PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

3 April 2001

(extract from Book 2)

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By authority of the Victorian Government Printer

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TUESDAY, 3 APRIL 2001

Tuesday, 3 April 2001

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

DEATH OF FORMER PARLIAMENTARY LIBRARIAN

The PRESIDENT — I advise the house of the death of Josephine McGovern, Victorian parliamentary librarian from 1970 to 1986. Ms McGovern joined the staff of the library on 5 February 1958 from the education department. She was appointed librarian on 11 January 1970 to become the first female parliamentary librarian in Australia. She retired on 15 February 1986 and died this week. I pass on my condolences and those of the house to members of her family.

ROYAL ASSENT

Message read advising royal assent on 27 March to Health Services (Amendment) Act.

QUESTIONS WITHOUT NOTICE

Petrol: substitution

Hon. BILL FORWOOD (Templestowe) — During the last question time the Minister for Consumer Affairs asserted that a petrol station, now identified as M and C Petroleum at Hoppers Crossing, was, as reported in *Hansard*:

> … not currently operating and selling fuel.

That was not true. I ask the minister to explain to the house why she allowed M and C to continue to pump diesel for nearly a month until the pumps were locked on Friday last and why she is still allowing M and C to pump super petrol, knowing that it, too, is suspect.

Hon. M. R. THOMSON (Minister for Consumer Affairs) — When the question was raised in Parliament last week — when the investigators from Consumer and Business Affairs Victoria went out to M and C Petroleum at Hoppers Crossing — the petrol station was not then operating. I told the house that if that was incorrect, I would name the company.

There are other issues on this fuel matter, in this case what we believe are substitution and misrepresentation. In relation to unleaded and leaded petrol — that is, unleaded being supplied to leaded tanks and sold as leaded fuel — it is clearly trying to avoid excise. M and C has been charged for misrepresentation on this issue.

However, the second testing of those bowsers indicated that the problem had been rectified and that he was selling leaded petrol in those bowsers, as he is required to do. He is allowed to continue to sell both unleaded and leaded petrol because independent testing confirms he is now selling the correct fuel. However, he has been charged in relation to that.

I reiterate that we will be vigilant about protecting motorists' concerns, but we need to be certain that we have our test results before we act. That is what we did.

Answer ordered to be considered next day on motion of Hon. BILL FORWOOD (Templestowe).

National Youth Week

Hon. E. C. CARBINES (Geelong) — Will the Minister for Youth Affairs inform the house what contribution the Victorian government is making to ensure the success of National Youth Week?

Hon. J. M. MADDEN (Minister for Youth Affairs) — I hope honourable members are aware that this is National Youth Week, if not through their involvement in the local community then through the banners hanging outside Parliament House.

Victoria is living up to the slogan for National Youth Week 2001 of 'Get into it'. More than 150 National Youth Week events are being held across local Victorian communities. That will give young people between the ages of 12 and 25 an opportunity to express their ideas and views and to act on issues that affect their lives, particularly in relation to their joy and entertainment.

Last Friday I had the good fortune to launch National Youth Week for Victoria at the National Institute of Circus Art at the Prahran campus of Swinburne University. Victoria's contribution will showcase young people's talents, their culture and achievements. Many of the events will also allow young people to have their say on particular issues that concern them.

National Youth Week 2001 in Victoria is also a key part of the centenary of Federation celebrations for young people. As well as looking forward to the future, we can also recognise historical achievements that have allowed Australia to become the nation in which we live today.

The activities across local communities include the second national drugs and young people conference,

which commences today; youth forums held by various local councils, including Moreland, Bayside and Moonee Valley; circus skills workshops in Prahran and St Kilda; netball and football clinics in Benalla; and Freeza events around Victoria. This morning I had the good fortune to be in Springvale, where I opened an expo on careers for young people for the City of Greater Dandenong. The event was well attended by young people from the area, and in particular by young people from local schools.

Many youth organisations are using this week to highlight their services and programs, and to promote the significant creative achievements of young people in their communities. Often in the media there is a cliched portrayal of young people as being problematic, and one of the great aspects about this week is that it focuses on and reinforces the contribution young people can make to the community. I look forward to members of the house encouraging young people in their communities to 'Get into it'.

Petrol: substitution

Hon. W. I. SMITH (Silvan) — The Minister for Consumer Affairs has known for months that Liberty Oil, representatives of which had a significant presence at the ALP's $1000-per-plate dinner, is mixing ethanol with petrol. Do the motorists of Victoria have a right to know about this? If so, why has the minister not acted against Liberty Oil?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I am not aware that Liberty Oil has been adding ethanol to its fuel — substituting it — and there certainly has been no indication from the department to me that that is occurring. I reiterate that ethanol is used as a fuel substitution to avoid excise. If that is occurring it is a federal government responsibility — it is the responsibility of the tax office. The Honourable Joe Hockey, federal Minister for Financial Services and Regulation, has admitted that they are failing to test adequately — —

Honourable members interjecting.

The PRESIDENT — Order! I am interested to hear the minister's answer and I cannot hear it because of the level of noise in the chamber. I ask the minister to complete her answer.

Hon. M. R. THOMSON — We have continued to test for fuel contamination, but let me be clear that if it is being used as excise avoidance the federal government needs to meet its responsibility to test for fuel contamination, and if it is occurring Liberty Oil should be dealt with appropriately.

Answer ordered to be considered next day on motion of Hon. M. A. BIRRELL (East Yarra).

Industrial relations: commonwealth act amendments

Hon. R. F. SMITH (Chelsea) — I refer the Minister for Industrial Relations to the announcement by the commonwealth of an intention to amend parts of the Workplace Relations Act that relate specifically to Victoria. Has the minister met with the federal minister to discuss this proposal? If so, what was the outcome of those discussions, and has he got his training wheels off yet?

Hon. M. M. GOULD (Minister for Industrial Relations) — I thank the honourable member for his question and for his keen interest. I do not think the federal minister has his training wheels off yet. Last Tuesday, at my initiative — —

Honourable members interjecting.

The PRESIDENT — Order! A question has been asked of the minister and the house is entitled to hear the answer. I ask honourable members on both sides of the house to settle down and allow the minister to respond.

Hon. M. M. GOULD — At my initiative I met with the federal workplace relations minister, Mr Tony Abbott, to discuss the commonwealth government's plans to amend the Workplace Relations Act as it applies in Victoria. I went to the meeting quite sceptical about the approach being taken by the federal minister and the commonwealth in consulting with Victoria on these matters, which the minister did not do. He has not consulted with the Victorian government, as he is required to do.

Hon. M. A. Birrell — Did you consult with him on the Fair Employment Bill?

Hon. M. M. GOULD — Yes, we did.

Hon. M. A. Birrell — Not with him, you didn't.

Hon. M. M. GOULD — I consulted with his predecessor. Unfortunately, I have to report that my suspicions were realised.

Honourable members interjecting.

The PRESIDENT — Order! We have had three ministers one after another interjecting as well as interjections from members of the opposition. It is not fair to the minister. I ask honourable members to allow

the minister to conclude her answer and be heard in silence.

Hon. M. M. GOULD — Obviously Mr Abbott has no interest in fixing the real problems faced by Victorian workplaces, or even understanding what they are.

Mr Abbott told me at this meeting last week — wait for it — that up to a quarter of a million vulnerable Victorian workers were happy with what they had. They were happy to have these five minimum standards. He said if there were a few who were not happy they could get a job and get a promotion! Perhaps he was referring to work on Mr Baxter's property picking tomatoes — not likely! The other option, according to Mr Abbott, was to join a union.

I was astounded by Mr Abbott's comments. The obvious answers to these astonishing comments are: how can people get a promotion if they work in places that employ two or three people all doing the same thing? Mr Abbott also said people could join a union to try to get better conditions or federal award protection.

The difference between the Bracks government and the opposition is that the government is committed to giving all Victorian workers minimum employment conditions whether they are union members or not, not like you lot or Mr Abbott.

Honourable members interjecting.

Hon. M. M. GOULD — The federal government has been shamed into doing a deal with the Victorian opposition to get it out of hot water. Mr Abbott knows Victorian workers are not happy about the minimum conditions. He has done a deal to get the Victorian Liberal Party out of hot water. Mr Abbott has proposed a couple of changes, but they are nowhere near good enough to look after low-paid workers. Under Mr Abbott's plans Victoria's most disadvantaged workers will get only seven or eight minimum conditions — —

Honourable members interjecting.

The PRESIDENT — Order! The minister is not being assisted by advice from her colleagues or the responses from opposition members. I ask all honourable members to settle down to allow the minister to conclude her answer.

Hon. M. M. GOULD — Under Mr Abbott's plan there will still be no regulation of the issues that affect the daily lives of Victoria's most disadvantaged workers — the number of hours they are required to work or even what time of the day they will be required to work. Mr Abbott proposes seven or eight conditions, but even the stripped-back federal awards proposed by Peter Reith can cover up to 20 matters. It is shameful that the opposition is not prepared to protect low-paid workers. What is proposed by the commonwealth government is a unique disadvantage to Victorian workers compared to workers in every other state and territory in Australia, which have minimum award protection across the board.

I told Mr Abbott that the Victorian government will ensure there is proper protection for Victorian workers — —

Honourable members interjecting.

The PRESIDENT — Order! The idea of question time is for honourable members to ask questions and for ministers to provide answers that the house can hear. The last few words of the minister were drowned out by general noise. Question time has been running for almost 20 minutes. If it is the desire of the house, I can now wind up question time. If the house wants to hear the questions and answers, I advise everyone to settle down. It is in the hands of the house.

AFL: Tipstar

Hon. R. A. BEST (North Western) — Given the performance of Tipstar during the opening round of the Australian Football League competition, is the Minister for Sport and Recreation still confident of the revenue projections he earlier quoted to the house or will there be a reduction in funding to women's sport or sports medicine programs?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am well aware of the issues relating to the Tipstar competition. While Tipstar may have been slower than anticipated, Mr Best would be well aware that the funding from it is to top up the money the government is contributing to women's sport. I have gone into great detail on the funding the government has contributed and will continue to contribute to women's sport. The government also appreciates that the need for additional funding over and above what it has already contributed may relate to the lack of contributions to particular community groups in the past eight years, and certainly prior to this government's being elected.

As has been enunciated by me on a number of occasions, the government has outlaid significant amounts of money to various state sporting associations to increase those levels of participation which are under-represented and which did not get support from

the Kennett government, and is working overtime to make sure that happens. Any money from Tipstar has always been seen as additional and top-up funds, and whatever money comes out of the competition will be exactly that.

Youth: government strategy

Hon. D. G. HADDEN (Ballarat) — Will the Minister for Youth Affairs inform the house of the steps he is taking to improve the opportunities and wellbeing of Victoria's young people?

Hon. J. M. MADDEN (Minister for Youth Affairs) — As I have already mentioned, this week is National Youth Week. It is probably a good time to highlight what the government is doing for young people around the state. I have released the Victorian youth strategy discussion paper, which provides a framework for a whole-of-government approach to deal with young people's issues.

Honourable members interjecting.

Hon. J. M. MADDEN — Isn't it funny that when I start to talk about youth, opposition members start to yell out and heckle! However, as I have said on a number of occasions, they do not care about youth issues. That was obvious because when they were in government they rolled it back into the human services and welfare areas. I have said that time and time again, and the message has still not sunk in!

The discussion paper provides an overview — and that is something the opposition does not have for young people — on the status of young people in Victoria, and outlines current youth issues. I recommend that opposition members read it and become aware of those youth issues, because at this point they are not aware and they do not seem to be concerned about them.

It also raises a series of questions for consideration, including community and cultural participation, health and wellbeing, and particularly young people's rights and responsibilities. The opposition does not seem to worry about those things, either.

The discussion paper also details the government's response to many of those issues to date. I am sure we can continue to build on those responses.

The paper is framed not only in a more complex document but in a simpler one, I suppose — a youth edition — a plain English edition, which I recommend opposition members should take the opportunity to read.

Honourable members interjecting.

Hon. J. M. MADDEN — What I was saying — again the opposition took no notice of it — was that there is a plain English version of this document which I recommend the opposition should read because it might be of some advantage to it.

The paper also ensures that all members of the community, not only young people, but people of all ages and from all cultural backgrounds, can have their say in how we can enable young people in Victoria to achieve their potential. I recommend that the opposition have a good look at this document and frame some policy around young people, because it does not seem to have had any for the past eight years.

The Victorian youth strategy will provide a focused and comprehensive whole-of-government approach to giving people better opportunities, better support and greater personal satisfaction.

Honourable members interjecting.

Hon. J. M. MADDEN — Opposition members can raise this strategy with their community groups. Written submissions are to be received by the Office for Youth by Wednesday, 18 April. The discussion paper can be accessed through the youth web site www.youth.vic.gov.au. I recommend that the opposition read the plain English version.

HIH Insurance: liquidation

Hon. P. A. KATSAMBANIS (Monash) — I ask the Minister for Consumer Affairs: when did she first become aware of the financial problems being experienced by HIH Insurance, which is now in provisional liquidation?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — This is a very serious matter, and I thank Mr Katsambanis for his question about HIH. We are concerned that the Australian Prudential Regulation Authority (APRA), the regulatory body in relation to insurance bodies, has failed — —

Hon. M. A. Birrell interjected.

Hon. C. C. Broad — You'd get an answer if you cared to listen. Go back to your hole!

Hon. M. A. Birrell — I want an answer. You don't answer — you're not up to it — but we can get her to answer it.

The PRESIDENT — Order! A question was directed to the minister. The minister should be given

the opportunity to answer it and be heard. I ask honourable members to be quiet.

Hon. T. C. Theophanous — There's too much unrepressed anger over there!

Hon. G. R. Craige — Give us a day or a date.

Hon. Kaye Darveniza interjected.

The PRESIDENT — Order! Ms Darveniza, you are not helping your minister. She is trying to answer the question. There is enough racket from the other side without you adding to it.

Hon. M. R. THOMSON — In relation to HIH, it is a very serious matter. As I said, it is unfortunate that APRA failed to act on issues dealing with HIH because it is the regulatory body responsible for ensuring that the auditing process of this company was in fact followed appropriately.

Hon. M. A. Birrell interjected.

Hon. C. C. Broad — Well, why don't you just stop?

The PRESIDENT — Order! This is a two-way fight. I am trying to direct my remarks to those who are supposedly helping the minister on the government side to ask them to keep out, and to members on the other side to keep quiet while the minister gives her answer.

Hon. M. R. THOMSON — The government has kept in contact with the liquidator about HIH Insurance and the difficulties it was placed in. Prior to that the government had been following the information in the newspapers and all that was available to it at that point. The Master Builders Association alerted us to a potential issue. At that time we believed someone would come in and buy out HIH. Unfortunately that has not been the case, and we have now seen the consequences of that. It is unfortunate that APRA has failed to act. It should have acted sooner in relation to the auditing procedures to ensure that consumers throughout Australia were protected.

Hon. P. A. Katsambanis — On a point of order, Mr President, my question was specific: when did the minister first become aware of these issues? The minister did not in any way attempt to address that matter. I seek a ruling, Mr President, that the minister be asked to answer the question.

The PRESIDENT — Order! I certainly heard the question. As I understood the minister's answer, she had some information about the problems prior to the date when the balloon, so to speak, went up. The more specific question is: what was the date? Is the minister in a position now or later in the day to answer that question?

Hon. M. R. THOMSON — I am not in a position to answer that.

Fuel: substitution

Hon. T. C. THEOPHANOUS (Jika Jika) — I refer the Minister for Consumer Affairs to the serious issues of fuel contamination and substitution, with which the opposition is simply playing politics. Will the minister advise the house what action the government is taking to protect Victorian motorists from fuel suppliers who sell contaminated or substandard fuel?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — Since March last year my department has tested 111 products supplied by 60 fuel outlets across Victoria, 35 of which were randomly chosen and 25 of which were tested as the result of consumer complaints.

The proprietor of M and C Petroleum at Hoppers Crossing — I have already covered the issue of leaded and unleaded fuel, but I shall refer to diesel because it is important to understand what occurred — was tested initially and undertook to clean out his tanks and provide appropriate diesel fuel. Although he undertook to do that — gave certain undertakings — and said he had clarified and rectified the problem, when a second test was undertaken it was discovered he had not rectified the problem. Because the low flashpoint of the fuel was well below the accepted standard, it was decided to lock the tanks after a second testing.

Honourable members interjecting.

Hon. M. R. THOMSON — The bowsers will remain locked until we are absolutely certain through independent testing that this has been rectified.

The testing of fuel continues to be conducted by Consumer and Business Affairs Victoria as an ongoing program. It will follow up on consumer complaints about fuel contamination and will continue to test randomly as well as testing where the industry believes that substitution or contamination is occurring.

However, I reiterate that the federal government has a responsibility in this area — one that it has failed to meet and one that we followed up and made the approach on. The information resulting from our tests has been passed on to the Australian Taxation Office for further action.

Answer ordered to be considered next day on motion of Hon. BILL FORWOOD (Templestowe).

HIH Insurance: liquidation

Hon. B. N. ATKINSON (Koonung) — Given that the Minister for Consumer Affairs has now conceded that she knew in advance of HIH Insurance's problems but will not say precisely when and will give no undertakings to the house that she will furnish that date — which is extraordinary — will she advise the house when she or her department passed on to the federal bodies any of the concerns brought to her attention?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — Our knowledge, understanding and awareness of HIH Insurance's position came with the publicity that appeared in the press — —

Hon. B. N. Atkinson — On a point of order, Mr President, the minister has therefore misled the house in her earlier answer. The minister said that the concerns about HIH were brought to her attention by the Master Builders Association. She now seeks in this answer to put a different position to the house.

Hon. M. R. THOMSON — As I said, I have not finished the answer.

The PRESIDENT — Order! I have not ruled on the point of order.

Hon. M. R. THOMSON — I am trying to answer the question, Mr President.

The PRESIDENT — Order! I have to deal with the point of order. The minister is clearly in the middle of her answer, and I will give her the opportunity to complete the answer to the question.

Hon. M. R. THOMSON — As I said, our awareness of the real difficulties and problems associated with HIH which would lead to the situation we are now in has come mainly from the press reports.

Opposition members interjecting.

Hon. M. R. THOMSON — I reiterate that the Master Builders Association raised a concern with me but that there was a belief that HIH Insurance would be taken over by another insurance company.

Let us be very clear that this is a federal government responsibility. The federal government has agencies whose role and responsibility it is to maintain a proper auditing process, and it has failed to do so.

Hon. B. N. Atkinson — My point of order on this occasion, Mr President, is that my question specifically asked when the minister advised the federal body — in other words, when she or her department conveyed the information she received from the Master Builders Association to the Australian Prudential Regulation Authority (APRA).

The minister is now suggesting that it is a federal responsibility. I accept that that is consistent with the answer she gave previously; however, what I would like to know and what I asked in my question — which she has refused to answer — is when she advised the federal bodies. That is the question.

The PRESIDENT — Order! That question is specific. The minister is in the process of responding to the question, and I expect she will address those issues.

Hon. M. R. THOMSON — The information coming from the Master Builders Association was passed on and, as I understand it, the APRA was already well and truly aware of the issue.

Electricity: supply

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Energy and Resources advise the house on the Victorian electricity generation industry's response to the rising demand for electricity that was identified by Nemmco's annual statement of opportunities?

Hon. C. C. BROAD (Minister for Energy and Resources) — The annual statement of opportunities report released by Nemmco on Friday forecasts that peak summer demand in Victoria will rise by 80 megawatts and that peak winter demand will rise by some 370 megawatts. The statement also reports that in response to the rising demand for electricity there has been a significant demand-side response and a number of fast-tracked generation projects have been announced. However, the supply that it is anticipated those projects will bring forth in the future was not factored into Nemmco's predictions because they are still subject to planning and environmental approval processes.

I point out that additional demand-management capacity has been facilitated by the government's project group since the release of the security of supply task force report in September last year and so far some 200 megawatts of demand reduction has been identified through that process. The new demand-management capacity has been used extensively over the recent summer, and that has been recognised in the Nemmco statement.

When the house last met I advised it of a number of new projects that will bring forward additional generation capacity. Those include the AGL proposal for a 150-megawatt gas-fired generation plant and the Edison Mission Energy proposal for a 300-megawatt gas-fired generation plant in the Latrobe Valley.

I am pleased to advise the house that since it last sat, and as recently as last Friday, two further projects have been announced. The first is Origin Energy's intention to construct 95 megawatts of gas-fired generation capacity in Victoria and South Australia. In addition, on 30 March AES Transpower also announced its intention to construct some 500 megawatts of gas-fired generation capacity in the Golden Plains shire near Ballarat. That project is envisaged to cost $200 million.

Those proposals are proof that the Victorian government has been successful in creating an economic climate that is conducive to investment in the electricity generation sector. Unlike the efforts of the opposition, whose members constantly talk down the state, the Bracks government welcomes the development of those projects and will do all in its power to facilitate those very important additions to generation capacity in Victoria, subject of course to the proper environmental and planning approval processes.

BUSINESS OF THE HOUSE

Sessional orders

Hon. M. M. GOULD (Minister for Industrial Relations) — 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.

ELECTRICITY INDUSTRY ACTS (FURTHER AMENDMENT) BILL

Introduction and first reading

Hon. C. C. BROAD (Minister for Energy and Resources), by leave, introduced a bill to amend the Electricity Industry Act 2000 and the Electric Safety Act 1998 and for other purposes.

Read first time.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 3

Hon. M. T. LUCKINS (Waverley) presented *Alert Digest* No. 3 of 2001, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Crown Land (Reserves) Act 1978 — Minister's Orders of 3, 4 and 24 March 2001 giving approval to granting of leases at Dimboola, Nhill and Westerfolds Park (three papers).

Gippsland Regional Waste Management Group —

Minister's report of failure to submit 1999–2000 report to her within the prescribed period and the reasons therefor.

Report, 1999–2000.

Interpretation of Legislation Act 1984 —

Notice pursuant to section 32(3)(ii) in relation to Statutory Rule No. 15.

Notice pursuant to section 32(3)(a)(iii) in relation to Statutory Rule No. 11.

National Crime Authority — Report, 1999–2000.

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

Baw Baw Planning Scheme — Amendment C2.

Colac Otway Planning Scheme — Amendment C7.

Macedon Ranges Planning Scheme — Amendment C1.

Swan Hill Planning Scheme — Amendment C1.

Victoria Planning Scheme — Amendment VC11.

Statutory Rules under the following Acts of Parliament:

Heritage Act 1995 — No. 23.

Victorian Civil and Administrative Tribunal Act 1998 — No. 24.

Water Act 1989 — No. 22.

Subordinate Legislation Act 1994 — Ministers' exception certificate under section 8(4) in respect of Statutory Rule No. 24.

Wildlife Act 1975 — Wildlife (Control of Hunting) Notices Nos 2 and 3, 25 February 2001 and No. 5, 15 March 2001.

Proclamation of His Excellency the Governor in Council fixing operative dates in respect of the following Acts:

Crimes At Sea Act 1999 — Whole Act — 31 March 2001 (*Gazette No. G13, 29 March 2001*).

Gambling Legislation (Miscellaneous Amendments) Act 2000 — Section 30 — 22 March 2001 (*Gazette No. G12, 22 March 2001*).

Essential Services Legislation (Dispute Resolution) Act 2000 — Whole Act — 13 April 2001 (*Gazette No. G13, 29 March 2001*).

Gaming No. 2 (Community Benefit) Act 2000 — Section 8 — 29 March 2001 (*Gazette No. G13, 29 March 2001*).

Heritage (Amendment) Act 2000 — Whole Act — 1 April 2001 (*Gazette No. G12, 22 March 2001*).

