, because to be involved meant that in its early days it would have to take a stand against one of the union allies that helped put the Bracks government in place. Therefore it did not want to put out any press releases saying that the dispute could lead to an electricity shortage — and it did not. Whatever word one wants to use to describe the government's actions — capricious, deliberate, cynical — the public was left out of it. Even though journalists pursued the issue, the government did not.

Late in January the government should have told the public and warned individuals, such as the elderly who rely on airconditioning for their personal safety and comfort; people who rely on electricity for health equipment in their homes, in nursing homes or even in hospitals; and people in small businesses. Such people could have brought in backup equipment, but they did not, because they were not told. All those people could have been warned. Why were they not warned?

Why was a press release not put out in late January, or at the very least, why did the Victorian Labor government not do what the South Australian government did? The South Australian government put out a press release ahead of the problem and thereby avoided the crisis. It managed its way through in a cool, reasoned and wise way. As a result of the wisdom imparted by the South Australian government through its reasoned statements, early notice and coolness in the crisis, individuals and small businesses did not suffer. They were warned.

South Australia had organised load shedding, public announcements and the full involvement of the community during the crisis. That is the professional way for state leaders to handle a state crisis. It did not happen in Victoria. The cause of the industrial relations dispute and supply of energy to the two states was identical. There could not have been a more parallel set of circumstances. The Victorian government was either asleep at the wheel or not at the wheel. Perhaps it had its feet up at the beach. The opposition wants to know where the responsible ministers were. The Minister for Energy and Resources does not want to talk too much about January and February. The opposition needs to know the truth.

One fact the opposition does know as a result of questioning by Mr Philip Davis, Mr Craige and Mr Hallam in this place is that the major incidents committee of cabinet was meeting on the crisis.

Hon. R. M. Hallam — Perhaps it had its meetings at the beach!

Hon. M. A. BIRRELL — The opposition does not know where the meetings were held. It will not be told because the minister includes that in her basket of secrecy. The opposition does know that the committee was meeting and it was implied it was meeting before the crisis. If that is true it will be one of the telling blows laid on the political career of the minister.

Hon. C. C. Broad — You are very dramatic. You have missed your calling; you should have gone on the stage.

Hon. M. A. BIRRELL — I welcome any contribution the minister wants to make. The opposition will even give her leave if she wishes to speak again on the motion, but I suspect she does not want to and is quite worried about the prospect of constantly being asked what she knew.

Hon. C. C. Broad — Do I look worried?

Hon. M. A. BIRRELL — Yes, you do.

Hon. C. C. Broad — You can talk as long as you like.

Hon. M. A. BIRRELL — I do not need length to pull out of you your arrogance and lack of openness. I have been around this place long enough to know that we always catch your type. You remind me of a former member of this place, the Honourable Jim Kennan. You have a lot of the same characteristics — and you know what happened to his career.

The opposition knows that the major incidents committee of cabinet was meeting. If it was meeting before the electricity crisis it is proof positive that ministers knew. How could the major incidents committee of cabinet be meeting before the incident took place unless it knew that the crisis was so extreme that cabinet should meet? It is proof positive of the knowledge cabinet had and kept to itself. It is not surprising that the minister does not want to release the information, but she will eventually be forced to release

the documents that were in her hands in January and February because they will point to her prior knowledge and understanding of the crisis and when compared with the duplicitous statements made to the house be further evidence that she knew in advance. The minister will be well and truly caught out.

The bottom line is that in the early days of this government it believed the best thing to do was say nothing about the topic. It is unbelievable that the opposition has moved a motion to condemn the government for incompetence and mismanagement and the minister responsible will not reply to it. I have never heard of a motion being moved in the house and the minister not responding to attacks of incompetence and mismanagement. Ministers always respond to such attacks. There is only one reason I can deduce for the minister's not responding — because she is guilty. The raising of the issue is sufficient reason for the minister to talk about the topic, but she does not want to. It is sufficient evidence that the minister knew about the problem, but she does not want to have to explain it in the elaborate detail required in a motion such as this.

I ask the minister to dwell on some important facts. Individuals suffered as a result of her incompetence. All honourable members know of small businesses that lost money, lost contracts or had to stand down staff as a result of there being no electricity. On a far more human scale, individuals throughout Melbourne suffered because they had not been given notice of an electricity problem that the government knew about. Indeed, people throughout Victoria suffered. On a boiling hot day people not only suffered because there was no electricity, but they suffered because equipment they needed failed or was turned off. They should not have suffered. They should not have been put through it.

The opposition would have expected any minister who was confident of her behaviour in January and February to make a statement to the house that indicated why honourable members should share her confidence. Mr Davis deserved a response. If the minister wished she could have called them allegations. If she wished she could have disagreed with the honourable member's statements, but she chose to do neither. She did not rubbish them as allegations or deny them as being facts; she just kept up a consistent form of behaviour of not telling the house the full truth. The minister maintained a tortuous route of saying that the former Kennett government had unilaterally formed a national electricity market. The minister should talk to her former employer, Prime Minister Keating, whom she tried so loyally to get re-elected in 1996, because he was the person who signed off on the entire national electricity concept.

Hon. C. C. Broad — Are you blaming Paul?

Hon. M. A. BIRRELL — No, I am saying that you are an absolute idiot for running that argument. It has as much to do with the Howard government as it has with the former Keating government, or anyone who had something to do with the national electricity market. That is not the issue. The issue is whether proper action was taken in January or February. Was proper advice given to the public? The answer is no. If the South Australian government could give proper advice why could not the Victorian government give similar advice? Given the information flow available to the minister, why was that information flow not provided to the public? Why were they, in a colloquial sense, first kept in the dark and in the end practically put into the dark as result of this dispute?

I commenced by quoting some comments in an *Age* editorial. Those quotes were apposite and reflect the questions that remain unanswered to this day. As the *Age* editorial said:

> It is not good enough.

Hon. G. W. JENNINGS (Melbourne) — I commence my contribution by putting two things starkly on the record. The first is that the government is sorry for the inconvenience caused to Victorians during the period of electricity supply shortage.

Honourable members interjecting.

Hon. G. W. JENNINGS — The second thing I want to put on the record is that the question of why the situation occurred in Victoria rather than affecting the national grid is related directly to the actions of the former government in establishing the regulatory regime for distributing electricity that applies in Victoria.

It is important not only to establish appropriate parameters for the debate but also to differentiate between the public utterances of the previous government and the undertakings it entered into during the 1990s — and the consequent expectation of the citizens of Victoria that their interests would be protected. That includes examining the consequences of the private contracts the former government entered into, including the lack of a satisfactory regulatory regime to allow current and future Victorian governments to effectively intervene in the privatised marketplace.

The problems in the industry have not emerged as a natural consequence of the establishment of a national electricity marketplace. The important question to ask about the actions of the former government is whether the regulatory regime it established, which included the contractual and licensing arrangements, contained adequate protection mechanisms. The Bracks Labor government is absolutely clear — —

Hon. B. C. Boardman — Give specific examples.

Hon. G. W. JENNINGS — I am happy to give Mr Boardman specific examples of the areas in which the regulatory regime and the marketplace failed the Victorian community.

As I said, my contribution to the debate will focus on the differences between the public utterances of the former government and the consequent expectations of the Victorian community, as distinct from the effects that the private contracts are having. I will commence by giving a brief description of how my day started.

This morning I happened to be listening to ABC radio, the public broadcaster that has been the beneficiary of parliamentary scrutiny as a result of a reference the former government gave to a parliamentary committee, which examined the ABC's ongoing economic viability. At the time the former government justified those worthy terms of reference by saying it wanted to ensure that Victoria's vital communication, information and entertainment industries were protected. However, they represented an intervention in the activities of a public broadcaster.

The issue being discussed on the radio led me to nearly choke on my Vegemite toast, not because I was overwhelmed by guilt for consuming what Dick Smith would describe as a totally destabilising product given that it is owned by a foreign company but because of the comments of a colleague, the Honourable Peter Batchelor, the Minister for Transport, who was discussing the nature of a number of contracts entered into by the former government that have an impact on the transport sector in Victoria.

Hon. B. C. Boardman — On a point of order, Mr Deputy President, I refer you to the President's ruling on the point of order Mr Lucas raised when the minister was on her feet. I remind the honourable member that the motion is specific and definite: it condemns the government for its incompetence and its mismanagement of the recent electricity crisis.

In his ruling the President made the point that the motion relates to the events of January and February 2000, not to contracts or historical agreements that have previously been in existence. Neither does the motion have anything to do with other portfolio responsibilities. Mr Deputy President, to ensure there is no continuation of the precedent set by the minister in her pathetic response, I ask you to bring Mr Jennings back to the motion.

The DEPUTY PRESIDENT — Order! The honourable member had just begun his contribution, so I allowed him to build on it. I believe his introduction has now reached its end, so I direct the honourable member to come back to the motion.

Hon. G. W. JENNINGS — I have no problems with that, Mr Deputy Speaker. My argument about the failure of the various contractual arrangements is vitally relevant to the debate. The minister said earlier in the debate that by their very nature the contracts the former government entered into with the electricity generators contain no requirement for the generation of electricity. That omission is of vital concern because the people of Victoria rightly and reasonably expect that electricity will be generated and that a legal framework is in place to ensure that it is generated.

I return to the example I gave of the transport sector contracts. Given the nature of the contracts entered into by the former government, the people of Victoria had the reasonable expectation that the establishment of the transport infrastructure would not entail any sovereign risk. However, the Victorian community may be concerned to discover that there was some sovereign risk, which resulted in the provision of state government compensation that related to the resolution of a dispute between the constructor and the future manager of the Transurban network.

The failure of the state to intervene led to a reduction in the supply of electricity at the beginning of February. That suggests that the Victorian government was hamstrung in its capacity to apply the contractual or licensing arrangements needed to bring the parties together.

Hon. B. C. Boardman — What about the legislative provisions?

Hon. G. W. JENNINGS — As Mr Boardman says, invoking the Electricity Industry Act was the mechanism by which the state government chose to intervene. It is clearly on the public record that that occurred on 4 February. Honourable members should be aware that the Electricity Industry Act is a blunt instrument in its application. It is not the preferred, reasonable and considered response that the opposition has been calling for during the debate.

I am happy to bring a sense of perspective to the debate by discussing the nature of the industrial relations issues that were developing at Yallourn for some time, the role it plays in the electricity sector in Victoria, the nature of the industrial dispute and the capacity of the government to intervene. They are key elements in understanding the reasonable expectation of the role the Victorian government should play when such situations emerge.

The critical test for a government is to apply the public interest test to its potential intervention. The public interest test the government applied was to determine its priority in acting in a way that ensured electricity was supplied to Victorians. A secondary concern was to enter into the sphere of industrial relations on the basis of being fair and reasonable to the parties concerned and not to intervene inappropriately to prejudice outcomes that should be determined within the framework of the industrial relations system.

The third measure of public interest test for the people of Victoria should be the capacity of the Victorian government to facilitate and encourage ongoing investment within the electricity sector. The government should encourage companies to invest in and function within the electricity sector.

Honourable members interjecting.

Hon. G. W. JENNINGS — The protestations of the opposition are about the capacity or the intention of the government to intervene. The government's actions satisfy those undertakings and expectations in the public interest test. As all members of the house would be aware, the former government deferred industrial relations powers to the federal jurisdiction. It has always been acknowledged by the government that workers in that field are covered and have always been covered by federal awards.

The situation had been building for months prior to the expiry of the enterprise bargaining agreement and industrial action had been undertaken by both parties in the dispute. That is an aspect that the opposition, in the luxury of opposition, continued to ignore. Both sides in the dispute pursued industrial action during January. Clearly work bans were put in place that had the effect of restricting power supply, and the generator determined to increase the effective restrictions by engaging in its own industrial activity.

Hon. K. M. Smith — Are you saying they have no rights?

Hon. G. W. JENNINGS — The company has rights under the federal industrial relations act. In January both the employer and employees through their unions chose to take industrial action. It could be argued that the net effect of the industrial action pursued by both sides led to the reduction of electricity supply in Victoria.

The government used its best endeavours to achieve a resolution within the existing industrial relations framework that would position the government and the people of Victoria as even-handed players during the course of the dispute. For some time attempts had been made within the realm of appropriate government activity to try to get the parties together to resolve matters rather than taking onerous and precipitous action within the federal jurisdiction.

It has been suggested that the role of the state should be to go to the Australian Industrial Relations Commission and intervene. In many ways that militates against the spirit and intent of the federal government's industrial relations system. The Labor government and the Australian Labor Party are keen supporters of conciliation and arbitration within the framework of the industrial relations climate. Unfortunately, mechanisms that are available to the commission at this time are limited in their scope on any application for conciliation and arbitration. If the government sought to intervene prematurely at that time the commission could have been hamstrung in its capacity to arbitrate in a way that was previously available to it.

To use a boxing metaphor, the referee was given instructions that the only option available was to give a technical knockout to the contestant in the blue corner. The commission has a limited capacity to arbitrate in a way that was previously available to it before the most recent amendments to the Workplace Relations Act. On that basis the path chosen by the government to assist the parties to come to a resolution eventually brought them to the table to mediate in the dispute, which is the role the Victorian government believed was appropriate and had the net effect of resolving the dispute.

Hon. Bill Forwood — Totally against your original strategy of doing it.

Hon. G. W. JENNINGS — The significant issue is how the Victorian government intervenes in various elements of a dispute and within the national marketplace. In the current industrial relations climate there is a combination of federal jurisdiction, which is predetermined in many ways by the regulatory regime in the application of the electricity industry under the framework established by law in Victoria. They were the constraints on the government, which managed its

way through to restore electricity to the citizens of Victoria.

Hon. Bill Forwood — Don't you agree that if you had started earlier we would not have got to where we did?

Hon. G. W. JENNINGS — From opposition interjections today an observer might believe an ongoing and lasting crisis embroils the Victorian community. The acute urgency and limits of the crisis, as defined by the opposition, were restricted by time. I have already gone on the record to apologise for inconvenience caused, but the time frame in which the crisis was played out was limited.

It is important to recognise or acknowledge how the marketplace and the regulatory regime work in Victoria. The history of the events of 3 February in Victoria will demonstrate some failings in the way the marketplace works and the regulatory regime applies in times of acute electricity shortages. It is important to understand how the system operates and what options are available to the Victorian government to intervene. I will briefly explain how the marketplace works.

The national electricity market was established at the same time as the generation and distribution networks in Victoria and other places were put in place. In Victoria that led to the establishment of a number of power generating and distribution companies. The generators feed the electricity supply through the national market and effectively act as a wholesale distribution company to the distribution networks. The role of the Victorian government in overseeing the generation and distribution of electricity has been referred to Vencorp, the body upon which the government relies to establish the level of electricity supply required in Victoria, and to pass that on to the wholesale supplier Nemmco which, in turn, on-sells the electricity to the distribution companies.

The government was confronted with an acute power shortage on 3 February, as the minister has said in this place. On that morning the government was advised of the potential on that day for a shortage of electricity supplies in Victoria. When the advice was received by the government it was mindful of the mechanisms that could come into play to reduce the power load within Victoria. They involve Vencorp advising Nemmco on the amount of electricity that is required in the state and Nemmco deciding how much electricity should be taken from the system. It then has to decide to withdraw supplies from the various distribution companies in an allocated period, and the distribution companies withhold a degree of their supplies from certain geographic pockets within their distribution network to reduce the load across the system.

That elaborate mechanism that allows the marketplace to determine where electricity is supplied and where it is denied to the Victorian community is totally at arm's length from the Victorian government. The mechanism is a pure application of the process of the market, with a lack of a regulatory regime in Victoria and with no capacity for the Victorian government to intervene quickly within the marketplace to protect Victorian citizens, companies, hospitals or the operation of traffic lights. It is a marketplace that potentially can jeopardise the wellbeing of many citizens if insufficient mechanisms are not in place either to alert citizens about a crisis or to empower the Victorian government to intervene to address the situation.

Hon. Bill Forwood interjected.

Hon. G. W. JENNINGS — The interjection of Mr Forwood referred to the parallel situation in South Australia. The sorry situation in the marketplace in South Australia is that a loss of load and electricity supplies is a common occurrence there. Unfortunately some citizens of South Australia have become quite used to that situation. Obviously that feature would be unsatisfactory for the Victorian government; it would be hardly bearable for the South Australian government. South Australians are patient and tolerant souls.

Hon. Bill Forwood — They got the same advice; they did something about it.

Hon. G. W. JENNINGS — We cannot run away from the fact that the power supply regime in South Australia has a sorry record of regular drop-outs in the system.

The important issue becomes: how effectively did the Victorian government intervene to ensure that vulnerable parties within the community were protected? The mechanism available to the Victorian government was to invoke the Electricity Industry Act, which I have already described as a blunt instrument. That essential services instrument meant that only by applying the act did the Victorian government have the capacity to intervene in the marketplace and to determine who would and would not be protected in the Victorian community, and then to apply restrictions.

After Victorian citizens were affected and disadvantaged on 3 February the government acted to apply restrictions under the Electricity Industry Act from the following day. That meant Victorian citizens and companies voluntarily reduced their demands on

the power system, which enabled the Victorian government to protect the interests of those considered vulnerable.

The consequence was that a number of industry spokespersons — people who, in effect, operate the futures market of the electricity industry — were stressed when the government felt the need to intervene in the marketplace. As any reasonable honourable member and any member of the community would quite rightly expect, the government intervened to protect the rights of Victorians. All Victorian citizens would expect that an ongoing legal framework would be in place to allow the government to continue to intervene — either through contractual arrangements, licensing or an ongoing regulatory framework — to ensure electricity supplies are available to Victorians. Those mechanisms are not in place and daily available to the government without invoking essential services legislation such as the Electricity Industry Act.

As I said, that action was taken on 4 February and the mediation process had been put in place to bring the industrial dispute to a resolution. In the following week the government invoked further sections of the act to direct Yallourn Energy to generate power and to direct workers to return to work. The first test of public interest in the exercise was to guarantee ongoing supplies. In some ways the legislative instrument available to the Victorian government to achieve the preferred outcome is a blunt instrument that does not have a regulatory framework or a legal and contractual framework; it could not be regarded as being amenable to day-to-day management by the government. Given the nature of the regime, the government was forced to intervene in a somewhat draconian fashion to direct companies and workers to generate electricity.

Those actions led to the consequences I have already outlined. Some elements of the marketplace reject the idea of intervention by government — they say the government should not have intervened. There is a degree of double standard on the issue. When in response to various questions in this house the minister outlined the sequence of events that led to the invoking of the Electricity Industry Act on 4 February, she was hauled over the coals for giving too lengthy an answer, even though she was providing details about the government's actions in imposing restrictions on electricity use to ensure that the power supply was restored to the Victorian community.

It is essential that we recognise that the government took the appropriate action to restore electricity to the people of Victoria. The government acted in accordance with the public interest tests that I have outlined. Its priorities included ensuring the ongoing supply of electricity, playing an honest and reasonable role that did not prejudice the outcomes of industrial relations issues and supporting and encouraging ongoing investment in the electricity industry in Victoria. The government achieved those objectives and guaranteed supply to Victorian citizens within a reasonably short time.

The perception the opposition is trying to convey is that the Victorian community is facing an ongoing crisis. Victorians clearly do not believe that. Never let it be said that I rely on the *Herald Sun* as a primary source for my contributions to debates in this house or that I am a person who panders to public opinion polling or responds to an agenda determined by that newspaper. However, the opinion poll published in the *Herald Sun* yesterday is clear about the ongoing perception of the Victorian community. It confirms that the Victorian community is not dumb and that Victorians are capable of making considered and responsible decisions, as they did in 1999, which led to the election of the Bracks Labor government.

Victorians can make their own assessment and will not be led by the nose. According to the *Herald Sun* poll, the community to which we are all responsible and accountable believes the blame for the dispute falls most heavily on the companies and the regulatory regime that was adopted by the former government. The community has a reasonable degree of confidence in the way the Bracks government in general and the minister in particular handled the restoration of the power supply.

As a consequence of the government's actions and the clear intent of the exercise, I totally reject the motion before the house.

Hon. C. A. STRONG (Higinbotham) — It has been interesting to listen to the debate. If you boil it all down and look at the facts, to which I intend to refer, you see that the government took an enormous risk. There is absolutely no doubt that the government knew there were problems — and I will provide the evidence to prove that. Members opposite took a risk, saying in effect, 'Let's hope things will be all right. Let's cross our fingers; let's see if we can wing our way through this'. They were given all the warnings they needed along the way, but they were prepared to cross their fingers and see whether they could wing it — and in that they failed.

When they failed, they simply overreacted and put in place unnecessary regulation. As the house has just heard, it was all about finding a scapegoat. Government

members took the risk and got into trouble. Now they are looking for scapegoats. They are blaming the generators, the industry structure, the federal government and the federal minister for industrial relations, Peter Reith — everybody but themselves — even though they have the ultimate responsibility to protect the citizens of Victoria. As I said, they winged it and they failed.

I will refer to some of the issues raised by previous speakers because misleading and incorrect statements need to be corrected for the record. I refer firstly to some issues raised by the minister, who tried in her scapegoating to blame everything on the structure of the industry. That is clearly false because the structure has delivered significant and measurable benefits to Victoria. That is backed up year after year by the Office of the Regulator-General, whose reports show that security of supply has increased, the price of electricity has dramatically fallen, debt has been paid off, and through the contestable market the risk to the state government has been significantly reduced.

For a comparison one need look only at Queensland, where taxpayers are paying more than $100 million for electricity trading that went wrong. The taxpayers of New South Wales are paying between $50 million and $100 million for electricity trading that went wrong. Taxpayers in those states are paying for the risk that this state's taxpayers have avoided because of Victoria's industry structure. The forthcoming regulatory reset will result in ongoing reductions of the order of 10 to 15 per cent, which is significant.

There will always be some sources that preferred the monolithic government organisation of the old SEC, and the minister quoted some of them. Her most outrageous quote was that from a Victorian Power Exchange (VPX) paper, which was totally unsourced as to date and context. As a result of all the research and the work of consultants the VPX had hundreds of papers, so to quote one sentence out of context is outrageous and surprisingly bad parliamentary practice.

I also point out that in the summer of 1997–98, when there was an indicated shortfall in peak demand, the previous government ensured that supply would be maintained by commissioning gas stand-by capacity. That demonstrates that there is the facility to act if need be.

Perhaps the most outrageous statement, which is made again and again, is that the contracts entered into by the previous government did not oblige the electricity companies to supply electricity. The minister must be deliberately trying to mislead the house and the public. The generators were sold with generation licences that have onerous conditions attached to them. The most onerous condition is step-in rights, which allow the government to step in and run the power station if it sees fit. To say that there is no obligation to generate in the contracts is absolute nonsense. It is more than misleading — the government is deliberately trying to fool the public. It is an attempt to sidestep the issue once again.

Mr Jennings said that in the Yallourn dispute the licensing powers were used by the government, so he must know the facts, yet in his opening remarks he said there were no obligations on the companies to supply. That is just a lie. Much was said about the various protocols established by Nemmco — an organisation that involves the three states — for the supply of electricity, and it was claimed that they did not work.

I will quote what Charlie Macauley, a key Nemmco executive, said in a press release of 11 February about the various roles of the parties:

> However, it is not Nemmco's role to decide on power restrictions. That is the responsibility of the participating state governments. Nemmco's role is to ensure the integrity of the national power grid and the security of power supplies for all consumers on the eastern seaboard.

Hon. D. G. Hadden — It failed.

Hon. C. A. STRONG — Nemmco did not fail. It ensured there was integrity of the system. It is the participating governments' responsibility to implement power restrictions, and this participating government in Victoria totally failed in its responsibility to do that.

If there is any other area where there are problems with protocols it is within the government, because there is no doubt that the government had ample warning and if there was any slip-up in protocols it was not between Nemmco and the government, it was within the government.

Hon. T. C. Theophanous — You still have a grudge against the old SEC because it did not promote you.

Hon. C. A. STRONG — On a point of order, Mr Deputy President, I find that remark offensive, not to mention untrue, and I would like the honourable member to withdraw it.

The DEPUTY PRESIDENT — Order! On the honourable member's request, I invite Mr Theophanous to withdraw the comment because it is offensive.

Hon. T. C. Theophanous — If the honourable member finds his time working with the SEC offensive, I will withdraw the remark.

Hon. C. A. STRONG — The issue of protocols therefore rests clearly within the government's ambit, not within Nemmco. The government was made aware by Nemmco of what was going on.

I turn to how the system works. Having listened to Mr Jennings run through an explanation of how the system works I can only say no wonder the government has a problem. Mr Jennings made statements such as, 'Nemmco on-sells electricity to the states'. Nemmco does not on-sell electricity to the states. He said Vencorp made the decision on which areas had power withdrawn. That is incorrect. The honourable member does not know what he is talking about. No wonder there is a problem, if he gets up and tries to explain how the system works when he does not know how it works.

I will explain some of the fundamental principles. The greatest demand for electricity supply across the three states of Victoria, New South Wales and South Australia occurs during the summer period. That has been the situation for the past 10 years, and it is demand in the summer period on which the whole system is sized.

What does that mean for Victoria? It means the system is sized to meet that summer demand with some reserve capacity. What happened recently? Approximately 20 per cent of the total supply of electricity in Victoria, the supply from the Yallourn power station, was taken out because of industrial action. Is there any surprise that that sounded alarm signals in Nemmco? As honourable members have heard during the debate, Nemmco provided ample warning to the government of the fact that there was a potential problem during the summer peak demand period with 20 per cent of capacity off-line.

What did the government do when it was given those signals? It tried to find a scapegoat and ignore the signals because, in light of its union links, it did not want to highlight the fact that Victoria's electricity supply was endangered by industrial action. The government tried to blame everybody else. The government washed its hands of the situation and said it was Peter Reith's problem, the industry's problem and the Yallourn power station's problem. It was everybody else's problem.

The reality is that at the time of peak demand approximately 20 per cent of capacity was out of the system because of industrial relations issues. Surely that is a cause of concern and should have sounded the alarm bells for the government.

I will deal with the process employed by Nemmco under the three-state protocols signed off by all the states to enable them to maintain supply. A series of notices goes out on a regular basis to explain the supply–demand situation and whether there is any risk. There are two basic responses when there is a mismatch of supply and demand. If it is a major problem, such as a major piece of plant or equipment going out, and there is a major difference in supply or demand then Nemmco, under the protocol, is able to cut off power at the terminal station level. Nemmco can black out whole sections of the state automatically from its control centre to stop a total failure and falling over of the system.

The next level down is that Nemmco can get in touch with various distributors across the three states and ask them to withdraw supply at what is called the feeder level, which is a slightly lower level. It has been able to work almost at a suburban level rather than a regional level. That is what happened on the day of the crisis — supply was withdrawn at the feeder level on a rotating basis.

Withdrawing supply at the feeder level is totally indiscriminate. A suburb is totally blacked out, regardless of what is happening in that suburb — regardless of whether traffic lights that are not operating will cause traffic congestion, whether people on life-support systems will be affected and whether there are hospitals in the area. All systems are taken out because a suburb is blacked out as distinct from the application of restrictions which are able to be directed at less important infrastructure.

Clearly the imposition of restrictions is the way to cause minimal impact simply because restrictions can be structured so that people and infrastructure that would be adversely affected can be excluded — hospitals, traffic lights, city lifts and the like — otherwise people could be trapped in lifts.

If there is a situation of supply and demand mismatch, the sensible thing to do is to invoke the lowest level of restrictions possible. That is the safest way to deal with the situation and is better than blacking out suburbs on a random basis. The fact remains that for Nemmco to fulfil its fundamental objective, which is to maintain the integrity of the system, without restrictions it had to black out areas otherwise a major system failure might have resulted, and that would have been catastrophic.

Let us now consider the warnings from Nemmco and the government's response to those warnings. Nemmco put out three levels of warning on reserve capacity: lack of reserve level 1, or LOR1; lack of reserve level 2, or LOR2; and lack of reserve level 3, or LOR3, lack of reserve level 3 being the most critical. I will give a few examples of the Nemmco notices issued in the period leading up to the day of the crisis, 3 February. Any sensible, normal person receiving such notices would have known a problem was in the wind, simply because it was a very hot summer period and some 20 per cent of reserve capacity was out of commission because of a strike.

The Nemmco notices were coming out all the time. On 1 February at 4 o'clock in the afternoon the government was notified of a problem. At 4.33 p.m. the level of warning was upgraded again. Some 15 minutes later the problem was again upgraded. The market notice states:

> Thursday 03 February 2000
>
> From 1130 to 1800 hrs inclusive
>
> The maximum deficiency is estimated to be 558 MW …

This notice was issued on 1 February, and the crisis took place on 3 February. So two days beforehand the government was notified that a potential danger was looming. A government could say, 'It is only a potential danger. Let's hold our nerve, cross our fingers and try to wing it through and maybe the situation will not eventuate'. The notices continued. On 2 February at 4.41 a.m. another notice was issued alerting the government to the problem. Some 10 minutes after that another notice was issued, alerting the government that there would be a lack of supply problem on that date. I should be careful how I quote these times because Nemmco quotes time based on a 24-hour clock.

At 9.30 on the morning of 2 February a further notice was issued, highlighting the fact that there would be a problem. Depending on what is happening in the system and as demand grows, the notices were coming out at between 15-minute and 30-minute intervals, sounding the bell again and again and warning that there was a problem. There are scores of such market notices.

I will flick through to a couple that are closer to the event. On 2 February at 4.39 p.m. a notice was issued advising that there would be a lack of reserve from 1700 hours that day. Some time later a notice was issued advising that the situation had improved slightly.

The information was flowing through all the time. One suspects but never knows that the government was watching all this, crossing its fingers and saying, 'Let's see if we can wing it through because if we cannot wing it through we have to fess up to the fact that an industrial relations problem is causing all this pain'.

On 2 February at 2047 hours — that is in the evening of the day before the blackouts — a notice was issued saying that conditions would be worse on the next day from 1100 hours through to 2030 hours. Another notice was issued on the night before the restrictions began, again highlighting the problem. At 2110 hours and 2119 hours more notices were issued, again highlighting the problem. On the morning of the blackouts, 3 February, the first notice came out at 8.13 a.m. saying that there would be an interruption of supply between 12 noon and 6.30 in the evening of that day. Another notice was issued 5 minutes later on that Wednesday morning saying that supply problems, rather than extending from 12 noon to 6.30 p.m., would be more likely to extend from 10.30 in the morning until 10.30 at night.

The final notice, the key one of which the state did not need notice, came out at 1.16 p.m. on 3 February, stating that load shedding was taking place. What did the government do? As I have outlined, for at least two days notice after notice was issued, warning the government of the hazardous position. The government should have known it was in a hazardous position as it was the peak of summer and 20 per cent of reserve capacity was out of commission because of industrial disputation.

Again and again the notices poured out saying there would be a problem. What did the government do? It sat there and hoped it would skim through it. It may well have skimmed through it if there had not been a breakdown at Loy Yang power station for a couple of hours. The government put at risk Victorian taxpayers — for example, those stuck in lifts in the city and those on life-support systems — and affected crucial infrastructure such as hospitals and traffic lights. The government knowingly took a risk because it did not want to highlight that an industrial relations problem had caused the situation. When the crisis took place, the government blamed everybody but itself.

In my opinion the worst aspect of the situation is not the negligence of the government in trying to wing it through that period. I turn to a chart that plots the maximum demand over that crucial period of 2 February to 10 February. The chart was supplied by Nemmco. It shows that on 2 February — the day before the blackouts — the maximum demand was about 7300 megawatts, and that on 3 February — when the blackout took place — the maximum demand was only about 100 megawatts more. That was enough to trip it

over because of the problems at Loy Yang. The chart shows that on 4 February, when the restrictions came into place, the maximum demand was about 6800 megawatts, well below what the system could achieve.

The chart also shows the demand for the rest of the following week of the restrictions: the maximum demand on 7 February was about 5800 megawatts, the maximum demand on 8 February was about 6500 megawatts, on 9 February it was about 6300 megawatts and on 10 February it was about 7000 megawatts. Throughout the following week when restrictions were in place, the maximum demand never got near the level it reached on 2 February when no restrictions were in place. Consequently Victorian businesses and citizens had to go through four days of restrictions totally unnecessarily because the government panicked. It tried to wing it but it all fell apart. The government then lost its nerve, panicked and put into place unnecessary restrictions. For the subsequent four days supply and demand was never as high as it was on 2 February, before the restrictions, so the restrictions were totally unnecessary.