Victorian Law Reform Commission Act 2000 — Whole Act — 6 April 2001 (*Gazette No. G13, 29 March 2001*).

Ordered that Wildlife (Control of Hunting) Notices Nos 2, 3 and 5 of 2001 be considered next day on motion of Hon. P. R. HALL (Gippsland).

RIGHT OF REPLY

South Gippsland Conservation Society

The PRESIDENT — Order! Pursuant to the sessional orders of the Legislative Council, I present a right of reply from the South Gippsland Conservation Society to statements made in the Council by the Honourable Ken Smith on 6 September, 24 October and 1 November 2000.

During my consideration of the application for the right of reply, I sought further advice from the vice-president of the society who made the submission to me on behalf of it and its members and, as I am required to do, gave notice of the submission in writing to Mr Smith. I have also consulted with Mr Smith prior to the right of reply being presented to the Council. I have omitted some expressions that I deemed not to be in accordance with the spirit of the sessional order.

Having considered the application and determined that the right of reply should be incorporated into the parliamentary record, I remind the house that the sessional order requires me when considering a submission under the order to not consider or judge the truth of any statements made in the Council or in the submission.

In accordance with the sessional orders, the right of reply is hereby ordered to be printed and incorporated in *Hansard*.

Reply as follows:

On 6 September, 24 October and 1 November 2000 the Hon. Ken Smith, MLC, accused the South Gippsland Conservation Society and members John and Sophie Cuttriss and Noel Maud of extortion in relation to a payment of $5000 to the society by the developers of the Seahaven Hostel for the Aged in Inverloch.

The South Gippsland Conservation Society has denied these claims. The police investigation has found no evidence to implicate any person in any criminal offence.

Background of SGCS involvement in Ayr Creek Reserve

Ayr Creek Reserve is owned by the Bass Coast Shire. The South Gippsland Conservation Society, and in particular, a combined projects committee of the SGCS and the Inverloch Residents and Ratepayers Association, have for eight years been directly involved in the development of the Ayr Creek Reserve, which directly abuts the western boundary of the Seahaven hostel. Approximately 12 000 trees have been planted in the reserve during this time. All work has been carried out by volunteers. John and Sophie Cuttriss who were also named by Mr Smith, are SGCS members and John is an active member of the projects committee.

Sequence of events

In July 2000 it was discovered by Sophie Cuttriss that a sewer line for the Seahaven hostel was being installed in the reserve resulting in the removal of a significant amount of melaleuca. To complete the installation, a number of well-established trees would have to be removed.

Following contact with South Gippsland Water and the Bass Coast shire, work stopped (it was discovered that work had commenced without a permit) and an on-site meeting was arranged to discuss options. All interested parties including a representative of the developer (the developer Trevor Godfredson was away on holidays) were invited. The meeting was attended by Ian Aitken, John Cuttriss (SGCS/IRRA projects committee), South Gippsland Water, Bass Coast Shire (Geoff Sawyer and mayor Noel Maud) and the contractor. (The developer's representative did not attend).

At this meeting, options were discussed. The preferred option was the creation of a sewer easement through six adjacent properties. All agreed this would cost approximately $1000 per property and if due council process was followed, it could have taken up to eight weeks to implement. Those attending were conscious of the developer's desire to avoid delays. It was decided that John Cuttriss would contact the property owners to expedite the process.

It was later discovered that the developer's consultant had recommended the sewer easement should run through the reserve though there was no existing sewer easement along Ayr Creek at this time. The plans showed no evidence of plantings or that the reserve was a plantation and drainage reserve for storm water. The consultant made the recommendations to the developer with no apparent regard to the existence of the plantation and no consultation with community groups.

Noel Maud spoke to the developer later by phone and recommended that he speak to John Cuttriss who had a background of involvement in Ayr Creek planning and plantings as well as experience in community negotiations.

The developer rang John Cuttriss and discussed the installation of the easement through the private properties and also the possible costs of establishing this easement. The developer said 'Wouldn't that money be better spent in the reserve?'. John explained that all planting in the reserve had been carried out by volunteers who would be unwilling to carry out more planting voluntarily. Proper recognition of the value of their labour and the plantings must be given. John gave the developer an estimate of the cost of labour, trees, guards, etc.

The developer then offered $5000 towards replacement and further planting in the reserve. The sewer easement in the reserve would become a buffer between the vegetation and the private property boundaries and would be reinstated by the developer after the sewer line was installed.

John Cuttriss said he could not make a decision without consulting with members of the SGCS — which he did. We agreed to this arrangement. This was conveyed to the developer who rang back two days later to get the SGCS postal address, ABN and a tax invoice. The cheque was forwarded to the society.

All parties believed that the negotiations were carried out in good faith. The developer was unhappy to part with money but says he made a 'commercial decision'. From the SGCS view the outcome was more favourable to the developer — allowing a minimum of delay to his work.

Ill-informed reporting of this issue has caused a great deal of distress to the society and in particular to members John and Sophie Cuttriss, and our friends in the community.

This issue has helped perpetuate the belief by many that the environment has no dollar value. Damage to the natural environment in the path of development is a cost that should be factored into all development proposals. As well, many people choose to remain ignorant of the value of the work undertaken by volunteers, the environmental gain as well as the many benefits for the local community. The accusers fail to understand the huge community investment and the asset that has been created in this reserve. The treed surroundings will buffer the hostel from the sights, sounds and smells of highway traffic and create an aesthetic recreational setting for its residents.

We have been the subject of two ministerial inquiries both of which have found no evidence of a crime or impropriety.

The SGCS and its members have on three occasions been accused of extortion. Quoting from the police report, 'The elements of the offence of extortion must include a threat to kill, injure or destroy property. As there is no suggestion of any form of threat to do the above there is no extortion. Likewise the offence of blackmail which must have a warranted demand accompanied by menaces'.

The police have found no evidence of extortion or any other offence.

Laid on table.

Ordered to be printed.

PERSONAL EXPLANATION

Hon. K. M. SMITH (South Eastern) — I make a personal explanation in regard to the right of reply granted by you, Mr President, to the South Gippsland Conservation Society on the issue I raised in the house last year concerning an aged care hostel at Inverloch.

As a member of the house I support the standing and sessional orders of the house and support the right of reply of the South Gippsland Conservation Society on behalf of its member.

I raised the issues because of concerns raised with me by constituents with regard to the matter. I followed up my constituent's concern and met with a number of people directly involved with the issue, including the then president of the board of the hostel, the developer, the engineer, the drainer, the site foreman and the chief executive officer of the Bass Coast Shire Council. I believe I was aware of all the facts when I raised the issue in the house.

On 1 November 2000 I also relied upon a sworn statutory declaration submitted to me by the developer, which I made available to the house. I believe I have acted in good faith at all times in regard to this issue and I would raise the matter again under similar circumstances. I do not resile from the actions I took on the issue.

Hon. T. C. THEOPHANOUS (Jika Jika) — I move:

That the right of reply by the South Gippsland Conservation Society and the personal explanation by Mr Smith be taken into account on the next day of sitting.

The PRESIDENT — Order! The honourable member may know that personal explanations under the standing orders cannot be the subject of debate in the house.

Right of reply ordered to be considered next day on motion of Hon. T. C. THEOPHANOUS (Jika Jika).

FORESTRY RIGHTS (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

Climate change is one of the most important global environmental challenges confronting the world today. The greenhouse effect is a complex issue which does

not lend itself to simple solutions. One important policy response is to find ways of encouraging tree planting, increasing the amount of carbon dioxide absorbed from the atmosphere.

The purpose of this bill is to create explicit and separate property rights for carbon sequestered in trees. This will be accomplished through an amendment to the Forestry Rights Act 1996 to enable ownership of carbon to be held or traded separately from the timber or the land.

The overriding purpose of this legislative change is to encourage investment in carbon sink establishment in Victoria. The development of greenhouse gas mitigation programs, specifically carbon sequestration, has been identified as offering the potential to generate significant additional investment in forestry and wood-based industry into the future.

Since the amount of carbon taken up by a forest is affected by management arrangements in that forest, it is important that the creation of separate carbon rights does not result in the establishment of competing rights over forest property. To avoid this situation carbon property is included in the definition of forest property but can be separable as a subsidiary right. Under existing legislation a landowner is able to enter into a legal agreement and confer ownership of forest property to another party. This will continue. In a similar way, this bill will allow the owner of the forest property to enter into a legal agreement with another party and confer ownership of 'carbon sequestration rights'.

As with forest property agreements, under the Forestry Rights Act 1996, the bill provides for minimum requirements for the proper definition of the carbon agreement between the parties. Beyond that the parties are free to negotiate an agreement which best suits their particular circumstances, their rights and duties and the amount of risk they are prepared to accept.

Given that there are already forest property agreements under the existing legislation, carbon rights will need to be assigned to existing forest property owners, and the bill allows for the creation of carbon rights that are subsidiary to existing forest property rights and assigns them to the existing forest property owners.

Under the Forestry Rights Act 1996 it is not a requirement to produce the certificate of title before a forest property right is recorded on the folio or amended. The Australian Bankers Association have made a number of very strong representations to government regarding the act's ability to erode the value of their mortgages, arguing that the fundamental value of the property could be altered without their knowledge. To address this, it is intended to require that the holder of a registered encumbrance be notified before a forest property agreement is entered into. This would ensure that mortgagees are aware of interests that might be affecting their rights of repayment and enforcement.

This bill is an opportunity for Victoria to capture significant venture capital for carbon investment, which is available at present. There is significant competition for this investment.

The bill is also timely because trees take some years to achieve maximum growth rates. Delays in the commencement of carbon sink projects will compromise their ability to deliver significant credits during the first Kyoto commitment period of 2008 to 2012. To achieve active growth of trees and significant sequestration of carbon in this commitment period, there is a need to increase investment in reforestation for carbon sequestration in the short term.

This will, of necessity, be interim legislation. An emissions trading system is not imminent and the commonwealth government has recently followed Victoria's lead in accepting that emissions trading in Australia should not precede implementation of international emissions trading. While it supports emissions trading in principle, the Victorian government is opposed to the adoption of mandatory domestic emissions trading in advance of international emissions trading. Introduction of this bill does not presage early action on emissions trading. However, in the event that international and national emissions trading practices are established in the future, this legislation would need to be replaced or augmented with nationally consistent legislation to support the trading scheme and its attendant carbon accounting practices. In the meantime, any risks associated with investing in carbon are entirely borne by the parties to the agreement and the state incurs no liability.

This bill provides an essential legal basis for investment in carbon rights in Victoria and is an important step towards a long-term strategy for addressing Greenhouse issues in Victoria.

I commend the bill to the house.

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

Debate adjourned until next day.

ENVIRONMENT PROTECTION (LIVEABLE NEIGHBOURHOODS) BILL

Second reading

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

That this bill be now read a second time.

This bill represents a significant step in delivering the government's environmental policy commitments.

Our Greener Cities policy recognises that people are becoming increasingly aware of the importance of their environment to their quality of life. In particular, improving the liveability of local neighbourhoods is a key theme in Greener Cities.

The Bracks government is committed to developing strategies to deliver safe, liveable and sustainable environments. The government is also committed to ensuring that local needs and the view of local communities are fully heard and properly heeded in efforts to protect and enhance the Victorian environment.

The Environment Protection (Liveable Neighbourhoods) Bill implements these commitments. The bill also meets the government's commitments to deliver an environment for a healthy community.

The bill introduces new provisions into the Environment Protection Act to provide the community with a tool to improve environmental quality within their neighbourhood. In addition, the bill clarifies existing auditing provisions so that the community can more confidently rely on the results of environmental audits conducted under the act. This will especially help in protecting communities from risks that may be associated with contaminated sites. The bill also builds sustainability principles into the act, clarifies EPA's ability to develop and use economic measures and introduces a number of minor amendments to improve the operation of the act.

Principles of environment protection

The government has a commitment to build sustainability principles into decision-making processes across government.

The Environment Protection Act was written in 1970. In keeping with the legislative drafting style of the time, no principles or objectives were put into the original act. Nowadays, most pieces of modern legislation include principles or objectives as a way of articulating what an act is seeking to achieve. While principles are, by their nature, expressed in general terms, they can assist people to understand an act and provide some real guidance to decision-makers as to how it should be administered.

This fact was recognised by the independent consultants who conducted the recent competition policy review of the act. They recommended that principles or objectives be included in the act to provide some guidance about its general purpose.

Part 2 of the bill will introduce a purpose and principles into the principal act. The sustainability principles to be included in the act are drafted to be specific to environment protection aims. These principles are consistent with the community's general expectation of how we should continue to provide a safe and healthy environment for Victoria.

Economic measures

An effective environment protection regime requires a mix of policy tools, ranging from regulatory to economic measures, community participation, education campaigns and extension services. An economic measure is a tool which seeks to achieve an environment protection aim by harnessing market forces. Economic measures usually work best where they are combined with other tools such as regulation, extension services and so on.

The use of economic measures is advocated in the intergovernmental agreement on the environment as a useful tool for achieving environmental goals. There is a growing trend internationally to use economic measures to address some environmental issues. Economic measures are already in place in environmental legislation in other jurisdictions in Australia, such as NSW's Protection of the Environment Operations Act 1997.

The recent competition policy review of the Environment Protection Act identified a need to clarify EPA's ability to be able to use the full range of economic measures. The act already allows EPA to use economic measures such as financial assurances, landfill levies and licence fees. Part 2 of the bill simply clarifies that EPA can develop the full range of economic measures such as tradeable discharge permits and offset measures.

Economic instruments will be developed through statutory policy and regulations, ensuring the objectives of the instruments are made clear. As such, for any economic measure to be developed, a draft regulation or statutory policy and impact statement will be

prepared and released for public comment. The measure will be subject to periodic statutory review.

Neighbourhood environment improvement plans

The key reform in this bill is the introduction of neighbourhood environment improvement plans into the principal act, through the provisions in part 3 of the bill.

The Environment Protection Act provides EPA with a range of tools to protect and improve the Victorian environment. In particular, there are many effective tools which EPA has used over the years to reduce emissions from industry, especially from larger industrial sites. These well developed statutory tools include licences, works approval and notices.

However, as we are well aware, local environmental problems are increasingly the result of the cumulative impacts of multiple sources. For example, sources of air pollution in a local urban neighbourhood might include one or two large industrial sites, several small commercial premises, motor vehicles and emissions from lawn mowers and wood heaters.

Furthermore, the responsibility for managing these sources is often split between EPA, local government and other state government agencies.

Local communities and state and local government agencies need a new tool to help them address local environmental issues in a more useful and cost-effective way.

In response to this need, the Bracks government is delivering on its commitment to improve the quality of the local environment and hence, the liveability of neighbourhoods through the establishment of neighbourhood environment improvement plans.

Neighbourhood environment improvement plans will build on the success of industrial site environment improvement plans which were introduced into the act in 1989. Industrial site environment improvement plans, which I will refer to as industrial site EIPs, were developed as a mechanism to enable companies to work with their local communities to develop a comprehensive plan to address their environmental performance at the site.

Industrial site EIPs are based on the concept of the local community's right to know and to participate in decisions that may potentially have an impact on their environment. As such, industrial site EIPs are drawn up by a company in consultation with EPA, the local community and other relevant government authorities.

An industrial site EIP is a public commitment by a company to enhance its environmental performance and it involves the community in ongoing monitoring and review.

A company may voluntarily initiate an industrial site EIP. The act also allows for EPA to direct a company to develop one. There are currently 55 industrial site EIPs signed off or in development in Victoria. Only 2 of these plans have been initiated by a statutory direction to the company. The other 53 were all voluntarily initiated. This level of voluntary action is a strong indicator of the success of industrial site EIPs from the perspective of both industry and the broader community.

Companies such as Ford, Dow Chemicals, Loy Yang Power, Australian Vinyls, Cabot and Mobil have worked with their local communities and EPA to develop agreed industrial site EIPs.

A number of companies have commented that developing a site EIP with their local community has helped them address their environmental issues in a more cost-effective and productive way.

The Bracks government wants to build on this success by extending the EIP concept beyond simply dealing with environmental issues at a single industrial site.

Neighbourhood environment improvement plans, which I will refer to as neighbourhood EIPs, are an innovative tool that communities will be able to use to reduce sources of pollution within their local area. They will provide a statutory mechanism to enable those contributing to and those affected by local environmental problems to come together in a constructive forum. In this forum, the members of the local community, including residents, industry and local government, can agree on the environmental priority issues for the neighbourhood. They can then devise a plan to address their agreed environmental issues in a practical manner. The statutory basis of the plans will give participating members of a community the confidence to join in the development of the plan.

The bill provides the flexibility to address the many and varied environmental issues that local communities and industries may wish to address, such as air quality, unwanted noise and local water quality problems such as sedimentation.

The neighbourhood to which each plan applies will be defined by the participants proposing the plan and will be dependent upon the nature of the environmental issue that the participants want to address. Nevertheless,

it would be expected that, in most cases, plans could cover an area smaller than a whole municipality.

The bill provides for the development of either voluntary or directed neighbourhood EIPs. As with most of the industrial site EIPs in operation in Victoria, it is envisaged that the majority of neighbourhood EIPs will be voluntarily initiated.

However, the bill also provides that EPA, in limited circumstances, can direct a protection agency to develop a neighbourhood plan. EPA will only be able to exercise this direction power where a serious environmental problem exists. Intervention criteria will be set through statutory policy which specify how EPA can determine whether a serious environmental problem exists.

In addition, under the provisions of the bill, an environmental audit would have to be conducted to demonstrate that the intervention criteria are being met and that, therefore, the beneficial uses of a particular segment of the environment are not being protected. EPA will only be able to direct a protection agency to develop a neighbourhood environment improvement plan in these circumstances. Importantly, a protection agency will have appeal rights against a direction from EPA to initiate a neighbourhood plan.

It is envisaged that local governments will play an integral role in the development of neighbourhood EIPs. This is because of their role in representing local citizens in many of the issues that neighbourhood EIPs will address.

Neighbourhood EIPs will operate on the basis of community agreement and participation. For example, in both a voluntary and a directed NEIP, EPA may only endorse the proposed plan once the authority is satisfied that those directly affected by the plan have been given adequate opportunity to participate in its development.

Neighbourhood EIPs will provide an additional mechanism for the community to signal its environmental priorities to EPA. This will in turn help EPA to prioritise its own activities. In particular, EPA will provide support to groups developing neighbourhood environment plans.

In this way, the neighbourhood plans will further deliver the government's commitment to ensure that, as the community's environmental watchdog, EPA is appropriately responding to community priorities for environmental improvements.

Furthermore, the bill provides that citizens may request EPA to conduct a specified environmental audit or investigation into their local environmental quality. Guidelines will be developed to ensure that EPA does not expend its resources responding to frivolous or vexatious request, but instead can focus on genuine environmental priorities of the community.

The bill establishes a clear framework for neighbourhood EIPs and specifies the standard components of a plan.

The bill also makes a number of minor amendments to ensure the new neighbourhood EIP provisions mesh effectively with the existing industrial site EIP provisions in the act.

A number of councils, community members and companies have already expressed an interest in the neighbourhood environment improvement plan concept. This provides a good illustration of how promising the concept is.

It also shows that the neighbourhood environment improvement plans have the potential to be a tool that implements a triple bottom line philosophy practically. Neighbourhood plans obviously concentrate on environmental issues. However, they will also incorporate social and economic considerations, as participants in the plan look at the cost-effective use of their resources and how to ensure the plan processes are inclusive of industry, residents, government agencies, and so on.

Neighbourhood environment improvement plans are a new and exciting development in environment protection in Victoria. EPA is already establishing an advisory committee with representatives from local government, environment and industry groups and other relevant stakeholders. This advisory committee will help EPA with tasks such as developing guidelines for communities on issues such as how to prepare a neighbourhood EIP proposal, how to actually develop a plan and how to request that EPA investigate an issue relevant to determining whether a neighbourhood EIP should be initiated.

Three or four voluntary neighbourhood EIPs will be piloted in the next 12 months by EPA, interested local councils and communities. These pilot plans will assist in successfully implementing the neighbourhood EIP framework. The advisory committee will assist EPA with these pilot plans and any refinement of the guidelines.

Environmental audits

In 1989 a broad environmental auditing system was established under the Environment Protection Act.

A key motivator for the system was the discovery of severely contaminated soil on residential blocks in Ardeer in 1989. The act was amended to introduce certificates of environmental audit aimed at providing a general mechanism by which planning authorities, government agencies and the private sector could be readily and authoritatively assured that potentially contaminated land could be safely used.

The act was amended again in 1994 to include statements of environmental audits. The environmental auditing system has been very successful in achieving its aims, with environmental audits now an integral part of the redevelopment of former industrial land. Groups as divergent as home buyers, local councils, developers and financiers rely on the audit system to provide them with robust information to aid their decision making.

EPA's environmental auditing system has grown markedly over the past 10 years. The number of audits has grown from 20 in 1990 to over 200 audits undertaken this year. Likewise, the number of EPA appointed environmental auditors has increased from only 5 in 1990 to 38 in 2000.

Victoria's auditing system has proved to be so successful in meeting its objectives that other states are adopting similar systems in their environmental legislation.

One of the critical components of EPA's successful auditing system is that it is a credible and rigorous system, providing people with reliable results through third-party auditing.

The auditing system establishes a broad statutory framework for environmental auditing in Victoria. Much of the focus to date has been on auditing of contaminated land and auditing of industrial facilities. However, with the growing recognition of industry's corporate citizenship, companies are developing new methods to demonstrate good environmental performance.

One such method is corporate environmental reporting. Companies are increasingly producing corporate environment reports to inform the public of their environmental performance. Companies in Victoria have been using environmental auditors appointed under the Environment Protection Act to verify their corporate environmental reports. With the increasing trend in corporate environment reporting, it is critical that companies, community groups and the investment sector have a robust system that can deliver credible third-party verification of corporate environmental reports.

Clarification of the auditing system is now required to reflect the system's evolution and to prevent unscrupulous individuals from working outside the legislative system.

As such, part 4 of the bill introduces a new division into the act to encompass the environmental auditing framework, and provides an explanatory section outlining the purpose of the environmental auditing framework.

The bill clarifies the appointment of environmental auditors, outlines EPA's powers regarding the suspension and revocation of such appointments, as well as clearly stating the function of an environmental auditor.

The bill importantly clarifies the responsibilities of auditors in regard to completing environmental audit reports and issuing certificates or statements of environmental audit. When the auditing system was originally established in 1989 it only provided for the issuing of certificates of environmental audits. The act was amended in 1994 to introduce statements of environmental audits. While certificates of environmental audit state that the site is suitable for all uses, statements of environmental audit may indicate that the site is suitable only for some uses, for example, industrial use, subject to conditions.

The use of statements has evolved as the market has realised the most efficient means of managing a contaminated site often means managing a significant quantity of contaminated material on site. This has increased the use of conditions in statements and the importance of planning authorities enforcing those conditions. Now, less than one-third of audits result in the issuing of a certificate.

Underpinning certificates and statements of environmental audit are environmental audit reports. Unfortunately the existing provisions of the act do not expressly state an environmental auditor must complete an environmental audit report prior to issuing a certificate or statement of environmental audit. The bill makes this requirement explicit.

The bill also makes it clear that, in conducting an environmental audit of a segment of the environment, an environmental auditor must issue a statement of environmental audit when the auditor decides not to issue a certificate of environmental audit.

These provisions will guarantee that auditors must 'close the loop' of an environmental audit.

The bill also introduces a number of notification provisions. One of these new provisions requires an environmental auditor to provide the relevant planning authority and responsible authority under the Planning and Environment Act 1987, in addition to EPA, with a copy of the environmental audit report as well as the certificate or statement of environmental audit.