As all honourable members would know, according to estimates the power crisis and restrictions cost Victoria somewhere between $30 million and $45 million. That is the penalty the government imposed, simply by panicking. The government tried to wing it but panicked and tripped up. The greatest mistake of the government was to panic and put the restrictions into place. They were totally unnecessary and caused four days of inconvenience to businesses and people across the state.

From all the facts I have absolutely no doubt that the Minister for Energy and Resources cannot say she did not know what was going on. It is true there was a problem with communications and protocols, but that problem was not between Nemmco and the government; it was somewhere in the minister's office. That is where the responsibility and blame lie. There is no doubt that the citizens of Victoria have been caused unnecessary financial and emotional damage by the electricity crisis and restrictions.

Hon. E. C. CARBINES (Geelong) — I am pleased to contribute to the motion before the house. I note with interest that the opposition's motion includes the words 'incompetence' and 'mismanagement', because they are two words that spring to the minds of Geelong residents when they think about electricity supplied to them by the privatised company, Powercor. Powercor's record with electricity supply in Geelong is abysmal. Since the privatisation of electricity by the former Kennett government blackouts have become the norm.

In support of my claim I will refer to some newspaper articles. Under the heading 'Power cuts demand inquiry', the editorial at page 6 of the *Geelong Advertiser* of Wednesday, 19 January, states, in part:

> Pole fires were virtually unheard of prior to the former Kennett government's privatisation of the state's electricity grid. These days, they are a regular, irksome and unresolved part of life that undermines business and inconveniences households …
>
> More than 20 000 customers were affected by the latest Powercor blackout, when 13 pole fires hit the Geelong region on Sunday. Estimates of the damage have run into hundreds of thousands of dollars and for many hours customers were unable to receive information about the blackout from Powercor.
>
> The situation is deplorable. Warnings were rife about electricity services being cut under privatisation.

Furthermore, during the summer extensive blackouts occurred at Geelong, which affected just about every Geelong electricity consumer. For the information of the house I will refer to some headlines which appeared in the *Geelong Advertiser* over summer. The front page of the 27 December issue contains the heading 'Power pole fires leave thousands of homes without electricity'. The front page of the 19 January issue is headed 'More Power Pain'. The subheading is 'In the dark: Ocean Grove latest casualty of blackouts'. The 27 January front page carries the heading 'Blackout plague continues as more homes hit'. The 29 January front page carries the heading 'Power cut hits 16 000'. The subheading is 'In the dark: some patrons give up and walk out on pubs, clubs'. The front page of 29 January carries the heading 'Blackout shuts chicken shop'. The articles under the headings to which I have referred illustrate the unreliability of the power supply since the Kennett government privatised electricity.

Hon. Bill Forwood — You're an idiot.

Hon. E. C. CARBINES — On a point of order, Mr Deputy President, I take exception to the Honourable Bill Forwood's calling me an idiot. I ask him to withdraw his remark.

The DEPUTY PRESIDENT — Order! The honourable member finds the comments offensive. I ask Mr Forwood to withdraw.

Hon. Bill Forwood — I withdraw.

Hon. E. C. CARBINES — Thank you, Mr Deputy President. Since the start of summer the Geelong region has incurred dozens of blackouts that have invariably

been due to pole fires. Each incident has affected tens of thousands of domestic consumers and hundreds of businesses and industries. The president of the Geelong Chamber of Commerce, Mr Peter Landers, has expressed serious concern about the reliability of the privatised electricity supply. An article in the *Geelong Advertiser* of 18 January under the headline 'Blackouts prove costly' reports Mr Landers as saying that:

> … the issue of mass power blackouts was concerning.
>
> 'The business community are entitled to expect that there is a minimum level of service from utility suppliers,' Mr Landers said.
>
> He said that if the power failures were a result of a reduced level of maintenance, the business community had a right to be upset.

The City of Greater Geelong has also expressed its concern about the unreliability of the privatised power supply in Geelong. It is of the view that the unreliability of the supply is seriously undermining its campaign to attract more residents and businesses to the city under its Smart Move campaign.

Highton, where I live, has been one of the areas worst affected since the privatisation of the Geelong power supply. On a Friday late in January at about 5.00 p.m. I took my children to the Safeway store at the Waurn Ponds shopping centre. The store was in darkness. Yet again there had been a pole fire and the supply of power to the Geelong area had been cut. Fortunately Safeway had a backup generator with which it was managing to keep the cash registers running and trying to keep the fridges operating.

Customers in the delicatessen section asked how long the electricity supply had been off. They were concerned whether they should purchase goods. People were reluctant to purchase meat because the meat freezers had been off for some time. My butcher, Town and Country Meats, was in complete darkness. It could not operate its cash register or its electronic scales, and its freezer had no electricity supply. What was it going to do with its meat? My house has been affected many times by blackouts, as have thousands of other homes in Geelong. People in Geelong are used to throwing away food because the electricity supply has failed. They know they cannot count on their power supply. Even my electorate office was without power during January. What is Powercor's response to the many inquiries it receives? Powercor says it has 20 000 poles in Geelong with wooden crossarms that are susceptible to pole fires. Powercor refuses to actively maintain the system by washing down the poles, as the former State Electricity Commission used to do. The company does not think that would help, but over time it has a plan to replace the 20 000 poles. That will be a long process and I have a feeling the people of Geelong will have to suffer through many a long, hot summer before their power supply is more efficient.

Regardless of the spin the Powercor public relations department puts on its service in Geelong it is a monumental mess. The editorial in the *Geelong Advertiser* of 29 January this year headed 'Power failures' states:

> Regardless of the concerns raised by the community, Powercor has failed to improve electricity supply to the Geelong region. Blackouts, brownouts, power surges and pole fires are no longer unusual events but, rather, the norm.
>
> What might have been viewed predominantly as a domestic concern, a problem for householders more than anyone else, is rapidly evolving into a major concern for business and industry.
>
> This is evidenced in the repeated fiascos of the past fortnight coupled with Geelong Chamber of Commerce president Peter Landers's concern that the chronic blackouts are having a significant effect on certain businesses. And in city hall's admission that the blackouts could undermine Geelong's prospects for new investment.

In response to repeated inquiries to my office, I asked Powercor to attend a meeting in my office. The honourable members for Geelong and Geelong North in the other place and I met with Powercor executives in my office. We strongly voiced our concerns about the unreliability of the electricity supply in Geelong and we wanted to know what they would do about it. They identified two areas in the Geelong region that were hot spots. One was the Waurn Ponds area which serves Highton, Grovedale, Belmont and down to Torquay, where I live, and the other was the Drysdale area which serves Ocean Grove and out to Portarlington. Although we are more than halfway through the summer period, they said they would do something about those hot spots. Geelong has not suffered any blackouts this week, but has suffered some brownouts. The *Geelong Advertiser* of 14 March has a front-page article entitled 'Power fault serves up brownouts to 2500 households'. The article refers to Peter Norley of Highton and states:

> 'I've still got power, but it's not 240 volts,' Mr Norley said.
>
> 'My radio is going, my clocks are going, the airconditioning is running at half speed and the ceiling fan is hardly turning. The answering machine is going haywire. The place has gone mad. It's crazy.'

In the privatised world of electricity supply customers come last. How does Powercor respond? People who are concerned about blackouts ring Powercor only to get a recorded message providing certain information. In February I was informed by an elderly constituent who is living in a Belmont block of units with 16 other

elderly people that they had a fire in their electricity supply box. She rang Powercor at 5.00 a.m. and all she got was a recorded message. Powercor does not provide services until 8.30 a.m., so these distressed elderly people had to wait.

Powercor, once owned by Pacificorp, has now been sold to Scottish Power, but Scottish Power does not want this power utility and it is being put on the market again. Who will want to buy an unmitigated mess such as Powercor? Not only is the service unreliable, but in the new privatised world of power supply, Powercor has floated the idea of a surcharge on Geelong consumers to compensate it for its loss of profits during the brownouts and blackouts. What an absolute joke!

I am more than happy to talk about incompetence and mismanagement in electricity supply. The opposition deserves the condemnation of the house for its role in the privatisation of Victoria's electricity supply.

Hon. G. R. CRAIGE (Central Highlands) — I support the motion because in doing so the house and the public will learn about the issues that arose during the electricity crisis, particularly the incompetence and mismanagement of the Labor government.

The opposition has heard nothing at all from the government that would give anybody any confidence that it is handling the administration of the state effectively. I thought I would address the issue of incompetence and the significant impact the electricity crisis has had not only on the lives of Victorians in whatever capacity they are living, but also on businesses and manufacturing enterprises in this state. It is estimated that at least $100 million of business went down the gurgler due to the mismanagement of the state government in not notifying people of the pending crisis. The electricity crisis affected large and small businesses alike. It affected jobs and Victoria's national and international reputation.

The real question in this issue is: where were the two ministers who should have been at the forefront of this issue? Where was the Minister for Energy and Resources? Was she on a three-week holiday? I am sure she had lights and airconditioning and could listen to Andrea Bocelli on her CD. The minister was not seen once during the entire dispute. Even her mate, Brian Boyd, said in January that in November he indicated there would be an electricity crisis. Many people clearly saw that a crisis was pending, yet in January and February we heard nothing from the Minister for Energy and Resources and nothing from the Minister for Industrial Relations. They were not seen. They were not seen because they are so incompetent that they are continually hiding under rocks on a day-to-day basis. They are afraid to lead the state on important issues.

They are not my words! It will be clear to those honourable members who read widely that that has been the ongoing attitude of the Minister for Energy and Resources. The minister gets a guernsey in the book *The Victory*, by Pamela Williams. The book outlines that she was the assistant secretary to Gary Gray during the dying days of the Keating regime. She was in the campaign bunker listening through walls; she heard what was going on but was clearly out of her depth. The book talks about Paul Keating being referred to as Captain Wacky. The Minister for Energy and Resources is the Victorian Labor government's Captain Wacky. She is totally ineffective and totally out of her depth.

Both the Minister for Industrial Relations and the Minister for Energy and Resources are lead in the government's saddle. They are a burden on the people of Victoria, who deserve better leadership from members of the Crown — but they have not had it!

When one reads the transcripts of the media interviews at the time, none is more striking than the interview of 8 February, when Neil Mitchell talked to the Premier of Victoria on 3AW about the electricity crisis. One can only draw one's own conclusions about some of the statements made in that interview. I can only suppose that the Minister for Industrial Relations has been so busy moving offices and decorating her new offices that she has not been able to attend to her responsibilities. I do not know what the Minister for Energy and Resources has been doing. Perhaps she has been moving offices as well. Perhaps she has been on a long holiday — or perhaps she is just not capable of doing the job. The word out there is that she is a hopeless case — ineffective and inefficient!

On page 19 of the transcript of interview of 8 February, Neil Mitchell said:

> Your minister, Monica Gould, has been very roundly criticised for her lack of action, or her role in this. Has she learnt from it as well?

The Premier replied:

> Well, I think some of that criticism is unfair …

Does that mean some of it is fair? That criticism is coming not from the opposition but from the Premier himself! The Honourable Gavin Jennings apologised to the people of Victoria for the inconvenience they suffered. Not so the minister, who is hiding under a rock again, as she continually does! She does not have

the spine for the job; the sooner she gets out of it the better off Victoria will be. That she is allowed to hold her position is an indictment of the government.

All the minister did was blame the Kennett government for everything, including the creation of the national grid. That is all she could come up with. How thin are those arguments! There has been a crisis of management in Victoria, and the two ministers who should have been at the forefront were not there. During the radio interview the Premier went on to say this about the Minister for Industrial Relations, whom we should perhaps call the Minister for Moving Relations because she has had more moves than a Swiss watch and is likely to have a few more:

> She has been out there with me in the last two days …

Where was she before that? She was nowhere to be seen, and in that respect she was no different from the Minister for Energy and Resources. They were conspicuous by their absence. They were out of their depth, and the electricity dispute and resultant crisis in Victoria illustrated their inability to handle their portfolios.

House divided on motion:

Ayes, 28

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

Noes, 14

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

Motion agreed to.

Sitting suspended 1.03 p.m. until 2.02 p.m.

QUESTIONS WITHOUT NOTICE

ALP: fundraising dinner

Hon. BILL FORWOOD (Templestowe) — I direct my question to the Minister for Energy and Resources. On 1 March I asked the minister during the adjournment debate who paid for her chief of staff to attend the $1000-per-head Australian Labor Party fundraising dinner last year. Her response invited me to ask Ms McLeod directly. Accordingly, I wrote to her the next day, 2 March. Given the Westminster convention that ministers are responsible for the activities of both their departments and staff, will the minister respond on Ms McLeod's behalf or instruct her to reply to my letter?

Hon. C. C. BROAD (Minister for Energy and Resources) — I can understand it must be galling for the party that purports to represent business to have business in the state demonstrating publicly its preparedness to support democracy by publicly being prepared to fund the three political parties.

The Labor Party will continue to hold such fundraisers. It is perfectly appropriate for ministers and their advisers when called upon to attend such functions where funds are being paid by business to the Labor Party, not to ministers or their advisers.

World Consumer Rights Day

Hon. R. F. SMITH (Chelsea) — Will the Minister for Consumer Affairs inform the house what action her department is taking to highlight the importance of consumer rights on World Consumer Rights Day?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — Today is World Consumer Rights Day, the 38th year since the introduction of the first consumer rights bill in the United States of America Congress by then President John F. Kennedy.

Today I launched the new edition of *Get a Life* magazine for young school leavers, an important magazine that outlines in the language young people understand issues such as how to read, how to purchase a car, relationships, tertiary education and much more information relevant to young people that sets them on a path to an independent life knowing their rights and obligations so that they can get on with life.

World Consumer Rights Day commemorates the recognition by the United Nations of eight basic consumer rights: the right to satisfaction of basic needs; the right to safety; the right to be informed; the right to choose; the right to be heard; the right to redress; the

right to consumer education; and the right to a healthy environment.

As Minister for Consumer Affairs my department will ensure we reach a wide audience so people are aware of their rights and obligations as consumers. I am pleased to have launched *Get a Life* and look forward to producing a result in consumer affairs where more Victorians know more about their rights and obligations.

Snowy River

Hon. P. R. HALL (Gippsland) — I direct my question to the Minister for Energy and Resources. Is it a fact that the New South Wales government has identified potential water savings of only half of that required to meet its share of returning a 28 per cent flow to the Snowy River? If so, how does the minister propose to honour the government's election commitment to return 28 per cent environmental flows to the Snowy River?

Hon. C. C. BROAD (Minister for Energy and Resources) — That is not correct. I am continuing to negotiate with the New South Wales government on the matter. I regret that I had to cancel a meeting this morning as a result of the notice of motion moved by the opposition.

Honourable members interjecting.

The PRESIDENT — Order! A question has been asked and the minister is attempting to respond. I ask the house to let her respond.

Hon. C. C. BROAD — I hope to have a meeting with federal minister Minchin and New South Wales minister Della Bosca to further progress these matters, in addition to the recent meeting with the South Australian minister for water, which was productive. The Victorian government is committed to continuing to pursue its stated election commitment about environmental flows for the Snowy River.

Sport: older Victorians

Hon. E. C. CARBINES (Geelong) — Will the Minister for Sport and Recreation inform the house what action the government is taking to increase sporting participation rates among older Victorians?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am pleased to announce that the government will provide an additional $110 000 over five years for older adult recreation networks.

The grant is a recognition of the good work already done by organisations, including the 11 in regional Victoria. The grant will allow the program to be expanded into metropolitan Melbourne. I have previously told the house about the Getting Better with Age program. The key aim in the initiatives is to boost participation rates and options for Victoria's older population. The networks will focus on facilitating options that are user friendly and bridge participation levels for older Victorians.

My announcement follows comments made in my inaugural speech in this place — I hope honourable members remember it — when I outlined objectives including participation in sports at grassroots level. The initiative is part of a significant financial commitment the government will make to increasing grassroots level participation in sports.

Electricity: Yallourn dispute

Hon. PHILIP DAVIS (Gippsland) — Yesterday I asked the Minister for Energy and Resources about correspondence from Yallourn Energy dated 11 November and 29 December last. In her response the minister said:

> … I do not have the correspondence in front of me. I will check on that.

She further answered:

> As to checking on dates, it is a simple matter to do so.

Will the minister today advise whether she checked on the correspondence referred to yesterday and, if so, what was the outcome of the check?

Hon. C. C. BROAD (Minister for Energy and Resources) — I can confirm that there was correspondence from the company on those dates to the Premier, which was copied to me. If that is the information required, I can confirm those dates.

Fishing: border anomalies

Hon. D. G. HADDEN (Ballarat) — Will the Minister for Energy and Resources inform the house what action the government has taken to address cross-border anomalies regarding the management of recreational fishing in lakes Hume and Mulwala?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am pleased to inform the house that earlier this year I met with my New South Wales colleague, the fisheries minister, Eddie Obeid. At that meeting we reached in-principle agreement to resolve the cross-border anomalies relating to fisheries

management arrangements, regulations and licensing arrangements for lakes Hume and Mulwala on the Murray River.

Lakes Hume and Mulwala are important recreational fishing areas for Victorian and New South Wales anglers. The waters of both lakes overlap state borders. That means the potential exists for inconsistencies in regulations. That has led to prosecutions and a large amount of intergovernmental correspondence, which has been productive.

It makes sense for Victoria and New South Wales to coordinate management activities across the lakes, which is what we are committed to doing. New South Wales and Victorian fisheries officers meet regularly to work through the alignment of rules and regulations where possible. Implementation dates for changes will be subject to legislative processes in both parliaments. As well as establishing effective management practices the proposed new arrangements will be in the best interests of anglers and communities who recreate in those areas.

It has been possible to reach in-principle agreement as a result of the cooperation between my New South Wales colleague and my office, notwithstanding the internal machinations of the Labor Party referred to earlier. That is in stark contrast to the current hostilities within the Liberal Party and the incapacity of the former government to make any progress on the issue.

Minister for Industrial Relations: offices

Hon. D. McL. DAVIS (East Yarra) — Will the Minister for Industrial Relations confirm to the house that the office she is shortly to vacate at 1 Macarthur Street and which she moved into only a few months ago cost about $80 000 to renovate?

Hon. M. M. GOULD (Minister for Industrial Relations) — The costs associated with the establishment of my private office were minimal, unlike the former Premier's expenditure of $9 million on his office.

Sport: rural Victoria

Hon. JENNY MIKAKOS (Jika Jika) — Will the Minister for Sport and Recreation inform the house what action the government is taking to support regional sports in Victoria?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am pleased to announce a critical boost in participation by Victorians in sport and recreation. The regional sports assemblies assist in the coordination and staging of sport in regions, of which there are now 10 in rural and one in north-western metropolitan regions.

Today I am pleased to announce that the government will provide $350 000 over the next four years to the regional sports assemblies, of which $50 000 will go to boost the existing regional sports assemblies in rural Victoria and to deliver immediate benefits to them. The remaining $300 000 will be used to expand the rural sports assemblies into Melbourne's northern, eastern and south-eastern areas. The assemblies will work with grassroots sporting clubs, schools and community groups. The objective is to promote a wider range and a better quality of participation opportunities.

Heineken golf tournament

Hon. I. J. COVER (Geelong) — I refer the Minister for Sport and Recreation to the recent announcement that the Heineken golf tournament will be played in Melbourne from 2002 — and the opposition supports the staging of the event in Melbourne. In the interests of open and accountable government and in view of the fact that the *Age* has reported that the government contributed funds to have the event move to Victoria, will the minister advise the house what financial incentive was offered to the promoters to attract the event to Melbourne?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Heineken golf tournament is a prestigious and significant event because it is sanctioned by the Australasian and Professional Golf Association (PGA) tours. Consequently, the event will attract significant interest from high-profile international golfers and reinforces Melbourne as a city of major events. I do not have the figures to hand, but I will bring them to the house. The responsibility for having the event here rests with the Minister for Major Projects and Tourism in the other place. I will bring those figures to the house.

Industrial relations: reform

Hon. KAYE DARVENIZA (Melbourne West) — I direct my question to the Minister for Industrial Relations. What is the government's response to reports that the federal workplace relations minister, Peter Reith, is considering the overhaul of Australia's industrial relations regime using the commonwealth's corporations powers?

Hon. M. M. GOULD (Minister for Industrial Relations) — Reith the Wrecker is at it again! Mr Reith has stated that he is considering the use of the

corporations power as a new basis for a substantial change to industrial relations regulation in Australia. The Victorian government is gravely concerned about the direction of Mr Reith's proposal.

For nearly a century the constitution's conciliation and arbitration power has underpinned the federal industrial relations system. That constitutional power has been well considered by courts over many years and has provided a sound basis for the development of a fair national system of industrial relations. However, the current federal government has consistently sought to narrow and restrict the legislative application of that power.

Honourable members interjecting.

The PRESIDENT — Order! I invite both sides of the house to keep quiet while the minister is responding.

Hon. M. M. GOULD — Among other things, it has substantially reduced the power of the industrial relations umpire by reducing and restricting the capacity of the Australian Industrial Relations Commission — —

Hon. P. A. Katsambanis — On a point of order, Mr President, question time — and in particular, the government's use of dorothy dixers — should be confined to matters of state government business. The question invites the minister to speculate about the possible motives of a federal minister in an area that is clearly in the jurisdiction of the federal government. It is obvious that the Australian Industrial Relations Commission and federal industrial relations laws come within the purview of the federal government, not the state government. I call on you to order the minister to answer by responding to matters that relate to state government business.

The PRESIDENT — Order! Although responsibility for industrial relations has been formally handed over to the federal government, Victoria has a minister responsible for that area, so it is appropriate for her to respond to questions about it. However, I remind the house of the ruling I made just before Christmas about ministers slavishly reading answers. It is up to the ministers as to how they handle it, but one only has confidence in a minister's control of a portfolio when one takes into account his or her ability to extemporise. I made the point that when a minister slavishly reads an answer one is entitled to question his or her knowledge of the portfolio. I also made the point that ministers have read answers in the past. I do not uphold the point of order in the sense that the minister clearly has an interrelated responsibility for industrial relations, together with the federal minister.

Hon. M. M. GOULD — As I said, among other things Mr Reith has substantially reduced the powers of the industrial relations umpire and restricted the capacity of the Industrial Relations Commission to create comprehensive awards. He has reduced the general award power to only 20 allowable matters. Mr Reith's aim is to further restrict the development of a fair and equitable system by the second-wave legislation, which was rejected by a Senate committee in December last year.

Against that background of failure and the wrecking of industrial relations, he now turns to the corporations power to underpin the third wave of industrial changes. The corporations power could be used to further downgrade the role of the Australian Industrial Relations Commission. The federal government will be able to legislate minimum terms and conditions of employment at will, rather than their having to be assessed by the independent umpire of the commission.

There is no certainty that the existing terms and conditions will be maintained. For evidence of that, we need only look at the five minimum legislated conditions that exist in Victoria as a result of the previous government referring industrial relations to the federal system. Victoria has strongly advocated to Mr Reith its belief that we need a comprehensive award system with an independent industrial tribunal to provide an appropriate base on which we can move forward to develop a cooperative and fair industrial relations system.

The Victorian government calls on Mr Reith to tread carefully in considering any further reduction of the powers of the commission — —

Hon. B. N. Atkinson — On a point of order, Mr President, I would have thought that this qualifies as a ministerial statement rather than an answer. The minister took no account of what you said about reading her answer. She is continuing in a vein which I put to the Chair is the presentation of a ministerial statement.

The PRESIDENT — Order! This is not a matter on which I can rule. The minister has the opportunity of making a ministerial statement, and given the nature of what she has said, she should perhaps consider using that form, which has not been used much at all in this house in recent times. I do not uphold the point of

order. The minister is entitled to answer in this way, but there may be a more appropriate form.

Ordered that answer be considered next day on motion of Hon. B. N. ATKINSON (Koonung).

QUESTIONS ON NOTICE

Answers

Hon. C. C. BROAD (Minister for Energy and Resources) — I have received answers to the following questions on notice: nos 188 and 196.

Hon. A. P. OLEXANDER (Silvan) — In respect of standing order 71AA, I thank the Minister for Energy and Resources for her response, but quite clearly part (b) of the question has not been answered. I asked about funding that would be applied to biological control not only in the 1999–2000 financial year but also in the 2002–03 financial year. The minister made no reference in her answer to that funding, and I ask her to pursue that issue with the Minister for Environment and Conservation and come back with an answer.

Hon. C. C. BROAD (Minister for Energy and Resources) — If it is appropriate I will refer the question to the responsible minister in the other place.

MELBOURNE CITY LINK (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The former government bound the state to contracts that enable Transurban and its associated companies to collect tolls from the users of the City Link and the Exhibition Street extension. This government will honour those contracts. The government will also enforce those contracts and the law in the interests of motorists and the general public.

The government's election platform contained a number of commitments designed to protect City Link users, including the imposition of fines on toll company abuses. This bill implements those commitments. The amendments are designed to strike a better balance between the rights of toll road companies and the rights of the users of toll roads.

In his address to Transurban's annual general meeting on 23 November, Transurban's chairman stated that Transurban is comfortable with the government's intention to 'rigorously enforce privacy obligations and the accuracy of billing'.

A fundamental difference between the position of City Link customers and most other consumers is that record-keeping errors on the part of City Link operators could result in unwarranted prosecution as a toll evader. Under the Melbourne City Link Act users of City Link must register their vehicles with Transurban for tolling purposes. Driving on City Link without such registration is treated as toll evasion. Transurban has the power to report alleged evaders to the police Traffic Camera Office, which can issue an infringement notice penalty of $100 at Transurban's request. These provisions were intended to protect Transurban against loss of revenue through toll evasion.

In the government's view it is just as important that City Link users be protected from billing errors and from unwarranted allegations of toll evasion and penalties.

The act as passed in 1995 enabled prosecution of Transurban for failure to keep proper tolling records, with a maximum fine of $10 000. The bill will strengthen the existing legislation by spelling out these record-keeping requirements. Specifically, Transurban must keep accurate records of tolling registrations and exemptions so that it can be determined, with certainty, whether or not evasion has occurred.

The bill will also enable infringement notices to be issued against toll companies in respect of three classes of toll administration offences. These offences are unauthorised use or disclosure of private tolling information, failure to keep accurate tolling records and preventing authorised inspections of relevant records.

Currently, the only enforcement option available is prosecution in open court, with a maximum fine of $10 000. That option is retained and will be the appropriate choice in some circumstances. The bill will enable police officers and authorised enforcement officers to issue an infringement notice carrying a penalty of $2000. Of course, not every error will result in an infringement notice being issued. Enforcement action would only be taken on the independent discretion of a properly trained person. But where enforcement action is considered appropriate in the circumstances, infringement notices provide a more efficient alternative to prosecution in open court.

The bill also facilitates the introduction of cheaper tolls for country and occasional users of City Link. Currently, tolling registration entitles use of the entire City Link, and day passes are priced accordingly. The amendments will enable Transurban to limit registration to particular parts of the City Link.

The government considers that these amendments are consistent with the existing arrangements between Transurban and the state. The intention is to strengthen and clarify these arrangements.

I commend the bill to the house.

Debate adjourned on motion of Hon. G. B. ASHMAN (Koonung).

Debate adjourned until next day.

DOMESTIC BUILDING CONTRACTS (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The bill before the house seeks to deal with the effects of the introduction of the goods and services tax on domestic building contracts that are entered into before the introduction of GST on 1 July 2000, under which work will or may be performed after that date.

The bill deals with some technical and timing issues that arise due to features of the Domestic Building Contracts Act 1995 and the commencement of GST on 1 July 2000.

The bill provides assurance that consumers can have certainty in relation to contracts spanning the introduction of GST; and builders can be confident that these contracts are consistent with legal requirements and therefore enforceable.

The work performed under these contracts after 1 July 2000 will attract GST. Although builders have the primary responsibility to pay GST, they will want to recover it from building owners, consistent with the principles underpinning the GST legislation. Similarly, building owners need to be provided with certainty as to their rights under domestic building contracts.

At the time of entering into these contracts, the amount of GST payable cannot be ascertained, which has had unforeseen repercussions for the Domestic Building Contracts Act 1995. First, GST-recovery clauses in these contracts would, under the Domestic Building Contracts Act 1995, either be cost escalation clauses or price variation clauses. These clauses are unenforceable unless they have been the subject of approval processes by the Director of Fair Trading. Their use may also make the builder liable to prosecution.

Second, the use of GST-recovery clauses, even approved clauses, may cause these contracts to become ‘cost-plus contracts’ under the Domestic Building Contracts Act 1995, because, at the time of entering into the contract, the amount the builder is to receive cannot be determined. Unless the act allows, ‘cost-plus contracts’ are unenforceable and the builder may be prosecuted by the Director of Fair Trading.

The Director of Fair Trading has approved clauses and notices to allow the recovery of GST in domestic building contracts. Regulations have been made providing that the use of these approved clauses and notices will not make the whole contract unenforceable as a cost-plus contract. These amendments will cover contracts made before the regulations and will also ensure that the whole contract is not unenforceable, even though the individual GST-recovery clauses may be.

The measures taken to deal with the effects of the introduction of GST on domestic building contracts are aimed at:

protecting consumers, by ensuring that builders use the approved GST-recovery clauses and warning notices, which inform consumers of their rights and of the possible effect of the GST-recovery clauses on the contract price, before they enter into their contracts;

protecting domestic builders by enabling them to recover GST without jeopardising their contracts. Many domestic builders are small businesses and not in a position to absorb GST.

I commend the bill to the house.

Debate adjourned on motion of Hon. BILL FORWOOD (Templestowe).

Debate adjourned until next day.

COURTS AND TRIBUNALS LEGISLATION (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The purposes of this bill are to:

repeal certain provisions of the Sentencing Act 1991 giving the Court of Appeal a discretion to order that up to three months of time spent in custody pending the determination of an application for leave to appeal against sentence not be reckoned as time served; and

provide that the employment-related expenses of judges, masters and magistrates are paid from the consolidated fund;

give the Judicial Remuneration Tribunal jurisdiction over acting magistrates;

allow members of the Victorian Civil and Administrative Tribunal (VCAT) to be appointed to higher office for the balance of their term of appointment.

Repeal of amendments to section 18 of the Sentencing Act 1991

Section 18 of the Sentencing Act 1991 allows a court to recognise the period of time an offender has been held in custody prior to sentence and enables this prior jail time to be taken into account in determining the sentence.

In 1998 the previous government amended this section to give the Court of Appeal a discretion to order that up to three months of time spent in custody pending the determination of an unsuccessful application for leave to appeal against sentence not be reckoned as time served. The power could be exercised whenever the court was satisfied that the application for leave to appeal was frivolous, vexatious or brought without there being any reasonably arguable grounds.

Not surprisingly, this change caused considerable controversy when the legal profession and general public became aware of it. The provision erodes fundamental appeal rights by exposing appellants to the risk of extra time in prison for opting for a review of their sentence. There is potential for unfairness towards unrepresented appellants, who may not have had the benefit of legal advice about the merits of their appeal.

By its very nature, the power also only applies where an appellant is in jail, and therefore discriminates against prisoners who lodge appeals, because no equivalent discretion arises where the convicted person has received a non-custodial sentence.

This government remains of the view that the power is controversial and impossible to justify. Appeal rights are fundamental to our system of justice and are part of the checks and balances which ensure that the system operates fairly. The danger that appellants with good grounds for appeal will be dissuaded from appealing because of the threat of extra jail time cannot be discounted and should not be tolerated.

Accordingly, clause 8 of the bill repeals the previous government's amendments to section 18 of the Sentencing Act 1991.

Employment-related expenses of judges, masters and magistrates

The impartial administration of justice is fundamental to the rule of law in a democratic society. Impartiality requires the judicial arm of government to be independent of the legislative and executive arms of government. This independence preserves the separateness and integrity of the judiciary and provides a guarantee against unwarranted intrusion by the legislature and the executive.