Another notification provision in the bill requires an environmental auditor, when conducting an audit, to notify EPA about any imminent environmental hazard as soon as practicable after becoming aware of the hazard. Under existing provisions, if an auditor is undertaking an environmental audit and becomes aware of an imminent environmental hazard, there is no requirement for auditors to inform EPA immediately of this hazard. This new requirement will mean EPA will be quickly informed of any imminent environmental hazard and, therefore, will be able to quickly deal with it.

The bill also introduces changes which require an occupier of premises to notify any prospective occupier of any statements of environmental audits related to the premises. Statements of environmental audit specify the uses to which the premises can be safely put. Therefore, it is important that prospective occupiers be made aware of any statement of environmental audit relating to the premises.

The bill also introduces provisions where, under certain circumstances, an auditor can withdraw and amend an incorrect certificate or statement of environmental audit. These provisions also allow EPA the ability to withdraw an incorrect certificate or statement of environmental audit in limited circumstances.

The bill also introduces a cost recovery mechanism to resource the administration of this growing environmental auditing system. The details of this mechanism will be developed through regulation, with associated consultation and impact assessment requirements.

Part 5 of the bill also introduces a number of general amendments to remove anomalies and improve the operation of the act.

Clause 15 amends the definition of an ozone-depleting substance so as to include hydrochlorofluorocarbons (HCFCs) in this definition.

Clause 16 clarifies provisions regarding the payment of fees for members appointed to panels, with fees to be determined in line with specified guidelines.

Clause 17 amends licence fee payments requirements, so that all licence fee payments must be made on the same day.

Clause 18 clarifies the scope of the offence for dumping or abandoning industrial waste to ensure licensed industrial waste disposal sites are not at liberty to accept wastes of particular kinds for which they are not licensed, e.g., liquid hazardous waste.

Clause 19 clarifies that the offence of water pollution covers situations where a person leaves waste in place where it may reasonably be expected to gain access to waters and pollute them.

Clause 20 clarifies the powers of authorised officers to take films and to make recordings of land and premises under investigation.

Clause 21 clarifies that a transport certificate relating to the transport of prescribed industrial waste shall be prima facie evidence of the matters contained therein in any proceedings under the act.

Clauses 22 and 23 rectify minor drafting anomalies arising from recent changes to the Environment Protection Act.

This bill represents a critical step in engaging local communities and empowering them to actively participate in the protection of their local environment, to create safe and liveable neighbourhoods.

I commend this bill to the house.

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

Debate adjourned until next day.

CORPORATIONS (COMMONWEALTH POWERS) BILL

Second reading

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

That this bill be now read a second time.

The Corporations (Commonwealth Powers) Bill forms part of a package of corporations bills which follows historic negotiations between the commonwealth and the states to place the national scheme for corporate regulation on a secure constitutional foundation. The bill reflects the commitment of the Victorian government to achieving an effective, uniform system

of corporate regulation across Australia. To understand this bill and the package of Corporations Law bills, it is necessary to consider the history of corporate regulation in Australia over the last 20 years.

In Australia the development of an effective system of corporate regulation has been complicated by our federal system of government. The states and territories are sovereign entities possessing the powers and ability to make their own laws, and for many years different requirements relating to corporate regulation existed in each state and territory.

From July 1982 corporate regulation in Australia was based on a cooperative scheme between the states, the Northern Territory and the commonwealth, where substantially uniform legislation applied to all jurisdictions. However, towards the end of the decade emerging problems in the operation of the cooperative scheme meant that the scheme was no longer an effective means of ensuring corporate regulation in a uniform and consistent manner suitable for a changing commercial environment. There were also concerns about the need for more effective national enforcement of the corporate regulatory regime.

This lack of legislative and administrative uniformity, combined with different regulators in the states and territories, was also hampering supervision of the share markets and thus investor protection. To remedy these emerging problems, a new national scheme for the regulation of corporations, companies and securities was devised and it commenced operation on 1 January 1991.

The current national scheme is based on the substantive commonwealth law, which applies in the Australian Capital Territory, known as the Corporations Law. This law, as in force from time to time, is applied in each state and the Northern Territory. In Victoria the relevant legislation is the Corporations (Victoria) Act 1990.

In order to create a national scheme certain commonwealth features were added to the arrangements, such as the enforcement of Corporations Law offences by the Australian Securities and Investments Commission (ASIC), the Australian Federal Police (AFP) and the commonwealth Director of Public Prosecutions.

Also, the Federal Court was given power to hear matters arising under the Corporations Law of each state by a cross-vesting scheme contained in the corporations acts of the commonwealth and the states. The current scheme is underpinned by heads of agreement, which were agreed on 29 June 1990, and a supplementary agreement, the Corporations Agreement.

The Corporations Agreement, which is an intergovernmental agreement, was formally signed by the states, the Northern Territory and the commonwealth in September 1997.

The agreement establishes the Ministerial Council for Corporations (MINCO), which is constituted by the relevant commonwealth, state and territory ministers responsible for the national scheme law, as the primary forum where all matters relating to corporations, securities and corporate governance are discussed and voted on. The Corporations Agreement sets out the functions, objectives and voting arrangements relating to the administration of the Corporations Law of the ministerial council.

The current scheme to all intents and purposes operates on a seamless, national footing. ASIC administers the Corporations Law through regional offices in each jurisdiction. The scheme has worked remarkably well. The parties to the Corporations Agreement have, in general, complied with its spirit and letter, and there has been little discord between the states and the commonwealth about the operation of the Corporations Law in Australia.

However, recent legal challenges and decisions of the High Court of Australia have cast doubt on the constitutional framework, which supports the Corporations Law. The difficulties associated with the current system of corporate regulation have been identified by the High Court in two significant cases. The first case was decided in June 1999. In *re Wakim: ex parte McNally* the High Court held by majority that chapter III of the commonwealth constitution does not permit state jurisdiction to be conferred on federal courts. Effectively, this decision removed the jurisdiction of the Federal Court in most states and territories to resolve Corporations Law matters, unless cases fell within the court's accrued jurisdiction or in certain other circumstances, and it denied litigants a choice of forum for the resolution of such disputes.

The second case was the *Queen v. Hughes*, decided in May 2000. There the High Court held that the conferral of a power coupled with a duty on a commonwealth officer or authority by a state law must be referable to a commonwealth head of power. This means that if a commonwealth authority, such as the Director of Public Prosecutions or ASIC, has a duty under the Corporations Law, that duty must be supported by a head of power in the commonwealth constitution.

This decision casts doubt on the ability of commonwealth agencies to exercise some functions under the Corporations Law.

These decisions of the High Court prompted the Standing Committee of Attorneys-General and the Ministerial Council for Corporations to meet to resolve the problems facing the national Corporations Law scheme.

On 25 August 2000 commonwealth, state and territory ministers reached an historic agreement in principle in Melbourne, whereby states would refer to the commonwealth Parliament the power to enact the Corporations Law as a commonwealth law and to make amendments to that law subject to the terms of the Corporations Agreement.

On 30 November 2000, the Honourable Attorney-General for New South Wales introduced the Corporations (Commonwealth Powers) Bill.

That bill was tabled in the New South Wales Legislative Assembly following extensive negotiations among the states and the commonwealth, culminating in a joint meeting of the Ministerial Council for Corporations and the Standing Committee of Attorneys-General held in Sydney on 28 November. At that meeting the state ministers agreed unanimously on the terms of that bill, and supported its introduction into the New South Wales Parliament. Following the introduction of the bill in New South Wales, further negotiations took place, and on 21 December 2000 representatives of the Victorian, New South Wales and commonwealth governments met to resolve outstanding issues. Their discussions turned on the inclusion of specific provisions in the Corporations (Commonwealth Powers) Bill to proscribe the use of the referral for industrial relations purposes.

It was agreed at that meeting that clauses 5 and 6 of the New South Wales Corporations (Commonwealth Powers) Bill 2000 would be removed from the bill and that, instead, an objects clause would be included in the bill to provide that the proposed act was not intended to enable the making of a law pursuant to the amendment reference with the sole, or a main underlying purpose or object of regulating industrial relations. The bill before the house gives effect to that agreement.

The bill reflects the commitment of the Victorian government to ensuring that the uncertainty that now prevails in the business community over the future of corporate regulation in Australia is resolved as quickly as possible. The Corporations (Commonwealth Powers) Bill firstly enables the commonwealth Parliament to enact the proposed corporations bill and the Australian Securities and Investments Commission bill, in the form of the bills that were tabled in the New South Wales Parliament on 7 March 2001, as commonwealth laws. A copy of the commonwealth bills, which constitute the tabled text for the purposes of this bill, is available in the parliamentary library for use by members.

Secondly, it enables the commonwealth to amend those laws, or regulations made under them, in the future, as long as the amendments are confined to the matters of corporate regulation, the formation of corporations, and the regulation of financial products and services, but only to the extent of making express amendments to the bills referred to the commonwealth Parliament. This is called the amendment reference. It should be noted that the omission of the old clauses 5 and 6 of the New South Wales bill introduced late last year in no way affects the proper construction of the amendment reference and, in particular, the concept of corporate regulation.

The bill provides in clause 1(2) that the act is not intended to allow for laws to be made pursuant to the amendment reference with the sole or main underlying purpose or object of regulating industrial relations matters. This exclusion is to ensure that the commonwealth cannot use the referred powers to legislate in the area of industrial relations or to override state laws dealing with industrial relations.

The bill provides that the reference of power is to terminate five years after the commonwealth corporations legislation commences or at an earlier time by proclamation. The term of the referral can also be extended beyond five years by proclamation. The states have agreed to give the referral for only five years because the referral of power by the states to the commonwealth is not a permanent solution to the problems of the current scheme. At the request of ministers, the commonwealth has given a firm undertaking to examine long-term solutions to address the problems arising from the decisions of the High Court in *Wakim and Hughes*, including constitutional change. Those problems affect a number of intergovernmental legislative schemes. The states now look to the commonwealth to explore options for constitutional amendment thoroughly and expeditiously, through the Standing Committee of Attorneys-General.

It is anticipated that a decision will be made well before the expiry of the five-year period about the holding of a referendum on this matter. The states can terminate the referral earlier, by proclamation if, for example, the

commonwealth Parliament makes amendments to the new corporations act which go beyond what was envisaged when the referral was made, such as in the area of the environment. The bill also provides for the termination of the power of the commonwealth to amend the referred laws, by proclamation. However, if only the amendment reference is terminated, the effect of the Commonwealth Corporations Bill is that the state would cease to be part of the new scheme unless all of the states also revoke the reference, giving six months notice of their intention to do so.

This underlines the importance of the corporations agreement, which will govern the scope of the referral. The corporations agreement is an intergovernmental agreement and in formal terms is not legally binding. However, the states place great weight on it, and have agreed to refer powers in the terms of the bill before the house on the understanding that the commonwealth will abide by both the spirit and the letter of the agreement.

As I have indicated, the agreement will contain specific provisions to prevent the use of the referred powers for the purpose of regulating industrial relations, the environment or any other subject unanimously determined by the referring states. It will also ensure that the states are consulted about any amendments made to the Commonwealth Corporations Act, and where the commonwealth does not have existing constitutional power, that the states will vote on whether to approve or oppose the amendments.

In addition, the agreement preserves the rights of the states to make laws that modify the operation of the Corporations Act in relation to their own activities, such as, for example, the regulation of state bodies corporate. The terms of the agreement are still being negotiated among governments, but it is anticipated that the remaining matters will be resolved in the near future.

I understand that the Prime Minister will write to other state premiers, asking them to arrange for bills in similar terms to this bill and the Corporations (Commonwealth Powers) Bill 2001 (NSW) to be considered by state parliaments around Australia. It is then envisaged that the commonwealth Parliament will enact the Corporations Bill (Commonwealth) and the Australian Securities and Investments Commission Bill (Commonwealth), using the powers conferred on it by this bill and its counterparts in other states, so that the new scheme can commence as soon as possible.

Honourable members will appreciate that a number of consequential and transitional amendments to state legislation will need to be dealt with before the new scheme commences, and I anticipate that separate bills for this purpose will be introduced before the commencement of the new scheme. The Corporations (Commonwealth Powers) Bill, related State legislation, and the enactment by the Commonwealth Parliament of the Corporations Bill (Commonwealth) and the Australian Securities and Investments Commission Bill (Commonwealth) will, with the enactment of similar legislation in all other states, ensure that our national system of corporate regulation is placed on a sound constitutional foundation and reinforce Australia's reputation as a dynamic commercial centre in the Asia-Pacific region.

I commend the bill to the house.

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

Debate adjourned until next day.

LAND (FURTHER REVOCATION OF RESERVATIONS) BILL

Second reading

Debate resumed from 22 March; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. PHILIP DAVIS (Gippsland) — In rising to speak on the Land (Further Revocation of Reservations) Bill I note that its main purpose is to provide for the revocation of reservations over several parcels of land and the revocation of a Crown grant affecting one of those parcels.

The bill affects three parcels of land, and I shall recite briefly what they deal with. The first is land that adjoins the Barwon Heads Golf Club. I have no doubt that my colleague the Honourable Ian Cover will embellish in considerable detail because I understand he has an intimate knowledge of the golf club, including the golf course and its surrounds. I look forward to hearing that contribution.

This is a sensible proposal to rectify access issues. In particular, a housing estate at Stephens Parade is effectively landlocked because of the way the parcels of land are configured and it is important to rectify the road easements and properly establish the status of the land comprising the golf club's surrounds. I understand a land swap is involved in this process. I am sure the outcome will be satisfactory to the community as a whole, not just to the people who have an interest in the Barwon Heads Golf Club. Indeed, I am sure the owners

of the properties at Stephens Parade will be pleased with that outcome.

The bill also deals with an additional parcel of land at Ballarat. There is a need to obtain access to land for the extension of a cottages estate that provides housing and units for the accommodation of elderly members of the Old Colonists Association of Ballaarat, which I understand is a benevolent association for the purpose of supporting the descendants of former settlers and goldminers in the Ballarat district. This benevolent society continues to provide support to the community, and to enable the further application of its' charitable interests it is proposed to make available some public land for further development of retirement units.

I note an interesting issue regarding land in the Docklands precinct. Honourable members will be well aware of the duplication of the Charles Grimes Bridge, and the interest in that of this bill stems from the fact that a mistake has been made. It is not often that Parliament hears about the public service, let alone the government, acknowledging errors, but certainly a significant error was made during the duplication of that bridge. Consequently there is a need to remedy that and rectify the tenures in regard to that land. I am sure all honourable members have sufficient goodwill to ensure that is rectified.

When the duplication of the bridge proceeded the contractor involved, through design and construction error, exceeded the limits of the land reserved for the bridge project. That consequently impacted adversely on land that was leased by another private firm. Through a period of negotiation and objective assessment it was decided not to try to re-engineer the bridge but to accept that an error had been made. I am sure that financial adjustments and penalties will be made and that the bridge, now constructed, provides the necessary access for vehicle transport in the City of Melbourne. On that basis, the proposals are sensible and generally have community support. The opposition supports the bill.

Hon. E. C. CARBINES (Geelong) — I am pleased to support the Land (Further Revocation of Reservations) Bill, which involves the revocation of the reservation of three pieces of land, one in South Melbourne, one in Ballarat and one in the province I share with the Honourable Ian Cover, who will also speak in support of the bill.

I shall confine my remarks to the land in Barwon Heads which adjoins the Barwon Heads Golf Club at the end of Golf Links Road. The passage of the bill will allow for the revocation of approximately 4000 square metres of land and will allow a land exchange between the Barwon Heads Golf Club and the Crown.

This is important as currently there is no legal access to Stephens Parade in Barwon Heads. Access currently is via Golf Links Road, which meanders through the Barwon Heads Golf Club. The passage of the bill will mean that Golf Links Road access will become the legal access to Stephens Parade.

As part of the land exchange with the Barwon Heads Golf Club, a 10-metre-wide government road reserve will be created over the road. This will give flexibility in the management of traffic issues that impact on Stephens Parade residents and users of the golf club.

During the first couple of months after I was elected in 1999 I was contacted by residents who live in Stephens Parade, Barwon Heads. They have maintained that contact with me on issues concerning traffic management and access to their homes through the golf course.

I have been pleased to take up the issues they have raised with me and to keep them informed of the progress of the bill. In December last I received a letter from Mr Rick Schoff and Mrs Anne Riggs, both of whom live in Stephens Parade, Barwon Heads, who state:

> Thank you for your continuing interest in our concerns over the safe use of Golf Links Road through the Barwon Heads Golf Club.
>
> …
>
> We are pleased that a full 10 metres is being reserved for future contingencies as it is already clear that the 6-metre shared road configuration is not capable of safely handling the volume and mix of golfers, cyclists, pedestrians and vehicles that use it.

They listed the safety hazards of the current road configuration, which includes the northern end of the road that passes through a very high usage area of the golf club between two car parks, the pro shop and the first tee. That makes it very difficult to negotiate to get to one's residence. But they also say there is very little room for manoeuvre between cars entering and exiting the golf club car parks and the through traffic to and from Stephens Parade. There is also an S-bend in the road just south of the pro shop which is far too narrow to allow the safe passing of two slow-moving vehicles travelling in opposite directions, particularly when pedestrians or cyclists are also on that portion of the road.

They also say that the narrowness of the road is dangerous and that has been further accentuated by the placement of marker posts on both sides of the road

which, in some places, are no more than 7 metres apart. The walking and cycling track is in such poor condition that pedestrians and cyclists are forced onto the bituminised road which further creates a driving hazard for motorists.

These issues are of relevance to the Stephens Parade residents. I am pleased to support this simple and sensible bill, which gives the residents an opportunity to have their concerns addressed. The narrowness of the current road adds to the danger, leaving little room for manoeuvre or evasive action should the need arise as posts have been placed on either side of the road.

The creation of the 10-metre road reserve will provide an opportunity for traffic to be better managed on Golf Links Road and will create legal access to Stephens Parade. I look forward to further assisting local residents in this matter. I commend the bill to the house.

Hon. P. R. HALL (Gippsland) — I am pleased to indicate the National Party's support for the Land (Further Revocation of Reservations) Bill. The bill removes reservations on three pieces of public land at various locations in Victoria. People sometimes wonder why we debate bills of this size when largely they contain administrative changes. I am one who thinks it is important that changes of status of such land in Victoria be given the opportunity to be debated where appropriate. Sometimes changes of status in public land cause considerable debate in this place, in particular if they are changes from freehold to public land or the creation of public land in national parks.

This bill is clearly administrative and I expect it will not create a great deal of debate. However, I appreciate that honourable members who represent areas in which the land is located will have a great deal of interest in the bill.

The bill deals with three areas of land. One concerns access to a housing estate that adjoins the Barwon Heads Golf Club. During the briefing, officers of the department said that current access encroaches on land owned by the golf club and in turn the golf club also occupies part of the current reserve. This is a minor land exchange and realignment. Lines are now drawn on a map as per schedule 2 of the bill. People who require access to the housing estate and members of the Barwon Heads Golf Club are in agreement with the exchange taking place to conform with the correct land titles.

The second piece of land was reserved in 1929 for the use of the Old Colonists Association of Ballarat. When I conferred with my colleague the Honourable Dianne Hadden on the issue some time ago she told me this was a much-needed change in land ownership in Ballarat. I am aware that the old colonists association provides some important aged care facilities in Ballarat, and I understand that the 4 hectares of land involved in the change will be purchased by the association for the further development of aged care facilities for the people of Ballarat, which is to be commended.

The problem with the third piece of land arose when the duplication of the Charles Grimes Bridge encroached onto 90 square metres of public land. The bill will re-reserve that piece of public land so that it conforms with the alignment of the new bridge.

In making these few comments on the bill I am reminded that it is not uncommon to see officers of the Department of Natural Resources and Environment involved in minor amendments to reservations on land. In my normal day-to-day electorate work I frequently contact people at the regional office of the Department of Natural Resources and Environment in my area to try to resolve land title issues. In many instances in country Victoria houses or structures have encroached onto public land, most frequently onto areas like river frontages. I am grateful that the departmental officers who have sat down with me have had a willingness to resolve such issues.

I mention in particular Mr Ron Kelly, from the Department of Natural Resources and Environment Gippsland region. He and some of his staff have provided excellent assistance to me over the years in resolving land titles matters, the most common occurring when people have purchased land and unknowingly built structures on it that have encroached onto public land. In all cases there has been a willingness to resolve those matters satisfactorily.

Having said those few words, I am pleased to inform the house that the National Party is happy to support the bill, which will remove the reservations on three pieces of land. They are commonsense changes that are in the nature of good government in this state.

Hon. I. J. COVER (Geelong) — It gives me great pleasure to speak in support of the Land (Further Revocation of Reservations) Bill. The three pieces of land mentioned in the bill are located at the Docklands in the City of Melbourne, at Ballarat and at Barwon Heads.

I have more than a passing interest in the Barwon Heads land dealt with by the bill, and I declare at the outset that I am a member of the Barwon Heads Golf Club, which was an opportunity afforded to me as

recently as the start of the year when I was admitted to membership of the club.

I have a further personal interest, as the land upon which my Barwon Heads residence sits is bordered on one side by Barwon Heads Golf Club property.

Hon. P. R. Hall — It is not on the reserve, is it?

Hon. I. J. COVER — At the time of purchasing my block of land the surveyors resurveyed it and all the boundaries and measurements are in order. There is no question of encroachment upon any Crown land or reserve.

It is interesting to note, as Mr Hall said, that on the surface some bills appear to be small and of an administrative nature, but that often a long period of development, discussion and debate occurs before they find their way to us here in the Parliament. The issue of the land at Barwon Heads is no exception, given that aspects of the ownership and use of the land have been discussed by the local community — and indeed by the City of Greater Geelong, which is the responsible local municipality — over the best part of the past 10 years.

As was mentioned by the other member for Geelong Province, quite a lot of correspondence, discussion and interest has been generated by local residents and visitors to the area who have used that part of Golf Links Road that goes through the golf club land providing access to 13th Beach Road. That vehicle access has subsequently been curtailed as a result of traffic management solutions imposed in conjunction with the City of Greater Geelong.

I am aware of some of the issues raised by the other honourable member for Geelong Province, not only as somebody who has traversed the golf course playing golf but also as, sadly, a semi-regular — as opposed to a regular — morning walker or jogger on part of that road through the golf course.

It has been interesting to observe over the past couple of years when the surveyors have been in action a series of pegs emerging along the side of the road and beside the golf course marking land designated to be handed to the golf club and land designated to remain under the Crown. It has been an interesting process not only to hear about it but to physically see the pegs going in marking out the land dealt with in the bill.

This is not the first time that Crown land issues affecting the Barwon Heads golf course have come before this Parliament. By way of a history lesson I invite honourable members on both sides of the house on a trip down memory lane to 21 September 1960 when the Barwon Heads Lands Exchange Bill came before the house. Up until that time golf had been played on the first six holes of the Barwon Heads golf course on Crown land, while at the other end of Barwon Heads the golf club owned land which was known then — and is still known today, 40 years later — as the 58 acres. It is interesting to see in *Hansard* of 1960 reference by various speakers to the 58 acres. A land swap was arranged at that time to give the golf club ownership of the land where the first six holes of the golf course are located and to give the community the 58 acres for a range of sporting activities.

As the Honourable Elaine Carbines, the other member for Geelong Province, would be aware, the 58 acres is once again the subject of much interest and community focus, given that the Barwon Heads Football and Netball Club is faced with the prospect of moving from Crown land it occupies within the Barwon Heads Caravan Park, which is controlled by the Barwon Coast Committee of Management, and an ideal relocation spot would be the 58 acres. To that end, Mrs Carbines has been charged with the responsibility of chairing a working party to investigate the best location not only for the football and netball club but for all the sporting and other community groups in Barwon Heads.