To be independent, judges need certain guarantees regarding their conditions of service. One of these guarantees is that they receive secure and adequate remuneration. An important and longstanding constitutional convention related to this guarantee is that judges' salaries are paid from the consolidated fund rather than from departmental budgets. This convention was introduced by the Act of Settlement in 1701 and has been observed in Victoria for well over 150 years. At present salaries and pensions of all Victorian judges are paid from the consolidated fund.

The bill extends this ancient constitutional principle to provide that the employment-related expenses of judges and masters of the Supreme and County courts and of magistrates are also paid from the consolidated fund. By so doing, the bill enhances judicial independence.

Employment-related expenses include such things as payroll tax, Workcover, fringe benefits tax and, in the case of magistrates, employer superannuation contributions. Expenses of this type are integral to modern employment practice, but could never have been envisaged either by the English Parliament 300 years ago or by the founders of responsible government in this state.

Remuneration of acting magistrates

The bill amends the Judicial Remuneration Tribunal Act 1995 to give the Judicial Remuneration Tribunal jurisdiction to inquire into and report to the Attorney-General on the question of whether any adjustments are desirable in the salary of acting magistrates. The tribunal was established to ensure that the salary and allowances of judicial officers are determined at arm's length from government.

Acting magistrates are required to act impartially in the same way as other judicial officers. It follows that they should have their salary determined in the same way.

Internal promotion of VCAT members

The bill will allow the Governor in Council on the recommendation of the president of VCAT to appoint current VCAT members and senior members to higher office for the balance of their term. At present any changes in a member's appointment requires a further five-year term. This arrangement will provide VCAT with greater administrative flexibility, as well as providing an opportunity to recognise superior performance among VCAT members.

I commend the bill to the house.

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

Debate adjourned until next day.

HIRE-PURCHASE (AMENDMENT) BILL

Second reading

Debate resumed from 1 March; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. B. W. BISHOP (North Western) — I am pleased this afternoon to make some brief comments on the Hire-Purchase (Amendment) Bill. I note that the preceding Hire-Purchase (Further Amendment) Act allowed the court to vary and cancel hire-purchase agreements, particularly related to farm equipment, if those arrangements were considered to be harsh or unconscionable.

It has been well known since the legislation was enacted that the savings it provided would expire on 1 April 2000. The amending act of some two years ago retained the application of sections 24 and 25 to hire-purchase agreements for farm machinery entered into within a two-year period. The savings provisions were considered appropriate, particularly in relation to hire-purchase agreements relating to farm machinery, and took into account the erratic nature of farming businesses. It was the intention that during the two-year period a review would be conducted to find the appropriate level for statutory protection of farmer finance, which is a fine balancing act.

During that period — on 1 July 1998 — the commonwealth inserted section 51AC into the Trade Practices Act. From my reading of the section I believe it covers most of the farm machinery area in respect of hire-purchase agreements. It clearly prohibits unconscionable conduct through business transactions between farmers and any financiers of the farm machinery purchasing system. It also contains wide criteria for assessing unconscionable activities. Furthermore, it gives the courts wide powers to compensate against financiers who are not right up to the mark in their dealings with farmers. Although I believe the section is excellent, I agree it needs to be tested in the courts. I suspect that would need to be done at not only one time or place but over a period encompassing separate incidents, and obviously that would take some time. As all honourable members know, the courts take a while to work through such issues. Therefore the proposal for the retention of the sections 24 and 25 savings provisions to enable section 51AC of the commonwealth Trade Practices Act to be fully tested is excellent.

Without being negative I will paint a background picture in support of the legislation remaining on the statute book. Firstly, I make it clear that I am not adopting a scatter-gun approach of being critical of all financiers across the board. Although most financial houses now are extremely good — they have good information and they manage their risks well — one never knows; there might be one bad apple in the barrel. Like any business today the farming business is tough. It might be a bit tougher than others because of the heightened risks due to the erratic nature of commodity prices, the seasons and the weather. It can be too hot, too cold, too dry or too wet. Vagaries of the weather can influence agriculture and make it erratic, in turn affecting the revenue gained from it.

During the past few years the terms of trade have moved strongly against agriculture for many reasons, one of which is well known. I spent a fair part of my earlier representative life in agropolitics. The subsidisation of overseas markets has a strong impact on Australian growers, regardless of the commodity involved. Being a relatively small country in population terms — not size — Australia relies heavily on export markets.

Australian farmers are good at what they do — they are highly efficient — but they are unsubsidised in comparison to their export competitors. The sheer nature of the business, with the high level of export trade and the fact that that affects the pricing of commodities on the domestic scene, makes it difficult for farmers. It has often been thought that Australia should join the subsidisation race. However, that would be difficult for Australia because of its small population. Competing in subsidisation against other exporters such as the European Community, the United States of America and perhaps to a lesser degree Canada and others would be like trying to stop Niagara Falls.

Margins have become really tight. At risk of giving a history lesson on how that has occurred, I will outline my experience. I started farming in the mid-1950s when I came home to a small father-and-son farm. As occurs in a number of father-and-son businesses, it is sometimes difficult to move in one direction when expanding such a farm.

Hon. R. A. Best — Is that the case now, with your son on the farm?

Hon. B. W. BISHOP — No, it is not the case now. My son runs the farm. I have been away from the farm for so long that a board meeting is held to inform me of the broad issues. I am satisfied with that, but it was different back in those years. For a while I parted company with the farm and worked as a rigger on building sites to get some money together. I then bought some farm machinery and share farmed. The difference between those days and nowadays is striking. In the 1950s, 1960s and 1970s margins were extremely good, particularly in the late 1950s and early 1960s, terms of trade were excellent, machinery was relatively cheaply priced when compared to today's prices, and the prices of the products we grew were high compared with today's commodity prices.

In those earlier times the business was expanding and land was reasonably priced in relation to how much money could be made, so it was possible to expand. It was not too hard to make a dollar, and anyone who was prepared to work and take a bit of a risk could build up a farm. That continued throughout the late 1950s and the 1960s. Obviously there were a few bumpy years, but the margins were such that you could manage to get through. The situation was even reasonable during the 1970s, although the pressure from the corruption in the international market started to bite on returns in grain and other areas. It was a really tough run in the 1980s; there were a number of bad years.

I will now narrow my focus and revert to talking more about broadacre and grain farming.

In 1982 Victorian suffered its worst drought on record. It grew only a small quantity of wheat, something like 300 000 tonnes, whereas the following year it grew approximately 5.5 million tonnes. In 1982 wheat was brought from Western Australia to enable farmers to carry out their feeding processes. Farmers had a good year in the mid-1980s, but further hard years followed with low commodity prices.

I am sure all honourable members, particularly those involved in businesses, will remember the high interest rates of the 1980s. They were prohibitive for farmers trying to operate farming businesses and made it particularly difficult for them to climb out of their difficulties. In the 1990s there were some patchy years with low commodity prices, particularly in the grain growing areas in the Mallee, and to a lesser extent in the Wimmera, although crops in that area were also damaged by frost some years ago. Mr Stoney would agree with me when I say that it is disheartening to see a wonderful crop that is ready to be harvested struck down by frost during the flowering period.

Hon. E. G. Stoney — You have another year to go.

Hon. B. W. BISHOP — Yes. In the Wimmera and in parts of the Mallee grain growers suffered frost damage as well as having to put up with low commodity prices. Those issues created exceptional circumstances in the Mallee, and many farmers are still struggling as a result of what happened in that period.

A committee formed by the Victorian Farmers Federation and chaired by a friend of mine, Ian Hastings, from Ouyen, has worked well with departmental officers, with the former Kennett government and with this government in trying to effect a more practical application of declarations of exceptional circumstances. A line is drawn that must be adhered to, but people outside the line are often just as affected as those inside it. A lot of work is needed to ensure that the declaration of exceptional circumstances is applied in a practical way to the circumstances in which farmers often find themselves.

I seem to be reciting a bad news story, but it is not all that bad. Last year a large part of the grain-growing area experienced a reasonable season. Communities in Manangatang and Ouyen had a bad year following the previous three or four bad years. It has been difficult for people in those areas and everything possible is being done to ensure they receive assistance. A farmer is always optimistic or he or she would not be a farmer.

The good news is that interest rates are at their lowest level for a considerable time. Because of the tough times in agriculture during the 1980s and 1990s equipment has become run down. I will focus on the grain industry to ensure my message is clear.

Margins have been so thin and returns so low that many farmers have not upgraded equipment. They have maintained their machines as well as they have been able, but many have 20-year-old machines that are near the end of their economic lives. It is important in the broad grain-growing areas for equipment to be of top standard. In debate yesterday I said that when a farmer sells his property often three or four of his neighbours will buy a portion of the farm. Consequently farms have grown larger as farming families have left the land. Where my son is situated in the Mallee, a farm of 640 acres or a square mile was about the right size from which to make a living. Now, unless a farm is five or six times that size it is almost uneconomic. As a rule of thumb a farm five times that size is needed to be an economic unit. Of course, some have less land than that, but they are excellent farmers and have survived quite well.

In any case, farming equipment must be in good condition because it runs at full bore during the busy times. It has an economic lifespan, and as is the case with all businesses, it is not possible to survive without adequate equipment. Offices have computers, as do most farms these days. Farmers need good equipment to get a crop in and get it off the property. Farmers must manage as well as they can the risk of their particular operations. Farming is all about managing the risk. There is a huge investment in land and machinery, so it is a high-risk business. Normally there are two pressure points in grain growing. The first is when the crop is sown, which is normally in May or June. If sufficient rain falls at the appropriate time it is necessary to get the crop in as quickly as possible. The equipment is expensive and technical and normally runs 24 hours a day.

The second important time is harvesting. It is often a more difficult period because it can be extremely hot during the October, November and December period when farmers are working for their once-a-year pay cheque. Farmers make sure everything is in order and that the equipment is up to standard because grain growers have only one shot a year to work for a pay cheque, and that is at harvest time. If the equipment is not up to standard, breakdowns can occur. Generally harvesting equipment involves self-propelled headers, trucks and field bins. If one link in the chain breaks down the process stops and the crop can be exposed to the vagaries of the weather. A rain storm can take 25 per cent or even more off the price of the crop.

It is difficult to quote prices accurately, but a new self-propelled header can be purchased from between $200 000 and $400 000, with the average price being $300 000. That one piece of equipment may work flat chat for four or five weeks a year. Farmers now use contractors to pick up the extra crop they need to harvest in good years, but generally most have their own harvesting equipment and use the contractors to do only extra work. The next most expensive piece of equipment is the tractor. Most are four-wheel-drive articulated tractors to enable farmers to handle large areas, but there are also two-wheel drive tractors.

On our farm my son is currently going through the process of purchasing a new tractor. The tractor we have is nearly 19 years old and has reached the end of its economic life. I recall purchasing it for approximately $75 000 when I managed the farm; however, to replace it now would cost $250 000 or $260 000. That is the sort of money a farmer has to spend on a tractor to maintain the efficiency of an average-size farm.

Hon. E. G. Stoney — Has it got a fridge?

Hon. B. W. BISHOP — No, it does not have a fridge, Mr Stoney. The standard closed-cabin tractor now has airconditioning because without it the heat that would build up inside the cabin would be unbearable. That sort of tractor could not be driven for any more than an hour without airconditioning. There is no doubt that today's tractors are very comfortable, but if farmers have to drive them for long hours, they need the airconditioning. I do not begrudge farmers that comfort when they are trying to put their crops in or doing whatever else is necessary on their farms.

Pricing, risk management, the need to get the job done properly and all the other issues that arise create a sort of pincer pressure. On the one hand farmers pay high costs and operate on thin margins, which create great risks, and on the other they need to get the job done quickly and efficiently to reduce the risks. I have learnt from talking to farmers and from experience with our farm that hire-purchase is now an everyday occurrence, whereas it generally was not back in the 1950s and 1960s — and it certainly was not in the 1980s, with interest rates the way they were.

Farmers are managing their risks, their borrowings and other financial issues despite being in some tight spots. Given the pincer movement pressure they are experiencing and the volatile nature of agriculture,

some farmers can get caught out if they enter into not-so-good deals — even though they enter into those deals in an effort to achieve high efficiency, manage their risk and survive as farmers. They need protection, particularly during volatile seasons. Any of the resources that farmers managed to carry through from the better seasons during the 1960s and 1970s were soon soaked up during the tough times in the 1980s and 1990s. It is essential to protect farmers who get caught up in the pincer movement I have described as they strive for extra efficiency.

The financial advice available to farmers today is excellent. Most now go out of their way to obtain advice from farm consultants, accountants, bank managers or financiers, or they might obtain their advice from a combination of all of them. Advice is also available from the Department of Natural Resources and Environment. Farmers are able to gather up all the available information, calculate the risks and work out how to manage them. However, every now and then farmers get caught and are forced to grab quick deals. They only have to experience a couple of tough years to be in trouble.

Most of the financial institutions involved in agriculture are credible organisations with excellent reputations. They have been around for a long time and understand both the risks that farmers run and those that they run as financiers. However, farmers need all the protection that we as legislators can provide.

The bill is practical and sensible. The period for the retention of the savings provision, which at the time was thought to be sufficient, has to be extended to enable section 51AC, which was inserted in the commonwealth Trade Practices Act, to be tested in the courts. The operation of that section also needs testing in the real world. It is an excellent idea to retain the savings provisions in the bill until they can be fully tested in the courts.

Hon. D. G. HADDEN (Ballarat) — I support the Hire-Purchase (Amendment) Bill, which amends subsection 4B of section 1 of the Hire-Purchase Act 1959 by extending the application of sections 24 and 25 of that act to hire-purchase agreements pertaining to farm machinery and equipment.

Section 24 of the Hire-Purchase Act allows courts to vary or cancel hire-purchase agreements for farm machinery that are considered to be harsh and unconscionable. Section 25 of the Hire-Purchase Act allows courts to grant a moratorium period of 12 months on the repossession of farm machinery to enable farmers to remedy any breaches. It also protects their farm businesses, which are subject to irregular incomes and, as we have just heard from the Honourable Barry Bishop, are subject to the climate, the seasons, pests and the other vicissitudes of farming and agricultural life.

Hon. Bill Forwood — That is a good word!

Hon. D. G. HADDEN — I thought you would like that. Most of the Hire-Purchase Act was repealed in 1998 by the Hire-Purchase (Further Amendment) Act of 1997, except for sections 24 and 25, which were retained for two years — and that provision expires on 1 April. The intent of the provision was to enable a general review of the appropriate statutory protection of farm finance at the national level.

That review has not taken place. Section 51AC of the Trade Practices Act, which pertains to unconscionable conduct in commercial transactions, came into operation in 1998. Clause 3 proposes to extend the period covering hire-purchase agreements on farm machinery to three and a half years. The purpose behind that is to enable a review of section 51AC of the Trade Practices Act. There are currently three cases before the Federal Court under section 51AC that may take some years to complete. One case is due to go to trial in the second half of this year, but then there are the appeal processes that either party can avail itself of, which could extend the time frame. That is why the three and a half years savings period is required. It is important to note that sections 24 and 25 of the act will continue to protect farming finance in the interim.

Support for the amendment comes from the Consumer Credit Legal Service, the Financial and Consumer Rights Council and the Victorian Farmers Federation. The Australian Finance Conference opposes the extension on the basis that the provisions are not used by farmers. One counter argument is that if those two sections are not being used by farmers there is no harm in extending the savings period in order to see the result of the test cases on section 51AC of the Trade Practices Act. Farm machinery is expensive and if it is repossessed farmers have no capacity to earn an income to meet the debt.

The definition of farm machinery in the Hire-Purchase Act covers a harvester, binder, tractor, plough, other agricultural implement or motor truck with no monetary limit. Thousands of dollars worth of equipment are at stake. It is on that basis that the extension of the savings period under sections 24 and 25 should be extended. I commend the bill to the house.

Hon. M. T. LUCKINS (Waverley) — The opposition does not oppose the Hire-Purchase (Amendment) Bill, which extends the operation of sections 24 and 25 of the Hire-Purchase Act until 1 July 2003. In 1997 the Kennett government amended the Hire-Purchase Act by accepting the recommendations made by the Scrutiny of Acts and Regulations Committee's redundant legislation subcommittee, which I had the honour of chairing from 1996. An inquiry was held into the Hire-Purchase Act to ascertain the relevance of the act to current farming finance practices.

By way of background, the former Minister for Fair Trading, Jan Wade, referred the act to the redundant legislation subcommittee following a request from the Australian Finance Conference (AFC). The Honourable Dianne Hadden suggested that the AFC advised the government of its opposition to the bill on the basis that that form of finance is not used by farmers. In 1995 the AFC submitted that the Hire-Purchase Act was not relevant in a deregulated financial industry. The subcommittee received 38 submissions in answer to an advertisement about an inquiry into the act. The committee considered as terms of reference whether the act should be repealed, whether some provisions of it should be saved or transferred to another act, whether transactions in question were not protected under any other legislation or regulation and how best to maintain the protections and rights to preserve them in the future.

The submissions received in 1996 included 13 from the financial sector and credit providers, 7 from the legal profession, 5 from major consumer finance consultants and 2 from the insurance industry. In addition, the subcommittee received responses from the Victorian Employers Chamber of Commerce and Industry (VECCI), the Victorian Farmers Federation (VFF) and the Equipment Lessors Association.

The subcommittee held a public hearing on 27 August 1996 at which a number of groups appeared, including the VFF. Appearances were also made by representatives from the Australian Finance Conference, the RTV Consultancy, the Australian Bankers Association, a number of solicitors' firms, the Consumer Credit Legal Service, the Consumer Law Centre, the Consumer and Finance and Counselling Association, the Banking Finance and Consumer Committee of the Law Council of Australia and others that operated consultancies in the area. Diverse views were put to the subcommittee, which considered the implications of repealing or retaining parts of the Hire-Purchase Act.

Three main sources of finance are available for farmers. The first is hire-purchase. The second is chattel mortgage, which is a contract for the sale of goods between a dealer and a customer with finance provided usually by a third party. That form of finance does not incur stamp duty and has advantages to farmers and to those who accept finance under those conditions. The other main avenue of finance for farmers and small businesses is the leasing of goods, vehicles, plant and equipment. That is an increasingly popular form of financing because the lessees can take advantage of tax deductions when the goods are used for earning taxable income.

Evidence was presented that questioned the rationale of maintaining statutory regulations for only one of the three main forms of finance available to farmers, the other two being chattel mortgage and leasing, which are not regulated under legislation or regulation. It was put that it was inconsistent to have only one form of finance regulated in that way. Other aspects of the provisions of the act and how they operated included capping under the Hire-Purchase Act of 8 per cent interest which in times of low interest disadvantaged farmers because they may be paying more for the hire-purchase in interest costs than if they received bank loans for chattel mortgages. The committee found that most farmers had not entered into hire-purchase over the past 10 to 20 years.

At the public hearing the VFF representatives supplied figures showing that hire-purchase debt accounted for approximately 3.6 per cent of total farm debt — that is not the percentage of farmers in debt but the percentage of farm debt in total. The subcommittee questioned why one would maintain regulation on 3.6 per cent of total farm debt while allowing 96.4 per cent of the borrowing transactions to be unregulated.

The subcommittee took into account all the views put to it, and in its report tabled in Parliament in late 1997 found that the act was rigid, overprescriptive and inappropriate as a means of regulating business finance. It found that capping of interest rates at 8 per cent was inconsistent with modern practice. The subcommittee also heard evidence that alarmed it. In particular it heard that national companies were going interstate to carry out financial transactions to avoid the Hire-Purchase Act provisions. Currently Victoria is the only state with provisions covering hire-purchase.

The subcommittee identified two areas where repeal of the Hire-Purchase Act would result in a loss of protection. Firstly, section 24 of the act allows courts to vary or cancel hire-purchase agreements for farm machinery that are considered to be harsh and

unconscionable. Section 25 of the act allows courts to grant a 12-month moratorium on the repossession of farm machinery. That is a sensible provision, which allows farmers to have the opportunity to trade out of debt. Obviously they cannot do so if the goods and equipment to run their farms have been repossessed. The subcommittee recommended to the government in a report tabled in this place that those two provisions relating to farmers be retained until 1 April this year.

The government accepted the recommendation to have a two-year sunset provision in amendments to the Hire-Purchase Act made in 1997 to allow for further consideration by the federal government and/or state governments in all areas, including ministers for agriculture and fair trading, to ensure adequate protection was available in future so farmers would not be disadvantaged.

It is important to remember that even though hire-purchase agreements may not be particularly popular now, many of them are still in operation even though they may have been entered into years ago. Farmers are still bound by the agreements signed. The Kennett government considered a two-year sunset clause to be appropriate. I recall that during debate in this house the former government said that if two years proved to be insufficient, it would return to the house with legislation to provide for a further extension, if deemed necessary.

I can only assume the bill was prepared while the Kennett government was in office. It certainly follows the recommendations put to the government by the Scrutiny of Acts and Regulations Committee's redundant legislation subcommittee, which, as I said, I had the honour of chairing from 1996. In the meantime, since the act was last amended in 1997, the commonwealth inserted new section 51AC into the Trades Practices Act, and it came into operation on 1 July 1998. That provision prohibits unconscionable conduct in business transactions and sets wide criteria for assessing unconscionability. The courts have wide powers to compensate traders and farmers. That new provision in the commonwealth legislation will take over from the provision in the Hire-Purchase Act. The Trades Practices Act will have jurisdiction over transactions in Victoria.

The government suggests we should allow the new provision in the Trade Practices Act some time to operate to ensure that if it is challenged in the courts, the intention in the amendment to the Trades Practices Act will be made clear and the intent of the act will be maintained to protect farmers and ensure they are not disadvantaged in any way by the amendments to the Hire-Purchase Act. The opposition has no problem with the bill. I commend it to the house.

Hon. S. M. NGUYEN (Melbourne West) — I am delighted to speak on the Hire-Purchase (Amendment) Bill. I am pleased that all parties support this small but important bill. Parts of the principal act have been repealed and the bill extends the life of two sections of the act. The aim of the bill is to assist farmers in their hire-purchase arrangements for farm machinery.

The Bracks Labor government has shown its care for country Victoria. It knows how important it is for farmers that the bill pass. It provides farmers with the opportunity to negotiate with contractors for the purchase of machinery. Sections 24 and 25 of the Hire-Purchase Act protect farmers, especially those whose incomes are not regular but whose payments for the hire of equipment are regular, thereby causing difficulties, particularly for small farmers without large amounts of capital.

Farmers are an important part of Australia's, and particularly Victoria's, agricultural industries. The government must assist farmers to expand their businesses, which will lead to increases in farm productivity and increased exports to Australia's overseas markets in the Asia–Pacific region.

Section 24 of the principal act enables the court to reopen and rectify hire-purchase contracts on farm machinery that are deemed unconscionable. It would apply if the contract were determined to be unfair, or if farmers were restricted or did not understand an agreement. It gives farmers more flexibility.

Section 24 refers to certain hire-purchase transactions. Section 24(1) states:

> In any proceedings under this act or arising out of a hire-purchase agreement or instituted pursuant to subsection 4 of this section where it appears to the court that the transaction is harsh and unconscionable or is otherwise such that a Court of Equity would give relief the court may re-open the transaction and take an account between the parties hereto.

Section 2(1) of the principal act defines farm machinery as:

> (a) a harvester, binder, tractor, plough or other agricultural implement;
>
> (b) a motor truck used for the purposes of a farming undertaking or any other business involving the cultivation of the soil, the gathering of crops or the rearing of livestock.

Section 24(2) of the Hire-Purchase Act states:

> The court re-opening any transaction under this section may, notwithstanding any statement or settlement of accounts or any agreement purporting to close previous dealings and create a new obligation —
>
> (a) re-open any account already taken between the parties;
>
> (b) relieve the hirer and any guarantor from payment of any sum in excess of such sum in respect of the cash price terms charges and other charges as the court adjudges to be fairly and reasonably payable;
>
> (c) set aside either wholly or in part or revise or alter any agreement made or security given in connexion with the transaction;
>
> (d) give judgment for any party for such amount as having regard to the relief (if any) which the court thinks fit to grant is justly due to that party under the agreement; and
>
> (e) if it thinks fit give judgment against any party for delivery of the goods if they are in his possession.

The act has four parts. The first provides that if any business buys a tractor or truck or other agricultural implement as part of a hire-purchase agreement under which the hirer is a farmer and the goods are repossessed by reason of a breach of the agreement relating to the payment of instalments, the farmer may, within 21 days of repossession, apply to the court for an order that the goods repossessed should be restored to the farmer.

The act provides that:

> … 'farmer' means any person engaged in agriculture, pasturage, horticulture, viticulture, apiculture, poultry farming, dairy farming or any other business consisting of the cultivation of soil, the gathering in of crops or the rearing of livestock.

The bill will provide important help to farmers. After listening to other speakers it is obvious to me not only that modern farm equipment is expensive but that farmers need to buy a lot of equipment to keep their businesses going, especially given the high level of new technology that is currently being introduced. Many farmers in Victoria need considerable support to expand their businesses.

It may be that section 51AC of the Trade Practices Act is a suitable substitute for the provisions of the act to which I have referred. Section 51AC prohibits unconscionable conduct in business transactions and would encompass the credit dealings between farmers and financiers regarding farm machinery. The aim is to provide better protection for farmers who are hiring their farm machinery.

The bill has the support of the Victorian Farmers Federation, the Consumer Credit Legal Service and the Financial and Consumer Rights Council. It would be dangerous to allow the current provisions to lapse on 1 April without there being an adequate replacement, especially as it is difficult to assess the extent of the deterrent effect of the provisions, in particular section 25. It might be that the financiers will not repossess farm machinery but allow farmers more time to repay, and under section 25 farmers can apply for a 12-month moratorium. I strongly support the bill.

Hon. R. H. BOWDEN (South Eastern) — Although the Hire-Purchase (Amendment) Bill is not large it is important. It will provide benefits right across Victoria for people who work in a crucial part of our economy — that is, those involved in the production of a variety of agricultural products in rural areas.

One of the nice things about the bill is that it is relevant to many farming activities and agricultural pursuits, which differ depending on their location in the state. In the north-west, grain is grown and broadacre farming is undertaken. In the south-east, in the beautiful province I have the privilege of representing, there are dairy farmers and those who grow vegetables or run substantial orchards. All the producers involved in those farming activities will benefit from the bill.

I highlight my enthusiasm for the bill because the farming sector is vital not only in maintaining the financial performance and economic indices of our state but also because it is an important part of our psyche — that is, in defining what it is to be a Victorian and an Australian.

It has often been said that although most Australians live in urban or suburban environments there is a little bit of the country in most of us. Those of us who have had the privilege of spending time in the country will agree with that fine sentiment. A valuable community trait that is also an important aspect of our character is that even though we may live in the most urbanised situation, such as downtown Melbourne or the heart of a regional city, we still understand, appreciate and relate to the circumstances of fellow members of the community in other parts of the state, especially in rural areas.

On looking back on my late teens and early 20s, when I spent considerable time with my family in the country, it seems to me that most summers I was driving either a truck or tractor and helping to lug wheat. I remember vividly the long days out in the fields with our broad hats on. It was well before the start of the slip, slop, slap campaign, but we wore our broad hats because it was hot in the sun, the temperature often being at least 40° C. I can relate to the idea of having the right equipment to do the work. In those days, farms were

mechanised: the harvesters and combines had come along and the wheat was bagged and trucked up through the various transport mechanisms and trailers. We worked long and hard during the harvest.

However, the equipment did not just appear. The tractors, combines, harvesters and other machinery needed for broadacre farming, which I had a lot do to with, required considerable investment by families — and therefore, of course, considerable risk. In the 1960s and 1970s farming was in the main a more profitable and less speculative occupation than it is today. However, even in those times I can clearly remember family members discussing in considerable detail and taking great care over the financial planning required to purchase essential equipment, whether it was a new harvester, tractor or truck. At that time they were major investments for my relatives.

One can talk about essential operations, sophisticated manufacturing terms and integrated manufacturing systems, yet if one looks at a farming enterprise one sees exactly the same things. If you are heading, harvesting and gathering wheat, then putting it into bags to be transported in trucks, each of those separate and crucial activities requires the right, efficient equipment.

I will not give a speech about the mechanics of harvesting wheat. I make the point that historically in Australia such enterprises have been family businesses, and the ability to acquire and accumulate the correct equipment is directly related to the degree of risk taken and the courage of rural and regional families on the land. In most instances farms are operated as family enterprises.

One of the key financial avenues for acquiring the proper equipment has been hire-purchase. The act goes back to 1959 and there have been subsequent amendments. The cost of buying equipment is quite different from what it was in 1959, but I assure the house that the need to invest is just the same, just as real and just as important for the welfare of individual farming families who today have to make the same sorts of decisions as families made decades ago.

The contribution of farming to the wealth of the state and the enhancement of our economy can never be overstated. It is important for the community at large to understand the sacrifices and risks taken by rural families. It is one thing to be able to produce a product; it is another thing to have the technical knowledge or expertise. In the mix of knowledge, expertise and resources one always finds the need for capital.

As I look back over some decades of my family background and various branches of my family, I note that we have been and still are on the land, but the acquisition of necessary production equipment has been and remains a serious matter. Thankfully today, using innovations such as the Internet, modern farmers have access to good economic and technological information. Access to meteorological data has developed a much greater understanding of the need to schedule and plan and the need to husband resources to produce a crop of good quality.

The production of good quality crops has always been important, be it in orcharding or broadacre grains. Today quality is more crucial than ever before because the returns are much smaller than they have ever been. As the returns have decreased the need for quality has become more vital, so the use of suitable, efficient and reliable equipment has never been more important than it is today.

It is interesting to compare the types of equipment used in farming. I live in Somerville on the Mornington Peninsula, and the land I live on was an orchard some 20 years ago. In that area it was usual for the orchardist to have what we all know as a little grey Fergie — a grey Ferguson tractor. Typically the tractors were 25 horsepower and were petrol driven. Everyone knew and loved the Fergie, and hundreds of them are still to be found on the peninsula.

Today my tractor is a 41-horsepower 1962 International. It is not flash, but it does the job. I make the point that in the 1950s, when the orchards on the Mornington Peninsula were producing huge quantities of apples, the prime mover for getting the produce from the trees and down to the appropriate storage shed was the 25-horsepower tractor.

By the 1960s it became necessary to use bigger tractors, and my diesel tractor with almost twice the horsepower of the Fergie is typical of what was used at that time. You might say, ‘That’s interesting, but I don’t like apples and I don’t go to the Mornington Peninsula’. However, my point is that as time progresses and technology advances the need for family capital investment becomes more important.

If one looks at the statistics on farming in general one sees that some years are better than others. It is widely conceded that farming is not a high-profit enterprise, whether you are an orchardist or growing vegetables or producing wheat, corn or some other crop. If you look at the records or ask your peers in the community generally, in the main you find that most people say that farming is not usually financially rewarding. There

are other rewards, such as a fine, healthy and energetic lifestyle. It is a lifestyle supported by members on both sides of the house. There is freedom to enjoy fresh air and to get close to nature, which is something we all value and enjoy.

Underpinning that lifestyle and the ability of a community to produce farm products of the sort I have mentioned is the need for capital. In days gone by farmers were very cautious, and although their incomes were small by today's standards and the margins not huge they were reasonably good and as a percentage on turnover generally better than today. However, the true farm income over decades has not been great.

In the 1950s the innovation of hire-purchase was introduced. In the cities hire-purchase was used to buy lawnmowers or television sets, but what many city people do not know is that for many it became an acceptable avenue through which to buy much larger dollar-value items — or at that time in the 1950s, pound-value — such as tractors, ploughs or other pieces of essential farming machinery.

Up until the 1940s and 1950s the mentality of the farming communities was that of the cash economy. I do not mean that in a negative way. If a farmer could not pay cash for an item, he or she would not buy it. Many farmers and farming families over the generations, at least until the 1950s, needed to be frugal. They needed to be aware that there were not many avenues to obtain the finance necessary to purchase crucial new equipment. Indeed, the horse was obsolete!

Then along came a mechanism that was accepted and respected under the commonwealth taxation regime and that allowed the hire-purchase scheme to become an extremely widespread tool for the advancement of rural communities. The proper use of hire-purchase schemes for the acquisition of productive farm machinery was one of the best uses of that scheme.