That process is under way at the minute, and not only am I interested as a local member and resident, but everyone in the area is interested to hear the outcomes of that working party. I trust it will deliver a good result for the Barwon Heads Football and Netball Club.

Again I have to declare an interest, having been afforded the most humbling title of the no. 1 ticket holder for the Barwon Heads football and netball clubs for the 2001 season. I can tell the house that on Saturday they kicked off the season with a resounding victory over Portarlington at home.

Hon. P. R. Hall — Who was best on ground?

Hon. I. J. COVER — It was a great team effort — I would not want to single out anyone. The interesting aspect of that process is just where the funds will come from to assist with the relocation of the Barwon Heads football and netball clubs, given that on more than one occasion prior to the last state election the ALP candidate, who is also a Geelong city councillor, declared that the state government should foot the bill for any relocation of the football and netball clubs. As I said, the community is watching with great interest the outcome of that process.

Hansard records that in 1960, when the land swap took place between the 58 acres and that portion of the land occupied by the first six holes of the Barwon Heads Golf Club, a range of organisations in Barwon Heads supported the proposal. They were headed up by the South Barwon Shire Council, which is no longer with us. Another was the Barwon Heads Lions Club, which is certainly still here, but which is now amalgamated with the Ocean Grove Lions Club. Its members do some tremendous work, and there is evidence of that in the form of a playground and a picnic pavilion on the foreshore by the river at Barwon Heads.

Back in 1960 the land swap was supported by the Barwon Heads Returned and Services League and the Barwon Heads Progress Association, and both those organisations are still with us. It was supported also by the Barwon Heads Infant Welfare Committee — and the maternal and child health centre still operates in Barwon Heads today. Back in 1960 the Barwon Heads Football Club, which I have already mentioned, was supportive, as was the committee of the Barwon Heads State School, which is today the primary school. The Barwon Heads Red Cross Society and the Barwon Heads Urban Fire Brigade Committee also supported it, and both are still with us.

One other organisation listed as supporting the move in 1960 was the Barwon Heads branch of the Australian Labor Party. I regret to inform the house that to the best of my knowledge that branch of the ALP does not still exist.

Hon. E. C. Carbines — They still exist. They have expanded into Ocean Grove, they are so big these days!

Hon. I. J. COVER — I am not aware of the branch in Barwon Heads. Interestingly, there was no account of the Liberal Party local branch at the time, but I can assure you, Mr Deputy President, that the branch is with us, and that it is strong and active in Barwon Heads today.

As other speakers have said, the bill is a very sensible measure. It addresses traffic management and safety issues. The golf club is mindful of having a road going through its course, and does its best to assist in providing safe passage for people through it.

If I may be afforded one other plug for a local organisation, I inform the house that the Barwon Heads Primary School will be conducting its Easter fair on Easter Saturday. It will include a fun run starting from outside the school in Golf Links Road at 10 o'clock in the morning, and the runners will run through the course. The club will cooperate by delaying play on the seventh tee, which crosses the road onto the seventh fairway, to allow the 400 or 500 runners to make their way through that part of the golf course.

Hon. P. R. Hall — Is Lee Troop running this year?

Hon. I. J. COVER — Last year, Lee Troop, who represented Australia in the marathon in the Olympic Games, ran at the Easter fair and was the co-winner with Steve Moneghetti. He will not be with us this year as I understand he will be competing in the London marathon, having stayed in Europe following the world cross-country championships in Brussels last Sunday week.

I am pleased to note that a Barwon Heads girl named Joanna Wall represented Australia in the junior world cross-country titles in Brussels, finishing 53rd, and that a noted local teenage Olympian, Georgie Clarke, finished 19th. I have the international individual efforts and will give Mr Hall the times later, if he wants them. The women's team finished fourth in the world junior teams cross-country event. I trust that Joanna Wall will be running as a local resident, and I am sure she will perform very well.

As I said, the fun run goes through that part of the golf course mentioned by other speakers, and the golf club will cooperate by allowing the runners to make safe passage onto 13th Beach Road.

I have great pleasure in supporting the bill and wish it a speedy passage.

Hon. D. G. HADDEN (Ballarat) — I support the Land (Further Revocation of Reservations) Bill, which is a short bill containing just seven clauses, and is important to the localities affected.

The purpose of the bill is:

> … to provide for the revocation of the reservations over several parcels of land, the revocation of a Crown grant and for other purposes.

I will not speak on that aspect of the bill relating to land at Barwon Heads as the Honourable Elaine Carbines dealt with it eloquently in her contribution.

Clause 5 deals with land at South Melbourne, specifically the Charles Grimes Bridge.

Clause 4 deals with land at Ballarat, in which I have an interest as it is in the heart of my electorate. The clause provides for the revocation of the reservation of Crown land in Ballarat that was set aside for an asylum for indigent members of the Old Colonists Association of Ballaarat. It is proposed to revoke the order in council

made on 5 June 1929 and to revoke the Crown grant. The order in council published in the *Victoria Gazette* of 12 June 1929 describes the land in question as 'land permanently reserved, Dowling Forest' and states:

> His Excellency, the Lieutenant-Governor of the State of Victoria, by and with the advice of the Executive Council thereof, doth hereby, in pursuance of the Land Act 1915, permanently reserve and exempt from occupation for residence or business under any miner's right or business licence, as a site for an asylum for indigent members of the Old Colonists Association of Ballaarat, 10 acres of land in the Parish of Dowling Forest, comprised within the boundaries as defined by technical description published in the *Gazette* of the 8th May, 1929, at page 1429.

In my research on the parcel of land, I found an interesting debate in the other place on the then Old Colonists' Association (Ballaarat) Bill on 18 December 1903. Mr Shoppee had moved that the bill be treated as a public bill and moved its second reading. Mr Shoppee described the Old Colonists Association as having:

> … started for the purpose of assisting in sickness the old colonists of Victoria.

He said also:

> Unfortunately for the association, when it had the ground given to it by the government, there was a clause inserted in the grant which prevented the trustees from mortgaging their property.

There was further debate and the end result was that the bill was passed with certain amendments. That allowed the trustees of the Old Colonists Association of Ballaarat under the act of 1903 to borrow money on security of rents so that they could erect buildings on land that they had occupied for some time.

The Old Colonists Association of Ballaarat has a pamphlet available for visitors and its Ballarat members. The pamphlet describes the club's history as:

> … a private club established principally for the social enjoyment of its members. The club which formally commenced in 1888 is the social side of the Old Colonists Association, which started a number of years earlier with philanthropic objectives … The association's flagship is Charles Anderson Grove off Gillies Street which currently houses 35 people in 27 units.

The signpost reads 'Chas Anderson Grove' and is on the northern end of Gillies Street behind the botanic gardens at Lake Wendouree.

During my research I visited the Ballarat Mechanics Institute in Sturt Street, Ballarat, and inspected the old minute books. They contained a history of the Old Colonists Association. An extract from the minutes book states:

> During the seventies a number of fifty-oners used to meet regularly to have a friendly glass together and talk over old times.
>
> and here was formed the Victorian Gold Discoverers of Gold in 1851 and 1852 Association.

That association certainly had a long title! The extract continues:

> At this meeting —

that is, the first meeting —

> the rules and regulations of the association were drawn up and adopted.
>
> The objects of the association were …
>
> to help one another
>
> to relieve any sick member
>
> to assist any member in distress
>
> to provide decent burial to all members
>
> … on 25 October 1883 it changed the name to the Old Identities Association. Only men who had arrived in Ballarat before 1855 were eligible for membership.
>
> …
>
> In 1886 the name was again changed to the Old Colonists Association and the conditions of membership was widened to admit others who had arrived in Ballarat at a later date than the original members —

that is, the fifty-oners, as they were known. The extract further states:

> A move was then made to secure a home for the association. The president, Mr J. P. Murray, gave £400 and with other gifts and bequests the sum of £1490 was attained.
>
> A block of land was acquired in Lydiard Street and on 21 June 1887 Mr J. P. Murray laid the foundation stone of the building. This was one of the functions connected with the celebration of Queen Victoria's jubilee.
>
> …
>
> In the same year, 1887, a social club was added to the association with a bar, billiard table and card rooms … as membership was not confined to the pioneers of Ballarat of whom many had by this time gone to their long home.
>
> Both the association and club were open to any man who was nominated for membership and accepted by ballot. In the year 1901 the balcony was added.
>
> In 1910 the committee secured from the government 10 acres of land in Perry Park for the purposes of erecting cottages where needy old pioneers and their wives could end their days in comfort … The association has never forgotten the objects enumerated when it was formed. Though the 'brother' salutation and the medal and rosette have gone into oblivion a plan to help pioneers who have fallen into poverty has never been allowed to fall into desuetude.

The association applied to purchase the site known as the Chas Anderson Grove cottages, as specified in item 2 of schedule 1 to further its benevolent activities. As assessed, the public land has no value that would warrant its being classified as Crown estate. I support and commend the bill to the house.

Hon. ANDREA COOTE (Monash) — I have pleasure in contributing to debate on the bill. On behalf of the Liberal Party, I support the legislation. As other honourable members have said, the bill deals with three aspects. It deals with the revocation of public land at Barwon Heads, and the Honourables Elaine Carbines and Ian Cover have dealt with that aspect in detail. The bill also deals with the Old Colonists Club in Ballarat, which the Honourable Dianne Hadden dealt with.

I shall direct my attention particularly to the Charles Grimes Bridge in South Melbourne. I will detail its location for honourable members not familiar with it. If you walk from Princes Bridge along the Yarra River you come upon the Yarra footbridge, then Queens Bridge, Kings Bridge and the Spencer Street Bridge. Then you encounter the site of the *Polly Woodside*; everybody knows where that is. From there you arrive at the Charles Grimes Bridge, which is a good conduit between the southern side of the Yarra River to the northern side; and that area affects my constituents significantly.

The third purpose of the bill deals with a mistake that concerns only 90 square metres. A mistake in the bridge's construction caused it to encroach onto a reserve managed by the Yarra Maritime Reserve Committee of Management, which is responsible for the *Polly Woodside* and South Wharf developments. It would have cost $350 000 and caused significant disruption to the traffic flow into the Docklands area and to Docklands Stadium to fix the mistake. The bill should be supported as it tidies up the mistake without anyone having to go to an enormous amount of trouble, particularly as the problem concerns only 90 square metres.

However, I shall examine the position of Vicroads on the issue. The second-reading speech states:

> … Vicroads was engaged to project manage the contract on behalf of the Docklands Authority.

That reference is to the original project where the mistake was made. The second-reading speech further states:

> The current government has sought and been given an assurance by Vicroads that it will take all necessary steps to recover from the contractor the costs of the land acquisition and all other related costs.

I hope Vicroads does a better job than it did initially when project managing the contract. I would like to see some accountability so that Vicroads gets all the money due from the contractor. Amends should be made and the Yarra Maritime Reserve Committee of Management should be fully compensated for the mistake, because matters were not properly considered initially. I commend the government for bringing the problem to the attention of the community. I hope the mistake can be rectified in a speedy and accountable way.

I remind the house of the importance of the Charles Grimes Bridge to my constituents. Before the Bolte Bridge was built the Charles Grimes Bridge carried about 70 000 vehicles daily. I am not sure of the impact the Bolte Bridge has made on that traffic count, but I know future significant housing developments will occur in the Docklands and South Wharf precincts. Residents of those developments will become constituents of Monash province and will need to use the Charles Grimes Bridge to get to the western side of Melbourne in a timely and efficient manner. I am concerned to ensure that traffic flows over the bridge and through the area will be smooth.

I also place on the record the necessity for having a smooth and effective transport system into the Docklands area. An increasing number of residents are living in the excellent housing developments of the Mirvac, Becton and MAB companies. It is pleasing that people are moving into the area and using its wonderful facilities. They are living and will live close to the city, the Yarra River and all the associated water sports and activities on the river.

Not only is the Charles Grimes Bridge important for the residents of Southbank and Docklands it is also important for the larger number of people, residents and the industries within the Fishermans Bend and Webb Dock part of my electorate. Webb Dock is a busy area. It is an important part of the port of Melbourne. It is extremely important that efficient transport facilities are available at all times. A lot of pressure is put on the areas around Pickles and Lorimer streets and Todd Road in Fishermans Bend because of the increasing number of trucks using the area to access the port at Webb Dock.

I hope the government will consider building better road systems through Webb Dock, thereby making it even more efficient. It is important for the issue of Charles Grimes Bridge to be tidied up and for the government to be made accountable for something that was a mistake.

I urge the government to follow up the assurance given by Vicroads, which was stated in the second-reading speech as follows:

> The current government has sought and been given an assurance by Vicroads that it will take all necessary steps to recover from the contractor the costs of the land acquisition and all other related costs.

I support 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 all honourable members for their support for the bill, including the Honourables Phil Davis, Elaine Carbines, Peter Hall, Ian Cover, Dianne Hadden and Andrea Coote.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

HEALTH RECORDS BILL

Second reading

Debate resumed from 22 March; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. M. T. LUCKINS (Waverley) — The Liberal Party does not oppose the principle of the bill. The community has an expectation that government should provide access to personal and individual medical records. According to the second-reading speech, the bill aims to give individuals a legally enforceable right of access to their own health information held by the private sector. It establishes 11 so-called health privacy principles (HPPs), which are standards for handling health information and which will apply to collection of personal health information and how it is used and held in both the public and private sectors.

The Freedom of Information Act will continue to apply to the public sector and will take precedence over the provisions of the bill as a mechanism to access personal health records. It is a companion to and is consistent with the Information Privacy Act that was passed by Parliament during the spring sittings last year. However, the bill is cumbersome, complex and bureaucratic, and is potentially difficult to administer.

Many issues raised by the medical profession and by individuals about the day-to-day management of the provisions of the bill have not been adequately addressed. Members of the community may be forgiven for assuming that the bill relates to records held only by medical practitioners and health institutions, but in reality it goes much further. The bill amends 22 acts of Parliament, only 10 of which relate to health practitioners.

The definition of 'health service' is cumbersome. It basically extends the reach of the act to any individual or organisation that performs activities to assess, maintain or improve an individual's health. All health clubs, weight management centres, sporting clubs, child-care centres and schools, which under regulations may ask parents to fill in forms outlining the health of children, will also be covered by the bill. It will cover the insurance industry, which armed with a family history can determine a genetic pre-existing risk to disease, which knowledge could have an impact on future premiums or lead to the exclusion of individuals who are considered to be high risk from gaining insurance coverage.

Members of Parliament are also caught by the legislative net. I am sure my experience is no different from that of other colleagues in that quite often constituents present to me their concerns about access to health care or the treatment they have received. Often constituents pass on their own records to members of Parliament, who in turn often take notes about cases on the representations made to them. The bill clarifies the right of individuals to access their own medical records and to pass them on at their discretion. However, the definition of 'health information' includes any notes, information or opinions taken by honourable members. Under the legislation such information must be kept, which will be quite onerous.

In the bill a health service provider is defined as:

> … an organisation that provides a health service in Victoria to the extent that it provides such a service but does not include a health service provider, or a class of health service provider, that is prescribed as an exempt health service provider for the purposes of this act …

In summary, medical practitioners and other individuals, including members of Parliament, are dealt with differently in the bill.

Principle 4 of the health privacy principles relates to data security and retention. Subparagraphs (i) and (ii) of principle 4.2(b) provide that information collected about a child must be kept until he or she attains the age of 25, and that in all other cases the information must be kept for seven years. Honourable members will be aware that the average duration of parliamentary service is approximately seven years, and quite often members lose their seats after three or four years. It is very rare for information on constituents to be passed from member to member, even when a party has retained a seat, so compliance with the bill will be a challenge for us all.

As a member of the Scrutiny of Acts and Regulations Committee, I serve on a subcommittee that deals with a privacy code for members of Parliament. The terms of reference given to the committee by the Minister for State and Regional Development include:

> The committee shall investigate and make recommendations for a privacy code for members of the Victorian Parliament with due regard to the following:
>
> (i) current and emerging communications technologies;
>
> (ii) the nature of work undertaken by members in different capacities across the Parliament;
>
> (iii) developments in privacy legislation in Victoria and other jurisdictions;
>
> (iv) existing legislation and regulations relevant to the conduct of Victorian members of Parliament;
>
> (v) associated issues of parliamentary privilege.

The committee has been asked to report back to Parliament by 31 December this year.

My concern is that the government has gone ahead with the legislation without affording the committee time to go through the inquiry process and address issues of how honourable members should handle privileged information provided to them. I am not arguing for an exemption for members, but I raise this issue as an example of how the legislation will present challenges for compliance across the community. Voluntary committees of management at kindergartens, operators of children's services and schools will also be caught in the net. The challenge will be for those organisations and institutions that have collected information on every child they have come into contact with to store and retain those records until the child reaches the age of 25. The government has a responsibility to ensure that all health services and providers as defined in the bill are advised of their obligations.

Clause 17 exempts media organisations. It states:

> Nothing in HPP 1 or HPP 2 applies to the collection, use or disclosure of health information by a news medium in connection with its news activities.

I would have thought the news media should not be provided with an exemption in respect of the privacy of an individual's health records. An explanation is yet to be provided as to why that is the case.

The requirements for the medical profession are very strict. The bill overturns a decision of the High Court in the 1996 case of *Breen v. Williams*, in which the court found there was no enforceable right for a patient of a private doctor to have a copy of his or her health records in either common law or equity.

The bill makes provision of a health service an implied term of contract and allows an individual to have access to his or her records in accordance with the provisions of the legislation.

Clause 25 refers to right of access. Clause 25(2) makes clear that right of access applies to all health information collected on or after the commencement of the act. Clause 25(3) sets out provisions for access to the health information collected before the commencement of the act. It refers to history, findings on an examination, results of an investigation, diagnosis, plan of management, action taken or services provided, and personal and genetic information. That is far reaching. Under the provisions any information previously collected by a medical practitioner should be summarised if the individual applies for access to his or her own records. It is an onerous provision because it will take some time to review the file, make notes and summarise into a lay form all the information provided during what might have been a long medical history of an individual. It is a heavy burden for a medical practitioner.

The applicant may be dissatisfied with the summary and wonder what has been left out. It is up to the individual practitioner to decide what should be included or excluded. A medical practitioner in attempting to avoid his or her legal liability may not disclose all the information that is potentially damaging to that practice. Individuals who are dissatisfied with the summary will have no right of appeal.

Clause 32 deals with fees that can be charged by an organisation. The question has to be about access and equity for applicants versus the cost of recovery for a health service provider as defined in the bill. As mentioned earlier, that does not just mean a medical practitioner or medical institutions, but many different organisations.

Clause 32(3) refers to a prescribed maximum fee. Subclause (4) states:

> A person who gives an explanation of health information to an individual under section … may charge a fee for the service that does not exceed the amount of the person's usual fee for a consultation of a comparable duration.

The provision raises two issues. The first is that an explanation provided by a medical practitioner to an applicant cannot be charged for at more than the usual fee charged by the practitioner. There is no doubt doctors will be out of pocket given the time they will have to use to go through their notes or files and summarise the information. The applicant may also be dissatisfied because he or she will have to pay the cost for a medical practitioner or even a specialist, whose consultations are approximately $100 to $200, to provide information to them in a summarised form.

There are concerns about how the provisions relate to the Medicare agreement. Is the provision of the service able to be charged against Medicare? I would be interested to know whether the government has consulted with the federal health minister or his department about the implications of the provisions of the bill.

Clauses 26 and 36 refer to the discretion to refuse to provide records to an individual if it poses a serious threat to the life of the individual or any other person. That is a discretionary judgment on the part of an individual, usually a medical practitioner. No-one can know how an individual will react to news about a prognosis, a treatment, the way records are compiled, comments noted about the character of the person or the health of the person. The doctor may make notes about the mental health of an individual presenting with non-medical symptoms. These records will be available to the individual. I have difficulty with those clauses because it is difficult to be objective, to use one's discretion and presume whether or not a person will react badly to news about his or her health.

Clause 30 allows an individual right of access to records provided he or she has written authority for access to be provided. Clause 85 refers to authorised representatives being able to access information on behalf of other individuals. Clause 85(6) indicates that an authorised representative may be a guardian, an attorney, or an agent of the individual within the meaning of the Medical Treatment Act; an administrator or a person responsible within the meaning of the Guardianship and Administration Act; or a parent of an individual if the individual is a child.

That brings me to the issue of parents of competent children. Under the definitions provision, a child means any person under the age of 18 years. Clause 47 refers to complaints by children or people with an impairment and the fact that they can be represented. Clause 85(2) refers to an individual child incapable of making a request. It states:

> If this Act empowers an individual to request access to, or the correction of, health information or confers on an individual a right of access to health information, the power to make that request, or the right of access, may be exercised —
>
> (a) by the individual personally, except if the individual is a child who is incapable of making the request.

The provision opens up a can of worms because there is the vexing issue of the rights of a child, parent or guardian. Given that the bill defines a child as anyone under the age of 18 years, one would assume parents have the right to access records on the child's behalf, but we know from experience that many young people under the age of 18 years visit doctors without parental consent or knowledge. It is a difficult area because a child may seek advice or treatment for drug addiction, contraception, sexually transmitted diseases and so on. In the case of a young person who has suicided parents may not have an automatic right to access information provided in counselling by a school counsellor or a medical practitioner about the build-up of suicidal thoughts over a period. We must make a judgment about the competency of the child.

During the departmental briefings officers made it clear that if the child is deemed by the practitioner to be competent to seek medical attention he or she would be deemed an individual within the meaning of the act and therefore the parents would not have the right to access the health records of that individual. I have some problems with that.

Clause 44(2) refers to records outside Victoria. It states:

> … applies to a contract, whether or not the individual is a party to the contract, made after the commencement of this section and —
>
> (a) the contract is made in Victoria; or
>
> (b) the contract has been, or is to be, performed wholly or partly in Victoria; or
>
> (c) the individual is present or resides in Victoria when the contract is made.

However, clause 44(3) provides that:

> … it is immaterial whether —
>
> (a) the health service was provided in Victoria; or

(b) the health information is kept or located in Victoria.

The bill seeks to extend the rights of the Victorian government or the Victorian legislation into other jurisdictions where the information kept relates to Victorians.

Part II, division 1, section 16 of the Constitution Act states:

> The Parliament shall have power to make laws in and for Victoria in all cases whatsoever.

However, such powers stop at the borders. One cannot have control over other jurisdictions. Border communities, such as Albury-Wodonga and Echuca–Moama, face those challenges every day. It will be interesting to see if the act has any jurisdiction outside Victoria.

The bill gives the Health Services Commissioner much more responsibility and discretionary power. Yet the bill and the second-reading speech are silent on resources and staff and whether any further resources will be made available to assist the Health Services Commissioner in her expanded role.

Clause 87 outlines the functions of the Health Services Commissioner which are far reaching. They include:

> … to promote an understanding and acceptance of the Health Privacy Principles …
>
> … to issue, approve or vary guidelines for the purposes of the Health Privacy Principles …

I am a member of the Scrutiny of Acts and Regulations Committee (SARC). The members of the committee have often voiced their concerns about the proliferation of guidelines and codes rather than regulations or legislation that can be properly scrutinised by the committee and therefore the Parliament. Under the bill, the Health Services Commissioner has wide discretionary powers to make and vary guidelines.

According to the bill another part of the Health Services Commissioner's role is:

> … to publish model terms capable of being adopted by an organisation …

Under clause 87(d) she is also to:

> … receive complaints about an act or practice of an organisation —
>
> (i) that may contravene a Health Privacy Principle; or
>
> (ii) that may interfere with the privacy of an individual or may otherwise have an adverse effect on the privacy of an individual.