Victorians know from experience that, while we think the weather is predictable, it is not. Some years are better than others — some years are bountiful and others are a complete disaster. Australia is not blessed with the equivalent of a Mississippi River. Australia is not blessed with the snowfalls of the north-east and mid-west of the United States, which produce the water necessary for their crops.

Australia is a dry continent. Australians know that we live in a harsh environment. Therefore, to ensure Australia remains the efficient producer of farming produce that it is, technology must be used. Risk taking has to be encouraged. Farming families need to be sustained and encouraged. Australian society does that through the tax laws, among other means, making sure avenues of finance for farm equipment are readily available.

In that context I can think of no more valuable contribution to farming and rural communities and to producers of a wide variety of agricultural products than the advent of hire-purchase. I have no connection whatsoever with the hire-purchase industry. I am just recognising that hire-purchase schemes are a financial tool that has helped an enormous number of families.

Regrettably, from time to time it is in the nature of our continent to experience unpredictable weather. All Australians would have seen that during their lives. Australia has droughts and microclimatic variations that no-one would want to have to deal with. It is almost impossible to plan for such unhelpful seasonal variations.

It is a sad fact of human nature that at times individuals can behave unconscionably. Some members of the community have taken unfair advantage of others. Unfortunately in many rural communities there have been instances of unconscionable conduct on the part of companies providing hire-purchase contracts to farming customers.

The commonwealth Trade Practices Act 1974 is an interesting milestone in the conduct of commerce in this country. For the first time it established clear guidelines on what can and cannot be done. It brought about a culture change. The Trade Practices Act 1974 was a good base upon which to base subsequent amendments, bring into play a far more acceptable financial community profile and prevent the operations of a small number of companies that were taking unacceptable advantage of growers. Honourable members would be familiar with amendments that have been made to the appropriate legislation.

I would like to talk a little about the dairy industry in the South Eastern Province. As honourable members know, the South Eastern Province is represented in the Assembly by the four seats of Dromana, Mornington, Cranbourne and Gippsland West. It is characteristic of the province that most dairy activity is in the seat of Gippsland West. In Korumburra, Lang Lang, the back of Wonthaggi, Drouin, Kooyong and the rest of that general area there is a great deal of milk production. While milk is considered a dairy product, the producers of milk are still called dairy farmers. That wonderful term encapsulates the commitment to and family nature

of the enterprise. It encapsulates the spirit behind the industry.

In the seat of Gippsland West many hundreds of efficient, dedicated dairy farmers operate. I suggest to honourable members that on every dairy farm producing high-quality milk and with acknowledged good economic performance there would be at least one good quality working tractor; perhaps a second one that is not so good and a lot older; trailer equipment and other minor pieces of essential equipment. Instead of a horse, a motorbike, four-wheel drive or small tractor might be used.

Essentially my point is that the acquisition of much equipment depended on to produce high-quality milk for export and reliable first-class dairy products can be traced back to a hire-purchase arrangement. Therefore the amendments being considered today will protect hundreds of thousands of farmers across the state, and that is why I am pleased to support the bill.

Vegetable farming requires an entirely different type of tractor from that used in dairy farming. In the South Eastern Province, in south Cranbourne and around Cardinia, celery production is an important industry. Celery can be produced only over a limited number of months of the year. It is crucial that celery be collected and processed on time. The tractor equipment used in the multimillion-dollar celery industry is entirely different from that used in the dairy industry.

I turn to the orchards of the Mornington Peninsula. The common denominator in the vegetable and dairy industries is that a great deal of associated equipment has been and is acquired through a variation on a form of hire-purchase contract, so the bill's provision of an extension of the savings provisions from 1 April to 30 June is extremely important.

Clause 1 clearly states the purpose of the bill. I will read it out, because it is important that those members of the farming community who depend on the bill for security have the chance to understand the sentiments of Parliament in passing it, as it is expected to do. Clause 1 states:

> The purpose of this act is to amend the Hire-Purchase Act 1959 to extend the application of sections 24 and 25 of that act to hire-purchase agreements for farm machinery and connected agreements entered into before 1 July 2003.

Earlier I spoke about the past regrettable instances of unconscionable conduct by lenders. Sections 24 and 25 of the act make it clear that the community will not tolerate unconscionable conduct by hire-purchase lenders, and the mechanisms are available through the courts to provide the rest.

I do not know if any honourable members have ever driven harvesters or tractors in the production of volume primary produce. Tractors, transport and processing equipment have become increasingly sophisticated. I will not dwell on computerisation, which is evident in food processing, but the sophistication of the equipment used in family farm enterprises has increased enormously. However, that sophistication has come at an increased cost.

I do not know if any honourable members have had the opportunity to go to the various farming exhibition fares conducted throughout regional Victoria. I suggest with enthusiasm that those who have the opportunity visit the Lardner Field Days at Lardner's Track near Drouin, which is a big property. Family farm producers and agricultural industry members who attend the Lardner Field Days see a huge variety of equipment that comes in many different sizes. There are small, medium and huge tractors; those that are not so complicated and those that require a high degree of initial training for their safe and reliable operation.

The purchase price of such equipment can run into hundreds of thousands of dollars and such purchases are crucial investments for families, so the provisions of the bill are extremely important. Passing the bill is not a matter of passing a couple of paragraphs and feeling good, it is about having an understanding that it will provide peace of mind for farmers, facilitate their acquisition of vital equipment and serve the entire Victorian community by assisting farming communities across the state. It is a good measure.

An outstanding characteristic of modern farm equipment is its reliability. However, a high degree of operator knowledge is necessary and maintenance requirements have to be met, of which servicing is an important part. The Honourable Barry Bishop spoke about the use of complex equipment in the production of grains, which is the area of his family's farm enterprise. Attending a major agricultural field day show is an eye opener. One can see not only the continual improvements in equipment, but also understand the increased productivity in food production, which is reflected in the relative maintenance of supermarket prices. Although a lot of that productivity increase is due to the use of new handling techniques and the computerisation of processing, I refer to the early stages of primary production and suggest that the family farm enterprise is the base building block of a wide variety of rural enterprises that produce food efficiently and at the high

quality that has led to Victoria becoming known as the clean, green state for food production.

From time to time the financial system has its moments. We all see shares go up and down — —

Hon. Bill Forwood — You are talking about the crash of 1987, aren't you?

Hon. R. H. BOWDEN — Yes. Although the financial markets have boom years and bad years, such as 1987, one of the great things about Victoria is that because of its relatively consistent rainfall and acknowledged cooler climates it is a vital food producer for the rest of the nation, even though it constitutes approximately only 3 per cent of the total land mass. Just as Victoria is a vital food producer, those hardworking, and at times under-recognised, family farm enterprises are also vital and must be supported.

Financial providers need to understand there is a clear interdependency between the agricultural and financial industries. There are tens of thousands of legitimate, volume-diversified agricultural producers in the nation, and thousands of diversified, credible and hardworking family farm enterprises, as well as corporate enterprises, in this great state. When one side of the equation experiences trouble, such as that encountered during a drought or other difficult circumstances in a region or microclimate, there is an expectation that that interdependency will be understood.

Honourable members are aware of the interdependency of farming. Although some years are better than others, each year is a new season and a renewal. Just as there is a renewal of crops, orchards or vegetables, there is a need for a renewal of equipment. One renewal that should be encouraged is the constructive and worthwhile passing from one generation of farming family to another. I certainly support that renewal. The transfer of the noble work of farming from one generation to another should be supported by honourable members through tax incentives and other legislation.

In some parts of Australia, particularly on the east coast of New South Wales, agriculture goes back to 1788. Victoria has multigeneration farming enterprises, which I encourage. Honourable members hear a lot about the drift away from country Victoria to the city and the decline in rural populations. It is important to consider new technologies and different ways to revive regional and rural Victoria. Technologies change, but they also bring opportunities. I believe family farming enterprises are a way of stabilising Victoria's rural population. If Victoria has reliable, quality and large-volume production of a variety of agricultural products, supported by good production techniques and sophisticated machinery, it will continue to be well regarded throughout Australia and the world. During recent months there has been speculation about deregulation of the milk industry, which has a lot to do with this measure. It is conceded that deregulation will offer opportunities for very efficient and committed dairy farmers. The availability of capital provided by supervised finance agreements is a consideration that honourable members can make to rural communities. Hire-purchase has made a considerable contribution to farming communities over many years and should be continued, but it is important that good intentions and clear expression of the will of Parliament, as provided in the bill, is understood and accepted as the basis for the continuation of confidence of thousands of rural families. I support the bill.

Hon. BILL FORWOOD (Templestowe) — It is with pleasure that I rise as the shadow minister for small business and consumer affairs to support the Hire-Purchase (Amendment) Bill. In so doing, I put on the record my appreciation of honourable members on both sides of the chamber for their contributions. It has been a quality debate and it is not necessary for me to go into the detail of the bill. Honourable members who have perused the parliamentary handbook will note that during my somewhat varied past I was proud to claim the title of farmer. It was a period of my life that I enjoyed greatly. I touched briefly on it during my inaugural contribution in this place. I remember saying at the time words to the effect that although I represent a metropolitan electorate I would do all I could to advance the cause of those people living in rural Victoria. It is incumbent on honourable members to have at the forefront of their minds at all times that parts of Victoria and Australia have difficulties that are not well known to those who live in the cities.

As I said, the issues surrounding the use of hire-purchase by farming communities has been well canvassed by Mr Bishop and Mr Bowden, as well as other speakers. The bill has three pages. one of which is blank, and only a few clauses, but nevertheless it is important. Its effect, as honourable members have said, is to extend the savings period of sections 24 and 25 of the principal act to 30 June 2003. Parliament will use the period to see whether section 51 of the Trade Practices Act will protect the needs of farmers.

As Mr Bowden said, there has been considerable growth in the use of different forms of financing and consequent upon that there have been changes to the Hire-Purchase Act, which was revised some years ago,

and the Credit Act. There has been considerable growth in consumer protection legislation. Honourable members remember stories of people entering hire-purchase agreements, making a lot of payments over long periods, and then something unfortunate happens at the end of the agreement and they suddenly find themselves, to put it mildly, up against the wall through no fault of their own with no remedy. Anyone who has a sense of fairness about the way the world should operate would acknowledge that that is unjust. It is for that reason that when the principal act was amended in 1997 sections 24 and 25, which are specific to farm machinery, were saved for the two-year period that ends on 1 April this year.

Section 24 deals with the ability of the court to open transactions which are harsh and unconscionable. It is important that the provision remains for a further period. Section 25 provides that within 21 days after an attempt to repossess goods a person can apply to a court to have the goods restored so that he or she can operate the business. I was taken by Mr Bishop's analogy of the different equipment used in the harvesting process. Farmers use trucks, silos, the harvester and other equipment. If someone comes and repossesses the auger, you are in trouble and it is in circumstances like that where you must have easy forms of remedy.

To pick up Mr Bishop's point, the harvest does not wait for anyone. When the crops are ready it must be taken in, and that is what farmers do. It is important that the two provisions are preserved for the additional period.

My understanding is that no actions have been undertaken under sections 24 or 25 since they were saved, although I have not researched that point deeply and stand to be corrected. If some have been undertaken, there have not been many. However, it is important that they remain on the statute book as a reminder of the powers that are available for use in certain circumstances.

While I accept Mr Bowden's point that the nature of financing farm equipment has changed substantially over the years, particularly since the Hire-Purchase Act was proclaimed in 1959, I believe it is important that the capacity remains to take action under the provisions. The very existence of the sections on the statute books ensures that people approach problems with open minds and that financiers are more willing not to abide by the letter of contracts by enforcing their legal rights under hire-purchase contracts but rather to sit down and say 'This is the situation. How can we best resolve it in our interests as the financier and your interests as the farmer?'.

As I said, although the bill is short it has a serious and sensible effect, one that the opposition supports wholeheartedly. With those few words, I wish the bill a speedy passage.

Motion agreed to.

Read second time.

Third reading

Hon. M. R. THOMSON (Minister for Consumer Affairs) — By leave, I move:

That this bill be now read a third time.

This important bill extends the operation of sections 24 and 25 of the Hire-Purchase Act and increases its capacity to protect farmers who enter into hire-purchase agreements for farm equipment. Many honourable members have spoken about the circumstances that farmers face from time to time, including the constraints on their ability to operate based on seasonal outcomes. It was worth while listening to their contributions to the debate. I enjoyed in particular what the Honourable Barry Bishop had to say from first-hand experience about the generational experience of farmers on the land.

The government hopes that section 51AC of the Trade Practices Act will do its job and protect farmers who enter into hire-purchase transactions. However, at this stage the government is not confident that that will be the case. The bill will provide the time needed to enable the government to be confident that farmers will be protected. The bill's effect will cease in 2001.

I thank the Honourables Barry Bishop, Dianne Haddon, Maree Luckins, Sang Nguyen, Ron Bowden and Bill Forwood for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

PROSTITUTION CONTROL (PLANNING) BILL

Second reading

Debate resumed from 1 March; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. J. W. G. ROSS (Higinbotham) — I am pleased to have the opportunity to speak on the Prostitution Control (Planning) Bill, which, I advise the house, the opposition does not oppose. This small bill amends the Prostitution Control Act by closing a loophole that would have permitted the owners and operators of brothels to gain approval to change the conditions of the permits issued under the Planning and Environment Act, which would run counter to the spirit and intent of the Prostitution Control Act.

The bill inserts into the Prostitution Control Act proposed section 75A, which relates to the determination of applications to amend permits issued under the Planning and Environment Act for the use or development of land for the purposes of operating brothels if the amendments would have the effect of expanding or extending the use or development of the land for the purposes of operating brothels.

The bill specifically directs that if a variation to a permit is sought, it should be considered by the responsible authority or tribunal, as the case requires, as if it were a new application for a permit to operate a brothel. The section should apply whether or not the permit was granted before, on or after 14 June 1995.

The bill gives honourable members an opportunity to reflect on the history of the development of prostitution control in this state. I am pleased to say that it was a Liberal government — the Hamer government — that in the 1970s pioneered the control of the proliferation of brothels and attempted to impose some agreed community standards on their operation and location.

However, I am bound to say that the community was less than forthright in its acknowledgment of the existence of large numbers of sex workers in a wide-ranging sex industry and the nomenclature ‘brothel’ was barely mentioned. Most of the amendments to the planning acts adopted the pseudonym ‘massage parlour’. Rather than their long history in Victoria being acknowledged, brothels were portrayed more or less as a new Californian-type fad that had recently been introduced into the state. There was a measure of hypocrisy on the part of both the community and, I have to admit, the government.

Nevertheless, a sincere attempt was made to develop a more orderly distribution of sex workers and the sex industry, particularly in residential areas. The approach taken in 1975 was to regard brothels in the same way as other businesses by amending the metropolitan planning scheme to restrict their operations to industrial and commercial zones.

Time and experience proved that that approach was impractical and the government was unable to effectively regulate the sex industry. It was extremely important at that time for the government to regulate the sex industry rather than allowing it to proliferate in an uncontrolled and underground fashion. There was, firstly, the question of rational planning and maintenance of the amenity of residential areas; secondly, the key issue of improving health standards; and, thirdly, a longstanding association of criminality in the operation of the sex industry. From those three points of view, there remained a real need for the government to intervene to attempt to develop some rationality in the development of the sex industry.

The approach generally did not achieve its objectives. By 1 July 1984 only about 28 of the so-called massage parlours had been appropriately subjected to the provisions of the metropolitan planning scheme. Even the issuing of the permits was clouded by immense controversy. I remember an application for a permit in the City of Moorabbin, where I subsequently became a councillor. The mayor of the day conducted a vigil in the street where a brothel operator was seeking a permit. The mayor whipped up community hysteria and attempted to maintain the status quo so that the industry remained subjugated, obscure and remote from the influences that, with the benefit of hindsight, we see were appropriate. In reality, councils were extremely reluctant to grant permits, and those that were obtained were generally obtained on appeal to the planning appeals court of the day. Certainly at that time it occurred to me that local councils and councillors were not the best level of government to be taking on the wide view needed for the orderly development of the industry.

Almost overnight prostitution rapidly became an enormous health issue. The first case of HIV/AIDS was diagnosed late in 1982. It was rapidly established that gay men were the high-risk group. It was also feared that the brothels and prostitutes in particular would be the focal point of outbreaks of AIDS and other sexually transmitted diseases into the general heterosexual community. That never happened to the extent feared or predicted because of the initiatives of Australian and Victorian health authorities in educating these groups about the issues, in particular safe sex.

I acknowledge the role that Dr Penington played in those days as chairman of the National Aids Council. I acknowledge the contribution made by agencies such as the prostitutes collectives and the gay men’s mutual support groups. We were rapidly able to disseminate the well-known epidemiological information on the transmission of AIDS. Australia still remains at the

forefront of having the lowest prevalence of AIDS, which is a direct result of health education and sanitation promotion programs. Those early attempts to control the distribution of brothels and gain access to workers, operators and clients were prerequisites to provide safe sex messages.

I often think that as we sit on the cusp of a great new epoch of public health that behaviour-related diseases and AIDS in particular are the models that indicate where the entire community has to go in respect of health issues generally.

If one looks at the cases of admission, morbidity and mortality in most health agencies one finds they are largely related to diseases where personal choices and lifestyle are the key issues. One can take one's mind back 100 years to the late 19th century when public health was focussed on communicable diseases and their causes, such as poor water supplies and problems with the elimination and treatment of human waste. Horse manure was abundant in the streets and there were pools of water lying around. Many epidemic diseases were carried by mosquitoes, flies and other insects. At that time the objective was to intervene in an environmental sense and to engineer the environment to make it healthier.

The next great epoch in public health was the 1930s, 1940s and 1950s with the advent of immunology and the discovery of penicillin and chemicals such as DDT that were able to eliminate many diseases around the world that were transmitted by insects in particular. There were better techniques of surgery and anaesthetics. Again, it was conceptually relatively simple. If a person was suffering from a disease one could intervene in an almost mechanical way, such as the golden bullet penicillin, to treat the disease. That was the era of medical technology that was conceptually simple. The person was ill and the objective was to effect a cure.

As I said we are now on the cusp of what I regard as the third great epoch of public health. It concerns behaviour, and AIDS is the classic example to all intents and purposes that one cannot mitigate against. AIDS is extremely difficult to treat and few interventions can be easily taken either on the environment or on the person. Nevertheless, the pattern of the spread of the disease and its epidemiology is so well known that one could easily make the statement that, barring an accident such as the inadvertent use of blood transfusions and so on, nobody should ever contract AIDS.

We have a great deal to thank groups such as the prostitutes collectives and gay men's groups for. They have embraced the modern principles of public health that is at the front edge of the new epoch of public health — namely, prevention. If one asks oneself how one avoids having a heart attack, there is much one can do. However, it is essentially up to the individual to be motivated and to act on information that is readily available. Other examples are problems of drug abuse, road traffic accidents, interpersonal violence, violence in the home and the maltreatment of children are all difficult health areas.

In 1982 the threat of the spread of HIV/AIDS resulted in the development of a rage of hysteria. At that time the Cain government had recently come to office and established a working party to examine the controls over and location of brothels and to recommend how planning controls introduced by the Hamer government could be improved on and made more effective.

A comprehensive report often referred to as the Neave Report was produced. It estimated that in 1985 between 3000 and 4000 men, women and transsexuals worked as prostitutes on a reasonably regular basis in Victoria. The report conservatively estimated that prostitutes and their clients had about 45 000 sexual contacts a week. The report also suggested planning laws for brothels employing two or more persons. In particular, it recommended that brothels should not be confined to red-light districts. I compliment the Cain government on responding to that recommendation.

I have travelled extensively in Europe and looked at red-light districts such as those along the canals of Amsterdam and in Frankfurt and Zurich. The development of what I can only describe as distasteful red-light districts or precincts must be avoided at all costs in Australia. It is worthwhile during the current debate to comment about self-injecting rooms, a concept now being investigated by Dr Penington. Red-light districts are regarded as the sleazy parts of towns and, overseas, are the areas where self-injecting rooms are commonly established. Drug trafficking is often tolerated in such precincts and they are regarded as the distasteful parts of town. The attitude is that you need not go there if you regard yourself as a decent citizen. Those districts represent abscesses on the faces of great cities. I shall be eternally grateful to the Cain government for having prevented their establishment in Victoria.

The legislation, however, was never totally proclaimed and was often regarded as piecemeal. When the Kennett government came to office in 1992 the need for a further review was obvious, and another inquiry

was convened. The Kennett government formulated the principal act now being amended. During its introduction the Kennett government was firm in saying that it did not support prostitution; it opposed prostitution in all its forms. Nevertheless, the realities of life are such that the need for education, the planning laws and the maintenance of the amenity of residential areas are essential issues to consider in determining the location of brothels.

The Kennett government saw the solution to community concerns as part of a system of strict regulation. Probably within the context of the bill it is worthwhile to comment briefly on the provisions of the legislation. It was designed to ensure that brothels were not established within 100 metres of dwellings or 200 metres of hospitals, schools and other places frequented by children for recreational or cultural activities. The Kennett government attempted to quantify the principles enshrined in previous legislation. Specific planning guidelines related to the prohibition of brothels in rural and farming communities.

More importantly, in accordance with specific guidelines issued by the minister, brothels with more than six rooms were not permitted to operate. I will refer to that issue later. Existing brothels that had more than six rooms were set aside because they had prior planning approvals, but the intention was to diminish the scale of operation of brothels and to limit every new brothel to six rooms.

The second-reading speech states that the bill is specifically intended to close the loophole that allows brothels to increase their room numbers despite the intent of the principal act to impose limitations on the expansion of brothels.

The raison d'être of the bill is more general. It arises from an application to extend the hours of operation of a Collingwood brothel that was located within 20 metres of a local residence. The operator applied under section 72 of the Planning and Environment Act to the responsible authority to extend the hours of operation of the brothel notwithstanding that it was close to an existing residence.

The residents in the house next to the brothel appealed to the responsible authority, which decided to refuse the application of the brothel operator. The authority was supported in its view when the decision was appealed against to the then Administrative Appeals Tribunal. The applicant subsequently appealed to the Supreme Court. The Supreme Court judgment has led directly to the introduction of the bill because its principal finding was that the provision did not affect an application to modify an existing permit but applied only to the granting of a permit for a new brothel.

The responsible authority and the tribunal had taken the view that the principal act, which laid down the guidelines, intended that changes should be consistent with the Prostitution Control Act. The appeal to the Supreme Court varied from that logic and found that because the application was not new, the principal act had no binding effect despite the fact that the brothel was within 20 metres of a residential property.

The second-reading speech is almost exclusively concerned with brothels with six rooms. The issue is more general than that as the bill proposes to ensure that responsible authorities and appeal tribunals take cognisance of the key provisions of the principal act.

The opposition does not oppose the bill. However, the house is again stuck with minor legislation that is essentially reactive rather than proactive. More must be done to control brothels and prostitution, but the government has no desire to push back the boundaries to create innovative legislation in this field to improve the situation even further.

I will even make a suggestion to the government on the direction it might like to follow. Within the past couple of days Kevin Jones from Workplace Safety Services Victoria has published in the February 2000 CCH *Occupational Health & Safety Magazine* an interesting paper headed 'Safe sex industry'. He has been looking at brothels from the point of view of occupational health and safety. If the government is seeking ideas on which way to go in introducing legislation that might be a bit more proactive, I put on the record the key occupational hazards that Mr Jones found in his survey of the sex industry, which has received some media coverage during this past week.

The article states that in his review of brothels he found:

> … inappropriate storage, labelling and manual handling of chemicals such as biocides and detergents used for cleaning showers, spas, toilets and so on;
>
> smoking in the vicinity of chemicals;
>
> no formal emergency and evaluation procedures, locked exits, broken exit signs, poor equipment maintenance, ineffective communication, vague warden responsibilities;
>
> slippery floors, narrow and steep stairwells, unsafe access and egress from spas;
>
> unsafe storage of linen and chemicals;

informal and undocumented consultation with employees and casual staff;

no workers compensation payments, payments under the wrong categories, reluctance by workers to make workers compensation claims, owners who deny any occupational health and safety responsibility for casual staff;

drug use.

Lest the government leap to its own defence and say that the previous government never acted in that regard either, I point out that this is new information that has come to the public's attention only in the past week.

I urge the government not only to act to close the loopholes revealed by the Supreme Court but also to take a measured position on the entire industry and get on with the job by improving the lot of the community and the workers in the industry. With those few words, I reiterate that the opposition does not oppose the bill.

Hon. D. G. HADDEN (Ballarat) — I support the Prostitution Control (Planning) Bill. The purpose of the original act was to control prostitution in Victoria, which must be uppermost in our minds at all times. Part 4, which came into effect on 14 June 1995, sought to introduce planning controls on brothels and to define the matters to be considered by the responsible authority in determining permit applications. In particular, part 4 limits the size and location of brothels unless the special circumstances in section 74(1)(d) exist. A recent Supreme Court appeal decision brought to light a loophole in that section, which the bill will close.

The Supreme Court decision handed down on 9 October 1995 made it clear that the limits in part 4 of the Prostitution Control Act did not apply to decisions to amend brothel permits granted before the part was inserted into the act on 14 June 1995. The bill amends the act by inserting section 75A to provide that if an application to change a brothel permit seeks to expand or extend the use or the development of land for the purposes of the operation of a brothel, the decision-making body must determine the application in accordance with part 4 of the Prostitution Control Act. Part 4 makes clear the limits of the decision-making body's power when amending brothel permits. The practical effect of the amendment is that brothels with fewer than six rooms may increase in size up to a maximum of six rooms but that brothels with six or more rooms cannot be made bigger.

Subsection (3) is a transitional provision. It provides that where an application or request for the amendment of a permit has previously been made but not determined, it must now be determined in accordance with proposed section 75A. Currently there is one such application before the Victorian Civil and Administrative Tribunal.

By way of example, I refer to a brothel that was constructed in Ballarat about two years ago amid enormous community outcry, including the signing of petitions. A large, palatial building was constructed in the suburb of Delacombe on the western side of Ballarat. Although it was close to housing estates, schools and the like it was outside the limit prescribed by the act. However, that did not stop the community of Ballarat from expressing its opposition to a brothel being established in the city.

The operators, who were from Melbourne, went through the normal processes before the planning tribunal and were successful. However, that brothel is no longer in existence; it went out of business. Its palatial premises were sold last year for a substantially lower price than its replacement value. What happened in Ballarat is a fine example of the community speaking out against prostitution. The name of the brothel was Dalliance Encounter. It did not dally too long in Ballarat, because from my recollection it operated for about six months. The women were trucked in from Melbourne and Geelong — they were not local women — and it is a good thing that it was closed.

Section 4 lists the objects of the act, a couple of which are:

(f) to maximise the protection of prostitutes from violence and exploitation;

…

(h) to promote the welfare and occupational health and safety of prostitutes.

Restricting the number of rooms in brothels is a step in the right direction, but I am not certain that it goes far enough to comply with the objects of the act.

There are 51 licensed brothel operators in Victoria, 31 licensed escort service providers and 66 licensed operators who provide both services. There are 13 brothels with more than 6 rooms currently operating, one of which has 18 rooms. That situation is not good enough. Women are being exploited, and it saddens me to have to stand here and speak on the bill. However, it also gives me some pleasure to speak in support of a bill that in some small way seeks to control the exploitation of vulnerable women. If the number of rooms available in the prostitution industry is minimised, that is to be commended. It is on that basis that I commend the bill to the house.

Hon. M. T. LUCKINS (Waverley) — Opposition members do not oppose the bill. I congratulate Dr John Ross on his interesting contribution to the debate, which provided an historical context and related to many health issues, and I also congratulate the Honourable Dianne Hadden.

The bill arises from a Supreme Court judgment of 9 October 1995 in the case of *Zariah Beaufonte v. the City of Yarra and Others* — residents who I will not name, who were appealing a decision made by the relevant authority about a brothel situated in Collingwood. The judgment identified a loophole in part 4 of the Prostitution Control Act. The court considered the relevance of the application of section 74 of the act on an existing brothel in Collingwood. The brothel was located 20 metres from a residence, and section 74(1)(b) of the act restricts the granting of permits to brothels within 100 metres of a dwelling.

The brothel in question commenced operation in 1989 and in 1995 a permit for its operation was extended for a further six years. The Prostitution Control Act commenced operation on 14 June 1995 and problems have arisen because the brothel existed prior to the commencement of the act. There has been some debate about whether the act can apply to the brothel given that the brothel was already in operation prior to its enactment.

The judgment of 9 October 1995 accepts that:

> Nothing in part 4 of the Prostitution Control Act 1994 reveals an intention on the part of the legislature that an application to modify an existing permit is affected by section 74.

Section 74 of the principal act is headed 'Restriction on granting of permits' and lists a number of restrictions:

> (1) The responsible authority must refuse to grant a permit for a use or development of land for the purposes of the operation of a brothel if —

the land is within an area zoned as being residential or within 100 metres of a residence — unless it is within the CBD of Melbourne. It must be at least 200 metres away from churches, hospitals, schools, kindergartens, children's services centres and any other kind of facility or place regularly frequented by children for recreational or cultural activities. Paragraph (d) provides that unless there are special circumstances as set out in guidelines issued by the Minister administering the Planning and Environment Act 1987, no more than six rooms in a proposed brothel can be used for prostitution.

The Supreme Court judgment identified a loophole in the legislation concerning brothels operating before the act came into operation. More importantly, the judgment cast doubt on amendments sought to permits issued after the act commenced operation. The judgment therefore found the act to be basically irrelevant and not able to institute the changes necessary to make brothels conform with it. Under the judgment brothel proprietors could expand premises without reference to any relevant authority and could amend permits previously obtained, even those obtained after the act came into operation.

The purpose of the Prostitution Control Act is to regulate the sexual services industry, and there is a fine line to be walked in balancing the sometimes competing interests of sex workers and clients with the security and safety of the community as a whole. In formulating the act in 1994 the Kennett government acknowledged the demand for sexual services, and the reality is that there will always be a high demand for such services in the community. There is no point in a government putting its head in the sand. The choice is to either strenuously regulate the industry or allow it to self-regulate, which then opens the door to criminal activity, health problems and wide drug usage.

The bill ensures that these services are provided in a controlled and regulated environment where alcohol is not served, criminal elements are not tolerated and the health and safety of sex workers and clients can be guaranteed.

Part 4 of the act sets out the criteria for the assessment of applications for brothels, including whether any other brothels are located in the neighbourhood. Primarily, as outlined in the relevant section of the act, brothels are located in industrial areas because their establishment is prohibited in residential areas. When a new application is made the tribunal must take into account the existence of other brothels in the area. The tribunal must also take into account the operation of a brothel and its effect on local children, whether they reside there or visit the area for other purposes.

The prohibition on the operation of a brothel within 200 metres of places where people gather ensures that general community interests are upheld and that people have the freedom to move around their communities without being confronted by places where explicit sexual activities are performed, in particular in the presence of children. Many people in the community are offended by the industry, and members of Parliament have an obligation to ensure that young people in particular are not embarrassed by the services provided. I certainly would not want to be approached

by my five-year-old son for an explanation about what happens in a brothel.

The act also limits the operation of the brothel by taking into account the noise and traffic considerations for the neighbourhood. Provisions dealing with off-street parking, landscaping and access to the sites protect the amenity of affected areas. Other provisions limiting the size of brothels and the number of sex workers on site prevent unrestricted expansion without reference to responsible authorities, and herein lies the problem with the judgment of the Supreme Court.

At the moment the act cannot be enforced until that change is made. Brothel operators are able to make application to vary the conditions of their licences until that loophole is sealed.

Based on my figures, which differ from those of Ms Hadden, I believe approximately 94 brothels operate in Victoria. Since the act commenced in 1994, 84 individual licences have been approved. There are over 1000 individually registered escort agency workers and 4500 prostitutes working in Victoria. Police have estimated that in addition to the licensed brothels, 40 to 50 illegal brothels are operating. I know concern has been expressed within my electorate about the operation of illegal brothels in the Springvale area.

Amendments were made to the act in June last year to define sexual services and also to restrict sexual services being provided in premises where alcohol can be served. Brothels cannot serve alcohol. They are prohibited from doing so. It was seen to be inconsistent that tabletop dancing venues, which provide what has now been defined as a sexual service, were able to serve alcohol to their clients, while lap dancing and some sexual activities — certainly what would now be defined as sexual acts — were taking place in the back of certain premises. Without the amendments in the bill the 94 licensed brothels could take advantage of the loophole and expand their businesses unfettered.

The changes made to the legislation last year by the Kennett government further tightened restrictions on legal brothels and sought to give law enforcement authorities the opportunity to take action against illegal operators and to ensure the Prostitution Control Act was enforced as it was purposed to be.

I add that the regulations that were to come from the Prostitution Control (Amendment) Act, passed in June last year, have not yet been forwarded for perusal to the subordinate legislation subcommittee of the Scrutiny of Acts and Regulations Committee. I understand that while the Kennett government was still in office those regulations were being drafted. It is now March, some nine months after the amendments were passed last year, and the Parliament is yet to see the regulations that will further tighten the industry and restrict sexually explicit advertising and operations taking place at tabletop dancing venues. I urge the Labor government to follow that up and ensure the amendments to the act and subsequent regulations are put in place as soon as possible.

I find the demand for sexual services surprisingly high. In an article in the *Age* last year, entitled 'The sex business', published on 28 February 1999, it is estimated that 60 000 Victorian men visit prostitutes each week. Turnover in the industry is estimated to be $360 million annually. The operators of brothels may argue that the demand for the sexual services they offer justifies the expansion of the size of brothels above the six-room limit specified in section 74(1)(d) of the principal act. Ms Hadden referred to one brothel operating with 18 rooms. That alarms me as well. The bill before the house will ensure the intention of the act is clear and can be properly enforced.

It should be noted that the Kennett government while in office acted responsibly to provide a legislative framework for the regulation of the sexual services industry. In contrast Labor's record while in government in the 1980s was quite poor. In 1986 the Cain Labor government introduced legislation to decriminalise brothels for the first time and sought to rid existing massage parlours of the prevalent criminal element.

The Liberal Party, then in opposition in this chamber but with a majority — this game is very cyclical! — considered the planning and licensing system proposed by Labor to be utterly unworkable and proposed amendments to the bill before the house at the time. The amendments were passed to strengthen the provisions of the bill and were returned to the Assembly, where they were subsequently accepted and incorporated in the act.

However, despite the fact that both houses of the Parliament passed the amendments, Labor flouted the authority of the Parliament by failing to proclaim those provisions, which resulted in the licensing and planning aspects of the recently decriminalised brothel and sexual services industry being unworkable and very hard to police. Between 1986 and the Kennett government's election in 1992 police had great difficulty in enforcing the provisions of the Cain government act. In 1994 the Prostitution Control Act, which the house is amending today, was passed.

Many aspects of the industry are of concern, health for one. It is important to protect not only the workers providing the sexual services; it is also most important to protect the clients. I would assume that clients may be in other relationships. Who knows — I would not make presumptions. But it would be absolutely appalling for an innocent party to be at risk of contracting AIDS and hepatitis B and C because his or her partner had chosen to engage a prostitute without taking precautions such as using a condom and later having sexual relations with someone else, again without taking precautions.

Drug use is prevalent in the industry. Unfortunately many industry workers are forced into prostitution to feed their existing habits. Others go into prostitution or tabletop dancing, which is much less physical, and get into the drug scene consequentially. It must be ensured that drug use in the industry is regulated and policed and that those working in the industry are looked after and the criminal element is kept out.

During the 1970s and 1980s, even when I was very young, I remember reading much material in newspapers about massage parlours — about police raids and accusations of police being involved in brothels, accepting kickbacks and so forth. Throughout the 1980s, in particular when I was old enough to understand what a brothel was, the industry seemed unfettered and unregulated and certainly had a reputation for being dangerous to clients and sex workers.

I again point out the importance of the protection of children from that kind of industry. Parents must have the opportunity to shelter their children, particularly when the children are very young. Most children are naive about sex in general. Society would not want to threaten the innocence of children by having sexually explicit advertising visible or brothels close to where children congregate.

Talking about sexually explicit advertisements, there is a hoo-ha in the media at the moment over provocative advertising boards that are supposedly selling shoes. They are all over town, and there are certainly a few in my electorate. The regulations that should have been put into place, following the amendments to the act in June last year, would have regulated sexually explicit advertising of the sex industry; they would also have extended to advertisements for other goods and services. I look forward to those regulations coming to our committee for investigation.

Another important aspect of the prostitution industry relates to the protection of women in general. While there are some male prostitutes, sex industry workers are predominantly women. Many of the men they come into contact with do not seem to respect them. I fear that the more sexually explicit entertainment there is, the more women in the community will be subjected to discrimination and sexual harassment. That is an issue I have always been concerned about as it relates to tabletop dancing venues. As a female I cannot presume to feel what a man feels, but I cannot see how a man could enter a tabletop dancing venue and not be aroused by what he sees, even though he cannot touch. I fear that many men who leave such premises feeling aroused and return to work or to whatever they were doing may harass females at work or even in the street. I have gone past a couple of venues in the city late at night and have unfortunately been accosted.

The whole industry is basically unsavoury. However, it must be recognised that it services a need and that there is a demand in the community for the provision of sexual services. Parliamentarians must therefore ensure it is regulated, that regulations are enforced and that the interests of the wider community are protected, while still allowing individuals the freedom to choose to take advantage of available sexual services should they feel the need or desire.

On that note, I will wrap up my contribution. In government the opposition demonstrated its willingness to ensure the proper application of the act. It does not therefore oppose the bill, which aims to strengthen the existing act. I wish the bill a speedy passage.

Hon. G. D. ROMANES (Melbourne) — I support the Prostitution Control (Planning) Bill because of its importance in addressing a problem that has arisen. Part 4 of the Prostitution Control Act provides for the imposition of limits on the size and location of brothels, including the six-room limit on the size of a brothel. Proposed new section 75A relates to the amendment of permits, which occurred regularly under the Planning and Environment Act.

Dr John Ross has already referred to a 1995 Supreme Court decision in a case in respect of the Collingwood area. However, a recent application of that decision through the Victorian Civil and Administrative Tribunal (VCAT) has brought the matter to a head and highlighted the need to amend the act to close the loophole. As the situation stands, the Prostitution Control Act does not have to be taken into account in decisions on applications for amendments to pre-1995 brothel permits. The government has received legal advice that even applications involving brothels that have gained permits post-1995 are open to the exploitation of a possible loophole — that is, that in

decisions to amend such permits the controls covered by the act are not determinative of the matter. There is a need for an amendment to the effect that whenever a brothel permit is amended the application will be dealt with by the responsible authority, whether it be the local council or VCAT, as if the application were for a new permit, enabling the full controls and size limits to apply.

The importance of maintaining a six-room limit reflects the government's policy objective of keeping legalised brothels small and low key. The reasoning behind that relates to the impact on the local environment and amenity, and to all the issues that come into play when planning permits are issued. I am sure most honourable members are aware of how anxious local communities and individuals become when issues arise, such as a medium-density development situation or a dual occupancy involving a house next door being before the local council. We can all therefore imagine — or may know; some of us may have experienced the fact — that when a brothel is proposed for a local neighbourhood or area extreme angst and activity often ensue. Concerns can relate to parking, to the coming and going of clients and workers, to neighbourhood amenity and real or perceived security issues, and to controls on and the siting of brothels. The government's intention behind keeping brothels small and low key relates to its desire to try to keep organised crime and drugs out of such establishments.

Earlier, when Dr Ross referred to decisions about brothels coming primarily before local councils and shires, I detected that the Honourable Cameron Boardman seemed to snigger at the way councils deal with such issues. Having been a member of both the former Brunswick council and the Moreland City Council I can assure all honourable members that a decision about whether or not to approve a brothel is an extremely difficult decision for anybody to make. In my experience in local government of nearly a decade, on a number of occasions I have participated in making decisions concerning brothels. I can recall voting for the redevelopment and refurbishment of a brothel in a main street in the former City of Brunswick; voting against the expansion of a major brothel in Brunswick which would have turned a particular neighbourhood into a red-light district; on another occasion voting against the establishment of a brothel too close to a school and residents; and on another occasion voting for a brothel despite many people having lobbied councillors against it and thousands of signatures being presented to council.

I voted for that brothel for reasons related to — picking up some points made by Dr Ross and Mrs Luckins — prostitution being a reality in our society, and the important issue of legalised brothels and the operation of occupational health and safety standards for the protection of sex workers and their clients.

The brothel I voted for in North Coburg was well-designed and in a remote industrial area of the municipality. I therefore considered it was sited appropriately for a brothel and that it was a reasonable application to support. They are difficult decisions.

It is important to have a legislative framework to ensure the occupational health and safety of those involved in the industry. I understand that in addition to the 148 licensed providers there are another 1149 private workers who work as escorts or with another worker who are exempt from holding a licence, but who are on a confidential register. The industry has many sex workers apart from those working in licensed brothels who need the protection of the regulatory system and the framework of control.

I am pleased I was present to hear Dr Ross give a history of the development of the regulatory framework and controls developed in this state. His account of the way they evolved started with the Hamer government, progressed to the Cain Labor government, which took the courageous step to decriminalise brothels, and then dealt with the last decade when the Kennett government and now the Bracks Labor government have and are refining the operation of the principal act. It is important to have bipartisan support. I take issue with Mrs Luckins for being uncharitable about the Cain Labor government. I remember that period during the mid-1980s when the Cain government took the courageous step to decriminalise brothels. It was an important step to take in the development of legislation in this area.

I conclude by reiterating my support for the legislation and the need to close the loophole to make sure the legislation is worth while and well thought out, and will continue to provide a regulatory framework for the prostitution industry. With those few words I commend the bill to the house.

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

Debate adjourned until later this day.

BUSINESS OF THE HOUSE

Sessional orders

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I move:

> That so much of the sessional orders be suspended as would prevent new business being taken after 8.00 p. m. during the sitting of the Council this day.

Motion agreed to.

PROSTITUTION CONTROL (PLANNING) BILL

Second reading

Debate resumed from earlier this day; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. C. A. FURLETTI (Templestowe) — In joining the debate on this bill I congratulate Dr Ross, Mrs Luckins, Ms Hadden and Ms Romanes on their contributions. It is the third bill in two days comprising only one amending clause that this chamber has debated. It is indicative of the legislative program of the government that it introduces piecemeal legislation. This bill, the Corporations (Victoria) (Amendment) Bill, which was debated yesterday and the Hire-Purchase (Amendment) Bill debated earlier today could have been gathered together as one omnibus bill, but because of the perception of an intense workload the government intends to create, we have three small bills. I make those comments as an indication of what the government is about. It is a government that is without a legislative program or ideas and it is filling in time as best it can to the detriment of the people of Victoria.

Dr Ross took the house through the historic phase of the legalisation of brothels from the early days, when as he indicated illegal brothels masqueraded as massage parlours. He spoke in some detail and at length on the town planning developments that took place over that period, referred to the impact of illegal activities on public health and communicable diseases and spoke in detail of that epoch in public health; and with his experience and background, he spoke authoritatively and well. He gave a broad-ranging overview of the development of legal prostitution in the state.

Other speakers analysed and discussed in detail the relevant parts of the Prostitution Control Act and the way it applies to the bill. Mrs Luckins referred to the Supreme Court case of *Zariah Beaufonte v. City of Yarra and Others*, which was the stimulus for the bill. In making that comment I ask why it has taken almost five years to bring on the legislation. The decision was handed down in October 1995 and the Prostitution Control Act came into operation in June 1995.

Ms Romanes referred to her period as a councillor in making decisions on brothels and in view of the contributions of earlier speakers honourable members can appreciate the significance and size of the industry. It is not a small industry. Some of the statistics put on the record, including the fact that 60 000 Victorian men demand the services of prostitutes weekly, was surprising. The industry has a turnover of $360 million per annum, which is also surprising. It is clear that the industry should not be disregarded.

I note in the second-reading speech reference to the closing of the loophole in the Prostitution Control Act. I have to wonder whether it is a loophole. When one considers the Supreme Court decision to which I have referred — the finding of Justice O'Bryan that the Prostitution Control Act does not affect the application to modify an existing permit but applies only to the application for the granting of a permit for a new brothel — in the context of section 76 of the Prostitution Control Act, one wonders whether it is a loophole or is now regarded as a loophole because the intent of the legislature at the time was not effective.

The learned judge in the Beaufonte case, Justice O'Bryan, said in a surprisingly short judgment given the history that had been recited that he had accepted the submission by counsel for the appellant that section 74, which is the prescriptive section relating to the six-room qualification for a brothel, was not intended to operate for an existing permit granted under the Planning and Environment Act. The judge said simply, 'I accept this submission', which demonstrates how clear the section is. That is why I wonder whether there is a loophole.

Obviously an error of law was made by the Victorian Civil and Administrative Tribunal. But bearing in mind that one must read legislation the way it is written, when one reads section 76, which is a transitional provision that is intended to be a catch-all provision, the situation becomes clear. Section 76 states:

> An application for a permit that was made under the Planning and Environment Act 1987 before the commencement of this division but which has not been determined before that commencement must be determined under that act as affected by this division.

That section relates only to an application for a new permit, which was the interpretation given to it by the Supreme Court. It is not really a loophole.

In 1994 the then government policy was that both the size of future legal brothels and the number of operators should be restricted with a view to encouraging the establishment of smaller and therefore more numerous brothels rather than a small number of larger edifices. As a result, smaller sized businesses have developed.

Under section 74 the size of a brothel was held to be significant. I will not bore the house with a detailed analysis of part 4 of the Prostitution Control Act, because previous speakers have already provided that. Nevertheless, a brief analysis indicates that in addition to the matters required to be considered under the Planning and Environment Act, section 73 sets out a large number of other matters that the responsible authority must consider. On top of all of that, section 74 states that the responsible authority must refuse an application — there is no discretion — if the land is in a residential area or is close to dwellings, schools, hospitals or kindergartens. Included among those significant criteria is the requirement that a brothel must consist of not more than six rooms. The size of brothels is a significant element in the planning process.

Because of transitional provision section 76 it has now come to light that the legislation does not give effect to what was intended, which is that all future brothels be of six rooms. The Supreme Court has found not only that a simple application to modify or amend a permit is not caught by the Prostitution Control Act but that the holder of a permit for a six-room brothel could apply for a variation to that permit. Such an application would not be a new application; therefore the act would not prevent the operator of a brothel with a six-room permit from applying for an extension of the permit.

The bill is intended to establish the legislative intent of the 1994 act, which was to limit and restrict the size of legal brothels to six rooms. As I said previously, this one-section bill inserts proposed section 75A, which makes it clear that:

> If —
>
> (a) a permit has been issued under the Planning and Environment Act 1987 for the use or development of land for the purposes of the operation of a brothel; and
>
> (b) an application or request for the amendment of that permit is made; and
>
> (c) the amendment would have the effect of expanding or extending the use or development …
>
> the responsible authority or the tribunal (as the case requires) must determine the application or request for the amendment in accordance with this part —

which is section 74. Proposed section 75A goes on to clarify the current ambiguity:

> This section applies to the amendment of a permit whether the permit was granted before, on or after 14 June 1995.

That is the commencement date of the Prostitution Control Act. It goes on to state:

> If an application or request for an amendment of a permit was made but not determined before the commencement of section 3 of the Prostitution Control (Planning) Act 2000, that application must be determined in accordance with this section.

That provision is clearly retrospective. I take issue with the retrospectivity, because it is a trend that appears to be increasing in government legislation. I look forward to seeing whether over the course of the Parliament other proposed legislation contains that type of provision.

Subsection 3 of proposed section 75A is a transitional provision. Applications made in accordance with the law as it existed at the time they were made should be dealt with in accordance with that law. However, subsection 3 places an applicant in a situation where he or she is told, 'You now have to revisit your application and reapply under the new legislation'. The rules are being changed halfway through the process.

Although I accept that mine may not necessarily be a popular view, I believe a person can act and react only in accordance with the law as it stands at any given time, so I therefore take issue with that type of retrospectivity. At the end of the day, without retrospectivity one or two might slip through the net. However, safeguards can be included in other ways — for example, by ensuring that any applications made after legislation is flagged must be treated as though they were made under the proposed legislation.

As honourable members on this side have said, the opposition does not oppose the bill, and I wish it a quick and sure passage.

Hon. B. C. BOARDMAN (Chelsea) — It is always a delight to follow Mr Furletti in debates such as this. I find his expertise enlightening when he explains and interprets complex aspects of the law. He gives a layman's perspective on legal matters that some of us less learned members of the house have some difficulty with from time to time. In debates such as this Mr Furletti has always demonstrated an admirable knowledge of the law. However, in following him it has historically been my responsibility to put a bit of practicality into the debate, and I once again find myself in that situation.

Before commencing I make it clear to the house that I believe bills such as this should be debated carefully and with the utmost compassion, sincerity, professionalism and maturity.

As legislators we have a responsibility to maintain a pragmatic view and not become bogged down in personal philosophies and ethics when dealing with sensitive community issues that have wide ramifications for the community. Ms Romanes said that I inadvertently sniggered during the contribution of Dr Ross who, when referring to the history of these matters, was talking about the role of councils and councillors under previous legislation and spoke about a personal experience in the City of Moorabbin. My interjection was that councillors still have a role to play. I am sure Ms Romanes would be aware that under section 36A(2)(c) the authority can:

> seek advice and information on the application from any other person or body or source it thinks fit.

That allows councils, councillors as individuals and other members of the community who participate in the process to act as advisers to give their personal and professional opinions on applications. Ms Romanes should not misinterpret me; it was a light-hearted remark on the more historical aspects about which Dr Ross was talking.

Ms Luckins explained the history and difficulties police had in enforcing the 1986 prostitution act and the difficulties that occurred between then and 1992. At that time I was a member of the police force and had incredible difficulty enforcing the provisions of the act. Some of the provisions did not receive royal assent and some did. Because of that it was difficult to get a precise judicial perspective or interpretation of the role police played. I remember investigating illegal premises in Dandenong Road, Windsor. A hearing was listed at the Prahran Magistrates Court that was to last for a couple of days but it lasted for a week because of legal interpretation.

Police did not have the power to enter brothels at that time but council bylaws officers did. In this particular example we had a sworn affidavit to search the premises but as a safeguard we engaged the assistance of the then City of Prahran bylaws officers to come with us because they had power under the act to enter brothels any time they suspected particular operations were going on. That is one historic anecdote where the legislation passed its use-by date. The Kennett government introduced the Prostitution Control Act to provide a clear, precise and regulated framework under which the industry can act. The origins of the bill are well known. The second-reading speech states that:

> The Supreme Court's decision has, however, made it clear that these limits do not apply to decisions to amend brothel permits granted before part 4 commenced on 14 June 1995.

That relates to section 74(1)(d) of the act, which states:

> unless there exists special circumstances as set out in guidelines issued by the Minister administering the Planning and Environment Act 1987, more than 6 rooms in the proposed brothel are to be used for prostitution.

It is extraordinary that today we are applying increasing scrutiny in the legislative processes where in some situations it comes down to the issuing of guidelines by particular ministers. I can remember guidelines issued by a former small business minister about residential tenancies. It was a difficult and complex issue for small business retailers when it came to deciding the measurable area for an individual lease. This legislation is similar. The minister has the discretion to deal almost on a case-by-case basis with whether a brothel can have more than 6 rooms depending on the special circumstances. I welcome the bill, which sets the matter in concrete and does not require further clarification.

Once the bill receives royal assent it will be six rooms and no more. However, it provides a further complication and contradiction because the principal act does not mention the number of sex workers, sexual services or clients who can be seen in one room at one particular time. It is a realistic possibility because a number of licensed brothels in Melbourne have larger rooms that cater for groups. I have heard that football clubs, cricket clubs and other sporting bodies avail themselves of such facilities for group functions, for want of a better description. Although the bill limits the number of rooms premises can have, one must explore what actually occurs in those rooms. I am sure the minister would appreciate the point I am making. A degree of clarity is required because a number of sex workers could be working in a particular establishment and see a number of clients at the same time in one room, and that goes against the principal objectives of the act.

Section 4 states:

> The objects of this Act are —
>
> (a) to seek to protect children from sexual exploitation and coercion;
>
> (b) to lessen the impact on the community and community amenities of the carrying on of prostitution-related activities;
>
> (c) to seek to ensure that criminals are not involved in the prostitution industry;
>
> (d) to seek to ensure that brothels are not located in residential areas or in areas frequented by children;

(da) to seek to ensure that no one person has at any one time an interest in more than one brothel licence or permit;

(e) to maximise the protection of prostitutes and their clients from health risks;

(f) to maximise the protection of prostitutes from violence and exploitation;

(g) to ensure that brothels are accessible to law enforcement officers, health workers and other social service providers;

(h) to promote the welfare and occupational health and safety of prostitutes.

Those objects protect the community, sexual workers and clients. In the 21st century the sex industry is booming and will increase commensurate with demand. Our responsibility as educators and law-makers is to provide an appropriately targeted and responsibly regulated framework in which the industry can operate within those three principles. I find it difficult to understand that in this modern age some in the community are still looking for a scapegoat and consider the industry to be evil.

Prostitution exists in quite alarming abundance, as evidenced by the statistics quoted by Ms Hadden and Mrs Luckins. Law-makers and members of Parliament must remember that the industry continues to exist and that it must be regulated properly. Mrs Luckins spoke about the 1999 amendments to the principal act that dealt with the vexed subject of explicit sexual entertainment. The Agenda supplement of the Sunday *Age* of 12 March 2000 contained a story about Raymond Bartlett, a colourful character in the hospitality industry, and proprietor of the Goldfinger tabletop dancing establishment. He compared Melbourne with other cities. The article states:

> Try to open a strip club in Brisbane and you'd get your legs shot off, he says. Sydney — you wouldn't even try because it's sewn up. In Perth, they'd kill you. Adelaide? Touch and go. Only in Melbourne is the industry controlled so well, he says. No sir, there's no crooks in tabletop dancing here.

It is valid to compare the situation in Victoria with that in other states. One thinks of Kings Cross in Sydney, Fortitude Valley in Brisbane and Rundle Street in Adelaide.

Honourable members interjecting.

Hon. B. C. BOARDMAN — My previous occupation made me aware of competing interests! It used to be said that St Kilda was historically the area for prostitutes, but dramatic changes have taken place in modern St Kilda. The former St Kilda City Council and the present City of Port Phillip have improved the amenity and surrounds of the neighbourhood. That does not mean to say the area has no problems. Its problems must be addressed.

The incidence of street prostitution, particularly under-age street prostitution, is alarming. Some of my former colleagues who work in the Victoria Police vice squad frequently speak to me about prostitution activities there. They say the situation goes quiet for some time because of police operations, but the situation gets out of control when the police presence is not obvious. The problem of street prostitution falls clearly within the objectives of the legislation.

Some may think street prostitution is a thing of the past. We have clearly regulated controls so that people who want to avail themselves of sexual services are readily able to do so. The incidence of street prostitution will be a challenge for the community and future governments because of the degree of its legality and its exploitation. I would like to see it eliminated or, at least, an alternative situation reached.

The community must be aware that the industry does exist and that, unfortunately, it is a growth industry. We must ensure the framework for action is responsive and reactive. I welcome debate on the bill. A diverse range of views has been put. I appreciated the alternative views put to the house because the debate has provided me with food for thought on the issue. The bill is another step forward in trying to make the industry more regulated. For the various reasons I have outlined, further exploration of the controls may be required, but at this stage I can think of no reason for opposing the bill.

Hon. ANDREA COOTE (Monash) — The intention of the Prostitution Control (Planning) Bill is to use planning processes to control the location and size of brothels. As the Honourable Cameron Boardman mentioned, my electorate includes St Kilda, which is regarded as a relevant area for prostitution.

I remind the house that more than 60 000 men visit Victorian prostitutes each week. The trade has an annual turnover of more than $360 million, according to the *Age* of 1 March 1999. Not all the 60 000 men use the facilities in Monash Province, but an enormous number of prostitutes operate in the Glen Eira Road, St Kilda East area, as the Honourable Cameron Boardman suggested.

One legal brothel in my electorate is the Daily Planet opposite Elsternwick railway station. It is the benchmark in brothels. The management has introduced innovations such as an open day, although I

have not taken the opportunity to visit it, and there was a suggestion that the business be listed on the stock exchange. However, I suspect the idea got no further than the discussion stage. Before the June 1995 legislation a larger number of street prostitutes operated in my electorate. Watching people coming and going from the Daily Planet is an interesting exercise. I look forward to visiting it on its open day, after which I will share my experience with the house. Brothels can also be found in Park Street, South Melbourne; St Kilda Road; and York Street, St Kilda.

The Prostitutes Collective of Victoria (PCV) is located in my electorate. The professionals in the collective do good work. I have nothing but praise for the way they tackle the industry and give some sense of regulation to it. Each week the collective produces an A4 sheet entitled 'The Ugly Mug' for street workers in St Kilda. It lists the clients who may either bash or attack the street workers or flee without paying for services rendered. It makes interesting reading and is freely available. I commend the PCV for that initiative.

A large amount of illegal prostitution occurs around Grey Street, St Kilda. Many male prostitutes operate in and behind the Safeway store car park also, but I will restrict my contribution to reference to female prostitutes. More than 60 street girls operate nightly in that area; many are quite young. About six weeks ago I had the opportunity to travel with the Inner and Eastern Health Care Network minibus that dispenses condoms and lubricants as well as injections. It operates twice a week up and down Grey Street and nearby areas from 9.30 p.m. until about 1.30 a.m. It dispenses to male and female prostitutes and to transvestites.

The dispensing of the condoms and lubricants sends a message to the girls about the need for healthy sexual practices. I commend the health care network for its excellent service that provides contact with street workers on a regular basis. The girls know that twice a week somebody will be there to look after them. I had not realised that the handing out of condoms and lubricants went with the job — but there I was, doing just that!

The most interesting aspect of that experience was the girls, who looked for a hot cup of Milo and a chat. The girls wanted to chat and make a connection with the people who operate the service. Many girls were heroin addicts who use prostitution to support their habit and those of their boyfriends. I found the fact that the girls looked forward to the hot Milo and a chat to be moving and quite humbling. Previously I had thought of a hot cup of Milo only in relation to my tucking my children into bed when they were young.

I remind the house that society's street prostitution problem continues to exist. When I was speaking to the street workers one girl said that before she started her night's work she had to get drunk to get through the night. She also said that that day she had been to 15 parlours in the area and had been rejected because she was overweight, which I found fairly salutary. It was an extraordinary experience, and as I said I commend the people on the bus for the work they do. The sense they give to young prostitutes that someone will be there to help them be safe while they work in dangerous situations on the streets is worth while.

On the other hand, I have a constituent who is the neighbourhood watch representative in Grey Street. He is worried that the bus could bring with it all sorts of people who could cause concern to the local residents. Living in Grey Street, St Kilda, would be difficult at the best of times — and being the neighbourhood watch representative would make it even more difficult. It is important to take his views on board because the residents have been there for some time, in many cases just as long as many of the prostitutes.

Blanche Street, St Kilda, which is not far from here — probably 5 kilometres as the crow flies — is locked off every single night by its residents. I am not talking about Amsterdam or New York, I am talking about St Kilda, Victoria. Any honourable member who drives up or down St Kilda Road can see that that street is locked off at 7 o'clock every night and re-opened at 6 o'clock in the morning, and in the meantime it is open only to local residents. They do that to protect their street because they do not want illegal prostitutes and clients travelling up and down it.

Earlier mention was made of the case of *Zariah Beaufonte v. City of Yarra and Adrian and Jacqueline Carlos*. Because of what happens in my area I have some sympathy for both sides of the case, from the prostitutes who are providing a service right through to the neighbourhood watch representative who is looking at how what goes on affects the residents. The tribunal found that:

> … a brothel in another street or at some distance from your dwelling would normally be an anonymous use and an ordinary person passing the brothel going about their normal daily tasks would hardly be aware of its existence. On the other hand if a brothel is located only a matter of metres from your dwelling, over time one would expect to become reasonably familiar with regulars moving to and from the premises … and … have dealings with the users and occupants of the brothel in relation to matters such as car parking etc …

Allowing operators to increase the size of their brothels from 6 to 20 rooms would greatly increase the numbers

of people going to and from such establishments. Allowing an operator to do that without ever having to apply for a planning permit is certainly something I disagree with.

As I said, two issues that arise in my electorate are the illegal prostitutes and the concerns of residents, which must certainly be considered. Indeed, the interests of all the constituents of my electorate must be considered. I support the bill because allowing the number of rooms in brothels to be increased arbitrarily to more than six would certainly cause grave concern. I have much pleasure in commending the bill to the house.

Motion agreed to.

Read second time.

Third reading

Hon. M. R. THOMSON (Minister for Consumer Affairs) — By leave, I move:

That this bill be now read a third time.

I thank the Honourables John Ross, Dianne Hadden, Maree Luckins, Glenyys Romanes, Carlo Furletti, Cameron Boardman and Andrea Coote for their contributions to the debate on a bill that ensures that existing brothels cannot increase their number of rooms and that new brothels will be limited to six rooms.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 6.25 p.m. until 8.02 p.m.

FLORA AND FAUNA GUARANTEE (AMENDMENT) BILL

Second reading

Debate resumed from 1 March; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. A. P. OLEXANDER (Silvan) — I contribute to debate on the bill with mixed feelings. As a new member in the house it is an honour to lead the opposition's response to the bill, but it is disappointing from the perspective of what the bill entails.

The bill makes no substantive changes to the Flora and Fauna Guarantee Act; all of the changes outlined are purely administrative in nature. It is clear that the most significant changes will be to bring the act into line with current parliamentary practice — that primary legislation should not be amended by subordinate legislation. That is a principle all honourable members accept, and for that reason the opposition will not oppose the bill.

Currently the Governor in Council may list flora and fauna species, taxa, ecological communities and potentially threatening processes in three schedules to the act after a ministerial recommendation to do so. The bill will not have the effect of altering the existing processes in any way other than to replace schedules 1, 2 and 3 of the act with statutory lists, which are not strictly considered to be part of the act but attachments to it. That is really what the bill is all about. In all other respects the ability of the Governor in Council to add to or amend or repeal the contents of the items in the schedules remains unchanged.

Schedule 1 will become list 1 and will include items considered to be threatened species or taxa which therefore need to be protected. Schedule 2 will become list 2 and will include processes considered to be potentially threatening to protected species. The schedules remain fundamentally unchanged.

Therefore in the view of the opposition the bill is largely inconsequential to the operation of the act it seeks to amend, but it must be stated that the act itself is not inconsequential. It is an important act that is a cornerstone in preserving Victoria's richly biodiverse natural environment.

The Flora and Fauna Guarantee Act, which was proclaimed in 1988, provides the main legal framework for the protection of Victoria's biodiversity, including protected native plants and animals and ecosystems and ecological communities on land and in water. It identifies many industrial planning and land usage processes that are detrimental to biodiversity and the preservation and maintenance of sustainable ecologies.

The act was modelled on the United States Endangered Species Act 1973, and when it was introduced it was hailed in Australia as pioneering legislation. For that reason it was introduced with bipartisan support.

Essentially the act provides a framework for both community and government action aimed at preserving Victoria's natural environment. That is an important issue because the community in partnership with government is promoted as one of the driving forces behind the preservation of our natural environment.

The act defines a process by which the general community and the scientific research community can

identify threatened flora and fauna and can also identify threats to flora and fauna. It established a scientific advisory committee to consider nominations for the schedules — soon to be the lists — the members of which are appointed by the Minister for Environment and Conservation under the relevant guidelines. The act also sets down the way in which the advisory committee can make specific recommendations to the minister, and it is important for the minister to act on expert scientific advice.

The act also provides for a process of community consultation, which is an important issue when species and taxa or threatening processes are identified. Many communities are affected by those identifications, and it is appropriate that there is a process of consultation.

The act also enables the minister to accept or reject the recommendations made by the advisory body and to refer the recommendations, when approved, to the Governor in Council for subsequent listing.

The act is also important in that it sets up the process through which environmental action plans are written. It is one thing to nominate and identify threatened species or processes that threaten the biodiverse nature of Victoria's ecology, but it is another to institute those action plans on the ground to ensure the protection of the species and taxa. The act sets out the appropriate framework.