Clause 87 further provides for the Health Services Commissioner:

> (e) to investigate, conciliate and make rulings on complaints …
>
> (f) to serve compliance notices on organisations …
>
> …
>
> (i) to monitor and report on the adequacy of equipment and users safeguards …

It is quite a diverse role. She is also to provide advice to organisations about matters relevant to the act, to examine and assess the impact on personal privacy of any act or practice, to make suggestions to any individual or organisation about any matter that concerns the need for or desirability of action by an individual or organisation, and to protect the privacy of health information. They are far-reaching functions and powers.

Clauses 115 and 116 refer to the Scrutiny of Acts and Regulations Committee. As I mentioned before, SARC is already looking at a privacy code for members of Parliament. Clause 115 also makes changes to the Parliamentary Committees Act by inserting proposed subparagraph (iiib), which states:

> … unduly requires or authorises acts or practices that may have an adverse effect on privacy of health information within the meaning of the Health Records Act 2000.

One of SARC's terms of reference will have to be to consider all legislation that comes before the committee and ensure that the principles of this act are enforced.

Clause 116 amends the Subordinate Legislation Act and inserts proposed paragraph (gh), which states:

> … unduly requires or authorises acts or practices that may have an adverse effect on privacy of health information within the meaning of the Health Records Act 2000.

Both acts and regulations will have to be assessed to ensure they do not impinge on the requirements of this act.

The bill contains a section 85 statement, the reasons for which are outlined in the second-reading speech. As part of its terms of reference the Scrutiny of Acts and Regulations Committee has investigated and considered the section 85 statement. It found that the statement is in keeping with its requirements. When the Kennett government was in office, the opposition was very loud about the use of section 85 statements.

Hon. R. A. Best — I want to hear the Honourable Theo Theophanous's contribution.

Hon. M. T. LUCKINS — He is apparently making profuse notes as I speak so I hope he will touch on this subject. Certainly Mr Theophanous and others were vocal about the use of section 85 statements and were concerned about the so-called limitation of civil actions or the creation of legal rights enforceable in any courts or tribunals. I will be interested to hear Mr Theophanous's contribution on that.

In conclusion, the legislation is complex and unwieldy. The high compliance requirements on all sections of the community are daunting. Given the sensitivity of personal health information and the steep penalties for offences for non-compliance with the act I urge the government to inform all individuals and organisations of their obligations and rights under the act. The opposition does not oppose the bill.

Hon. T. C. THEOPHANOUS (Jika Jika) — I congratulate the minister on the bill and also thank the opposition for not opposing it. This important bill seeks to establish standards for the handling of health information which are to apply to the collection of personal health information.

I understand some of the issues raised by the Honourable Maree Luckins and I will comment on some of them. I understand some people in the community have concerns about the issues covered by the bill. I spent about seven years as the opposition spokesperson on Workcover and during that time I came into contact with vast numbers of people who at times gave me copies of their health records but who at other times had difficulty in accessing those health records where there had been a breakdown in communications with their doctors, or lawyers, or for some other reason. It was a problem about which I was acutely aware during the course of dealing with people in the specific Workcover area.

This bill attempts to restore to people a basic right: the right of access to information about them — health information in this instance. In that context the bill pursues an admirable principle, but putting that principle into place is not an easy matter at all. It is a very complex matter, as can be seen by the complexity and size of the bill.

As the Honourable Maree Luckins pointed out, this is a very complex bill. But it is complex because, although the principle is simple and one which presumably we would all support in an ideal world, a range of institutions are involved, ranging from voluntary committees in kindergartens — which Mrs Luckins mentioned — to health organisations, community health centres and so forth. A range of organisations may hold these sorts of records.

Before I go on to discuss the bill, I shall address a couple of the issues raised by the Honourable Maree Luckins. She mentioned the resources that will be available to the Health Services Commissioner. It is important that the commissioner is properly resourced in order to carry out her functions under this legislation. I understand the minister has given an undertaking that the commissioner will be adequately resourced to undertake those functions. The important point to make is that the response from the minister is that the commissioner will be adequately resourced.

A point was made about the exemption of media organisations. I guess the issue here is that media organisations are exempted in our community from a number of things because another principle is also involved. Alongside the principle of the right to know, with which we are dealing in this legislation, is the principle of freedom of speech and the right of media organisations to protect their sources and what that means in a free society. The judgment was made that that principle should not be compromised by this bill.

Hon. M. T. Luckins — It is also a matter of confidentiality, though.

Hon. T. C. THEOPHANOUS — That was the judgment made.

Finally, I was challenged by the previous speaker to make a point about the use of a section 85 statement in this bill. If you want me to describe the difference between the present government and the previous government on this particular issue — —

Hon. M. T. Luckins — No, you've tried to get around it.

Hon. T. C. THEOPHANOUS — I shall describe it in the context of this legislation in the following way. Section 85 of the Constitution Act as it applies in this bill is designed to enhance people's right to get access to information. So, in fact, the section 85 statement in this bill gives them increased rights.

Hon. M. T. Luckins — No, it actually reduces their rights.

Hon. T. C. THEOPHANOUS — Whereas the application made of it by the previous government was, as in the case of the Workcover legislation, to remove the common-law right to sue. That was clearly and specifically designed to remove a fundamental right

that people had — the right to sue for injury in the workplace.

The use of section 85 in this bill is a mechanism to allow people to have increased rights, whereas its use in the Workcover case by the previous government was designed to reduce people's rights. I dare say that if you conducted a rigorous analysis of the legislation that has been passed by this government and the legislation of the previous government, you would find that in the vast majority of cases the previous government's use of section 85 was done very much to reduce people's rights.

Hon. M. T. Luckins — But the section 85 statement in the second-reading speech on the bill says it is not intended to create any other legal means of enforcing those rights.

Hon. M. M. Gould — They've got VCAT or the Health Services Commissioner. That's where they go if they've got a concern — VCAT or the Health Services Commissioner. You didn't even allow them to go anywhere.

Hon. T. C. THEOPHANOUS — As the Minister for Industrial Relations says, people have a right to go to VCAT. However, as I said, the specific limitation in this bill is in fact designed to give a greater right. It is designed, in effect, to allow people to get access to their medical records. So it is not there to stop them from being able to sue at common law, as was the case in the Workcover legislation of the previous government.

As I said, the bill gives individuals a legally enforceable right of access to their own health information contained in records held in the private sector and establishes health privacy principles that will apply to public health information used and held in both the private and public sectors.

This bill is a companion to the Information Privacy Bill that the government has already introduced in Parliament. As the minister said in the second-reading speech, the government decided to confine the operation of the Information Privacy Bill to the public sector and funded agencies; it has taken the view that in the case of health information broader legislation is required. That is why we have the bill now before the house.

Rather than going through all the details of the bill, which is quite complex — some of that complexity has been highlighted by the previous speaker — I shall focus on some of the issues that have been raised by people in the community. For instance, the Australian Medical Association has raised the issue of the so-called retrospectivity of the bill. I think a similar issue was raised by the opposition.

It has been a concern of some health providers, including the AMA and also the Royal Australian College of General Practitioners, that the bill establishes a right of access to health information that was collected before the introduction of this proposed law. It is very important to carefully weigh how this bill deals with this very significant problem. Had a bill been introduced that did not deal with pre-existing information it would have had a very limited effect indeed. It would be starting only from the date of enactment of the legislation, and all the mountains of current health information would not be included in its ambit; that would not be appropriate. It was important for the government to weigh up the various arguments.

One of the key concerns was that pre-existing records were created at a time when the provider was under no legal obligation — the so-called retrospectivity argument — to provide patient access. So the argument is, to put it simply, that it would be unfair to now impose a legal obligation on the provision of such information when that legal obligation did not exist at the time the information was gathered. But the other side of the argument is that individuals and organisations representing consumers have repeatedly argued that individuals should have an enforceable right to obtain that information.

There are those two sides to the argument, but ultimately the government decided that it was appropriate for pre-existing information to be obtained. For example, if a patient planned to move interstate or otherwise wished to obtain a copy of their health information, the information given to them would be incomplete if it included only those details that were recorded after the new law came into effect. It would be a one-sided report indeed.

The bill attempts to balance these competing concerns by providing limited access to information on pre-existing complaints — the right of access does not apply to the entire record; instead, an individual is entitled to items of pre-existing information such as a treatment history or a diagnosis of condition — and that this information should be available as it may be relevant to the current and future treatment of the individual concerned. This is a good compromise because it allows a summary to be given of the pre-existing condition without all of the detailed information necessarily being provided, which may be voluminous. That is apart from the other issues of, firstly, every comment that may have been written down by a medical practitioner in the context of their

not believing that access would ever be made available, and secondly, whether all those comments should be made available. It was a reasonable compromise on a difficult issue.

The matter of compliance costs and the way regulations will be put in place has been raised. There must be a balance between on the one hand cost recovery and on the other hand not making the costs so high that it becomes a prohibitive exercise for most people in the community. Organisations will be able to charge reasonable fees to recover costs associated with providing access to records. A regulatory impact statement of the process will be carried out to determine the appropriate level for maximum fees for providing copies or summaries of records, which will be fixed in regulation. This will involve consultation with organisations covered by the bill and with consumers. The additional costs associated with complying with the other privacy principles in the bill, such as those regarding the security of information, should be minimal. The government has attempted to strike a balance in the way the bill will be implemented.

Another issue might be called dual regulation — that is, the coverage by both the commonwealth and the state.

Hon. M. T. Luckins — The Medicare agreement!

Hon. T. C. THEOPHANOUS — Yes. The government considers the commonwealth's private sector privacy laws will not provide adequate protection for sensitive health information and that therefore state legislation is required. It is for that reason that, unlike the commonwealth government's act regarding privacy information, the Health Records Bill will apply to the private sector — one does and the other does not.

The Health Records Bill will provide superior protection because it will ensure, among other things, uniformity. It will establish uniform standards for the Victorian public and private sectors. This is important for the many consumers who move between the two sectors, such as patients who are referred by their general practitioners to public hospitals and then to private hospitals. It guarantees that the information is equally protected regardless of whether it is in the hands of a private provider or a public provider.

I turn to the way the bill applies to the records of children, because it is important that the bill deal appropriately with the rights of children.

Hon. M. T. Luckins — And the rights of parents!

Hon. T. C. THEOPHANOUS — And the rights of parents. The bill has been designed to do that, and does so in a number of ways. Under general law a minor has legal capacity and may consent to undergoing a medical treatment. In such cases the consent of the minor's parent or parents is not required. For example, a 15-year-old may be capable of consenting to receiving contraceptive advice from a general practitioner if they have sufficient maturity and understanding to appreciate and agree to what is discussed. This includes having the ability to comprehend the advice given and the consequences of the treatment. Whether a minor will have such legal capacity varies depending upon the maturity of the individual and the nature of the treatment. There is no fixed age.

The bill does not change this aspect of the current law and simply reflects the general legal position. The use and disclosure of health information is necessary to enable health services to be provided. Similarly, a minor may wish to obtain access to records because he or she is changing practitioner and would like the new practitioner to have his or her medical history. The bill does not create new powers of the medical decision making for minors beyond what is available.

With regard to disclosure of information, where a minor has the legal capacity to do so, he or she may consent to the use or disclosure of health information for the purpose of medical treatment. If he or she does have this capacity then the consent of the parent or the guardian is not required. In cases where he or she does not have this capacity then the consent of the parent or guardian is required.

I conclude by congratulating the minister on introducing this legislation. All of us who have had dealings in the past with constituents will know that the issue of the capacity to get hold of one's medical records has been raised many times. For many, in the past it has been a struggle because of the attitude among some medical practitioners that those medical records belong not to the patient but to the doctor.

Hon. M. T. Luckins — That is what the High Court held.

Hon. T. C. THEOPHANOUS — As the Honourable Maree Luckins said, that is what the High Court held. The High Court judgment is a matter of law and not a matter of what is most appropriate in our community. I believe the most appropriate situation in our community is that the right of access to medical records ultimately belongs to the patient and not to the doctor. The bill attempts to provide access to those medical records through a change in legislation.

This is complex legislation that deals with sensitive and controversial issues in a way which will allow people to have a net increase in their rights and their capacity to access their medical records. I commend the bill to the house.

Hon. R. A. BEST (North Western) — It gives me pleasure on behalf of the National Party to contribute to the debate on the Health Records Bill and to advise that it will not oppose it. Although my colleagues and I have some reservations about how it will impact on the many sectors and organisations in the health system, we feel there is general acceptance across the community and a range of health agencies that this government indicated prior to the last election that it would introduce such legislation. Therefore, we are prepared to support it.

However, the government has a lot of work to do. I agree with the Honourable Maree Luckins and other honourable members from our side of politics who express concern about the confusing and broad way in which the proposed legislation has been written. A lot of work needs to be done to explain to many people across the health sector the implications contained in the bill. A great deal of confusion will arise when the bill has been enacted, and when the government implements the legislation it must be conscious of the need to take the health community with it.

The second-reading speech states that the bill is a significant step forward in strengthening the rights of users of the health system. It will give individuals a legally enforceable right of access to their own health information, which is contained in records held in the private sector. It will also establish health privacy principles that will apply to personal health information collected, used and held in both the public and private sectors. As was explained by both previous speakers, this is companion legislation to the Information Privacy Bill introduced in the autumn sessional period last year, which applied to all information other than health information.

The bill provides a framework that will protect the privacy of a person's health records and provide them with a right to access those records. As the National Party shadow spokesperson responsible for health issues I have contacted a range of organisations within the health field and spoken to general practitioners. I will refer later to two responses I have received, one from the Australian Medical Association and the other from the Victorian Healthcare Association, because although there is general acceptance of this type of legislation there is also an acknowledgment that the principles associated with the rights of the individual are very important.

Concerns are held about the lack of clarity of some aspects of the proposed legislation and how it will impact on the various organisations identified as being holders of health information. The bill covers not only health provider organisations and private practitioners but also non-health providers, who may not currently understand that they will be covered by the legislation. Schools, fitness facilities such as gyms, employers who hold Workcover or health records, and even health insurance companies, will all be held accountable under the legislation. I suggest to the government that it conduct an extensive community education and information program to ensure that each of the individuals, organisations and groups covered by the bill, whether they be community health centres, private practitioners or whoever, are aware of how the bill will affect the way in which they hold, store and retain medical records.

Currently individuals can apply for their health information from public health provider agencies such as public hospitals but not from private sector providers. As you would be aware, Mr Acting President, many people seeking medical treatment use a range of health services. They may attend a general practitioner, who will refer them to a specialist, who will then refer them to a hospital, radiologist or other provider of health care for treatment. Each of those health service providers needs to ensure that the medical records they keep are accurate, up to date and stored in a manner in which people can have access to them.

In rural areas in particular, such as my electorate which covers a large part of north-western Victoria, there are many different health service models and it is important that there be a commonsense way in which health records are kept within those organisations to ensure that all treating practitioners update the files of the people treated.

The bill will give people certainty about the manner in which their health records are collected, used, disclosed and stored. The bill applies to all personal health information collected by public or private health service providers in Victoria.

Examples of the different kinds of personal health information that will be collected include traditional medical records — that is, those containing information about the physical, mental or psychological state of a person — as well as information relating to the suitability of a person to be an organ donor. A range of personal health information needs to be kept.

Under the bill health organisations will include natural persons and incorporated or unincorporated bodies, regardless of whether they are health providers. The term 'health services' will include the types of treatment provided, such as assessment; diagnosis or treatment of an illness, injury or disability; aged care or palliative services; and the dispensing of prescriptions. As I said earlier, non-health service providers will include health insurance companies, employers, schools, fitness centres or gyms, all of which need to be very conscious and aware of the responsibilities that will now be imposed on them to keep and store their health records. I will refer a little later to other aspects of the bill relating to the length of time that records are to be kept when somebody dies.

Schedule 1 is important because it sets out the 11 health privacy principles associated with the bill. The Victorian Healthcare Association had some comments to make on those principles, and I will refer to those comments shortly.

The privacy principles cover the following issues: when, how and where health information may be collected and given and how to resolve issues regarding information given in confidence; the use and disclosure of information; data quality; data security and retention; openness about information held; access to and correction of information; identifiers; anonymity; and transborder data flows, which is an important issue for me, representing as I do areas like Mildura and Swan Hill on the Murray River where people seek treatment on both sides of the border. Because Victoria has the larger towns, in most cases people come to the Victorian side of the border to seek treatment from a Victorian health institution, therefore it is important that there be an opportunity for transborder data information to be processed. The privacy principles also cover the transfer or closure of the practice of a health service provider, and the making available of information to another health service provider.

One of the major issues raised with me was fees, to which the Honourable Theo Theophanous also referred. It is appropriate to read into the record part of a letter sent to me by the Australian Medical Association to ensure that the government understands from where that organisation is coming, even though it may have had access to the minister or his advisers. Insufficient attention has been given to the issue of cost recovery. In the third paragraph of a letter of 19 February, Dr Robyn Mason says:

> Further, section 32 states that a fee cannot be charged for the lodgment of a request for access. Upon a request for access a practitioner will need to review the information sought and determine if the information is suitable for release. If it is not to be released a practitioner is obliged to provide an explanation in writing. A practitioner may devote considerable time in determining that access should be refused, providing a reason for refusal and arranging for a nominated health service provider to assess the ground for refusal. A practitioner may also be required to respond to a complaint for refusal or prepare for an appeal by the individual. Without remuneration this would be grossly unfair. The grounds for refusal may simply be in the interest of the individual concerned.

That encapsulates a number of issues, some of which I will address.

I refer particularly to the enormous responsibility placed on a doctor to consider the information he holds as part of a person's health records. He must consider whether he should refuse access to or provide that information given a patient's medical condition or state of health at the time. Clearly the practitioner has a very difficult judgment to make at that time. Then he must provide the reason for the refusal. Again, invariably that will take time. He may be required to respond to a complaint and that will also take time. It is not unreasonable for appropriate fees to be available to be paid to doctors to recover their costs. I acknowledge that fees can be paid. I have just had an operation and I am thankful for the quality of work of the surgeon, but I note that the fee charged was more than the scheduled fee.

However, a range of conditions and responsibilities are being placed on doctors and appropriate cost recovery should be available to them to ensure quality and high standards are maintained, and that all of the requirements of the legislation are met.

I refer also to the opening paragraph of a letter I received in September 2000 from the Victorian Healthcare Association, which states:

> The Victorian Healthcare Association supports the Health Records Bill and the health privacy principles. In terms of drafting, however, the proposed bill and privacy principles, particularly privacy principles 1 and 2, are very complex, and the use of plain English would greatly assist practitioners to implement the intent of the legislation.

That highlights another of the major points I am making — that given the framework in which the legislation will apply, health organisations will find compliance in many areas difficult unless there is an extensive education and information campaign. Again I urge the government to ensure that there are common definitions across the health sector so that the language will be the same and the information passed through agencies will be understood.

I refer to a couple of other issues. In *Alert Digest* No. 2 of 2001, the Scrutiny of Acts and Regulations

Committee raises a number of concerns about the role of the Health Services Commissioner. The committee questioned whether the extent of the provisions relating to the power of the person in that position subverts the work of legislators in this place. Again the net is being cast extremely wide and honourable members are being asked to take on trust the government's intentions in establishing the principles in the legislation.

I turn to the workload proposed for the Health Services Commissioner, who will need to address a range of issues. Clause 87 sets out the functions and clause 88 the powers of the commissioner. Clause 89 provides that:

> The Health Services Commissioner must have regard to the objects of this act in the performance of his or her functions and the exercise of his or her powers under this act.

Clause 90 is the secrecy provision. Clause 91 provides for the delegation of powers. Clause 92 is headed 'Employees and agents'. Clause 93 is headed 'Offences by organisations or bodies'. Clause 94 provides for prosecutions. There is a range of other extensive powers.

The government has an urgent responsibility to ensure that in its budget to be delivered in May, which is not far off, the allocation provided for the Health Services Commissioner is significantly increased so that her office is resourced to a level that will allow her to comply with the responsibilities she will be given under the proposed legislation.

Finally, I refer to the changes being proposed to the Freedom of Information Act and the other 22 acts that are to be amended by the bill. They highlight the fact that unquestionably the legislation will be revisited. The bill is complex and cumbersome and lacks clarity. A lot of work will need to be done to ensure that when it is enacted everybody across the health sector will understand their responsibilities for collating, recording and storing people's health care information.

I was interested to hear Mr Theophanous's argument about section 85. He put a convenient argument about how the section 85 provision is different from section 85 provisions in other legislation. When in opposition, government members were loud, abusive and denigrating in their comments on section 85 provisions. For the record, I invite honourable members to read Mr Theophanous's comments, because they are convenient. They again show the hypocrisy of the government in embracing section 85 and including such a provision in legislation.

The National Party will not oppose the bill. However, as I said, because of the breadth of the bill, the lack of clarity in certain clauses and the new powers and responsibilities of health and non-health organisations in the community, honourable members will be revisiting the bill over ensuing years.

Hon. J. W. G. ROSS (Higinbotham) — I am pleased to contribute to the debate on the Health Records Bill. The opposition does not oppose the legislation, which is an adjunct to the Information Privacy Bill that passed this house in the 2000 spring session. That legislation did not extend to the private sector. Had the previous legislation been more comprehensive, this bill could have been fully integrated into a complete privacy and access initiative. That point was made during debate on the Information Privacy Bill.

The opposition is pleased that the government has recognised that the health industry has a high level of integration between public and private health care providers and that it is essential that there be a comprehensive approach. It could even be argued that the government, in its enthusiasm, has been a little too comprehensive and that the legislation will inevitably be returned to Parliament for further refinement. However, I will turn to that issue later.

The bill has two main aims. Firstly, it aims to provide consumers of health care services with a legally enforceable right of access to their own health care records that are assembled in the private sector. I make the point in passing that that is complementary to the access that individuals have to public sector organisations under the freedom of information legislation.

Secondly, the bill aims to specify the privacy principles that will apply to personal health information collected by both public and private health care providers. Those health privacy principles are detailed in schedule 1 of the bill and generally follow the precedents established in the information privacy legislation. During debate on the Information Privacy Bill I mentioned the threat to privacy by the merging and management of large databases of personal information. I again issue that warning.

There can be no doubt that this is a watershed in dealing with the access of patients and other clients of health services to their private medical records. The opposition recognises that that reflects in large measure a change in attitude on the part of the community, but the impact of the bill on current health care practices cannot be underestimated. Honourable members will be

well aware that the medical profession in particular has had a history of jealously protecting the information it assembles in the practice of its profession. That principle is enshrined under common law in that common-law principles allude to the fact that the creator of any document owns that document.

That principle was challenged in the 1996 case of *Breen v. Williams*. The published judgment in the matter found that medical records and intellectual property associated with them are the property of the doctor who created them.

There can be no doubt that this is watershed legislation that reverses a long-held principle. It will have its impact at the individual practitioner levels where the information contained in medical records is likely to be less comprehensive than in the past. The retrospectivity provisions about which Mr Theophanous spoke are readily acknowledged — that records that predate the bill will be able to be summarised and interpreted in light of the fact that they were assembled prior to the practitioner knowing that the information could be made available to individual patients. Obviously doctors will think twice about what they include in medical records when they know that at any time a patient may demand access to that information.

I do not argue about the principle of providing access for clients and patients to their medical records. That is in tune with community expectations, but a question remains in that new community standards have an inevitable impact on the quality of information that resides in medical records in future.

The issue I raise for the house is about the quality of information that will be assembled in future and the extent to which this bill, albeit that it is in line with community expectations and is not opposed by the opposition, may result in a decline in the clinical details that could be included in future records.