Important powers are conferred by the act. Critical habitat determinations can be made, public authority management agreements can be determined and interim conservation orders can be made.

Given Minister Garbutt's recent Pontius Pilate-like performance regarding Victorian regional forests agreements, it may have escaped her attention that the act the bill seeks to amend is in itself contentious in nature. The amendments in the amending bill are not contentious, but the Flora and Fauna Guarantee Act 1988 is. Both supporters and detractors of the bill have serious concerns about the act itself.

It is interesting that the Minister for Environment and Conservation has decided not to tackle any of those concerns in the amending bill. This being the first piece of environmental legislation to come forward from the Bracks government I should have thought the minister might have taken up the opportunity to do so. Her silence in the area is deafening.

The minister seems to be very happy to present a bill that makes inconsequential amendments to the act, after years of having criticised the act and the previous government's administration of it. There is cause for the opposition to respond with some degree of cynicism to the fact that this bill is the one finally presented, Labor having achieved office. The minister needs to explain how she could possibly think the bill will make any real difference to the way in which the act she has criticised at length operates and is administered. The minister also needs to explain how she believes the amending bill addresses some of the fundamental issues of concern in the act.

For instance, I need to know what possible impact the bill could have on the basic philosophy underlying the act, which elevates conservation objectives over and above all economic and social objectives and rights. Does the minister have a plan to balance those rights in the future? The minister needs to answer that question. How will the bill provide for any greater community consultation than already takes place? It is important that that consultation process be at the forefront of the minds of those in government. The bill clearly demonstrates that it is not.

It is the livelihoods of those in regional and rural communities that are often affected directly by determinations in the act regarding the listing of species. The minister needs to identify how she plans to more readily bring those communities into the consultation process.

The minister also needs to explain by what mechanism the amendments address the concerns of the environmental lobby that the act fails to provide sufficient legal protection for listed items that exist on private land. The issue has been raised repeatedly by the environmental lobby in Victoria and simply is not addressed by the amendments.

Environmental groups are very concerned about one last issue relating to the act — namely, the conferring of third-party rights, enabling individuals in the community to enforce the objectives of the act in a similar manner to the way in which rights are available to planning development objectors. Third-party rights do not exist at the moment. The environmental lobby is calling for them. The minister needs to explain her position on the conferring of third-party rights. Quite clearly she has not done so.

The bill does not attempt to come to grips with any of the fundamental issues that surround the act and its operations in Victoria. It is greeted by many groups that have raised concerns over the years with some degree of disappointment. It is patently clear to the opposition that the minister and the government do not have a commitment to addressing the real issues the Flora and Fauna Guarantee (Amendment) Bill raises or

environmental policy in Victoria in general. The opposition does not believe the minister has any intention of implementing an environmental policy that could even generously be described as a reform policy.

I greet this inconsequential amending bill with a degree of disappointment. The minister has failed to grasp an opportunity to nail the colours of the government to the mast regarding environmental reform in Victoria through the government's introduction of its first piece of environmental legislation. After seven years in opposition and having made criticisms of the way the former government ran environmental policy, one would have expected more than this.

Opposition members for their part do not insist that the minister or the minority Labor government adopt any specific environmental agenda, but what we cannot understand is, now that Labor has power and the amending bill being the first demonstration of the government's legislative program, why the minister and government seem to have no agenda and no opinion at all in this area, other than steady as she goes and a hands-off attitude. That is the big question on the minds of opposition members.

Perhaps that is why the ALP election policy on flora and fauna biodiversity almost wholly comprises criticisms of the former government, with little proactive information on what Labor will do when it comes to office. I will quote the four paragraphs of ALP policy in the area. Three paragraphs are devoted to criticising the previous government; one is not. Labor's environment policy on flora and fauna protection, issued in September 1999, states:

> Labor will ensure the survival of threatened species by adopting the dual strategies of:
>
> > Targeted programs to recover numbers amongst threatened species.
> >
> > Protection of natural habitats.
>
> Labor will properly enforce the Flora and Fauna Guarantee Act 1988 and provide resources for recovery programs for listed species.

That is it. There is no more. One would have expected that after seven years there would have been more — there is not. Again the opposition would not presume to insist that the Labor Party adopt every aspect of Liberal Party environmental policy during its time in government, but opposition members and Victorians who care about biodiversity insist that the government establish an agenda of some type for policy in Victoria. It is clear the government is failing that test.

It is also a sad indictment of the minister and her government that in the address to Parliament by the Governor, Sir James Gobbo, in October last year only three short paragraphs were devoted to environmental issues. Again that is indicative of the government's lack of vision and lack of an agenda in the environment area. It would seem that, despite what the Governor said in his speech, the government is demonstrating through the bill that it is happy to let another important opportunity pass by — an opportunity to live up to the sentiments expressed on the preservation of the environment.

I do not think honourable members opposite should make the mistake of thinking those are just the views of the opposition; they are not. On the contrary, many in the community and in the environmental lobby in Victoria are beginning to reach exactly the same conclusions. Some have reached those conclusions already and have been prepared to say so publicly. The theme continually emerging in consultations with community, environment and industry groups on the act and other environmental issues is that the Minister for Environment and Conservation seems to be out of her depth in the environmental portfolio. She is having great difficulty managing the administration and running her department.

Hon. B. C. Boardman — That is so unusual for Labor ministers!

Hon. A. P. OLEXANDER — It is disappointing feedback. Opposition members also hear constantly that the minister is developing a reputation for being big on talk but not on action. In many places the perception is developing that the minister appears to be ready to jettison Victorian jobs while at the same time allowing a decline in the biodiversity of the state of Victoria. Usually it is a choice of one or the other, but a proactive policy can avoid that situation. People are not accrediting the government or the minister with developing policy in the area. I quote an *Age* article by Claire Miller dated 2 March in which she sums up the feedback the opposition has been receiving from the community. The article is entitled, 'No, minister — not good enough':

> Sir Humphrey Appleby would be proud. In four short months, Labor's well-meaning policy to put forestry on an ecologically sustainable footing has been sidelined, leaving the bureaucrats who ran the show during the Kennett years to get on with business as usual.
>
> The fact that business as usual in the past six weeks has managed to enrage unions, sawmillers, conservationists, local government and community groups has not been enough to jolt the new minister, Sherryl Garbutt, into asserting her authority.

> It is an extraordinary metamorphosis for a politician who before the September election was saying all the right things about cleaning up the deeply flawed commonwealth–state regional forest agreements.
>
> …
>
> The first test of Labor's commitment came in mid-January when the Department of Natural Resources and Environment put out consultation papers outlining the likely shape of the Gippsland and western Victorian forest agreements.
>
> Remarkably, they contained not a hint of Labor's reforms, but set the scene instead for massive timber job losses, biodiversity decline and continuing tension in the forest.

The article by Claire Miller continues:

> Garbutt cannot pretend the situation is merely an unfortunate hangover from past regimes for which she bears no responsibility. She has been in office for more than four months —

now nearly six —

> time enough to turn any ship if the captain is in command.
>
> Four months ago the minister had time and plenty of community goodwill to help her do the job of reforming Victoria's forest management system. Now, unfortunately, she has neither.

That is indicative of what is consistently heard in the Victorian community, particularly the environmental community.

The amendment bill makes it patently clear that Labor is prepared to offer the environmental community of Victoria only empty platitudes, while the Liberal Party is prepared to offer real policy solutions. It should never be forgotten that the excellent national parks system in Victoria was put in place by the Hamer Liberal government. The Victorian environmental protection legislation is a constant reminder of the state Liberal Party's efforts in the area. That is a big environmental reform and an agenda with vision — something this government is not demonstrating.

Between 1992 and 1999 the coalition government extended the national parks system by some 25 000 hectares. It established Parks Victoria as a single agency dedicated to world best practice in the protection and management of Victoria's network of natural wilderness, state and regional parks, bays and inlets — again, a huge visionary reform. I contrast that with this government's lack of an agenda.

It should also not be forgotten it was the Kennett government that created new national parks in the state: Yarra Ranges, Terrick Terrick, Chiltern, French Island and Lake Eildon. It took a stand and did something new. It also protected Victoria's box ironbark forests and woodlands. Such steps required community consultation, leadership and vision. All the moves in the environmental area of previous Liberal governments contrast favourably with what the state has received from Labor to date, and from the Minister for Environment and Conservation, who cannot summon up even the most rudimentary policy initiatives to address the compelling environmental questions facing Victoria.

As the purely administrative nature of the amendment bill demonstrates, the minister has lost the plot on environmental reform. If the government cannot help her find her reform agenda, perhaps it should think seriously about finding another minister.

Hon. G. W. JENNINGS (Melbourne) — I am pleased to enter the debate on an amendment to legislation introduced by the previous Labor government in 1990 and applauded by the opposition this evening as world-leading legislation. The legislation has not previously been amended.

The amendments provided for in the bill will ensure that a substantive piece of legislation will not be amended inappropriately by subordinate legislation. It provides a listing process that is entirely under the control of the Governor in Council. It also provides for the maintenance of a register through the Governor in Council. The Scientific Advisory Committee will consider any nominations that fall under the act and advise the minister, who will make recommendations to the Governor in Council. The listing mechanism has been applied inappropriately over the past few years. The bill will rectify the situation and restore some reliability to the legal framework that applies to the protection of flora and fauna in Victoria. The act provides the legal framework necessary to do what is needed within the state's powers to guarantee ongoing biodiversity and ecological sustainability in the state.

The substantive legislation introduced in 1990 has a number of key elements, including provision for: first, the listing of threatened species, ecological communities and potentially threatening processes; second, the preparation of action statements and management plans to protect listed items; third, the determination of critical habitat, the process by which the geographic location and circumstances of threatened species may exist; fourth, the application of interim conservation orders, which are measures designed to take urgent action to protect species; fifth, the preparation of the longer term flora and fauna guarantee strategy that applies in both a local and statewide context; and sixth, it enshrines the importance of the role of the Scientific Advisory Committee, the body described in and constituted under the act, and

upon which the government and Victorian community rely to determine the nature and threatened status of flora and fauna species in Victoria and make recommendations to the government on the appropriate course of action to protect such species based on scientific evidence from its well-established background.

Under schedule 2 of the current act, 282 taxa and 23 communities are listed as threatened. Once the bill passes they will be included on a listing to be maintained through the Governor in Council.

Hon. A. P. Olexander interjected.

Hon. G. W. JENNINGS — The interjection from the opposition member prompts me to refer to a division of view between the sides of the house on activities that will occur under the legislation. Mr Olexander seems to have ignored the fact that there was a Sleepy Hollow period in the application of the act which saw the Scientific Advisory Committee not meet for 14 months and which led to a significant backlog in items listed under the act. A further 51 items have been endorsed by the Scientific Advisory Committee for listing, comprising 38 taxa, 10 communities and 3 potentially threatening processes.

The bill will enable the government to ensure that such items are appropriately listed, that the Sleepy Hollow regime, or dead hand, that has applied to the application of the act will no longer exist and that the backlog will be cleared. The government will use the legislation to reactivate and revive the activities of the Scientific Advisory Committee, both its listing processes and its vital advice on action statements to protect species. The government will ensure the committee does not languish under the administration of the act in the way it has in the past two or three years.

The fundamental reason for the introduction of the bill was that the application of the principal act has been paralysed since December 1995, following the inappropriate listing and publication of a species. The subsequent formal notification of the application of the act and the listing that occurred under it came to the attention of parliamentary counsel who advised the government that all listings that have occurred since that time may be subject to appeal. On that basis the government has revised the status of all listings that have occurred under the principal act since 1988. The bill will guarantee the legal standing of everything listed under the act since 1988.

The government was advised that its ability to intervene should a species be threatened would be in question. It is a significant issue, so the opposition should not be smug and complacent when referring to the amendments or spend much time on its credentials in government as compared with the former Labor government which introduced the principal act and made a significant contribution to the protection of national parks and the environment. The former Labor government was acknowledged at the time as being at the leading edge of environmental protection both nationally and internationally. I will be gracious and acknowledge that the former Kennett government introduced some positive initiatives, so the opposition should acknowledge with some degree of generosity how the principal act will be enacted and revived by the incoming Bracks Labor government.

The bill does a number of things. It enables the government to clarify the standing of listings and information available to the Victorian community. It will clarify some of the processes that lead to listings under the principal act. Under the principal act there was a lack of time regarding ministerial action after receiving advice from the Scientific Advisory Committee. The bill specifies that the minister is required to proceed with the listing 30 days after receiving the advice from the Scientific Advisory Committee. That is a positive contribution and runs counter to the dead hand application of the act that occurred over the past few years.

Proposed section 67, inserted by clause 10, sets out the obligations and the requirement of the minister to ensure the listings are freely available for inspection by the Victorian community at the offices of the Department of Natural Resources and Environment. The provision will enable Victorians to consider and receive advice on the relative standing of listings under the provisions of the act, as well as advice about how to act on interim awards or action statements that may be applied. It will give greater access to information and departmental officers will be available to provide advice.

It is the government's intention that all material will be freely available on the department's Internet site. Victorians will have unfettered access to all relevant information and will not have to go through the detail of legislation or schedules. Material will be presented in a user-friendly way to enable Victorians to understand clearly and identify species that have been listed under the act and the various mechanisms that are in place to protect those species.

Earlier speakers said that the provisions of the bill will not apply to private land. I assure the house that the bill does apply to private land and once critical taxa have

been determined on private land the act will come into force. The other regimes by which flora and fauna will be protected relate to native education and various planning controls that apply to the private use of private land. A suite of measures apply to the protection of flora and fauna on private land. The government is confident about the application of the act and believes it has maintained the integrity and spirit of the principal act. Listings that have been made since 1988 will be included in a sound legal framework under the auspices of the principal act so they will be maintained appropriately. The initiative is supplemented by the provision of advice from officers of the department. The commitment of the Bracks Labor government is clear and demonstrable. There should not be contestable issues either in this place or in the community about the environmental bona fides of the government. The government has every confidence that it will fulfil its obligation to protect the flora and fauna of the state now and in the future.

Hon. N. B. LUCAS (Eumemmerring) — In contributing to this debate I note Mr Olexander's contribution, that although the opposition does not oppose the amendments to the Flora and Fauna Guarantee Act, it notes that the Minister for Environment and Conservation is not performing well. I refer the house to the article in the *Age* which is critical not only of what the minister has done, but also of what she has not done. I strongly support the views expressed by Mr Olexander in his good speech.

In considering the bill I had some difficulty getting my head around the idea of amending legislation of a superior nature by imposing an inferior practice. The bill amends an unfortunate situation that arose in previous years despite, I assume, the best of intentions. I note that at present the Governor in Council has the ability to amend a schedule to the Flora and Fauna Guarantee Act. That is now seen to be inappropriate, so the bill proposes that the items that have previously been included in schedules can be included in the new lists without their having to go through a further recommendation process. I am happy not to oppose that provision. I note that the bill contains a process for ensuring that future additions to the list go through a full scientific investigation process.

Page 13 lists as part of schedule 2 flora and fauna described as previously recommended taxa and communities which may be included on the threatened list without further recommendation. One of those is the helmeted honeyeater, which I will enlarge on in my brief contribution.

The helmeted honeyeater was adopted in 1971 as one of the two faunal emblems of the state of Victoria, the other being the Leadbeater's possum. I am interested in the future of the helmeted honeyeater because it has a habitat in my electorate.

Hon. G. R. Craige — And mine.

Hon. N. B. LUCAS — It also has a habitat in the electorate of the Honourable Geoff Craige. Sadly, the helmeted honeyeater lost a habitat in the Cardinia Creek between Berwick and Beaconsfield Upper as a result of the 1983 Ash Wednesday bushfires. Over the years the people of Berwick and Beaconsfield Upper have taken the bird to their hearts. It was added to the coat of arms of the former City of Berwick as the result of an idea adopted by Mr Norman Beaumont, who came up with the design. The helmeted honeyeater is depicted in a stained glass window in the Berwick Anglican Church, where I am pleased to worship each Sunday; and it also appears on the logo of the Berwick Arts Council.

In 1989 only about 50 helmeted honeyeaters were left in the wild. Since that time, when the state of Victoria took the bird to its heart, a good news story has unfolded, which I will briefly relate to the house.

The story has unfolded as a result of the work done over the years by the various Victorian governments, various government departments and the Friends of the Helmeted Honeyeater. That organisation has as its chief patron His Excellency Sir James Gobbo, the Governor of Victoria. The Honourable Geoff Craige and I are members of the Friends of the Helmeted Honeyeater, and I note that Mr McArthur, the honourable member for Monbulk in the other place, has been a supporter for many years. The Friends of the Helmeted Honeyeater have over 300 members. Anyone who wishes to join will find it easy to do so. Membership costs $10, and I have copies of the application form with me tonight for any honourable member who wishes to join.

Over the years the Friends of the Helmeted Honeyeater have undertaken a number of practical measures to improve the bird's future. They include removing exotic weeds and trees; propagating the plants that the bird lives in or feeds on; working in cooperation with Parks Victoria and the head ranger, Ian Roach, who is in charge of revegetation works; extending the Yellingbo reserve, where the bird lives; improving the connectivity of the bird's flight paths along the creeks and valleys in the Yellingbo area; and working to educate the community about this lovely bird. I have a picture of it which honourable members may wish to look at. The Friends of the Helmeted Honeyeater have

certainly done an excellent job over the years and I congratulate them on their work. I offer them my support and hope they continue the work they are doing to increase the numbers of helmeted honeyeaters.

Various governments have extended the land available for planting and, as I said, increased the area of the Yellingbo reserve. That has been worth while because it has provided a bigger habitat that better suits the bird. Importantly, a number of years ago a captive breeding program was established at the Healesville Sanctuary. That program, which is overseen by Mr Ian Smales, has been very successful, resulting in a large number of birds being released back into the wild while others have been used for display at the sanctuary. The number of birds has increased from around 50 in the wild in 1989 to more than 120 birds in the wild today, and there are around 40 — 15 breeding pairs and 11 offspring from the previous breeding season — in the captive breeding program at the Healesville Sanctuary.

The breeding program has been so successful over the past four years that the people involved, working with Parks Victoria, are now releasing some birds in the Gembrook area. If a catastrophic bushfire were to go through the birds' only external location, the lot could be lost, so it is important to establish another site where birds can be released into the wild. I hope that action will result in another colony being built up in the Bunyip State Park at the back of Gembrook.

The new display at the Healesville Sanctuary was funded by a significant contribution from Yarra Valley Water, and I am happy to give that organisation a plug. All Victorians can now go along to the Healesville Sanctuary and enjoy looking at three breeding pairs of the state's faunal emblem sitting in an enclosure surrounded by plenty of trees and bushes in their natural environment.

In recent years the Yellingbo Creek has had problems with siltation, which is causing vegetation to die off. The four hydrology studies that have been conducted in the area have recommended the undertaking of a number of works to stop the dieback and improve the habitat. Those works are presently being undertaken with the aim of bringing the situation under control.

To sum up, I say well done to the Friends of the Helmeted Honeyeater for the work they have done over the years. I encourage them to continue what is a worthwhile project.

I say to the minister, to those who advise her and to members of the department that provide her with speaking notes, advice and support that this project continues to require expertise, advice and, most importantly, funding. There are areas along Yellingbo Creek and in Gembrook and other areas where colonies of the pretty helmeted honeyeater can be established. I urge the minister to do something positive for Victoria by providing funding not only for the day-to-day things that need to be undertaken but also by providing more land in the areas identified as being able to increase the viability of the habitat of the helmeted honeyeater. I am pleased to see that the species is included in the bill as a species worth preserving. I urge the government to give every consideration in the future to improving the viability of this wonderful bird.

Hon. JENNY MIKAKOS (Jika Jika) — I support the Flora and Fauna Guarantee (Amendment) Bill, which amends the Flora and Fauna Guarantee Act. The act provides a legal and administrative structure to promote the conservation of Victoria's native flora and fauna and provides procedures for the management of potentially threatening processes, such as the introduction of exotic organisms into Victorian marine waters.

The bill's main provisions are clauses 6, 7 and 12, which relate to the manner in which species, subspecies or threatened species are covered by the provisions of the act. Section 5 of the act currently allows for the Governor in Council on recommendation of the minister and by order published in the *Government Gazette* to add, vary or delete items in schedule 1 of the act.

Schedule 1 relates to flora and fauna that are not to be considered, and the only item since the act's enactment remains human disease organisms. The effect of section 5 is to allow for schedule 1 to be amended by subordinate legislation.

I am pleased to support the bill in my capacity as a member of the Scrutiny of Acts and Regulations Committee. Under section 4D of the Parliamentary Committees Act the Scrutiny of Acts and Regulations Committee is required to report to Parliament on any bill that insufficiently subjects the exercise of legislative power to parliamentary scrutiny or inappropriately delegates legislative power.

I understand the Scrutiny of Acts and Regulations Committee has on many occasions in the past commented on bills adopting what are known as Henry VIII clauses — that is, clauses in bills that allow an act to be amended by subordinate legislation.

The chairperson of the Scrutiny of Acts and Regulations Committee, the honourable member for Werribee in the other place, commented adversely about Henry VIII clauses. Unfortunately, in the present case the Flora And Fauna Guarantee Act was enacted in 1988 before the Scrutiny of Acts and Regulations Committee was established. However, clauses 6 and 7 of the bill seek to rectify that deficiency.

Clause 6 will amend section 5 of the act so that the Governor in Council may, on the recommendation of the minister, and by order published in the *Government Gazette* specify in a list a taxon — that is, a species or subspecies — that constitutes a serious threat to human welfare. That will be specified in a list rather than in a schedule to the legislation.

In a similar way clause 7 will amend section 10 of the act, which currently provides that the Governor in Council may, upon recommendation of the minister and by order published in the *Government Gazette*, add, amend or repeal an item in schedule 2. Schedule 2 lists the taxa or communities of flora and fauna that are threatened. Currently 282 taxa and 23 communities are listed as threatened. Clause 7 will amend section 10 of the act to provide for the Governor in Council, on recommendation of the minister and by order in council in the *Government Gazette*, to specify on a list any taxon or community of flora and fauna that is threatened, and to amend or repeal such list. New section 10(2) will adopt the same process for adding, varying or repealing potentially threatening processes from a list rather than by amendment to schedule 3, which currently lists 22 potentially threatening processes.

The bill makes no change to the process whereby the minister may make a recommendation to the Governor in Council only after considering a recommendation of the Scientific Advisory Committee established under section 8 of the act. That committee comprises scientists who are eminent in their field. The bill will not change the processes by which the committee first publishes a preliminary recommendation in the newspapers and seeks public comment.

Clause 9 does not change the process but is merely a clarification that the minister is required to make a decision within 30 days. Clauses 11 and 12 ensure that those items listed in schedules 1, 2 and 3 of the act at present will remain in those schedules without having to go through procedural registration required of new items.

Proposed section 72 will also ratify previous action statements currently in force. In that respect, I note the comments made by the Honourable Neil Lucas about the helmeted honeyeater. Action statement 8 says that in 1989 under the previous Labor government an initiative was commenced to protect the helmeted honeyeater and funding was available for a three-year program. The bill seeks to make no change to action statements which are issued and which seek to provide for a management program in respect of items listed under schedules in the particular act.

Clause 10 provides that the excluded list, the processes list and the threatened list will be available for public inspection at departmental offices. The minister in her second-reading speech also noted that such lists will also be available for public inspection on the Internet.

The Honourable Andrew Olexander said the government was tinkering with the act. Chief Parliamentary Counsel raised concern about the appropriateness of the current provisions in the act, which allowed for it to be amended by subordinate legislation in July 1998.

If the aim was to amend the act, I remind the house that the previous government was considering doing what the bill achieves. I suggest the honourable member speak to some of the longer serving members of Parliament about that. I suggest he speak to a member of this chamber who is a member of the Scrutiny of Acts and Regulations Committee who will share the view about the appropriateness of Henry VIII provisions being retained in acts of Parliament.

For the reasons I have outlined I support the bill because it maintains the sound processes available under the Flora and Fauna Guarantee Act in conserving Victoria's flora and fauna while at the same time rectifying a deficiency with the act in relation to amendments made by subordinate legislation.

Hon. B. C. BOARDMAN (Chelsea) — I welcome the opportunity to contribute to debate on the Flora and Fauna Guarantee (Amendment) Bill, which is entirely administrative in content and the technical details of which have been described and discussed fully by Mr Lucas and Mr Olexander. The extensive consultation by particularly the shadow minister responsible for the bill with a number of community representatives lends support to the legislation and will improve its functionality. As has been mentioned previously, the opposition does not oppose the bill.

The schedule to the bill refers to the *Caladenia robinsonii*, the Frankston spider orchid. The Honourable Bob Smith would be aware that the Frankston spider orchid is indigenous to the Kananook

Creek area. I have seen it, and it is a wonderful native orchid that produces a bright flower. The orchid is indigenous to that part of the world and its protection is justified.

I mention the huge disappointment in my parliamentary career surrounding my previous membership of the all-party investigative Environment and Natural Resources Committee of which you, Mr Deputy President, were also a member. You may interject at any stage if you wish to comment on my contribution.

Prior to the last election the membership of that committee included the now Minister for Environment and Conservation in the other place, Sherryl Garbutt, who was the committee's deputy chair. She was a competent performer on the committee. The then chairman was the former member for Bulleen — no longer a member of Parliament — David Perrin. I am sure you, Mr Deputy President, would share my sentiments that David was an interesting and forthright individual who always took the interests of the committee to heart. Other members included the now Minister for Gaming in the other place, John Pandazopoulos; the Honourable Tayfun Erin, who is no longer a member of this place; the honourable member for Essendon in the other house, Judy Maddigan, who is now the Deputy Speaker; and the honourable members for Bellarine and Caulfield in the Legislative Assembly, Garry Spry and Helen Shardey respectively.

The committee was given a reference to inquire into the utilisation of Victorian native flora and fauna. That reference came on the back of the Senate inquiry held in about 1997 on the utilisation nationally of native flora and fauna. The former Minister for Conservation and Land Management suggested a number of reasons for the use of native flora and fauna as a basis for the committee conducting an inquiry. They were listed in the committee's discussion paper as:

(a) to provide an incentive to preserve a species and indirectly its habitat …

(b) because wildlife industries may offer opportunities to broaden the income base of struggling rural businesses;

(c) to explore the potential for utilisation as part of conservation programs of population control; and

(d) to build on existing Victorian industry sectors.

I found the opportunity to investigate those criteria informative and interesting.

The reason for my disappointment, as I said at the commencement of my contribution, was that due to the timing of the last election the committee's work was never formally tabled. The recommendations the committee could have made never received ministerial or departmental comment. I will not go into too much detail about that reference because I am aware of the sensitivities attached to untabled committee reports. However, a large amount of valuable information would have been available not only to this Parliament but also nationally.

I refer to some of the 12 recommendations of the Senate inquiry. Recommendation 4 states:

> That the federal government investigate ways in which private sector investment in biodiversity conservation can be supported and encouraged.

Recommendation 5 states:

> That state and federal governments together review all administrative procedures relating to commercial utilisation of wildlife in Australia with a view to increasing their efficiency so as to ensure that there are no unnecessary hindrances to industry.

That goes to the vexed issue regarding commercial utilisation of native wildlife. At the moment most utilisation of fauna particularly is done in a consumptive sense. The trading of animals is restricted so that the use of native fauna is consumptive and the use of flora is widely practised.

The statistics discovered by the Environment and Natural Resources Committee, which are not generally known but which were included in the committee's discussion paper, were:

> … at least 3140 native species of vascular plants …

exist in Victoria. They include:

> … 900 lichens; 750 mosses and liverworts; an unknown number of algae and fungi … 46 freshwater fish; 33 amphibians; 133 reptiles; 447 birds; and 111 mammals.

Nearly 600 species have been identified as threatened with extinction. Those statistics give reason for further strengthening legislation such as the Flora and Fauna Guarantee Act to ensure adequate resources are available to the department and other individuals involved in the conservation process to protect and conserve indigenous flora and fauna for the enjoyment of future generations.

I turn to biodiversity in the framework of ecologically sustainable development. In 1992 all Australian governments agreed to the establishment of a national strategy for ecologically sustainable development, known as the national ESD strategy. The ESD was the subject of much committee discussion in defining ESD and its principles.

The committee sought the assistance of various biological consultants to advise it on their definitions of environmental sustainability. It also held extensive consultations with the public, the department and interested conservation groups. The committee travelled nationally and internationally to talk about what it regarded at the time as some of the world's leading ESD practices.

The committee travelled to Zimbabwe. You, Mr Deputy President, were involved in that exercise and will remember some of the fascinating discussions and deliberations the committee held in Zimbabwe. One program with which the committee identified closely and which certainly captured its imagination was a project known as the Campfire project. It was an initiative of the Zimbabwean government to give traditional landowners total authority and autonomy over their lands. A section of the land would be under the management of a community, which would have complete autonomy in its ownership over all the wildlife, flora and fauna on that particular parcel of land.

So long as the landowners were operating under the sustainable framework allowed by the government they could trade commercially in that wildlife, whether it be through tourism, hunting, the livestock trade or the development and sale of flora, all for the entrenched purpose of benefiting that community. That amazing program enabled the landowners to benefit from the natural resources available on their traditional land, allowing them to improve and foster their community.

The committee decided to explore the issue in the context of working out how to put a value on wildlife. In other words, we considered how we might translate the Campfire program into an Australian context and come up with a similar program. We found that the answer is complex. In Australia the four main values by which wildlife can be assessed are social and aesthetic, which are often intangible; recreational, such as income derived from nature tourism; scientific, which are the values to do with human existence; and direct income from the trade in wildlife or the sale of species and their products.

On exploring that context a little further, we found that a number of barriers and success factors arise. They vary from public perceptions to the economic viability of the wildlife, and in particular the capacity to foster a healthy and ecologically sustainable system that is beneficial both to the people involved directly in the process and the wildlife. In the economic context the committee found it difficult to discover how to get around the vexed and often publicly confused problem of putting a value on native wildlife.

Based on my own investigations and those as a member of the committee, I suggest that in future wildlife will have to be managed. Unfortunately, maintaining true wildlife will not be possible. We must develop a framework by which governments, in conjunction with the private sector, place a specific value on the resources they are dealing with to ensure that wildlife is managed primarily for conservation and development purposes but also to ensure economic sustainability. As I said, the issue is complex.

Unfortunately the results of the committee's work will not be published, although the members of the committee discussed the issue at length and made some recommendations. I am disappointed that protocol prevents me from discussing it any further. I encourage this and future governments to keep the issue on the table to ensure that the complex but topical matters involving valuing, managing and utilising native flora and fauna are not neglected and get a fair hearing.

In conclusion, I refer to an individual who has a formula for valuing wildlife and who is probably no stranger to a number of members. Dr John Wamsley is the managing director of Earth Sanctuaries Ltd, a company that operates a number of sanctuaries nationally, its flagship being Warrawong sanctuary in the Adelaide Hills in South Australia. The committee visited and spoke at length with Dr Wamsley, who is a fascinating person with some incredible ideas on how to deal with the issue. I will read a paragraph on page 14 of his booklet, *Investing in Wildlife*, as it gives an indication of how Dr Wamsley, who has a PhD in mathematics, puts a value on wildlife. He says:

> The replacement value is often touted as a 'reasonable' method for valuing trees for example. The concept here is very simple: suppose it costs $10 to plant a tree, then the value of the tree is $10 plus 5 per cent compound interest for each year of age. Therefore a 2-year-old tree is valued at $11, a 14-year-old tree is valued at $20, a 28-year-old tree is valued at $40 and a 100-year-old tree is valued at $1300. This is quite reasonable. However, if we note that it takes 400 years for a Mallee tree to grow to a hollow big enough for a numbat to live in then using the replacement value one calculates that a 400-year-old tree is worth $3 billion. Although many would argue that a 400-year-old tree is worth $3 billion, clearly no-one would pay this much to save a 400-year-old tree. Therefore other methods must be used for ancient trees and other forms of wildlife.

That is a brief synopsis of the complexity of the issue. We must explore the issue further and come up with some practical alternatives for dealing with the vexed and complicated issue of valuing wildlife and its future

management in both the conservation and the ecologically sustainable and economic senses.