There are also practical difficulties with, for example, the current practice of certain health practitioners such as radiologists — a practice prevalent in many major public and private hospitals — that components of patients' records such as X-ray films are provided to the patients for their long-term retention. That can have implications for the comprehensiveness of any report a radiologist may make in having records accessed and the fact that he or she is not always in a position to be guaranteed access to the most critical item, such as an X-ray film, in a diagnostic procedure. I am sure there are many other similar examples throughout the health care industry.

What the bill attempts to achieve and what is required is a delicate balance between what may in some circumstances be seen as competing objectives of health care providers in assembling comprehensive client and patient records and maintaining a privacy regime, and providing patients and clients with almost unfettered access to their health care records.

The other point I touch on concerns the definitions contained in the legislation. There is good cause for contemplation of the wide net cast by the legislation and the number of individuals who will be caught in the net who hitherto have not considered themselves to be health practitioners. The second-reading speech is explicit about the scope of the bill. It does not provide an exemption in any of the following categories: employee records held by employers; health information disseminated between corporate entities; political parties or members of Parliament. The net is wide. How those wide-ranging provisions will pan out in practice remains to be seen.

I shall deal briefly with research. I again issue the warning I issued previously about the extent to which patient information databases can be merged under the privilege of research and the compilation of statistics in the public interest. The bill clearly envisages circumstances where large databases such as those held by private and public hospitals can be merged to share information. That is appropriate in many circumstances apart from research.

The Honourable Ron Best described the sequence of events where a person may first present to an individual private practitioner and then move into a public hospital. The way into the health system is often a complex mix between public and private sector activity.

I turn to the issue of separating from, in particular, large hospitals the need for continuity of care through agencies such as the community health program and the provision of services by local councils. In those circumstances there is a need to share information; but that needs to be carefully weighed against the principles of information privacy. Given the exquisite sensitivity of personal health records I certainly expect that individual data cells will be subject to the highest standards of security.

My next point, which has been raised by previous speakers, relates to resourcing and enforcement. The bill gives the Health Services Commissioner, and subsequently if required the Victorian Civil and Administrative Tribunal, unprecedented powers and responsibilities in the application of the act when it is proclaimed. These new responsibilities will be able to

be discharged with the appointment of significant numbers of new staff and infrastructure to support them.

The opposition is concerned that no mention has been made of the allocation of resources to match the attainment of the objectives of the bill. Although the government has recognised that the provision of health information will incur some costs and has made provision in the bill for reimbursement of fees, the fact that maximum allowable fees will be gazetted in due course raises the obvious question of adequate compensation being provided to some of the most expensive practitioners in the Victorian work force.

Significant private sector implications exist for the reimbursement of health care providers that for reasons allowed for in the bill do not provide the information. The truth is that probably more work will be involved in declining a request for access to health records than vice versa, and there is no provision for any reimbursement to be provided in those circumstances. The opposition expects individuals to be able to apply for access to their health records. A practitioner may need to dredge those records with a great deal of professionalism and he or she may come to the conclusion that with regard to the bill it is not in the best interests of a patient to provide that information, yet there is no capacity for reimbursement of the expense in carrying out those activities.

The opposition recognises the competing and complex objectives for the proper handling of health care information. The opposition accepts the need for the government to deal with access by individuals to their own health records, while on the other hand protecting the privacy of those same individuals. Nevertheless, the opposition believes the bill has a number of significant shortcomings that could have been resolved by a more sophisticated approach, and in particular its integration with the Information Privacy Bill. The opposition will not oppose the bill.

Hon. S. M. NGUYEN (Melbourne West) — I am pleased to contribute to debate on the bill. I thank the honourable members who have not opposed the bill, which is important for patients in the private sector. The bill has two aims. Firstly, it will give individuals a legally enforceable right of access to their own health information contained in records held in the private sector; and, secondly, it will establish health privacy principles that will apply to personal health information collected, used and held in both the public and private sectors.

In the lead-up to the last election the Labor Party promised to provide the right of access to consumers who would like information on records being held in the private sector. Currently people are allowed to get information from the public sector but not the private sector. Some consumers attend public health providers and private health providers at the same time to seek information to help them with treatment. The bill will help such people to access information and will give them the right to access their records.

The Honourable Ron Best raised the issue of the applicable fee, and the issue of regulation with regard to section 85 was raised by other honourable members. I am concerned about the fee involved in obtaining information because the private providers might charge higher fees than practitioners in the public sector. There is no fixed fee and I am concerned how consumers will pay the necessary fee to get the information they require. They have to pay not only for the paperwork but also for the hours it takes the consultant to obtain the information required. Some consumers can afford to pay a fee but for some it might be too expensive to get the information, and they might give up or return another time to obtain it. Some people struggle with financial difficulties and perhaps they do not know how to get the information they need.

The bill clearly states that the Health Services Commissioner has the full responsibility of ensuring the community is aware of what provisions have changed, what the standards are and what information can be obtained. An information kit has been prepared to go out to patients and community organisations, such as health and child-care centres, so people will know about the changes in the law and they can more easily access information. They will know that they can afford to pay the money to get the information from the private sector.

The Scrutiny of Acts and Regulations Committee aimed to ensure that when members of Parliament see their constituents, who may request contact with the private sector or seek other information, they can provide appropriate information.

From time to time members of Parliament receive information about the health records of constituents that they pass on to departments or organisations. For example, constituents may be seeking certain rights or information from agencies. They approach members of Parliament seeking help and support. I have had many inquiries from constituents who want me to assist them about these issues. It may be to assist them to solve a problem or to protect their rights. Members of Parliament must be careful when handling private

health records that in passing on those records to persons who we know only over the telephone the records are not misused or forwarded to other parties who are not authorised to see them. We must ensure that we protect the rights of individuals while at the same time addressing their problems.

The bill refers to young people or children who are incapable of seeking information in their own right being able to do so through their parents or guardians. Clause 85 indicates that information can be provided to parents or guardians or others who are acting on behalf of the child.

Many honourable members have contributed to the debate on this bill. The bill will give members of the community greater rights and make it easier and quicker, but without extensive paperwork, to access their personal health records.

I refer to the role of the Health Services Commissioner. She will have the task of informing the community about the information available to individuals. Many members of ethnic communities who I work with often miss out on information because the required information is not printed in their native language. Many ethnic people do not know how to access information. The commissioner will assist older members of ethnic communities seek information and achieve their rights. She will also ensure that the information is not too complicated but is set out simply so all members of the community will understand what it means.

The bill will help many individuals understand their rights and pass on information to their families. Recently I had to go to hospital to assist members of my family and I noted that medical language is difficult for many people to understand. Services provided to people should be clearly set out so they understand all the details of the treatment they are seeking. People need to know all the relevant information before they can decide whether or not they should have an operation. People who have English as a second language often find it very difficult to understand what is going on. When people go to hospital they are often given questionnaires to fill in which state: Are you sick? And they have a yes or a no box to fill in. Many people do not know what is going on or how to answer those questions. It is important for people who are not multilingual to understand their health requirements. I am sure people will look at that carefully and develop a strategy that will assist members of ethnic communities.

I want to summarise the bill. As I said, it is important that the bill passes today because it will help consumers to have more rights and greater access to their health records. It will help people improve their treatment, give them more choices and assist them to understand their health needs.

The bill will also help the commission to monitor the community and to ensure that everyone clearly understands the implications before they make their judgments, especially consumers from non-English-speaking backgrounds. I support the bill.

Hon. ANDREA COOTE (Monash) — I am pleased to speak on the Health Records Bill and do not oppose it. As other honourable members have said, it is a complex bill which contains more than 100 clauses. As the Honourable Ron Best said, it is complex and confusing. The honourables Maree Luckins and John Ross comprehensively dealt with all the clauses and adequately covered a number of the concerns that the Liberal Party has with the bill.

Essentially, the bill deals with privacy. Privacy is important to people. They need to be confident that their private records are treated with confidentiality and dignity by the system. It is important that people understand that the records pertaining to their personal health and wellbeing are stored properly and collected adequately and with security. It is important for fundamental human rights and patients' rights. Indeed, rights is one of the elements that is dealt with comprehensively by the bill, and the right to access information is an important element.

I refer to the Health Services Commissioner's annual report for 1999–2000. On page 28 the report states that:

> Rights issues accounted for 255 or 11 per cent of all complaints compared with 220 for 1998–99. Rights issues included breaches of confidentiality and privacy, unprofessional conduct and failure to provide reasonable access to records.

It can be seen from that report that rights are very important.

The second-reading speech refers to the right of access to information. It states that the bill:

> will also enable individuals to check the accuracy of health information held about them …

I refer back to the Health Services Commissioner's annual report. Under complaints made in relation to rights it lists 30 per cent as being concerned with the access of records and a further 6 per cent being concerned with the accuracy of records. Obviously

those issues are very important to the people concerned. We cannot underestimate the importance of that when we are debating the bill.

The honourables Maree Luckins and John Ross adequately and comprehensively covered a whole range of aspects provided for by the bill. I am most concerned about the provisions dealing with the Health Services Commissioner. Before being elected to Parliament I was the president of the Health Services Review Council. At page 6 of the 1999–2000 annual report of the Health Services Commissioner, the role and functions of the Health Services Review Council are stated as follows:

> The council plays a strong advisory role, and works closely with the Health Services Commissioner.
>
> Section 14 of the Health Services (Conciliation and Review) Act requires the council:
>
> (a) to advise the minister on the health complaints system and the operations of the commissioner;
>
> (b) to advise the minister and the commissioner on issues referred to it by the commissioner; and
>
> (c) with the minister's approval to refer matters relating to health service complaints to the commissioner for enquiry.

My successor as president of the Health Services Review Council is Michael Gorton. He has done an excellent job and I commend him for the professional way in which he is steering the council.

The current role of the Health Services Commissioner is, as described on page 7 of the annual report:

> The office of the Health Services Commissioner was established in Victoria in 1988. The commissioner's role is to receive, investigate, and resolve complaints from users of health services, to support health care services in providing quality health care and to assist them in resolving complaints. The legislation also requires that information gained from complaints should be used to improve the standards of health care and prevent breaches of these standards.

During her contribution to the debate the Honourable Maree Luckins said that the bill created important and significant increases in the responsibilities of the Health Services Commissioner. The current Health Services Commissioner is Beth Wilson. I was privileged to be part of the panel that appointed Beth Wilson. She has done an excellent job and I take this opportunity to compliment her on the professional way she conducts her business and the way she has taken the office of the Health Services Commissioner into the public arena. Her legal background has given her an important understanding of the legalities involved, and she is an extremely authoritative advocate — a professional person in charge of a vital service. I can think of no better person to take on the additional responsibilities that have been given to the Health Services Commissioner by the bill. If anyone can, Beth Wilson can take the bill forward, give it the professionalism it needs, and ensure that the additional responsibilities are covered adequately. She enhances the whole role of the commission.

The bill deals with education and guidelines. The second-reading speech states that:

> The commissioner —

that is, the Health Services Commissioner —

> will also have the function of issuing or approving binding guidelines as required under the health privacy principles, and will have an important role in educating the community about the operation of the legislation.

Just passing the bill will not be sufficient. A large educative program of the guidelines will need to be conducted. As has been mentioned today, for the first time people such as members of the police, members of Parliament, those who run gymnasiums and other members of the community will be concerned with the privacy issue. They will also need to be involved in the guidelines education program. A proper understanding of what is involved is imperative if we are to build trust and confidence in the community.

We need to be told how the guidelines will be implemented. It is important that the community and the practice managers of large medical practices understand the guidelines and the implications and ramifications of the bill. It is important that the Health Services Commissioner uses this educative process to make certain the general practitioners, the community, the practice managers, and the health service providers are clear about what the guidelines mean and what the implications are for them.

As additional and extensive powers and responsibilities will be given to the Health Services Commissioner, it is imperative that additional funds are provided. Once again, as the honourables John Ross and Maree Luckins have said, there is no provision in the bill for additional funding for the Health Services Commissioner. I was interested to hear the Honourable Theo Theophanous say that the minister had considered it and would make certain it was adequately resourced.

Hon. M. T. Luckins — I think he said he had made an undertaking.

Hon. ANDREA COOTE — As the honourable member said, he has made an undertaking to make certain it is adequately resourced.

I certainly hope that is the case because a lot is involved in educating the groups honourable members spoke about before. As the Honourable Sang Nguyen said, we must remember that that education must include the multicultural community; we must ensure that the non-English-speaking community understands what this is about. The costs involved in doing so will be significant.

I shall finish by making a comparison between what happens in New South Wales and what happens in Victoria. The name of the New South Wales organisation that gives this advice is the Health Care Complaints Commissioner. The New South Wales commissioner has a similar caseload to that of the Victorian Health Services Commissioner. The Victorian commissioner has a staff of 16 and a budget of $1.4 million. However, the New South Wales commissioner has a staff of 70 with a budget in the vicinity of $5 million to $8 million — so the New South Wales commissioner has a significant additional budget.

As I said, I was very pleased to hear that the minister has undertaken to adequately resource the Victorian Health Services Commissioner, and I call on the minister to make certain that the funding meets the same level that the New South Wales Health Care Complaints Commissioner receives. I would like to see the Victorian commissioner, with the additional responsibilities given in this bill, being funded in the vicinity of $5 million-plus. I am sure the minister will take that on board and consider that as being adequately resourced.

Once again I commend the excellent work of the Health Services Commissioner. I reiterate that this is a complex, complicated and unwieldy bill. But I believe its thrust is in the right direction. Privacy must be protected at all stages so that the community feels confident that private records are being dealt with adequately and securely. I do not oppose the bill.

The DEPUTY PRESIDENT — Order! I am of the opinion that the second reading of this bill requires to be passed by an absolute majority.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! I ask honourable members supporting the passage of the legislation to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank the Honourables Maree Luckins, Theo Theophanous, Ron Best, John Ross, Sang Nguyen and Andrea Coote for their support of the bill.

The PRESIDENT — Order! Again I ask honourable members supporting the legislation to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

FAIR EMPLOYMENT BILL

Second reading

Debate resumed from 22 March; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. W. R. BAXTER (North Eastern) — The Fair Employment Bill is a fraud upon the employees of Victoria, particularly the lower paid employees whose expectations have been raised by the government's rhetoric. The bill is also a fraud upon the employers of Victoria, especially those in small business who will be unduly hampered and put to great cost if it passes into law. And the bill is a fraud on the people of Victoria as a whole because it will go towards undermining development and growth in this state. It will be yet another reason that businesses look elsewhere to make investments.

This bill is born of ideological obsession down at the Trades Hall Council in Lygon Street. It is straight out of the bible of trades hall. It is also born of panic because trades hall has seen union membership decline over the

past decade or so to the point where, as reported in the weekend newspapers, only 25 per cent of employees are now union members. Only one in four employees deems it worth while to pay a membership fee. I dare say that figure would be even lower if it were not for the closed-shop arrangements that operate in some industries and in some areas — particularly the public service where it is virtually no ticket, no job.

I can well understand why trades hall is getting into panic mode. It is seeing its membership decline and, more particularly, its income dribble away. It is seeing people reject what the unions have to offer. It sees itself becoming more and more irrelevant in the scheme of things in the Victorian community. In the past decade or so people have embraced choice with open arms. They have the ability to make their own decisions, negotiate for themselves and not be dictated to by the Trades Hall Council.

The bill has been very dishonestly portrayed in the community, not only by the minister, the Premier and government members at large, but particularly by the Trades Hall Council. I shall deal with some aspects of that dishonest portrayal later in my remarks.

Hon. P. R. Hall interjected.

Hon. W. R. BAXTER — Yes, Mr Hall, I shall come to the inappropriate, misleading and quaint language that is used in the bill. It has certainly been promoted by the minister, who has shown that she is out of her depth and a tool of the Trades Hall Council. She went around country Victoria, allegedly consulting, well after the bill had been introduced and debated in the Legislative Assembly. She simply does not comprehend what is in the legislation, and she relied entirely on bureaucrats and union officials to explain and to answer questions that were asked.

A further reason the bill should be rejected is that it will cost jobs. I shall come to that later, but suffice it to say that the government itself has already acknowledged that it will cost about 1900 jobs. That is the first time in my period in Parliament that I have heard a government acknowledge that an action it was taking would cost jobs. Governments usually endeavour to legislate to create a climate and set the scene for the generation of jobs, but this government admits that the bill will cost at least 1900 jobs. The truth is that if it is implemented in the form in which it has been introduced it will cost many thousands of jobs and not only the mere 1900 the government concedes.

I am firmly of the view, as are my National Party colleagues, that the legislation should be rejected. It is flawed and will not do anything for the state of Victoria. In fact, it will damage it. The bill comes out of the ideological obsession of the Trades Hall Council. It is the dinosaur of the Trades Hall Council and the outdated views that still inhabit that citadel in Lygon Street — those people who are still engaged in some perceived class struggle and who still believe all employers are exploiters who grind their workers into the ground. Nothing is further from the truth. There may be an employer who does not do the right thing, but there is a raft of legislation to deal with that circumstance. It does not need a $10 million a year industrial tribunal to fix what might be a small problem.

In the 28 years I have been in Parliament I have not had anybody come into my office to complain that they were being underpaid, but I have had plenty complain about the activities of unions. I have one at the moment — and it is a beauty! A constituent of mine has received a notice from the Electrical Trades Union (ETU) demanding payment of his subscriptions, plus legal costs for collecting them, and stating that he cannot resign from the union until he brings himself up to date financially.

The particular person was working on a new factory construction in a town in my province. It was a closed shop and he could not work on the site unless he was a union member. He joined the union at the time for one year and has not paid his membership since because he does not want to be a member of the union. He has received a solicitor's letter from the ETU demanding that he be up to date with his subscriptions. The union has no legal right, power or authority to make such a demand on any person, but it is prepared to attempt to bluff a poor, innocent worker in my province. That is one example of the activities that union is engaging in in this state. It is typical of the complaints I receive in my office.

Hon. R. A. Best interjected.

Hon. W. R. BAXTER — Mr Best interjects and says that it is union thuggery. Government members and members of the Trades Hall Council have no comprehension of the reality of employment conditions in country Victoria. There were plenty of examples of that from the minister as she travelled around parts of country Victoria. There is no appreciation that country employers and employees have a cooperative arrangement in virtually every case because they work together, live in the same small country towns, shop at the same supermarkets and they play in the same football teams on Saturdays. Unless they have a cooperative working arrangement life simply cannot proceed.

It is well known in country Victoria that if there is a bad employer in the town word soon gets around and that particular operator cannot get a work force, yet if one were to listen to the Trades Hall Council one would think that country employers routinely exploited their workers and that there were grave divisions between the two. That may be the case in some areas in Melbourne and its suburbs where employees never see their boss — certainly not at weekends — and are anonymous in a huge factory work force. That is not the case in country Victoria, where by and large there are cooperative working relationships.

I shall now deal with how the bill has been dishonestly portrayed to the community. The minister said that the bill grew out of the independent report of the Victorian industrial relations task force, which hit the deck at the end of August last year.

Hon. P. R. Hall — Twenty times in my electorate office.

Hon. W. R. BAXTER — This is copy number seven in my office. They came in single envelopes day after day. In October, only six weeks later, a 185-page bill was introduced into the Legislative Assembly. It beggars belief that a 185-page bill was drafted, prepared and considered by the government after the tabling of the report. It is clear that the 185-page bill was in preparation months before and the government required — it is so often the trick used by Labor governments — a report to justify introducing the bill. The report was done after the event to justify introducing the bill.

In trying to use the report to justify the bill, the minister conveyed the impression to everybody that it was a unanimous report. If one reads the minister's press releases, and if one were an innocent abroad, one would get the distinct impression that this report was unanimous. It was unanimous on some of the minor issues, but it was far from unanimous on the principal issue — the reintroduction of a fully fledged state industrial relations commission in Victoria, which is chapter 12 in the report. The employer representatives opposed it bitterly and issued a minority report.

If you had gone around the countryside listening to the minister you would have gained the distinct impression that all members of the panel agreed to the introduction of the legislation. The minister and the Premier have tried to put the view that the Growing Victoria Together summit that took place in Queens Hall also supported the introduction of the Fair Employment Bill. It did no such thing! It agreed there would be an investigation and the setting up of a task force, but it did not accede to the introduction of legislation of the nature of the Fair Employment Bill. The minister and the government at large are trying to make it look as though the bill was a recommendation of the Growing Victoria Together summit, but it was not.

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

Hon. W. R. BAXTER — Before the suspension of the sitting I was demonstrating to the house how the bill is a fraud and how it has been dishonestly portrayed to the community. I will now continue to demonstrate how that is so.

The Minister for Industrial Relations has done her best to hide what is contained in the bill and to convince the people of Victoria that it is a minor piece of legislation that does not do much at all. Even if you had looked at the second-reading speech you might have believed that were so, because the minister said, among other things:

> The policy of the Victorian government is to support a unitary approach to industrial relations in Victoria.

That is good to hear, but somehow that does not gel with a 185-page bill that establishes a whole raft of new provisions which are far reaching, go well beyond what applies in the federal arena, and clearly go to re-establishing full-scale industrial relations on a state basis while moving right away from a unitary system that the minister proclaims in her second-reading speech she supports.

I also draw the house's attention to an article that appeared in the *Herald Sun* of 11 November last year. The article was written by the Minister for Industrial Relations, so she cannot claim that some journalist has misquoted her. The article prepared by the minister states:

> The bill will do nothing more than establish a minimum safety net of conditions for Victorian workers not covered by federal awards …

Why is there a need for a 185-page bill if that is all it does? A whole article written by the minister is based on the premise that that is all the bill does. That is a blatant attempt to mislead the people of Victoria about what is in the bill.

Let us look at what the bill does. It introduces a sweeping set of proposals, the likes of which have never before been seen in Victoria. They go well beyond the provisions of the current federal Workplace Relations Act and I am sure the people of Victoria never contemplated them when they elected this government. Certainly the people who served on the industrial relations task force never contemplated that

this sort of bill would come out of their report, and certainly those who attended the Growing Victoria Together summit did not have such a bill in mind when they agreed to the task force being set up.

Firstly, the bill gives powers to the fair employment tribunal that extend way beyond simply setting a minimum standard function. Clause 81(3) states that the tribunal:

> … may declare a condition of employment in relation to any matter …

How much broader than that could it get? It is an extraordinary provision to have in any proposed legislation.

Secondly, the workplace grievance provisions are completely open ended. These concern the tribunal's dispute settling functions and indicate that the matters that might be the subject of an application to the tribunal be extended to include 'any other aspect of the employment relationship'. That is, again, totally open ended. The tribunal is able to make its own rules and its own judgments, with nothing in the bill to give it any guidance at all.

Thirdly, the potential exists for employees who have never before been covered by awards or orders to come within the new framework of regulation. The bill sets out — no doubt at the behest of the trades hall — to rope in a whole group of people who have never been under awards before and who have never considered themselves to be the subject of an industrial relations tribunal by extending the net to bring them in. Many award-free employees could now become bound by sector orders and other statutory minima, which would impose unprecedented regulation on many managers, supervisors and other senior employees who have traditionally fallen outside the formal industrial relations framework and who have worked under arrangements negotiated directly between the employer and the employee.

The National Party knows the Trades Hall Council and the government do not like workers and their employers making their own satisfactory arrangements. They like to have unions interfering and laying down what they think the situation should be. They do not like people doing their own thing. That is one of the reasons why people are leaving unions in droves.

Fourthly, the bill proposes to extend the traditional framework of industrial relations regulations in a number of other ways. It includes extended definitions of who is considered to be an employer and who is considered to be an employee. The deeming provisions in clause 6 of the bill will enable the Fair Employment Tribunal to deem a class of persons who perform under a contract for services to be employees. This is a completely new adventure. Not only will it cover employees who provide a service, it will include those persons who work under a contract for services. That is an extension the public has yet to catch up on.

The bill ropes in outworkers, as we know, and it certainly provides that people who have never considered themselves to be employers will be deemed to be so. Managing directors or secretaries of companies, for example, could well find themselves deemed to be employers. What about people who are on voluntary boards — for example, on hospital boards? As I read the bill, those people will be deemed under the legislation to be employers. Is that the government's intention? Has it thought this through solidly or not? Does it want at the behest of the trades hall to extend the net so wide that it will rope in everyone who has any sort of relationship with someone else in the provision of services?

I will reflect for a moment on the dishonest consultation that went on. Members of the task force had 11 meetings around the state, and I commend them for doing that. Mr Jennings conveyed the impression that absolutely hundreds of people attended the 11 meetings that the task force held around country Victoria. The reality is very different. Very few people attended the meetings, despite the best endeavours of shop stewards to beat up some interest and to get people along to make submissions. Something like 141 submissions were made, but many of them were pro forma, obviously organised by the union.

Hon. P. R. Hall — Is that across the whole state?

Hon. W. R. BAXTER — Yes, 141 across the state. We know why employers were reluctant to put their case to the industrial relations task force: because their bitter experience of the past is if you go along and complain about anything relating to the unions, the union thugs are there, they take note of who is there and you can expect a visit from them shortly thereafter — victimisation. That has been seen time and again in the past and that is why employers are very reluctant to go along and say what they actually think — because they know to do so means that they will get a visit from the union bovver boys later.

After that consultation by the industrial relations task force the bill was introduced in the Parliament, and the government wants it passed almost immediately. There has been very little government consultation on the provisions of the bill. The government has been aided

and abetted by some misguided people in the churches and the newspaper with its offices in Spencer Street, urging the Parliament to pass the bill as a matter of urgency because it is perfect, it is necessary and it should be passed.

We know what happened. The bill was pushed through the Legislative Assembly in great haste. Fortunately, when it came to this house sanity prevailed and debate was delayed until March to enable some true consultation to be undertaken. In the meantime, as each lobby and interest group needed to be bought off, the government started suggesting its own amendments to a bill that it had said was absolutely perfect and had to be passed urgently. So come December, members of the government, who had had so much faith in the bill in October, were prepared to amend it.

Then the minister decided she should go around the countryside and have some consultation. What sort of consultation did she engage in? In the *Bendigo Advertiser* she was reported as saying that she would be in the Hargreaves Street mall to conduct the consultation. Mr Deputy President, as one who represents Bendigo and knows the Hargreaves Street mall, do you believe that is a suitable place to conduct a consultation? Are employers seriously going to go to a consultation with a minister of the Crown in the street? That is where the minister expected the consultation to take place!

The minister went on to Wangaratta, where 10 people turned up. Most of them were not too sure who was the minister and who was the Labor candidate for Indi. It took a while to work that out because the candidate for Indi seemed to be running the show. Anyway, in due course the minister was found wanting on many of the questions. An article in the *Border Mail* states:

> Wangaratta employers remain strongly opposed to the Bracks government's proposed Fair Employment Bill after a meeting with the Victorian industrial relations minister, Ms Monica Gould, in Wangaratta yesterday.

It goes on to quote a number of the business operators in Wangaratta who expressed grave concerns that were not allayed at the meeting about the bill.

Next the minister went to Wodonga. It was such a dead duck in Wodonga that it did not get any mention in the media whatsoever! The half a dozen people who went along reported to me that it was a total waste of time.

Then an amazing glossy document with a colour photograph on the cover was put out. The Fair Employment Bill information kit is several pages long. If you read the document you would be totally misled as to the contents of the bill because the document, like the second-reading speech, the minister's article in the *Herald Sun* of 11 November and much of the other information that has been put out, simply fails to deal with the mechanics of the bill. It glosses over, misleads and conveys to people messages that are totally erroneous. Yet it was masquerading as an official document put out by the government to explain what was in the bill. You could not possibly have understood the bill if you had regard to this documentation.

Of course the Trades Hall Council was getting fairly worried about all this. The National Party and the opposition were conducting their own consultation. The National Party had written to 4500 Victorian country businesses, alerting them to the bill and getting their feedback. They were writing back by the hundred with expressions of grave concern. The Victorian Farmers Federation put a questionnaire in its quarterly magazine and asked that it be faxed back. The National Party received hundreds of those from VFF members. I have no doubt that Dr Napthine and other members of the opposition received a similar number from people who were really concerned about what was in the Fair Employment Bill.

By then the Trades Hall Council was getting into the panic and decided it had better get a survey done and demonstrate that in fact people supported the Fair Employment Bill. We know all about surveys done by the Trades Hall Council. I have a copy of this one — it is a beauty. It came to me with a covering letter from the secretary of the Trades Hall Council in which he exhorts me to support the bill. He says:

> Nearly three-quarters of all respondents support the Fair Employment Bill …

He goes on to say:

> Now that it has been established that small business are very supportive of the Fair Employment Bill initiative I would hope that —

you would support it.

On face value I suppose I should, if that were true — if three-quarters supported it, I should. Then I looked at the survey to see what was actually asked. The Trades Hall Council did not actually ask any questions about the Fair Employment Bill — not one question! It asked a series of generic questions designed to get answers that suited its purpose, and it was given genuine answers by the community. I can understand that.

For example, one of the questions asked was: do you support laws that provide that minimum employment conditions should cover low-paid workers? The result

was that 91 per cent agreed with that. Surprise, surprise! I think everyone would agree with it.

The survey went on with a series of questions of that ilk and got a quite high percentage of positive responses. That happened to be the highest percentage positive response, but there were other similar questions and they also got such responses. No doubt they would because employers in the marketplace are genuine citizens. Of course they want to give their employees a fair go.

The survey did not ask about or explain what was in the Fair Employment Bill at all. It asked one question that flushed out an interesting bit of information:

> Only one-third of small business sector employers are aware that the Victorian government is considering amendments to laws to ensure minimum conditions of employment apply to low-paid workers.

There we have it. The survey is held out by Mr Hubbard of the Trades Hall Council as finding that three-quarters of the people it surveyed supported the Fair Employment Bill, but on the last page the summary of the survey admits that only one-third of the respondents knew that the Fair Employment Bill even existed, let alone were aware of its provisions!

Hon. P. R. Hall — That makes its conclusion nonsensical.

Hon. W. R. BAXTER — Absolutely nonsensical, but it is trotted out by the Trades Hall Council in a dishonest way to make it appear that there is widespread support for the bill when clearly there is not.

I shall comment on what Mr Hall said earlier about the misleading language used in what is termed the Fair Employment Bill. The bill has little to do with fair employment because it is concerned mainly with establishing a state industrial relations commission. If the bill were truly and properly named it would be called the state industrial relations commission bill because that is what it sets up. That is the principal provision of the bill, but it is dressed up in the emotive language of fair employment.

I give the house a couple of other examples of the misleading language used in the bill. A group of people referred to in the bill are quaintly called information services officers. What a lovely title! The minister made great play of the role of those officers because the industrial relations task force report said there should be more information out in the community for employers and employees. That is fine; nobody objects to that — the minister wanted to establish information services officers.

That is fine if that is only what they were to be. If that were so perhaps one could not object too much. But I ask honourable members to examine their powers as prescribed in the bill. I suggest they should properly have been called compliance and enforcement officers or perhaps industrial police because of the powers they would be given.

Hon. K. M. Smith — Why not call them union thugs, because that is what they are!

Hon. W. R. BAXTER — The minister let the cat out of the bag as to the government's true intentions because when she was in Mildura she issued a press release dated 19 February 2001 which, among other things, states:

> It's all very well for the Liberal Party to make vague noises about supporting outworkers but we need information services officers to enforce the law.

That is the intention behind appointing them. I confirm that that is what they actually would be by referring to clause 216, because it provides that information services officers are able to ask police to assist them. That is a new one — that you can have some sort of industrial relations employee go to the police station and order the police to come along with them to a factory or workplace.

Hon. W. I. Smith — If they don't comply they cop a $6000 fine.

Hon. W. R. BAXTER — Exactly, Ms Smith. It is outrageous that any piece of legislation compels the police at the behest of a compliance and enforcement officer to lend a hand.

The minister says they are to be called information services offices, that they will simply tell people about what is in the award and the law. But clause 217(3) provides when the powers may be exercised. It states:

> In exercising powers under this Division, an information services officer must —
>
> (a) cause as little harm and inconvenience or damage as possible;

That means the compliance and enforcement officers will be breaking down doors and causing damage.

Hon. R. F. Smith interjected.

Hon. W. R. BAXTER — Mr Smith laughs. If it is not envisaged that they will be breaking down doors,

why is such a provision needed? I continue along the same line about what the industrial police will do and refer the house to clause 218, which prescribes a power of entry. After the officers have entered the premises, which they can do under clause 218(1) and (2), clause 218(3) states:

> If an information services officer exercises a power of entry under this section, without the owner or occupier being present, the information services officer must —
>
> (a) on leaving the premises, leave a notice setting out —
>
> (i) the time of entry…

It is envisaged that the compliance service officers can come after hours, when the owner is not on the premises, and break in.

Hon. D. G. Hadden interjected.

Hon. W. R. BAXTER — That is precisely what the bill envisages — they can front up, and provided they leave a notice — —

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! Ms Darveniza is out of her place.

Hon. W. R. BAXTER — If the house wants proof of the pudding that the information services officers are actually enforcement officers it should look at the definitions contained in clause 245, which states:

> In this Division —
>
> 'enforcement officer' means —
>
> (a) an information services officer;

In other words, an information services officer is an enforcement officer. That is exactly what Mr Hall and I have been saying. The emotive and misleading language used in the bill is extraordinary.

I refer the house to other dishonest provisions in the bill. The minister has told everybody how good natured the tribunal will be, how it will look after low-paid workers, outworkers and the like, and that the community should have nothing to fear. Clause 189 deals with the powers of the tribunal. It states, in part:

> (1) The Tribunal may make —
>
> (a) any orders that it is authorised to make by or under this Act;

If that is what is expected, fair enough, but I ask honourable members to read on and understand that the tribunal may also make:

> … any other orders that it considers necessary or desirable to give effect to any decision that it makes.

That provision is so wide you could drive a draughthorse through it.

Hon. W. I. Smith interjected.

Hon. W. R. BAXTER — Yes, Ms Smith, it will end up in the courts. I ask honourable members to consider how dishonest a bill can be in its language and how dishonest the government can be in trying to give the impression that all is well. I refer to clause 117(2), which deals with the formal qualifications for appointment as president of the tribunal. It prescribes that a person may be appointed if he or she:

> (a) is or has been a judge of the Supreme Court or the County Court —

I could not object to that; it is perfectly reasonable —

> … or
>
> (b) has been a judge of a court created by the Parliament of the Commonwealth …

That is also a perfectly reasonable provision. But the final provision states:

> (c) is a lawyer.

The provisions go from having a former judge as the president to having any old Labor lawyer — in other words, any Labor lawyer can be appointed.

Hon. K. M. Smith — Perhaps from Slater and Gordon!

Hon. W. R. BAXTER — Yes. It could be headed by a judge, but in truth the president of the tribunal will be a Labor Party hack.

I turn to the definition of 'contractor'. As I said earlier, there has been a vast expansion of the definition of 'employee'. Instead of including just those employees in service, it will encompass employees engaged for service. People who have traditionally contracted to provide a service to a business or an enterprise will now be roped in as employees under the bill. Worse, the tribunal will have the power to interfere in those contracts.

The minister has been running around the country misleading quite a few people — including one lawyer not too far from here until the error was pointed out to her — and saying the bill will allow for interference in contracts that deal with courier drivers and a small number of other people. That is not what the bill says. That might be what the minister is now getting around

to agreeing to, but it is certainly not what is in the bill at the moment. That would enable the tribunal to interfere in all contracts for service unless they were simply for a real estate sale or the like. It is taking it well beyond what anyone ever envisaged.

It can be said that that is why union membership is in decline: people are sick and tired of unions interfering in the arrangements they make between themselves for their employment prospects. Again I reject outright the attempt by the government to give the Trades Hall Council a leg-up by expanding the definition of 'employee' so widely.

I turn to the emotive issue of outworkers, because a great deal has been said on the issue. We have heard that some outworkers work for $2 an hour. I challenge the minister to produce one. She has been unable to do that thus far. I would like such a person to be produced, bearing in mind the minister has so strongly and so frequently hung her argument on that claim.

I am the first person to acknowledge that in the past some people working from home have probably been exploited. I do not believe there is any doubt about that. However, a $10-million tribunal is not needed to fix that problem. Certainly National Party members are quite amenable to any form of legislation that specifically addresses outworkers. We also believe that if there are any problems, they can be fixed under the Fair Trading Act and other existing legislation. I went out and met some outworkers in Springvale.

Hon. B. C. Boardman — That is more than what the local member did.

Hon. W. R. BAXTER — Yes. The local members refused to do that.

Hon. B. C. Boardman — I did.

Hon. W. R. BAXTER — I was about to qualify my statement by saying that the local members of the Labor Party have declined to do so. Many of the people I spoke to see themselves as independent contractors, particularly those in the clothing industry. They often buy an industrial sewing machine, which costs between $4000 and $5000, and they work from home. They are their own boss and they work at their own speed. They do not want to be considered employees.

The unions want to rope them in as employees for a number of reasons, not the least being that the productivity of these people is so high that it puts many of the union members working in factories to shame. These people have initiative and incentive, and they are pulling themselves up by the bootstraps. One can see how successful some of them have become because they have been able to organise themselves, work hard and get ahead. There is nothing worse in the union lexicon than someone getting ahead without the union. That is obviously why there is so much hatred for outworkers in many writings of the Trades Hall Council.

I turn to what Mr Jennings said in the house a fortnight ago. He quoted an article by David Wilson in the *Herald Sun* of 18 February which states:

> More than 150 000 outworkers in the clothing trade, earning an average of $2 an hour, could be driven to near starvation by a National Party decision —

that is, the National Party decision to oppose the bill. It is extraordinary to claim that more than 150 000 people earn $2 an hour. Does that figure gel with anyone? Why would they do it? Why wouldn't they go on the dole if they were earning only $2 an hour? If there were 150 000 people in the city earning only $2 an hour, the outcry would be extraordinary. People would not do it — they could not survive.

Hon. D. G. Hadden — Who is going to hear them? You are not!

Hon. W. R. BAXTER — I went out to talk to them, which is more than the honourable member for Springvale in the other place was prepared to do! Mr Jennings took great delight in quoting from this publication put out by — —

Hon. D. G. Hadden — The independent task force.

Hon. W. R. BAXTER — No, this was published by the Department of State and Regional Development. It was not put out by the so-called independent task force, but it contains submissions made to the task force. The submissions were not tested in any way; they were just what was organised to be put in, and some of them need further examination.

Mr Jennings demonstrated that he does not understand how the world works. In quoting from that document he referred to someone getting paid so much per garment — from memory I believe the figure was $4.90. He then said that it worked out at approximately $3 per hour. That is a contradiction. If you are a pieceworker you cannot work for so much an hour. Presumably the person who did the calculation did it in good faith, and I am not disputing that point. However, the person probably did not take into account the time the worker went and answered the telephone, took the kids to school or put the vegetables on for dinner. Those times were counted and the number of hours was

divided by the amount they were paid, and it worked out at a relatively low figure per hour. However, the amount per garment for someone of reasonable productivity was quite reasonable, and it was the going rate.

If you followed Mr Jennings's logic these people would not get any work at all, because if their productivity rate was as Mr Jennings calculated, the people who are engaging them to finish clothing products could not survive economically. We would see a continuation, as we have just seen with the Bradmill factory, of businesses going over to Asia. That is the reality. Jobs would be driven offshore if one followed Mr Jennings's logic. He clearly demonstrated that he does not understand the commercial world. His view would put these people out of work. Springvale would have even more empty factories than currently exist, and I saw plenty of them. His way of thinking would deny those people just on the cusp of getting a job as an outworker actually getting on the first rung of employment, because that work would dry up.

It is plainly wrong for government members to suggest that outworkers should be defined as employees and that all the provisions that apply to employees should be attached to them. That will mean the end of the independence they have enjoyed and done so well out of. I repeat, if there are instances of people doing this sort of contract work who are not being paid for the work they have done, the National Party has no problem with assisting them.

Hon. M. M. Gould interjected.

Hon. W. R. BAXTER — Mr Abbott has already made an offer.

Hon. M. M. Gould — No, he has left them nowhere to go.

Hon. W. R. BAXTER — He has given an undertaking that he is prepared to move amendments to the Workplace Relations Act if it is a problem. I am not saying it is a problem.

I turn to refer to the entry provision in the bill. It again illustrates how the government has been dishonest in the way it has portrayed the bill. The provision allows a union official to turn up at a workplace and gain entry, even if no union members work there but someone there may be eligible to join a union.

Hon. D. G. Hadden interjected.

Hon. W. R. BAXTER — I have got the predictable interjection from Mrs Hadden, who says that this is what is in the federal award. To a degree she is right, but this provision goes much further. The entry provision would not be in the federal award if it were not for the federal government having to compromise to get its bill through the Senate. The provision is in the federal award against the will of the federal government because of the compromises it had to make to get legislation through federal Parliament. However, the provisions in this bill are wider than the equivalent provisions in the federal award.

It is outrageous that union officials can have the right of entry into workplaces even when no members of a union work there or where there has not been any complaint. In a free society how can we justify people who have no investment in or responsibility for a business turning up on the doorstep on a fishing expedition, or worse still turning up because of an anonymous tip-off so they can check the books and see what they can find. I will resist that type of provision with all my strength and might.

The Brethren, a religious group, were most concerned that they would have union representatives turning up at their workplaces. The minister thought she would pull a smart trick and had her colleagues introduce an amendment in the other place to address that issue. She went only halfway. The Brethren are not happy with the amendment.

Hon. M. M. Gould — They want to impose their religious beliefs on their employees who are not of the same religion.

Hon. P. R. Hall — Talk about the pot calling the kettle black.

Hon. W. R. BAXTER — It is indoctrination!

I dealt with the job loss situation when I commenced my contribution. I said that on the government's own admission the provisions would cost 1900 jobs. That figure was worked out only on the basis of the setting up of the commission, not on the basis of the extra costs the commission may impose.

Hon. W. I. Smith — They don't understand the impact.

Hon. W. R. BAXTER — Exactly. The full impact was not gauged by the study at all, yet on the limited study of the impact it was estimated it would still cost 1900 jobs. I come back to my earlier point. Young people on the cusp of getting a job, getting on that first rung of the employment ladder, will be affected. That was demonstrated to me time and again when three weeks ago I spent a couple of days in the Wimmera

with the honourable member for Wimmera in the other place, Mr Hugh Delahunty. Many businesses in Stawell, Horsham, Dimboola and Nhill made the same comment — that between Workcover premium increases and all the other things imposed on them this bill will be the straw that breaks the camel's back.

What really brought it home to me was when I visited one of the largest employers in Nhill, who made the startling comment to me, 'I am now the employer of many former employers' — in other words, small business people who have given it away. It has just got too tough for them. They have now become employees. This legislation is driving small businesses to the wall. Small business is the job generator in the community, but it is getting too tough and small business people are giving it away.

I refer now to the legislation's being a wolf in sheep's clothing and to how some people who ought to be more clever have been taken in by it. I refer in particular to the Master Builders Association of Victoria, the Housing Industry Association and some others who approached the government complaining about the bill. The government said, 'It is all right, we will exclude you from it'. The industry organisations now say there is nothing wrong with the legislation and that Parliament should pass it. I advise them to watch out for the Trojan Horse! The powers of the fair employment tribunal are so broad that it could reinstitute the provisions by order, without legislation. The organisations could well find themselves hoisted on their own petards.

Hon. R. A. Best interjected.

Hon. W. R. BAXTER — Mr Best interjects that they have been sucked in. The powers of the tribunal are so extraordinarily wide it has virtually a blank cheque to do what it likes. Many of those who believe they are somehow separated from the provisions of the bill may rue the day they gave the government any credit for looking after them. I say to the churches, who have again leapt around and used emotive language, that they fail to understand that many members of their congregations are small business people who will be sent to the wall if legislation like this goes on the statute books.

Of course, the *Age* never ceases to amaze me. Its editorial of 16 February exhorted the Liberal opposition and the National Party to pass the legislation because it said how necessary it was. As I have demonstrated, the government has backed away from a number of provisions. As consultation has proceeded many more people are aware of the grave changes in the legislation, but somehow the *Age* in the Spencer Street Kremlin thinks it is the best thing since sliced bread and is exhorting this house to reflect on its responsibilities, to be taken in by dishonest, fraudulent arguments and to rubber stamp the bill. That is not the responsibility of the Legislative Council. I am sure it will demonstrate in this debate that it is a responsible body and that it does put governments under scrutiny — that it looks at what is in legislation and acts in the best interests of the people of Victoria.

I do not think the minister comprehends what is going on, but I believe certain government members have an ulterior motive for the legislation. They see it as the beginning of the winding back of the federal industrial relations system. They propose to use this bill as the peg on which they can hang an argument to pull everything back to Victoria so they can again give Lygon Street some relevance and power in the state. The people of Victoria should be made aware that that is what these people want to do.

All the talk about people being in favour of a unitary scheme of industrial relations in Australia is hot air. Government members want to get it all back at Lygon Street so they can run their own bailiwick in Victoria and reinvigorate their lost influence. I ask honourable members to look at what happened in Victoria after the former Kennett government rejigged industrial relations. Investment boomed, employment increased, people in the city in a range of businesses — whether they were cafes or other small businesses — boomed once labour markets were freed up and people could make their own decisions.

Does anyone suggest that this state is worse off than it was before? It is vastly better off. Many more people than previously have jobs under the conditions that they want.

I have no objection to schedule 1A being expanded and amended to mandate what is current practice. I have no problem with bereavement leave being formally included. I have never yet met anyone who has been denied bereavement leave. The minister has not produced anyone who has been denied bereavement leave. I have no objection to that provision being formalised in schedule 1A. I have no objection to having a specific look at outworkers. I have no objection to a number of the other provisions being included in schedule 1A. However, I object to the imposition on the state of a $10 million per annum tribunal with unlimited and open-ended powers, and one that will cost jobs.

I was a little heartened today to hear that at last the minister has made contact with the federal industrial relations minister. It was good news, as a fortnight ago she did not have his phone number. I could not help but think back to the time when I was Minister for Roads and Ports. I made it my business to be in close and regular contact with my federal counterpart. Lest the minister think I was cosying up to some conservative federal minister, I was not. In my time as roads minister my two federal counterparts were Mr Brereton and Senator Collins, both members of the Labor Party.

Hon. E. G. Stoney — Toughies.

Hon. W. R. BAXTER — Toughies if you like, Mr Stoney, but I had a good working relationship with them and I telephoned them regularly. That was the first thing I did when they were appointed. This minister does not want to engage in any form of negotiation. She wants a brick wall between Victoria and the commonwealth. She wants to be precious. That is not the way to advance Australia.

What did Mr Hubbard from the Victorian Trades Hall Council think about the offer from Mr Abbott, the federal Minister for Employment, Workplace Relations and Small Business, to insert some amendments to schedule 1A? He did not even take the time to consider it. In the *Age* of 15 March Mr Hubbard is reported as describing it as a dirty deal. That was his response — a disgusting response, one that was totally unbecoming and deserving of contempt because he was not prepared to genuinely negotiate.

In conclusion, the bill has some horrendous implications and frightening provisions. It would be detrimental to Victoria; it would drive investment from the state and would bankrupt many small businesses. Worse, it would not do much for the people it claims to assist — that is, the relatively low paid — because it will make it even more difficult for them to get employment and to maintain employment.