I have given a brief description of the committee's activities and deliberations. As I said, it is disappointing that the report will never be made public, as I am sure you will agree, Mr Deputy President. Bearing that in mind, the opposition has no reason to oppose the bill.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank the Honourables Gavin Jennings and Jenny Mikakos on the government side and the Honourables Andrew Olexander, Neil Lucas and Cameron Boardman on the opposition side for their contributions to the debate.

It is appropriate that the amendments have the support of both sides of the house in light of the history of the original legislation. It was passed in 1988 with the support of the Liberal and National opposition parties following its introduction by the previous Labor government, and it has not been amended since.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

JURIES BILL

Introduction and first reading

Received from Assembly.

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

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 21 March.

Motion agreed to.

ADJOURNMENT

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

That the house do now adjourn.

Snowy River

Hon. E. G. STONEY (Central Highlands) — I raise a matter for the attention of the Minister for Energy and Resources. I have here a copy of the *Goulburn–Murray Water Staff Newsletter*, which records that on 2 February the minister visited the region on a fact-finding mission relating to increasing the flow of the Snowy River.

If the Snowy River receives extra water, will the minister guarantee that no extra water will be taken from the Goulburn–Broken system to make up the shortfall that may go down the Snowy?

Roads: rural maintenance

Hon. D. G. HADDEN (Ballarat) — I raise with the Minister for Energy and Resources, who represents the Minister for Local Government in the other place, the important problem of maintenance of roads and other infrastructure currently facing rural shires and councils in my electorate. Commonwealth Grants Commission funding has not kept pace with local government needs. In 1990 approximately half of the assessed needs were met by grants commission funding whereas now that figure is approximately 27 per cent.

In January the Municipal Association of Victoria released a report entitled *Economic and Financial Challenges for Small Rural Councils*, which shows that rural councils receive larger shares of local road grants because of the greater length of their road networks. However, rural councils spend approximately 43 per cent of their annual budgets on roads compared with the 20 per cent spent by metropolitan councils. Rural councils spend $943 per resident per annum compared with the $505 spent by metropolitan councils. Rural rates average 3.9 per cent of the household incomes of rural residents compared with 2.3 per cent of metropolitan median household incomes. Vicroads figures show that although Victoria contributes 25 per cent of national road excise revenues only 16.6 per cent of commonwealth roads funds are spent on Victorian roads.

Rural councils cannot attract new industry and development without improved roads and infrastructure. This is a critical requirement for the success of economic and social development in rural areas, especially in my electorate.

I therefore ask the minister to urge the Minister for Local Government in another place to negotiate with his federal counterpart a more equitable share of national road excise revenues by way of increased Commonwealth Grants Commission funding for rural councils in my electorate.

Small business: Growing Victoria Together

Hon. W. I. SMITH (Silvan) — I refer the Minister for Small Business to the state government-run business summit called Growing Victoria Together to be held this month. I understand approximately 80 businesses have been sent invitations to attend the summit, and I ask the minister to advise how many invitations have been sent to small businesses and which small businesses have been invited.

Business investment

Hon. R. F. SMITH (Chelsea) — I ask the Minister for Industrial Relations, as the representative of the Minister for Finance in another place, what is the government's response to the article in the business section of today's *Age* headed 'Investment set to soar as Victoria bounces back'. I refer to comments recently made in the house by my namesake opposite.

The PRESIDENT — Order! Mr Smith has put his question. I am not sure what he is going on to talk about at this stage.

Hon. R. F. SMITH — I was going to expand — —

The PRESIDENT — Order! The honourable member cannot expand. He can put a preamble to the question.

Hon. R. F. SMITH — The question I ask of the minister in the other place relates to the article in today's *Age* outlining the future prospects for investment in Victoria. Despite the statements made in the house by members opposite, in particular my namesake, who was lampooning investment in Victoria and predicting doom and gloom, it would appear that that is not quite the case. The article by Mr Tim Colebatch, the financial editor of the *Age*, states:

> Despite all the efforts to spread gloom, business investment plans for Victoria are soaring.
>
> …
>
> Investment plans for 2000–01 show a phenomenal 22 per cent rise in Victoria from the same survey a year earlier, compared with a 5 per cent fall in the rest of Australia.

It would appear that companies such as Olympic Air are flying back in, and with them is coming a great deal of investment.

Hon. M. A. Birrell — I am reluctant to raise a point of order on someone making his first-ever speech on the adjournment, but with respect, Mr President, the adjournment debate is not an opportunity to do something equivalent to a short address-in-reply or a short speech on the budget. Usually practical matters requiring some action by someone are raised, but what has been raised in this case is, I think, the question, 'Has the minister seen the article in the newspaper, and what does he think of it?' The adjournment debate is not an opportunity for someone to debate a newspaper article.

Hon. T. C. Theophanous interjected.

Hon. M. A. Birrell — The point I make is that it is not relevant. The adjournment debate is not a debating forum and should not be used for that purpose.

The PRESIDENT — Order! Honourable members should look at the guidelines I reissued last night. I hope every time I said 'he' Hansard recorded I said 'he or she'. Someone suggested I may not have.

The adjournment debate provides an opportunity to make a complaint or ask a question. The question the honourable member asked was succinct, and if he had stopped there he would have been a candidate for the President's prize, which is a nice bottle of red. The adjournment debate is not the appropriate time to deliver a set speech. The honourable member can set the scene, then ask the question. The honourable member has provided enough information to enable the minister to respond. I ask the honourable member to put the question again.

Hon. R. F. SMITH — What has the Minister for Finance done to encourage the influx of investment to Victoria?

GST: small business

Hon. B. N. ATKINSON (Koonung) — I have noted how the Minister for Small Business has argued strongly and persuasively in the chamber that she is a strong advocate of small business on the GST issue. I also note that the minister has, it would seem from her admissions to the house, had little input to the Workcover issues that are of so much concern to small

business, particularly in the province I represent, and I daresay in Victoria as a whole.

I ask that the minister turn her attention on this occasion to the log of claims of the Shop, Distributive and Allied Employees Association that is before the Australian Industrial Relations Commission. Can the minister apprise the house of the status of the outrageous log of claims that has been served on 35 000 retailers in Victoria, most of them small businesses? Can the minister also advise the house of the extent of representations she made to the AIRC, or indeed cabinet, in her capacity as an advocate of small business, a position she has indicated she holds strongly in the context of other issues before the public?

I ask the minister to tell the house tonight what action she has taken regarding the log of claims before the AIRC and what submissions she might have taken before cabinet in advocating for small businesses and pointing out the impact the log of claims will have on them.

The PRESIDENT — Order! It is unrealistic to ask what a minister took to cabinet, but the first part of the question is reasonable.

Western suburbs: sporting facilities

Hon. S. M. NGUYEN (Melbourne West) — I raise with the Minister for Sport and Recreation, who is also the Minister for Youth Affairs, access and equity issues in relation to sport and recreation facilities in the western suburbs, particularly for young people. During the course of the previous government's term and over recent months community leaders and youth workers have raised the lack of sport and recreation facilities, as well as the problems associated with access to existing facilities.

Local residents have informed me that they are unable to gain access to sport and recreation facilities. Because they are not associated with formalised clubs or associations they do not meet the criterion set out by the council. Encouraging young people to participate in sport and other social activities promotes personal and social wellbeing. They provide an outlet and keep people away from the ills of our community such as violence, crime and drugs.

In light of that I ask the minister whether he will consider initiating a self-help scheme in conjunction with local councils that would provide access to facilities for local residents, particularly young people from disadvantaged groups.

Rail: port of Geelong link

Hon. G. R. CRAIGE (Central Highlands) — I raise with the Minister for Ports a matter concerning the port of Geelong and in particular the Labor government's commitment to a rail link to the port of Geelong. The ALP's 'Labor and Geelong' policy clearly states on page 7 that:

> A Bracks Labor government will provide up to $4.5 million from Labor's Regional Infrastructure Development Fund to meet 50 per cent of the cost …

The minister informed me of the following by way of letter on 2 February:

> … standard gauge rail access to the port of Geelong is currently under consideration by this government, in conjunction with the City of Greater Geelong, Toll Geelong port and Vicgrain.

The minister goes on to add:

> This project will be considered through the newly formed Regional Infrastructure Development Council during 2000.

I find that a bit contradictory because according to the policy statement the money has already been committed from the Regional Infrastructure Development Fund.

On 11 February the minister gave a speech entitled 'Ports Agenda 2000', in which she stated:

> … the Bracks government has committed $4.5 million —

that was stated some nine days following the date of the letter, and I have assumed the proposal had been to council in those nine days —

> from the Regional Infrastructure Development Fund to meet 50 per cent of the cost of linking key wharves to the national standard rail network.

As the minister's letter was dated 2 February and her speech was given on 11 February, one can assume the council had met and approved that funding. I go on to quote a press release issued by the Office of the Premier and Treasurer dated 28 February:

> The port of Geelong will be integrated with existing standard gauge network through the development of a standard gauge rail link into the port at a cost of $4.5 million.

I ask the minister where the additional $4.5 million, the other 50 per cent of the cost of that rail link, will come from. Who is paying for that?

Banks: Commonwealth–Colonial merger

Hon. JENNY MIKAKOS (Jika Jika) — I raise a matter with the Minister for Consumer Affairs. The

minister advised the house earlier today that today is World Consumer Rights Day. I raise a matter that will have a huge and adverse effect on Victorian consumers — namely, the announcement by the Commonwealth Bank of Australia last week that it is seeking to acquire the Colonial State Bank.

The federal Treasurer, Peter Costello, in a doorstop interview on 8 March, failed to give any assurances that the closure of branches in regional areas will be a significant consideration in his giving or not giving his approval of the merger as being in the national interest.

Hon. Bill Forwood — On a point of order, Mr President, the guideline you gave last night was that members must raise only matters within the administrative competence of the Victorian government. I would have thought blind Freddy could see that the relationship between the Colonial and Commonwealth banks has little to do with the competence of the Victorian government.

Hon. JENNY MIKAKOS — On the point of order, Mr President, if the Honourable Bill Forwood had been patient enough to wait for me to elaborate, it would have become evident to him that I am not seeking that the minister intervene in federal matters falling under the Trade Practices Act. It will become clear that my concern is the ability of the Victorian Minister for Consumer Affairs to advocate on matters that affect Victorian consumers.

The PRESIDENT — Order! I am in a bit of a dilemma. I know the member knows what she wants to say in response but she has not given me enough information to decide the point of order. The question is whether the matter falls within the competence of Victoria. The member has the opportunity to answer that question. She needs to tell me a bit more so I can ensure the matter she raises is relevant.

Hon. JENNY MIKAKOS — On the point of order, Mr President, I wish to raise a matter that affects Victorian consumers. Under the Victorian constitution the Minister for Consumer Affairs has jurisdiction to advocate on matters affecting Victorian consumers. As will become apparent if I am allowed to conclude, I am not seeking that the minister exercise any functions properly exercised by the federal Treasurer.

The PRESIDENT — Order! I will accept the assurance from the honourable member, and on that basis I will allow her to complete her remarks.

Hon. JENNY MIKAKOS — As I was saying, the federal Treasurer failed to give any assurances that he would take regional services into account and stated in his interview that his government's policy related only to government and not to non-government services.

The Finance Sector Union has advised me there are 39 Colonial State Bank branches in Victoria and that the bank employs 635 staff across Victoria and Tasmania. In addition, the union has advised me that it is clear from discussions with Commonwealth Bank management that branches in neighbouring localities will be integrated or merged with other branches in the same area. If the merger proceeds Victorian consumers will face the real possibility of the 39 Colonial State Bank branches scattered across Victoria being shut, which will obviously impact upon Victorian consumers and will no doubt result in considerable job losses among bank staff.

Honourable members interjecting.

The PRESIDENT — Order! Will the honourable member now put her question, please.

Hon. JENNY MIKAKOS — In conclusion, Mr President, I also note that the Colonial — —

Honourable members interjecting.

The PRESIDENT — Order! Will the honourable member please put her question.

Hon. JENNY MIKAKOS — This is part of my question. I also note that the head office of Colonial State Bank located in Collins Street employs approximately 400 staff, and that the previous government failed to take any steps — —

The PRESIDENT — Order! There is a time limit, which the honourable member has exceeded. Please put the question so we can move on to the next item.

Hon. JENNY MIKAKOS — My request to the minister is that she seek to make representations to the federal Treasurer and to the Australian Competition and Consumer Commission about the proposed acquisition by the Commonwealth Bank of the Colonial State Bank and about how it will affect Victorian consumers.

The PRESIDENT — Order! I have to say that the honourable member disappointed me. She did not give me the information I was expecting. I very much doubt that that can be said to be a matter within the competence of the Victorian government. However, I will leave it to the minister to answer in the way she thinks fit.

Minister for Industrial Relations: offices

Hon. D. McL. DAVIS (East Yarra) — My question is for the Minister for Industrial Relations. Given discussions about the minister's numerous office moves and that in her short term in office she has occupied two offices and is soon to occupy a third; that she has failed to deny that the total cost of the moves may have approached $250 000; that she has failed to rule out that the renovations at Macarthur Street may have cost $80 000; that she has failed to clarify the details of the moves; and that she has indicated to numerous people that she will move to 55 Collins Street, I seek to establish where her departmental officers will be based. I understand they may well be based at Nauru House. Will the minister confirm not only that the costs have approached $250 000, but also that she will be based at a different place from where the majority of her departmental officers will be based.

Banks: closures

Hon. T. C. THEOPHANOUS (Jika Jika) — Mr President, in raising an issue with the Minister for Consumer Affairs I am mindful of your earlier rulings. The issue I raise concerns the impact bank closures or reduced bank services — which incidentally seem to continue unabated irrespective of mergers — have on consumers in relation to their access to credit and banking facilities. A letter I received from the Commonwealth Bank states:

> Following a review of our banking operations in the Fairfield and Thornbury area, I write to inform you that the following changes will take place from close of business (5.00 p.m.) on Friday, 14 April 2000:
>
> > Fairfield North will amalgamate with Fairfield.
> >
> > 680 High Street Thornbury will amalgamate with Thornbury.

That is a nice way of saying the bank is closing two of its branches. I am concerned that reductions in services to consumers occur without prior consultation with the representatives of the electorates concerned; the consultation occurs after the decisions are made. It has got to the point where honourable members in this place dread phone calls from Commonwealth Bank staff asking to see them because they know exactly what it will be about — to tell them that the bank is closing another branch. They never ring to say they are thinking about it and would like input — —

Hon. M. R. Thomson — Or that they are opening one.

Hon. T. C. THEOPHANOUS — Or that they are opening one. My concern is for the elderly consumers and other people in my electorate who find it difficult to travel longer distances to access consumer services provided by banks, including credit and other such facilities. In case some people are unaware of the fact, I point out that the state does have some responsibility for credit facilities.

Will the minister take up the issue of the closure of the two branches I have mentioned and get a guarantee from the Commonwealth Bank that it will not lead to a reduction in services to consumers, as well as an indication that the bank will consult consumers before it makes a decision to close a branch and not after it is a fait accompli?

Consumer Enrichment Centre

Hon. BILL FORWOOD (Templestowe) — The issue I raise with the Minister for Consumer Affairs concerns what I believe to be a scam being run by the Consumer Enrichment Centre in Toorak in the form of its guaranteed cash contest. It appears from information that has come to me that people receive unsolicited letters from the organisation stating that if they send back the processing and entry form they may win $15 000. All they need do is send off cash, a cheque or a money order, which is initially just $8. It appears that the deadline for initial entries is 30 January 2001. Presumably the organisation will send out a lot of letters between now and then.

The letter describes how participants will be able to progress through the contest and states that if they pay a bit more money — up to $140 — they will have the prospect of winning that amount of money. The letter is written in such a way as to entice people to invest in the scheme. It says in part:

> Although I am sure you are excited to receive this news, I must warn you: if you do not return … the form you will not have a chance of winning any cash prize.

This is the sort of scam that preys upon people who want to win money but who do not read the fine print. I ask the minister to ask her department to investigate the scam and publicise the fact that it is going around.

Food: industry investment

Hon. KAYE DARVENIZA (Melbourne West) — I refer the Minister for Energy and Resources, who represents the Minister for State and Regional Development in the other place, to the government's commitment to the food export industry. I ask the minister to advise me of the employment and

investment growth in the Victorian food industry that has been secured by the Bracks Labor government.

Electricity: Yallourn dispute

Hon. R. M. HALLAM (Western) — I raise for the attention of the Minister for Energy and Resources a matter that goes to the issues I raised with her during question time yesterday regarding the electricity crisis inflicted on Victorians. I have had a chance to read the *Hansard* proof of yesterday's report and I note that the minister gave a candid response to my question when she said, among other things, that:

> … the government was in continuous receipt of reports from Nemmco on the electricity supply situation at that time.

I thank the minister for her candid response. Unfortunately, that was not apposite to the question I asked, which related to the specific reports:

> … the Victorian government requested from Nemmco —

rather than received from Nemmco —

> during January on the effect of the withdrawal of Yallourn Energy's generational capacity.

I ask the minister to respond to the question I put to her yesterday.

Hon. T. C. Theophanous — On a point of order, Mr President, my understanding is that question time is for questions. The adjournment debate is not an appropriate time to re-ask a question that was asked during question time but which was not answered to the satisfaction of the honourable member. If Mr Hallam wishes to ask another question it would have to be a different question to the one he now poses. Mr Hallam raises for the attention of the minister an issue that is in the same terms as the question he asked earlier, which is not appropriate.

The PRESIDENT — Order! I again ask honourable members to refer to the guidelines I issued yesterday. The guidelines go back to 1975 and have remained unchallenged since that time. An honourable member may not raise a matter previously discussed in the same question. This is not the time to repeat a matter that was not answered to the honourable member's satisfaction. In this case Mr Hallam asked a question during question time, but the answer did not relate to the question. Mr Hallam should use another form of words in raising the issue to make his point. Accordingly, I disallow the question. However, I often give honourable members a chance to rephrase the matters they raise, and I give Mr Hallam the same opportunity.

Hon. R. M. HALLAM — I will be careful not to infringe your ruling, Mr President. There is also a rule that says that the response must be apposite to the question. I offer the minister the chance to revisit the issue I raised during question time yesterday. I did not do that at the first opportunity because I wanted to be fair to the minister and needed to look carefully at the *Hansard* record. It is clear to me, having read the report in *Daily Hansard*, that the minister's response was not apposite to the question, but was the reverse of the question. I ask the minister whether she wishes to take up the opportunity to correct the record.

Hon. T. C. Theophanous — On a point of order, Mr President, Mr Hallam is clearly flouting the ruling you have just made — that is, that members cannot ask the same question they asked earlier, notwithstanding whatever they may think of the minister's response. The standing orders are clear.

The PRESIDENT — Order! The guidelines are clear. I have already ruled that the adjournment debate does not provide an opportunity to repeat a question asked earlier, even though the answer was unsatisfactory. Mr Hallam may put the question on the notice paper without offending against the rule. Mr Hallam may give consideration to taking that course of action. I do not believe I can allow him to continue.

Unions: militancy

Hon. C. A. FURLETTI (Templestowe) — I raise for the attention of the Minister for Industrial Relations an issue relating to the directors of a small demolition company, a husband-and-wife team, who started their firm in 1992 with 4 employees and now employ 45 workers. They have built up their firm over that period through their own hard work. They are concerned about the revival of union militancy and the demands made over the past few months that are having a serious effect on their business. For example, they have complained to me that union officials have told them that the $17.95-a-day travel allowance paid to construction workers should be paid on rostered days off. They say that a group of union representatives demanded to inspect the company's records.

Hon. Jenny Mikakos — On a point of order, Mr President, the honourable member is raising a matter about increased union militancy, which does not come within the purview of the minister's responsibilities.

The PRESIDENT — Order! The Minister for Industrial Relations is present in this chamber. The honourable member may object to the terminology

used, but I believe the matter is addressed to the appropriate minister.

Hon. C. A. FURLETTI — I was under the impression that only Mr Theophanous was prone to premature evaluation. The complaint also involved extortion, which is a serious matter for employers.

A group of union representatives attended the company premises demanding to inspect the company documents, including its financial and taxation records. Clearly the firm was not obliged to produce or disclose those records. However, without any guarantee being given that they would be retained privately and treated confidentially, the firm produced the records because it felt it had little choice.

It was a case of sheer and unadulterated extortion by the union representatives. The company is associated with the Demolition Contractors Association, which, as the minister will be aware, last month successfully negotiated a 38-hour week and 15 per cent pay rise over three years for the workers in that industry. As honourable members will know, the agreement struck between the employers and the employees was rejected out of hand and quashed by the Construction, Forestry, Mining and Energy Union, which has since persisted with its claim for a 36-hour week and a 24 per cent pay rise.

Many firms in the industry, and my constituents in particular, are concerned that the leasing agreements they have entered into for expensive material and plant and equipment are based on their employees working a 38-hour week. When will the minister seek to intervene before the Australian Industrial Relations Commission to ensure that small businesses in circumstances like those facing my constituents survive the extraordinary and avaricious demands of the construction unions?

E-commerce: consumer protection

Hon. ANDREW BRIDESON (Waverley) — I refer the Minister for Consumer Affairs to an issue affecting consumers, which is appropriate given that earlier she said that today is the 38th World Consumer Rights Day.

The issue I raise concerns e-commerce. In passing I point out that I am not sure of the government's commitment to encouraging e-commerce, given that it does not have a minister for multimedia or information technology. Be that as it may, e-commerce is growing daily, as witnessed by the number of articles appearing in newspapers. I refer in particular to an article in the investment section of yesterday's *Age* and another in today's 'Domain Design' lift-out under the headline 'Shop 'til you drop Online'.

What does the minister intend to do to protect consumers from e-commerce malpractice? I will quote some examples from the article in today's *Age*, which states that one of the major concerns is that some e-commerce sites claim that:

> … credit card payments are secure, when there is no secure socket layer connection that protects personal data entered.

In some cases the consumer has to change from one site to another. Because one site may be secure while another is not, personal credit card information may go from a secure site to a not-so-secure site.

What does the minister intend doing to protect consumers who are using e-commerce? I do not want to hear a repeat of the pious platitudes she mouthed this afternoon, and I do not want her to produce a glossy brochure. Instead I want to know what she intends to do.

Somerville Rise Primary School

Hon. R. H. BOWDEN (South Eastern) — I ask the Minister for Industrial Relations to direct to the attention of the Minister for Finance in the other place an unsafe parking situation at the Somerville Rise Primary School. Approximately 600 children attend the school in Somerville, where I live and also have my electorate office, and the school expects its student population to increase.

Somerville Rise Primary School is on the corner of Graf Road and Blacks Camp Road, where there is only a limited ability for parents to drop off and pick up their children. It is unsafe at any time, and if the weather is inclement the schoolchildren can be exposed to real danger. Sometimes there are more than 100 vehicles in the immediate vicinity of the school, which is a serious threat to the safety of the children.

It just so happens that there is some Crown land immediately next door to the Somerville Rise Primary School. For some years I have been suggesting, with the support of the school, that a small portion of that Crown land could provide the solution to the dangerous problem that exists there.

Will the minister ask the Minister for Finance to investigate the possibility of excising a small portion of the Crown land immediately next to the Somerville Rise Primary School with the aim of creating some peace of mind for the many hundreds of concerned parents in my electorate?

Pakenham bypass

Hon. N. B. LUCAS (Eumemmerring) — I ask the Minister for Energy and Resources to direct to the attention of the Minister for Transport in another place the proposed Pakenham bypass. I refer to page 6 of the Pakenham *Gazette* of 1 March this year, which says:

> Premier Steve Bracks promised on Monday that the Pakenham bypass 'won't be forgotten'.

It went on to say:

> The Premier said Cardinia was in a perfect position to benefit from both black spot and Better Roads funding.
>
> …
>
> He said Cardinia could also be in line for regional infrastructure funding and Better Roads, covered by petrol tax.

I suggest to the minister that Pakenham is a fast-growing place, the population of which will increase to over 40 000 in the next decade. More than 30 000 vehicles a day travel through Pakenham along the Princes Highway, the accident records for which show that in the past five years 7 fatalities, 74 serious injuries and 149 other injuries have occurred in the area from Beaconsfield through to Nar Nar Goon. The Royal Automobile Club of Victoria classifies that section of road as the worst accident section in the state.

The proposed freeway will cost $180 million, and the federal government has already promised $30 million for the much-needed work. I have seen a number of construction scenarios. I note in particular the submission from Vicroads headed 'National roads in Victoria — forward strategy', which covers the period from 1999 to 2004 and indicates on page 15 that construction of the road could commence in 2002.

I have met with Cr Max Papley, the mayor of Cardinia, and Don Wells, the shire's chief executive, to discuss the matter. The shire is so concerned that it is proposing to put postcards in the local paper that members of the community can forward to the Minister for Transport, pointing out to him the great need for the road. It is a high-priority accident spot. The previous Victorian government saw it as a high priority and recommended that it receive funding. As I said, $30 million has already been made available by the federal government.

Will the minister note the concerns of the residents of Pakenham and the Shire of Cardinia and advise when the shire and its people can expect work to commence on the much-needed infrastructure, which is the shire's top priority? In giving an answer, will the minister also consider that, as reported in the local paper, the Premier has suggested regional infrastructure funding for the project?

Honourable members will remember the conjecture about the reason the Shire of Cardinia was not included in the Regional Infrastructure Development Fund Bill as a shire that could receive funding under the program. Perhaps the minister can clarify whether the Premier has made a mistake in suggesting that regional infrastructure funding could be made available to the area.

The PRESIDENT — Order! Before calling the next matter, I refer to the matter raised by the Honourable Ron Bowden. Last night the Honourable Ken Smith referred to education department land in Blacks Camp Road, Somerville, and sought advice on why adjoining land was to be sold by the minister rather than being used for a secondary college. The Honourable Ron Bowden started off by talking about safety of students. In so far as his question relates to the safety of students, I will allow it; in so far as it relates to the disposal of that land, I am not sure that he is not doubling up on the matter raised last night, which is not permissible.

Somerville Rise Primary School

Hon. R. H. BOWDEN (South Eastern) *(By leave)* — My primary concern is the safety of the 600 children. The land on which the school is situated is limited and the location has become a dangerous issue. The solution may or may not be to use the land nearby. My primary concern in raising the matter is to ask the minister to consider all the state's assets in relation to the safety of the children.

Lawn bowls: centre

Hon. P. R. HALL (Gippsland) — I refer the Minister for Sport and Recreation to the government's *1999–2000 Public Sector Asset Investment Program*, which was tabled in the house last week. No reference was made in that document to the establishment of an international bowls centre in Melbourne's eastern suburbs.

I remind the minister that that was a $1 million election commitment by the Labor government during the election. Given that it has to be ready for the 2006 Commonwealth Games in Melbourne it is important that planning for the facility begin. What progress has his government made towards honouring the election commitment?

Women's Information and Referral Exchange

Hon. ANDREA COOTE (Monash) — I ask the Minister for Small Business to refer a matter to the Minister for Women's Affairs in another place. The former Minister for Women's Affairs, Jan Wade, gave considerable support to the Women's Information and Referral Exchange (WIRE). That excellent service, under the guidance of the former minister, established an information service with a 1300 number. It also has an email address as well as a shopfront and walk-in information centre in Flinders Lane just off Swanston Street.

On International Women's Day I attended the launch of the Kennett government initiatives by the minister. In her speech the minister, who is also the Minister for Environment and Conservation, said she was giving WIRE a significant donation to increase services to rural women. I discovered this was to be $50 000 over five years. She said it was helpful being the Minister for Women's Affairs as well as the Minister for Environment and Conservation as she would be funding the donation from the Department of Natural Resources and Environment budget.

I ask the minister to explain why the funding for what is obviously a program established for women will not be funded from the women's affairs budget and why it is coming from the conservation portfolio.

Narre Warren South primary school

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I ask the Minister for Youth Affairs to refer the attention of the Minister for Education in another place to a matter of considerable importance in my province — namely, the provision of a primary school in Narre Warren South.

As the minister may be aware, the City of Casey is the third-fastest growing municipality in Australia, and within the City of Casey, Narre Warren South is the fastest growing area. Currently the area does not have a primary or secondary school. During the 1999 election campaign the Labor government committed to the construction of a primary school in the Narre Warren South area to be opened in time for the 2001 school year. That was a key commitment to the people of Narre Warren South, and it is one that I am keen to see delivered.

The Minister for Gaming in the other place was also a supporter of the proposed school. I refer to *Hansard* of 28 October 1998 when the honourable member for Dandenong, now the Minister for Gaming, called on the government to build the new primary school for the commencement of the 2001 school year. He expressed concern about the lack of capacity of surrounding schools and asked whether the government cared about the distance young people have to travel to get to school.

I am concerned that it is now mid-March and it appears no progress has been made towards building the new school. Five months have elapsed since the government took office and only 10 months remain until the start of the 2001 school year. I am sure the Minister for Gaming shares my concern.

I seek from the Minister for Education an explanation of the current status of the Narre Warren South primary school. Does the government remain committed to opening the school in 2001 as promised, and can she provide the house with a time line for the construction and commissioning of the school?

Arts: outer eastern suburbs

Hon. G. B. ASHMAN (Koonung) — I ask the Minister for Industrial Relations to direct the attention of the Minister for Arts in the other place to the shortage of arts facilities in the outer eastern suburbs which is causing significant concern. While one recognises there is a range of sporting facilities, the arts community has been ignored. Some 250 000 to 300 000 people in the outer-east catchment area are currently served by a number of small theatres. Generally small theatres have developed over the years but have the capacity to seat maybe 100 or so patrons. The schools have a major problem when seeking to put on major stage productions. Many of the schools' auditoriums are generally unsuitable for major productions.

The minister would be aware that the City of Knox has developed a theatre and arts complex plan which would adequately serve the outer east. Can the minister advise the attitude of the government to providing services for the arts community in the outer eastern suburbs?

Housing: Highett estate

Hon. J. W. G. ROSS (Higinbotham) — I ask the Minister for Small Business to direct the attention of the Minister for Housing in the other place to the urgent need for a maintenance upgrade of the Graham Road — or Fox–Dunkley — public housing estate in my province that is administered by the Cheltenham housing office in the Southern Metropolitan Region of the Department of Human Services. The estate is desperately in need of refurbishment and, in particular,

floor coverings, internal painting and some external work.

The former minister saw fit to visit the estate prior to the change of government and she was well acquainted with the need to refurbish the estate. I had every expectation that she would attempt to provide the funds to enable the necessary work to be carried out. The amount of money required was of the order of $500 000 to $600 000.

I have since been approached by the housing support services of the Brotherhood of St Laurence and have had personal negotiations with one of the residents who has been driven to extreme measures and, without putting too fine a political point on it, her health may be affected. However, the issue is in general about the housing estate, which is in desperate need of an upgrade.

I urge the minister to ask the Minister for Housing to ensure the facility has the priority accorded to it that it deserves. The circumstances will be in the files of the Office of Housing. I must say that I have been impressed by officers of the Department of Human Services.

The difficulty that has arisen about one resident and the office at a particular location is irreconcilable in the absence of a general update of the entire estate and rectification of problems throughout it. I urge the minister to attempt to do something about it.

Mildura: skate park

Hon. B. W. BISHOP (North Western) — The matter I ask the Minister for Sport and Recreation to direct to the attention of the Minister for Police and Emergency Services in the other house concerns an issue about which the Minister for Sport and Recreation may have become aware during his recent visit to Mildura to open Mildura Waves, a world-class aquatic centre. He may have noticed a large number of young people gathered at the centre.

Last year the issue of a skate park in Mildura was raised in the house. The Mildura Rural City Council met and identified the need for a skate park to take the skaters off the streets and to create a safer environment for all concerned. Obviously an undercover skate park would be the best result. But having to cut the cloth at its disposal, the council looked at using an old wading pool at Jaycee Park, adjacent to the river — a safe and convenient spot for skateboarders.

The former Minister for Police and Emergency Services was keen to assist the council in that project, but the response I received from the new minister was that he was not keen to follow that exact path. He spoke about a new Start program and about a state review under way under the umbrella of the small grants program. Time is moving on. In the minister's responsibility for sport and recreation, and in that of the minister in the other place for police and emergency services, I invite them to join the efforts of their departments to make a worthwhile grant so the skate park can be established without further ado.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Bob Smith raised a matter with me for the attention of the Minister for Finance in the other place about increased investments in Victoria. I will ask the minister to respond in the usual manner.

The Honourable David Davis referred to works at my office. I have already informed the house that I am considering a proposal from the Department of State and Regional Development. When I have decided, I will be happy to inform the honourable member.

The Honourable Carlo Furletti raised a matter with me about a company that he said had started off with 4 and had increased to 45 workers but had concerns about issues raised by a union. He did not name the company. He referred to an issue before the Australian Industrial Relations Commission and the fact that the company had not responded to union claims made. He asked me about the government's position. I advised the house about that matter yesterday.

The Honourable Ron Bowden raised a matter that was referred to yesterday in a slightly different context. He asked the Minister for Finance about children at a Somerville school. I will direct the matter to the attention of the Minister for Finance and ask him to respond in the usual manner.

The Honourable Gerald Ashman raised a matter for the attention of the Minister for the Arts in the other house about arts facilities in the outer east. I will pass that on to the minister and ask her to respond to the honourable member.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Graeme Stoney referred to one of my visits in pursuit of my objective of negotiating environmental flows in the Snowy River. In pursuit of that objective I have noted with interest the growing list of demands in relation to a whole range of river systems including the Goulburn River. Legitimate as the claims may be, the particular task I am faced with

solving concerns environmental flows for the Snowy River.

In relation to the sourcing of water to meet that commitment, the government has been clear in making a series of public statements on a number of occasions about how that water will be sourced — that it will be from savings which will not adversely affect flows elsewhere in the Murray and Goulburn areas. I suggest the opposition look at the whole area of water savings, which does not require magic but dollars. Dollars from the commonwealth would be most welcome to meet the commitment.

The Honourable Dianne Hadden asked me to direct a matter to the attention of the Minister for Local Government in the other place. It concerned a sharing of funding from the commonwealth for country roads — that is, the ever-declining share of funding for country roads. I will direct that matter to the attention of the minister in the other place.

The Honourable Geoff Craige asked me about the commitment to provide a rail link to the port of Geelong. That commitment was made by the Bracks government at the last election and reiterated in a speech about ports. The need for commitments to funding from the Regional Infrastructure Development Fund to go through appropriate processes was well canvassed during debate on the passage of the legislation that established the Regional Infrastructure Development Fund. The commitments are clear. However, it is necessary in providing those funds to ensure that protocols are observed; those projects need to go through appropriate channels.

The government's commitment is clear. It is to be $4.5 million. That is the extent of the government's commitment. As to the remainder of the funds, that is a matter to be sourced from elsewhere.

Honourable members interjecting.

Hon. C. C. BROAD — Given the opposition's stance on privatisation and the question about where funds might come from — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the house to settle down so it can hear the minister's responses.

Hon. C. C. BROAD — The Honourable Kaye Darveniza requested me to ask the Minister for State and Regional Development in the other house to provide advice on food export initiatives recently secured by the Bracks government. I will refer that matter to the minister.

The Honourable Neil Lucas directed a matter to the attention of the Minister for Transport relating to the Pakenham bypass proposal. The honourable member asked that advice be provided about the timing of the implementation of the proposal and clarification of possible sources of infrastructure funding for its implementation. I will direct that matter to the attention of the responsible minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Wendy Smith raised the same matter she raised last night in relation to the business summit and asked how many small businesses would be attending the summit. I answered the question last night but I reiterate that there are limits — —

Hon. W. I. Smith — On a point of order, Mr President, it is not the same matter as was raised last night. I specifically asked how many and which small businesses would be invited. I did not ask that question last night.

Honourable members interjecting.

The PRESIDENT — Order! The honourable member is correcting the minister's statement. She can do it in different formats and that is one way of doing it.

Hon. M. R. THOMSON — As I said last night, there are limited places at the summit. There will be a mix of business, community and union at the summit. There will be some small business present and certainly peak bodies that represent small business will be present at the summit.

Hon. W. I. Smith — On a further point of order, Mr President, I asked exactly how many small businesses would be invited because some 80 invitations have gone out to businesses in Victoria. The question is specifically how many small businesses will be invited.

Hon. M. R. THOMSON — As I explained before, the invitations to the summit are to a mix of business, community and union, and the peak bodies that represent small business will be present. I also mentioned last night that the Small Business Advisory Council will have access to senior levels of government. We have had well in excess of 100 applications for that advisory council. We will be shortlisting them and will soon be announcing who will be on it.

The Honourable Bruce Atkinson raised the matter of the Shop, Distributive and Allied Employees Association claim before the Australian Industrial Relations Commission in relation to the retail industry and asked what representations I had made on behalf of small business. The industrial relations laws under which we currently operate encourage an environment of confrontation, not cooperation. It is important that we get back to a system that — —

Honourable members interjecting.

Hon. M. R. THOMSON — The continuing indication is that most small businesses would prefer to work cooperatively with their employees, rather than in conflict with them.

Hon. B. N. Atkinson — On a point of order, Mr President, I am interested in the minister's response and I must accept the platitudes she gave me — I understand those. But I particularly asked what she was doing. I would be pleased if the chamber was edified by understanding what the minister was doing to advocate for small business in respect of that particular claim.

Hon. M. R. THOMSON — The Honourable Jenny Mikakos raised the Commonwealth Bank's proposed acquisition of the Colonial State Bank and seeks to make representation to the Treasurer about bank closures.

Honourable members interjecting.

The PRESIDENT — Order! Mr Atkinson will desist.

Hon. M. R. THOMSON — The whole community deplores the closure of banks. I will raise the matter with the Treasurer and ask that he seek that some security of branch access is provided particularly for the elderly in our community.

Honourable members interjecting.

Hon. M. R. THOMSON — The Honourable Theo Theophanous raised reduced services by banks. The Commonwealth Bank branches at Fairfield North and Thornbury are set to close without consultation. He asked me to raise with the Commonwealth Bank the continued provision of services for the community and consultation about closures. It is important when banks are looking to close branches that they consider the real needs of the community they serve and ensure that they are not disadvantaging those communities.

The Honourable Bill Forwood raised a matter about the cash prize distribution committee. It appears to need some investigation and I am more than happy to have the Office of Fair Trading do so. We have been looking at a couple of what appear to be not dissimilar questionable mail order either winnings or, as in one case, some religion. We will certainly chase that up and get back to him with what we can provide on that matter.

The Honourable Andrew Brideson raised a very serious matter but unfortunately decided to end with some gratuitous remarks.

Honourable members interjecting.

Hon. M. R. THOMSON — He referred to malpractice in the use of e-commerce credit cards. As I said, it is a very serious issue and it crosses not only state but national and international borders. Certainly there has been work and cooperation between the states and the federal government to try to deal with the issue which, as he would understand, is very complex. We are trying to do something about it, as we must in order to create confidence in being able to use e-commerce transactions and to compete internationally.

I think my order gets a bit mixed up here. The Honourable Andrea Coote raised for the attention of the Minister for Women's Affairs why the funding for WIRE is being provided by the Department of Natural Resources and Environment rather than from the women's affairs portfolio area. I will raise that with the minister and she will respond in due course.

The Honourable John Ross raised for the attention of the Minister for Housing the need for floor coverings, painting and external work worth some $600 000 to be carried out on the Fox–Dunkley public housing estate. I will certainly pass that on to the minister and she will reply in due course.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the first matter, raised by the Honourable Sang Nguyen, in relation to sport and recreation facilities, I recognise that the traditional model of formalised sporting clubs is often not appropriate in providing recreation opportunities for young people, particularly if they are from disadvantaged groups. With the assistance of my department and the Office of Youth Affairs, I will seek to form partnership opportunities with local government to accommodate the recreation needs of young people in need of appropriate positive programs and facilities.

In relation to the matter raised by the Honourable Peter Hall about the government's commitment to establishing a state lawn bowls centre, a short list of

possible bowls developments has been identified against the criteria, based on a feasibility study conducted last year. Recent information, including specification by the international body for an increased number of greens, means that other sites and partnership options must be and are being considered and worked through currently. I reiterate the government's commitment to ensuring the development of a world-class lawns bowl facility.

The Honourable Gordon Rich-Phillips asked about the provision of a primary school in Narre Warren South. I will refer the matter to the Minister for Education in the other place.

The Honourable Barry Bishop asked about the potential for a skate park in Mildura. Recently I visited the aquatic centre in Mildura, and I commend the people responsible for its development because it is a visionary regional centre. It will be the benchmark for a number of other facilities in regional Victoria. I will confer with the Minister for Police and Emergency Services to see if it is possible to integrate the programs referred to by Mr Bishop, but I reiterate that the minor grants facilities program is an opportunity through Sport and Recreation Victoria to apply for funding, and that will require partnerships to be formed at a local government level.

Motion agreed to.

House adjourned at 10.41 p.m. until Tuesday, 21 March.

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.
Questions have been incorporated from the notice paper of the Legislative Council.
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.
The portfolio of the minister answering the question on notice starts each heading.

Tuesday, 14 March 2000

Arts: FOI record management

17. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Minister for Arts): What record management procedure has she implemented within her department to ensure that all documents in electronic format are readily identifiable, accessible and immediately available to ensure that any freedom-of-information applications can be processed in a complete and timely manner.

ANSWER:

I am informed that:

Arts Victoria has sound record management processes.

Hardcopy documents and files are recorded, tracked and managed using the Department's electronic records management system, RecFind. Procedures for the use of this system are available to all staff on the DPC Corporate Information Centre (Lotus Notes database).

In respect of electronic documents, the Victorian Government is currently assessing its capacity to ensure that all documents in electronic format are readily identifiable, accessible and immediately available to ensure that Freedom of Information applications can be processed in a complete and timely manner.

As a part of this process the Department of Infrastructure is currently piloting the Victorian Electronic Records Strategy (VERS) developed by the Public Records Office Victoria (PROV) in conjunction with the CSIRO. The main aim of this strategy is to capture and preserve electronic records in such a way that they are readily accessible in the long term.

I am delighted that the Arts portfolio, through the PROV, is taking a leading role on this important issue.

Environment and Conservation: FOI record management

18. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): What record management procedure has she implemented within her department to ensure that all documents in electronic format are readily identifiable, accessible and immediately available to ensure that any freedom-of-information applications can be processed in a complete and timely manner.

ANSWER:

I am informed that:

Since the Department of Natural Resources and Environment was formed in 1996 all records have been centralised and maintained on the Departmental RecFind system. Good records management practices have been fostered by conducting training courses in metropolitan and regional locations and convening regular meetings of records staff.

The Department follows the guidelines laid down by the *Public Records Act 1973* and the Public Records Office Standards for the Management of Public Records and has issued procedures for Central Records Management, Records Disposal and E-mail and Internet Electronic Media which set out approved records management practices.

The Victorian Government is currently assessing its capacity to ensure that all documents in electronic format are readily identifiable, accessible and immediately available to ensure that Freedom of Information applications can be processed in a complete and timely manner.

As a part of this process the Department of Infrastructure is currently piloting the Victorian Electronic Records Strategy (VERS) developed by the Public Records Office Victoria (PROV) in conjunction with the CSIRO. The main aim of this strategy is to capture and preserve electronic records in such a way that they are readily accessible in the long term.

Women's Affairs: FOI record management

19. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Small Business (for the Honourable the Minister for Women's Affairs): What record management procedure has she implemented within her department to ensure that all documents in electronic format are readily identifiable, accessible and immediately available to ensure that any freedom-of-information applications can be processed in a complete and timely manner.

ANSWER:

I am informed that:

The Victorian Government is currently assessing its capacity to ensure that all documents in electronic format are readily identifiable, accessible and immediately available to ensure that Freedom of Information applications can be processed in a complete and timely manner.

As a part of this process, the Department of Infrastructure is currently piloting the Victorian Electron Records Strategy (VERS) developed by the Public Records Office Victoria in conjunction with the CSIRO. The main aim of this strategy is to capture and preserve electronic records in such a way that they are readily accessible in the long term.

Environment and Conservation: electronic service delivery

46. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): What target dates have been set within the Department of Natural Resources and Environment and each of its agencies for the achievement of delivery of services electronically in relation to the — (i) provision of all tenders on the Internet; (ii) availability of all public forms electronically; (iii) provision of all printed information on the Internet; (iv) conduct of all department purchasing electronically; and (v) conduct of all transactions online.

ANSWER:

I am informed that:

The target dates for the delivery of on-line services were established by the former government as part of a program entitled Online. There has been a progressive schedule of implementation since December 1998 as follows:

- Provision of all tenders on the Internet – December 1998
- Availability of all Public Forms electronically accessible – December 1998
- High volume information on the Internet – December 1998
- All Government publications on the Internet – December 1999
- Conduct of all Government purchasing Electronic – December 2001
- All transactions online – December 2001.

The Bracks Government has not changed these target dates established by the former government. The provision of departmental services online is dependent on what the department deems appropriate through conducting an audit of possible services to be delivered electronically. Some transactions may not be placed online as they have been assessed as not suitable for electronic delivery.

Arts: equal opportunity employment

64. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Minister for Arts): Will the Minister provide a guarantee that no preference will be given to any employee within the Department of Premier and Cabinet, its agencies or the Minister's office on the basis of membership of a trade union, political party or any other organisation.

ANSWER:

I am informed that:

Sections 15 and 20 of the *Public Sector Management and Employment Act 1998* ('the Act') provide that agency heads have all the rights, powers, authorities and duties of an employer and they must exercise these powers independently. Section 7 of the Act further provides that agency and public authority heads must establish employment processes that will ensure employment decisions are based on merit, employees are treated fairly and reasonably, equal employment opportunity is provided, and employees have a reasonable avenue of redress against unfair or unreasonable treatment.

Further sections 37(1)(b) and 39 the Act also provides that the Commissioner for Public Employment may make Directions concerning the application of these principles. The Commissioner has made Directions entitled:

- Selecting on Merit
- Managing and Valuing Diversity
- Managing Under Performance
- Reviewing Personal Grievances
- Upholding Public Sector Conduct.

In exercising their responsibilities as employers, agency heads within the Department of Premier and Cabinet and public authority heads must comply with section 7 of the Act and the Commissioner's Directions.

In addition, Ministerial Staff are being selected on merit based on an open and transparent selection process. Terms and conditions of employment are to be negotiated with staff on a collective basis consistent with the Government's policy.

Environment and Conservation: equal opportunity employment

65. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): Will the Minister provide a guarantee that no preference will be given to any employee within the Department of Natural Resources and Environment, its agencies or the Minister's office on the basis of membership of a trade union, political party or any other organisation.

ANSWER:

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Women's Affairs: equal opportunity employment

66. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Small Business (for the Honourable the Minister for Women's Affairs): Will the Minister provide a guarantee that no preference will be given to any employee within the Department of Premier and Cabinet, its agencies or the Minister's office on the basis of membership of a trade union, political party or any other organisation.

ANSWER:

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Arts: equal opportunity employment

100. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Minister for Arts): Will the Minister provide a guarantee that within the Department of Premier and Cabinet, its agencies or the Minister's office any decision to employ staff, promote staff or

otherwise deal with an employee's employment relationship will not be determined in whole or in any part on the basis of membership of a trade union, political party or any other organisation.

ANSWER:

I am informed that:

Sections 15 and 20 of the *Public Sector Management and Employment Act 1998* ('the Act') provide that agency heads have all the rights, powers, authorities and duties of an employer and they must exercise these powers independently. Section 7 of the Act further provides that agency and public authority heads must establish employment processes that will ensure employment decisions are based on merit, employees are treated fairly and reasonably, equal employment opportunity is provided, and employees have a reasonable avenue of redress against unfair or unreasonable treatment.

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Environment and Conservation: equal opportunity employment

101. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): Will the Minister provide a guarantee that within the Department of Natural Resources and Environment, its agencies or the Minister's office any decision to employ staff, promote staff or otherwise deal with an employee's employment relationship will not be determined in whole or in any part on the basis of membership of a trade union, political party or any other organisation.

ANSWER:

I am informed that:

Sections 15 and 20 of the *Public Sector Management and Employment Act 1998* ('the Act') provide that agency heads have all the rights, powers, authorities and duties of an employer and they must exercise these powers independently. Section 7 of the Act further provides that agency and public authority heads must establish employment processes that will ensure employment decisions are based on merit, employees are treated fairly and reasonably, equal employment opportunity is provided, and employees have a reasonable avenue of redress against unfair or unreasonable treatment.

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In exercising their responsibilities as employers, agency heads within the Department of Premier and Cabinet and public authority heads must comply with section 7 of the Act and the Commissioner's Directions.

In addition, Ministerial Staff are being selected on merit based on an open and transparent selection process. Terms and conditions of employment are to be negotiated with staff on a collective basis consistent with the Government's policy.

Women's Affairs: equal opportunity employment

102. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Small Business (for the Honourable the Minister for Women's Affairs): Will the Minister provide a guarantee that within the Department of Premier and Cabinet, its agencies or the Minister's office any decision to employ staff, promote staff or otherwise deal with an employee's employment relationship will not be determined in whole or in any part on the basis of membership of a trade union, political party or any other organisation.

ANSWER:

Section 15 and 20 of the *Public Sector Management and Employment Act 1998* ('the Act') provide that agency heads have all the rights, powers, authorities and duties of an employer and they must exercise these power independently. Section 7 of the Act further provides that agency and public authority heads must establish employment processes that will ensure employment decisions are based on merit, employees are treated fairly and reasonably, equal employment opportunity is provided, and employees have a reasonable avenue of redress against unfair or unreasonable treatment.

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In exercising their responsibilities as employers, agency heads within the Department of Premier and Cabinet and public authority heads must comply with section 7 of the Act and the Commissioner's Directions.

In addition, Ministerial Staff are being selected on merit based on an open and transparent selection process. Terms and conditions of employment are to be negotiated with staff on a collective basis consistent with the Government's policy.

State and Regional Development: Multimedia Victoria projects

140. THE HON. G. B. ASHMAN — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for State and Regional Development):

(a) Is Multimedia Victoria reviewing its budget to accommodate the department's so-called emphasis on regional issues and a wider spread of technology projects across all industries; if so — (i) who is conducting the review; (ii) what are the terms of reference; and (iii) what instructions does the person conducting the review have in respect of "discretionary spending".

(b) Has the employment or engagement of any staff or consultants of Multimedia Victoria been terminated; if so, which employees or consultants and on what terms;

(c) Have any programs had funding reduced or terminated; if so, which programs.

ANSWER:

As part of the annual budget process Multimedia Victoria is considering its budget to ensure it aligns with the Government's priorities. All such matters are subject to the normal budgetary processes of Cabinet.

The Department of State and Regional Development has been restructured to align better with the Government's priorities, including in relation to expected savings requirements.

Planning: responsibilities of assistant minister

150. THE HON. M. A. BIRRELL — To ask the Honourable the Minister Assisting the Minister for Planning: Since the Minister's appointment as Minister Assisting the Minister for Planning, what specific responsibilities or tasks has the Minister been allocated by the Minister for Planning, specifying in each case: — (i) the responsibility or task involved; (ii) the date or dates when the responsibility or task was allocated; (iii) how this responsibility or task was communicated to the Minister Assisting; (iv) the duration of each responsibility or task; and (v) the precise nature of the work undertaken.

ANSWER:

I inform that:

I have a range of general responsibilities across the Planning portfolio in my capacity as Minister Assisting the Minister for Planning. In addition to those general responsibilities, I provide assistance to the Minister for Planning in the areas of administrative and policy functions, meetings with delegations, and attending public events on the Minister's behalf.

In addition to those general responsibilities I have particular responsibility for assisting the Minister for Planning in the following areas:

- Camp Street
- Land Monitor
- Minerva

My responsibilities for these matters are ongoing.

Arts: web site user information

168. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Minister for Arts):

(a) What data collection and profiling methods are utilised by the Minister's department or by any other person on behalf of the department, to collate and store information about users of any website operated by or on behalf of the department.

(b) How is this information managed.

(c) What access or use of this information is made by the department, or by any other person on behalf of the department.

(d) What policy is in place regarding the collection and distribution of this information to any third party.

ANSWER:

I am informed that:

In response to Part (a) of your question that:

- Arts Victoria subscribes to a service provided by IMR Worldwide, which is a web measurement tool recommended by Multimedia Victoria

In response to Part (b) of your question that:
- This information is held on IMR Worldwide's server and is accessed by a staff member at Arts Victoria through a security login and password

In response to Part (c) of your question that:
- The information is regularly collated by the same staff member for reporting on Arts Victoria's effective use of the Internet website. These reports are made available to Arts Victoria management.

In response to Part (d) of your question that:
- The data from these reports is not available to any third party.

Environment and Conservation: web site user information

169. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation:

(a) What data collection and profiling methods are utilised by the Minister's department or by any other person on behalf of the department, to collate and store information about users of any website operated by or on behalf of the department.

(b) How is this information managed.

(c) What access or use of this information is made by the department, or by any other person on behalf of the department.

(d) What policy is in place regarding the collection and distribution of this information to any third party.

ANSWER:

I am informed that:

The Department does not have any common data collection or profiling methods in use on our websites.

Web site managers within each Branch/Agency establish and maintain processes based on individual specifications and needs related to their web sites.

The Department complies with relevant policies currently promulgated by Multimedia Victoria.

Women's Affairs: web site user information

170. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Small Business (for the Honourable the Minister for Women's Affairs):

(a) What data collection and profiling methods are utilised by the Minister's department or by any other person on behalf of the department, to collate and store information about users of any website operated by or on behalf of the department.

(b) How is this information managed.

(c) What access or use of this information is made by the department, or by any other person on behalf of the department.

(d) What policy is in place regarding the collection and distribution of this information to any third party.

ANSWER:

I am informed that:

The Department does not have any common data collection or profiling methods in use on our websites.

Web site managers within each Branch/Agency establish and maintain process based on individual specifications and needs related to their web sites.

The Department complies with relevant policies currently promulgated by Multimedia Victoria.

Environment and Conservation: Twelve Apostles toilet facilities

186. THE HON. ANDREA COOTE — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): When will the Minister make a decision on Corangamite shire's request to build a shelter and toilet on private land in a hollow with pedestrian access under the road to the Port Campbell National Park in order that the Council can commence works to provide an environmentally friendly facility for visitors to the Twelve Apostles, reduce the unsightly incidence of toilet paper and faeces and reduce the health and safety risk to such tourists.

ANSWER:

I am informed that:

The decision to build a visitor amenity incorporating shelter and toilets near the Twelve Apostles on leased private land adjacent to the Port Campbell National Park was announced on 12 December 1999.

Environment and Conservation: Kananook Creek

192. THE HON. A. P. OLEXANDER — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation):

(a) What plans does the department have for improving the water quality and environs of Kananook Creek.

(b) What criteria have been set for determining the success of such plans.

ANSWER:

I am informed that:

(a) Water quality will be improved through the development of a Stormwater Management Plan for Frankston. This plan will be supported by the Government's Urban Stormwater Strategy (as outlined in the Greener Cities policy) which is providing $22.5 million over four years for the development and implementation of stormwater management plans. This is a new initiative by the Labor Government.

Water quality will also be improved through Melbourne Water's continued management programs focusing on rehabilitating degraded urban waterways such as Kananook Creek.

(b) Water quality objectives for the Creek have been set by the EPA through State Environment Protection Policy (SEPP).

The stormwater management plan will be developed in accordance with the Best Practice Environmental Management Guidelines for Urban Stormwater recently released by CSIRO. The guidelines include the framework and objectives for environmental management of stormwater. The stormwater management plan itself will be developed in this context and include performance monitoring and review processes to ensure that it remains focussed on meeting its objectives. The EPA will have a role in auditing the successful implementation of the plans against their stated objectives.

Environment and Conservation: Mount Eliza Association for Environmental Care

193. THE HON. A. P. OLEXANDER — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation):

(a) What is the Minister's attitude to the Mount Eliza Association for Environmental Care project to seek registration of Westernport Bay and the Mornington Peninsula as an urban conservation reserve under the UNESCO International Biosphere Program.

(b) If the Minister supports the project, what support will she give to the association.

ANSWER:

I am informed that:

Biosphere reserves are areas of terrestrial and coastal/marine ecosystems which are established to promote and demonstrate a balanced relationship between humans and the Biosphere.

The 1998 French Island National Park management plan has, as a priority action, 'assessment of the feasibility of establishing a Biosphere Reserve, with the park and any adjacent marine protected areas forming the core area'. I believe that this is still the appropriate course of action given the complexity of the proposal and the number of stakeholders involved.

It is heartening to see that there is some community support for the proposal as a biosphere reserve of the type proposed would be heavily reliant on community support and participation. I have not yet received a copy of the Mt Eliza Association for Environmental Care proposal, however I will consider this report once it is received.

Environment and Conservation: Parks Victoria staff

197. THE HON. A. P. OLEXANDER — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation):

(a) How many part time, temporary or casual staff were employed by Parks Victoria between December and March in 1997–98 and 1998–99.

(b) How many part time, temporary or casual staff will be employed by Parks Victoria between December and March in 1999–2000.

(c) In which parks will summer rangers be employed by Parks Victoria between December and March in 1999–2000.

(d) What skills will summer rangers be required to have.

(e) Who will conduct an evaluation of the summer ranger's project and what will be the criteria for the evaluation.

ANSWER:

I am informed that:

(a) The number of part-time, temporary or casual staff employed by Parks Victoria varies from week to week. The change is dependent on seasonal requirements, *eg* weather, public holidays, school holidays, etc.

Between December 1997 and March 1998 the number of these staff varied between 106 and 109.
Between December 1998 and March 1999 the number of these staff varied between 92 and 85.

(b) The numbers employed for 1999/2000 will be consistent with previous years plus the 40 summer rangers.

(c) The Summer Rangers will be placed in a variety of locations across Victoria. No more than two will work from the same location. Whilst a number will work solely at a single park, others will regularly provide assistance to several parks in an area.

(d) In accordance with the position description the main skills required are:

- An understanding of customer needs and requirements.
- Good communications skills and ability to relate to the public when providing information.
- Knowledge of Parks Victoria's role in providing services with emphasis on national and state parks.
- Experience and/or knowledge of natural area and/or park management.
- The ability to work as part of a multi-functional team.
- Knowledge of basic park maintenance skills.
- A current Victorian drivers licence.

(e) At the end of the program each supervising Ranger in Charge will undertake an assessment of the respective Summer Ranger/s under his/her control. The main criteria used will be:

- The courtesy and accuracy of information provided to visitors (from visitor feedback and observation).
- Standard of maintenance of visitor facilities (supervision).
- Contribution to a teamwork approach to tasks (supervision).
- Ability to assess situations and implement appropriate actions (observation).

Arts: regional cinema plan

205. THE HON. A. P. OLEXANDER — To ask the Honourable the Minister for Sport and Recreation (for the Honourable the Minister for Arts):

(a) What is the furthest distance that any Victorian should be from a cinema under the regional cinemas plan.

(b) How many cinemas are expected to return to regional and rural Victorian cities or towns that do not presently have such a facility.

(c) How will the department facilitate the commercial viability of any new cinemas.

ANSWER:

I am informed that:

The Government has committed to increasing access to cinemas for people in regional Victoria. A proposal to deliver on this commitment has been developed and includes the following initiatives:

- To hold a regional cinemas conference;
- To appoint a regional cinemas liaison officer to advise on establishing new cinemas and;
- To establish a regional cinemas fund to upgrade facilities through matching funding with local government.

The Government's agency, Cinemedia operates the Cinemedia Access Collection which currently provides film and videos for hire for a minimal fee to all Victorians through their local libraries.

In 1997/98, a Regional Film Festival Program was created which provided the opportunity for regional film festivals to be established or for exiting programs to be extended.

It is anticipated that these initiatives, together with existing programs and services, will assist Government in devising strategies which will best support its commitment to regional access to cinemas.

Premier: Access Economics — Ewen Waterman

208. THE HON. R. M. HALLAM — To ask the Honourable the Minister for Energy and Resources: What is the total remuneration to be paid to Mr. Ewen Waterman from Access Economics for his work as a member of the department's Audit Review Committee into government contracts.

ANSWER:

I am informed that:

Access Economics is paid a fee of $2000 per day for services provided by Mr Waterman in his role as a member of the Government's Audit Review Committee.

Premier: Independents' entitlements

209. THE HON. D. McL. DAVIS — To ask the Honourable the Minister for Industrial Relation (for the Honourable the Premier): In relation to the three Independent Members of the Legislative Assembly:

(a) What funds, staff, travel entitlements and equipment have been or will be provided to them by the minority department beyond those provided to all other backbench Members.

(b) What is the expected cost in the years from 1999–2000 to 2001 of those benefits.

(c) How and when were those entitlements offered to them.

ANSWER:

I am informed that:

(a) Funds - refer to (b).
Staff - 3 advisers and 3 electorate officers.
Travel Entitlements - no additional entitlements.
Equipment - Office equipment including PCs and printers.

(b) $350,000 per annum.

(c) In accordance with section 4.2 of the Independents' Charter.

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.
Questions have been incorporated from the notice paper of the Legislative Council.
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.
The portfolio of the minister answering the question on notice starts each heading.

Wednesday, 15 March 2000

Environment and Conservation: Wilsons Promontory world heritage listing

188. THE HON. ANDREA COOTE — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): In respect of Wilson's Promontory:

(a) Has the department prepared a draft case for Wilson's Promontory to be listed under the World Heritage conventions.

(b) Will there be public consultation on this issue; if so, what will be the public consultation process.

(c) Has the Minister received advice on the suitability of Wilson's Promontory for World Heritage listing; if so, what advice was given.

(d) What actions does the Minister intend to take in respect of Tidal River and its status.

(e) When will a new integrated management plan be developed for the Promontory.

(f) When will the government's policy incorporate the lighthouse into the national park and what are the Minister's plans for the lighthouse.

(g) What government accommodation is planned for inside and outside the park.

(h) What commercial accommodation is planned for inside and outside the park.

ANSWER:

I am informed that:

(a) The department has not yet prepared a draft case for Wilsons Promontory to be listed under the world heritage convention. However, a draft report on the international values of Wilsons Promontory will be prepared to provide the basis for pursuing a nomination for world heritage listing. This report will be available for public consultation.

(b) A draft report will be prepared as a basis for public consultation.

(c) The minister has been advised that to date there has been no detailed assessment of Wilsons Promontory in a world heritage context. World heritage listing would increase local and national pride in the park and encourage protection of the area from inappropriate commercial development.

(d) The government's policy is that Tidal River will be managed as an integral part of Wilsons Promontory National Park, and that the focus is on nature conservation. A new integrated management plan being developed for the park will address the future management of Tidal River in the light of government policy and stakeholders' concerns.

(e) It is intended that the new integrated management plan will be completed by November 2000.

(f) The government's policy is to incorporate the lighthouse into the national park. The new management plan will address the future use of the lighthouse.

(g) The new management plan will address the issues associated with accommodation inside the national park.

(h) The Government's policy is that commercial development, such as new hostels, roofed accommodation and other major tourist facilities should be located outside the park.

Environment and Conservation: weed management

196. THE HON. A. P. OLEXANDER — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): With reference to the departmental press release of 16 November 1999 entitled "Tiny Natural Enemy Challenges Alpine Weed" in which it is stated that the department has a commitment to implementing "more cost-effective approaches to weed management on public land":

(a) What are the "more cost-effective approaches to weed management on public land".

(b) What departmental resources will be applied to weed management in each of the financial years from 1999–2000 to 2002–03.

ANSWER:

I am informed that:

(a) One of the most cost-effective approaches to weed management on public land involves the use and implementation of biological control for various weeds. Current biological control projects within NRE include weeds such as Blackberry, English Broom, Paterson's Curse, Thistles, Horehound, Ragwort, and Bridal Creeper. Other potentially more cost-effective approaches include rapid action for eradicating emerging weeds so that weeds of potentially high impact are eliminated before they have a chance to establish over wide areas.

(b) In 1999-2000, the NRE Pest Plants and Animals Program is using approximately $8m of State government funds to manage weeds, with particular emphasis on extension, research, enforcement and community grants. An additional $1m (approximate) is being spent on Good Neighbour weed projects on public land this year.