I hope the bill is defeated at the second-reading stage. If it is not, I have prepared 489 amendments. If the bill goes into committee I expect it will be a fairly long stage. I do not believe that is necessary, nor that it is likely. The bill should be defeated at the second-reading stage and I call on the house to so defeat it.

Hon. J. M. McQUILTEN (Ballarat) — I support the bill. I am impressed with the efforts of the Minister for Industrial Relations in trying to resolve this large and important problem. I am personally disappointed with the federal coalition government. More than anything else, it is disappointing that over the past 12 months Peter Reith has played politics with a group of people who should not be played politics with. The proposed legislation was prepared in the best spirit for those people and was born out of the frustration of knowing that an all-encompassing federal system could have accommodated everyone. Because of the intransigence of Peter Reith, the Victorian minister and the government were forced into introducing the legislation.

I firmly believe — and it is not hot air, like the words of Mr Baxter — in a federal system. It makes a lot of sense to have one system, and that is what we should have. The intransigence of Peter Reith and the federal government has prevented that.

I will finish my contribution by saying that when — as will inevitably happen — Kim Beazley becomes Prime Minister, we on the Labor side of politics will end up with one system. I congratulate the Honourable Monica Gould on her efforts in at least forcing some very mild changes from the federal government, which I believe has been mean spirited in this area.

Hon. N. B. LUCAS (Eumemmerring) — I predict that the bill will be defeated because it is unnecessary, unpopular and unwelcome. It will be defeated for a number of reasons. Firstly, it will give union organisers the power to forcibly enter shops, farms and factories and photocopy the books of businesses. The bill will be defeated because, if passed, it would create an unnecessary and complex state industrial relations (IR) system that would cost taxpayers $10 million per annum. It will be defeated because it would allow the reintroduction of 17.5 per cent holiday leave loading and force up the cost of employing people. It will be defeated because it would cost 42 000 jobs, according to the Victorian Employers Chamber of Commerce and Industry. It will be defeated because of what Mr McQuilten said — that is, we need only one IR system in this country; we do not need two. Mr McQuilten is a member of the Labor government and actually had the gumption to stand up and make that statement in this house. He made it from the heart; he was fair dinkum. We need only one system in Australia.

Hon. M. M. Gould interjected.

Hon. N. B. LUCAS — The minister is shouting that we need to duplicate that system and re-create another industrial relations system in Victoria. That is a nonsense. In the short time available to me, I want to build on what I have said.

The background to the bill is a grab for union power. In the past few years the number of trade unionists has fallen right away. The Trades Hall Council has a real problem in Victoria. The answer to its question, 'How do we get more unionists?' is the proposed legislation. The government's heart is not in this proposed legislation.

If you look around the chamber you will see only five government members sitting here this evening trying to propose that what they suggest is a really important legislative move for Victoria. How many people are demonstrating on the steps of Parliament House for this legislation? None! How many were there last time we debated this issue? None! We have had two or three Labor hacks sitting in the gallery and that is all we have seen.

Honourable members interjecting.

Hon. N. B. LUCAS — Your heart's not in it. You're hoping this will just go away, and you'll go and say to your union mates, 'I'm sorry, we tried but we failed'. And you will fail because this will be put down, and the reason is that — —

Honourable members interjecting.

The PRESIDENT — Order! If the Honourable Kaye Darveniza wants to participate, I suggest she returns to her own seat. However, if she wants to keep quiet she is probably better to stay where she is.

Hon. N. B. LUCAS — The reason this bill will be defeated is that Victoria does not need another industrial relations system superimposed over what already exists. We have sufficient for Victoria's needs with the amendments proposed by the federal Minister for Employment, Workplace Relations and Small Business, Tony Abbott. Why do we have this proposed legislation? It is because the unions fund the Labor Party's campaigns and the Labor Party wants to do the right thing by the unions. Why? Because most of the members of the Labor Party who sit in this Parliament are former trade union officials. It is because union membership has fallen away over the past few years.

I refer to the fact that union membership has fallen to 24.4 per cent of the Victorian work force. In 1986, 46 per cent of the working population across Australia were members of the union movement. By 1993 that had fallen to 37.6 per cent. In 1997 it was 30.3 per cent. By 1999 it was just over 25 per cent across Australia, and it was a bit lower than that in Victoria. So the union movement and the Labor Party have a problem, and this bill is the answer. They think, 'We have to get more unionists to prop up the parliamentary Labor Party and keep the money flowing so that we can run elections'.

Let us examine the bill in more detail. How has the Labor Party sold this proposal? It has sold it by using outworkers as pawns in the grab for union power. Throughout the campaign for this so-called Fair Employment Bill the union movement, the Labor Party and the government have peddled this story about outworkers. That is unfair because the bill does not deal with just outworkers; it deals with many other things as well. It deals with the brown shirts knocking down your door. It deals with a range of other things that government members conveniently have not mentioned in their contributions to the debate.

Honourable members interjecting.

The PRESIDENT — Order! The debate will proceed a lot more smoothly if Mr Lucas is allowed to give his speech, and then the Honourable Bob Smith can give his, and so it goes.

Hon. N. B. LUCAS — The story so far is that the Labor government has been trying to sell this bill on the basis of the outworkers story. In the radio advertisements, in the letter campaigns, on talkback radio and in many different ways, including trying to put pressure on the Liberal and National parties — and I assume the Independents — the Labor government has been running the outworkers story. That campaign has been unfair and improper.

It is the Trojan Horse approach, which I believe other speakers have mentioned. The bill looks like a horse but it contains other things that the government will not tell us about. That is the government's approach, and that is improper and invalid. However, opposition members have caught the government out on this. We have read the bill to find out what else the government is trying to put over us. Contained throughout this document is a range of other things the Labor Party promised its mates up in Lygon Street would be included, and the government has been caught. This is a blatant attempt to increase union power.

Let us examine part 2 of the bill, which deals with entry and inspection by recognised organisations. What is a recognised organisation? It is another term for 'union'. Under clauses 226 to 228 the bill will allow these people to come along and bang the door in. During working hours they can enter any premises at which employees or members of the recognised organisation work, to take copies of documents, to have a look around the place and generally, I suppose, make a nuisance of themselves.

Honourable members interjecting.

Hon. N. B. LUCAS — And you're going to legislate to allow that to happen!

Mr Baxter mentioned earlier the concerns of the Brethren. I have spoken to the Brethren too, and they are very concerned — —

Honourable members interjecting.

The PRESIDENT — Order! I have not allowed in the past, nor will I allow today, a situation where one member is trying to speak while being harangued by other members. To harangue is to utter a constant stream of words of objection virtually without taking a breath. I will not allow it. I will not allow it when Mr Bob Smith is speaking if someone is inclined to do the same. The house does not work that way. Members are allowed to express their views. I call on Mr Lucas to continue, without assistance from my right.

Hon. N. B. LUCAS — Thank you for your protection, Mr President. Under clauses 225 to 229 the unions will come and bang the door down. They can have a look at the books and so on. The Brethren — a religious group I greatly respect — has come to me, expressing concern about these proposals. They saw the minister and the minister proposed an amendment for them that was considered in the other place. However, she went only half way.

The proposal under clause 228 is that if an employer holds a certificate of exemption, the union inspectors will be denied access. However, another clause says that even if the employer holds a certificate of exemption, if all employees do not hold certificates of exemption the union can come in anyway. We heard the minister interject earlier to say that the Brethren wanted to impose their own religious beliefs on the workers who were not Brethren members.

Hon. M. M. Gould — Yes, that's right. That's what I told them.

Hon. N. B. LUCAS — The minister has just confirmed that. She has missed the point. The fact is that the Brethren do not want unions coming through the door because of religious beliefs; it has nothing to do with trying to force anybody working for them to believe in a particular thing.

Hon. M. M. Gould — That's right. That's what I said.

Hon. N. B. LUCAS — That is not what the minister said before, and the record shows that is not what she said before. The Liberal Party has consulted widely on this bill.

Honourable members interjecting.

Hon. N. B. LUCAS — That embarrasses honourable members opposite, but the fact is that it has.

Honourable members interjecting.

The PRESIDENT — Order! There is a requirement for the proceedings of this house to be recorded by Hansard. There is no way Hansard can hear above that racket. I ask the house to settle down, let Mr Lucas get on with the job, and then we will wait for Mr Bob Smith and others.

Hon. N. B. LUCAS — The Liberal Party has consulted widely on this bill. In fact, it has sent out thousands and thousands of documents to people asking them what they think.

I have doorknocked in Ballarat, asking shopkeepers what they think about this legislation. My colleagues have doorknocked in Bendigo and have consulted with many other people.

The Victorian Farmers Federation (VFF) said on 23 November:

> The bill does not serve the interests of the Victorian economy, business, or the long-term needs of workers.
>
> …
>
> I believe the government is persisting with the bill because of its political obligations to trades hall.

The Victorian Employers Chamber of Commerce and Industry (VECCI) has said of the bill:

> A wolf in sheep's clothing — the Fair Employment Bill.

It is another way of saying it is a Trojan Horse. VECCI is right on to the government and has said the bill is a threat to business in this state. It has said:

> … our members indicate has the potential to significantly impact upon the competitive position of many firms and businesses in this state.

The Restaurant and Catering Association of Victoria has said:

> Victoria's current advantage of working in the flexible environment will be lost, as will many jobs in the Victorian economy, as proved by the result of our survey to small business. The clear majority of all surveys received stated that jobs would be lost if they were to go back to a penalty and archaic state industrial relations system, many were regional operators.

A whole raft of people have said this is bad news. The Labor government's own report states that 1900 jobs will be lost. VECCI's report said that the government's proposals had only covered half the story and had conveniently forgotten to include the costs of this proposed legislation and the effects of decisions by the tribunal it would bring into being. A later review of the figures suggested that 42 000 people would be put out of work.

Hon. M. M. Gould interjected.

The PRESIDENT — Order! The house is not being helped by such outbursts. I ask the Leader of the Government to desist.

Hon. R. F. Smith interjected.

The PRESIDENT — Order! The Honourable Bob Smith is the next speaker listed. I ask the Leader of the Government not to harangue the member speaking. It does not matter what he is saying, he should not be provoked.

Hon. N. B. LUCAS — The Liberal Party asked three questions of hundreds of businesses. The first was, 'Have you been consulted on the proposed law?'. What did they say? They said no. The second question was, 'Will the proposed legislation increase costs for your business?'. The answer was yes. The third question was, 'Could this law cause you to employ fewer people?'. The answer was yes. It is clear that the business people of Victoria do not want this legislation.

I turn to a media release by Tony Abbott, the federal Minister for Employment, Workplace Relations and Small Business, about the outworker story which was put over by the Labor government and which hit a few chords with everybody. The question was how the outworker situation that has been referred to by the government could be remedied. The answer is that you either recreate an industrial relations system in Victoria at a cost of $10 million a year or you fix it the other way — by changing the federal legislation. In a press release of 14 March, Mr Abbott said:

> A specific bill will be introduced into federal Parliament to:
>
> > improve legislated safety net entitlements for Victorian workers not governed by federal awards or federal agreements (the 'schedule 1A work force');
> >
> > specify legislated rights for the Victorian government to intervene in Australian Industrial Relations Commission (AIRC) proceedings concerning wages for schedule 1A workers and in AIRC proceedings concerning the settlement of major Victorian industrial disputes; and
> >
> > improve compliance and enforcement arrangements for outworker's in the clothing, textile and the footwear industry in Victoria, and their access to enforceable minimum rates of pay.

What was the response of the state minister? On 21 March the minister said in this place that she will remind Mr Abbott that he should hold it off for six months. Is she fair dinkum?

The Australian Industry Group says that the Liberal Party's decision to oppose the proposed legislation is a victory for commonsense. The VFF says that the Fair Employment Bill is dead. I say — rest in peace.

A document entitled 'Unfair privileges' issued by the Institute of Public Affairs refers to the bill as the Trade Union Rescue and Revival Bill and deals with how it will damage Victoria.

The bill is a Trojan Horse that the Labor Party has put together to try to revive the trade union movement. It will not be passed. The government cannot con members of this place to pass it. As Mr Baxter said, it shows the worth of the Legislative Council, particularly given the nonsense of the bill's being passed in the Legislative Assembly. We in this place will not let it pass because it would cost Victorians millions of dollars a year and would cost jobs. The opposition wants to retain employment in this state and to improve the economy. Victoria does not need this type of legislation. I urge all honourable members to vote against the proposed legislation.

Hon. R. F. SMITH (Chelsea) — The debate on Fair Employment Bill is the most important debate taking place this evening and will clearly define the difference between the conservatives opposite and the Labor Party government. This debate is about the type of society we as members of Parliament want for Victorians. Do we want a fair and equitable society or do we want economic rationalism in the extreme? That is the question. I know what I want!

To understand the debate, honourable members need to know something about where industrial relations in this country have come from. We have a system of industrial relations unique in the Western world — that is, a system based on arbitration and conciliation and with a history of delivering to ordinary working people for almost 100 years. Given the system's record and performance, one might think the conservatives opposite would have learnt something from it; clearly they have not, and in particular the dries in their party have not.

The conservatives opposite constantly attack the union movement, the arbitration courts and so on. They have a history of doing that, and I intend going into that in detail a little later. They, and the previous Liberal government in particular, have done everything they could in pursuit of their Holy Grail — that is, a deregulated labour market. Why are they so interested in a deregulated labour market? What better way to exploit ordinary working people than to have them unprotected? They have a long and protracted history of exposing the workers, wherever possible, to the vagaries of the marketplace. To do that, they have had to remove the best defence that ordinary workers have — that is, a union; a collective body. As we say on this side of the house, in unity there is strength; the record shows that unions deliver.

One of the greatest things the union movement has done in this country is ensured it has a strong democratic system.

Hon. Bill Forwood — Why are so many people leaving the union movement?

Hon. R. F. SMITH — Those opposite are driving them back! Not only are they attempting to discredit the union movement, as they have consistently done, but they want to destroy it for one reason alone — because the union movement is a significant contributor to the coffers of the Labor Party. We on this side are proud of that connection and make no apologies for it, unlike those opposite, who have their coffers filled from the top end of town and consistently try to hide the fact. I do not know why they are ashamed of it, although they should be. At least we on this side are open about who supports us and what we stand for.

I turn to the history of industrial relations in this country and in particular to 1788, when Governor Phillip fixed working hours for harvesters, reapers and convicts from sunrise to sunset on Monday to Friday, and from sunrise to 10.00 a.m. on Saturday. It was the first industrial decision made in this country. It is interesting that while they were the working hours of convicts, they were also applied as the standard hours across society.

In 1800 the Governor fixed working hours at 9 hours a day, Monday to Friday, and 5 hours on Saturday. They were also used as the standard hours for ordinary workers.

In 1823 the Constitution Act was proclaimed. That provided for the enforcement of agreements regulating indentured labour. In 1840 the first shorter hours movement commenced in Sydney among plasterers. In 1857 the plasterers achieved the outcome of an 8-hour day. That was followed by a similar campaign by stonemasons in Queensland in 1858. They were all united workers with a common cause who delivered, despite being opposed every step of the way.

In 1874 provision for an 8-hour working day was inserted in all government contracts in Victoria. In 1884 a royal commission found that the hours of work for Victorian shop attendants were in many cases beyond the limits of human endurance. The conservative government of the day did nothing to change that!

In 1886, after an 18-day strike, wharfies won the 8-hour day. The government then established a wages board and a system for fixing hours, wages and conditions in 'sweated trades' — how ironic! — and five boards had been set up by the end of 1889. In 1894 the Victorian conservative government rejected a move to set a minimum wage for public servants — deja vu! I could go on with the long and successful history on our side and the shameful history on the other side, but I have made my point.

Let us look at the history of state and national strikes and lockouts. In 1795 Australia recorded its first industrial dispute — a wage claim by reapers.

Hon. C. A. Furletti — Tell us something new.

Hon. R. F. SMITH — I am sure this is all new to a lot of them on the other side. In 1818 Governor Macquarie gave magistrates the power to hear industrial disputes and to punish servants — oh, for the good old days! In 1882 Australia's first female workers' strike occurred when tailoresses went on strike over attempts by employers to reduce their wages. Those women won. In 1884 union officers were jailed after bakers went on strike — that was the first recorded jailing of union organisers in this country.

In 1886 Victorian ironmasters, supported by the Victorian Employers Union, decided to fight wage claims by locking out workers. Lack of solidarity destroyed their lockout strategy.

In 1887 Victoria set up a conciliation council between Victorian employers and the Victorian Trades Hall Council. In 1890 the pastoralists union — this must stick in the opposition's craw — decided to employ non-union labour to break a shearers' strike, but the Australian and English maritime unions black-banned the wool, which could not be landed in England, and the pastoralists backed down. The workers won!

What were they after? Nothing other than a fair go, which is anathema to the conservatives opposite but near and dear to our hearts on this side.

After that brief glimpse into our history, I turn to what some of the conservatives did. Alfred Deakin recognised that Australia had a strong desire to live in an egalitarian society. How far we have come. He decided to set up an industrial court to deal with some of the massive industrial disputes of the day involving shearers, miners, and waterside workers in particular. That court became known as the Commonwealth Arbitration Court.

Deakin had to find someone to head up that court and ensure that it delivered the sorts of outcomes that this country was demanding. He found that man — his name was Henry Bournes Higgins. Born in Ireland, Higgins migrated here with his family. To cut to the chase, his most famous judgment was in the Harvester case of 1907, when H. V. McKay, manufacturer of Sunshine harvesters, applied to have his wage rate determined fair and reasonable. The judgment led to the establishment of the principle of a basic wage that would support an unskilled worker with a family in minimum comfort. In the words of Higgins, what needed to be considered were the normal needs of the average employee regarded as a human being living in a civilised community. Quite admirable, you might think. We certainly think so. Obviously those on the other side have a very different view.

Hon. N. B. Lucas — On a point of order, Mr President, many times I have heard you say that members can give a background to what they are going to say about a particular bill. Mr Smith has now been talking for 15 minutes and he is still speaking about the early 20th century. He should give as background to the bill something that is relevant to the moment, not something that happened 100 years ago. I think it is fair to give background, but how long can it go on?

The PRESIDENT — Order! The honourable member is entitled to develop his speech as he chooses. In this case the background he has given has all been related to industrial conditions and the fight for them over a long time. That is the very essence of the bill, which is aimed at a particular limited section of the community. It is not for me or for the house to decide on, given that there are no time limits. The honourable member may be starting a 6-hour speech, so I cannot say what proportion of his speech this is taking up. It is quite reasonable.

I recall that on one occasion when the house was dealing with workers compensation and the matter was debated at 4 o'clock in the morning we had a dissertation on workers compensation law, starting in 1066 — and that took a lot of catching up. I think Mr Smith is on good ground. I do not uphold the point of order.

Hon. R. F. SMITH — I thank Mr Lucas. I now jump to 1992. Mr Kennett and Mr Gude — and Mr Johnny Walker — sat down to decide how they could best get at ordinary working people in this state. They decided that at last the opportunity had presented itself and they had found their Holy Grail. They said, 'We will deregulate the workplace and fix those unions'. They believed that by their doing so Victoria would have a significant advantage in the workplace because it would attract extra investment and create extra jobs, and everyone would flock to Victoria. That is not quite what happened! There is very little evidence to show that jobs were absolutely created.

On the first day of the debate last year Mr Birrell stated in this house that if the bill were to pass it would cost 20 000 jobs in Victoria. Then we had the Christmas break. Perhaps it was because the dollar crashed or because of the GST kicking in, but suddenly we now hear it will cost 42 000 jobs. Who knows what the figure will be next month? If I were an ordinary worker depending on those opposite, I would be really worried.

Given the difficult times for the conservatives opposite with their constituent base — small business — they are clearly desperate to try to regain some lost ground. However, they have done so much damage with the GST and the business activity statement that they have no hope. They should get used to the fact that they are going to be cleaned up at the next federal election. They should then think about what they might do and then come back — but God knows, it will take some time!

The removal of state awards was similar to the removal of common-law rights. Those opposite would do anything they could to either punish workers or expose them to the vagaries of the market. Now we have an admission from the federal government — from Mr Abbott, who is still on his training wheels — that, 'Maybe we did get something wrong. Maybe we did make a mistake. Maybe we have to rectify the situation in Victoria to some degree to save our colleagues down there'. What did he come up with? It was too little, too late. Yesterday in an interview with Jon Faine on ABC radio he stated, among other things, that Wageline in Victoria had received 340 000 calls about wages and conditions as they applied to the callers. I guarantee not one of those calls would come from a union member — they would not have had to make such a call.

Mr Abbott said that 50 per cent of workers actually get their money when they make a complaint — that it is settled before they go anywhere, not that they have anywhere to go — and that it takes only three months. How would those opposite like to wait three months to be paid, particularly if they have a family? He admitted that $2 million had been paid to workers who made complaints — an average of $1000 per worker. That is not a bad average. That would be about a full month's pay — and they have waited three months to get it! It is outrageous, and yet those opposite say that there is no need for a tribunal. What nonsense! They should at least be honest.

Mr Abbott said there had been no prosecutions under his act. That is funny, given that workers have to pay to initiate prosecutions and do not have the money to do so. It is bad luck!

The government's proposal is that there be a low-cost tribunal to allow workers to make claims and have social justice delivered quickly and simply. Honourable members on the other side oppose that at all costs.

The government has been vilified by the conservatives opposite on its lack of consultation. I did not think they knew what consultation was. Under the Kennett government consultation was a matter of let it be written and let it be done!

I refer to the glossy publication prepared by the Honourable Cameron Boardman. I assume the Honourable Wendy Smith also had some role to play in its preparation. It is a pity her photograph is not on it along with his! Look at the size of the photograph! Who paid for this? What a joke! When you look at the content, you see it is outrageous!

Hon. B. C. Boardman — I've got one, too.

Hon. R. F. SMITH — You've probably got a car load of them! The government commissioned independent research which shows that there could be a loss of 1900 jobs over 10 years — but since it came to office the government has created 80 000 jobs. The Victorian Employers Chamber of Commerce and Industry conducted its own survey before it even saw the bill. VECCI said that 22 000 jobs would be lost. It said, 'That's not a bad figure, let's pull it out of the air' — now the figure is 42 000 — yet there was no detail as to how VECCI reached that conclusion. Was it a lucky guess? Let us hope not. It seems that VECCI surveyed employers who would not even be affected by the bill, yet honourable members are expected to believe that what VECCI says is accurate.

Who supports the passage of the Fair Employment Bill? The answer is that the Victorian Automobile Chamber of Commerce and the Master Builders Association of Victoria support it. Mr Baxter would say, 'Forgive them, Father, for they know not what they do!'. It is supported by the Victorian Road Transport Association, the Housing Industry Association and Clayton Utz, a conservative law firm. I do not see representatives of that firm at functions at the offices of Slater and Gordon or Maurice Blackburn.

Some Liberal myths have been promulgated. The first is that the proposal is a complex and costly new system. The reality is that the Fair Employment Bill proposes the establishment of a simple, low-cost tribunal to help employers and employees to resolve their issues. I would have thought that was a pretty fair cop. Obviously it is not.

The second Liberal myth is that penalty rates and allowances will apply to all employees. What a sin that some workers would be paid penalty rates! Further Liberal myths were that nothing in the bill requires weekend overtime penalty allowances to apply to the workplace. It is also said that the Fair Employment Tribunal will decide what type of provisions should apply in different industries, that it is required to consider the efficient operation of businesses in making any decision, and that most conditions in that bill, such as four weeks annual leave, already apply to Victorian businesses. However, it must be remembered that the bill does not apply to those covered by, or over and above, federal awards because it applies to schedule 1A employees. I will save for another day another 14 examples of Liberal myths I had intended to read to the house.

I ask of the conservatives opposite: what happened to the Robert Menzies party? When did it lose its soul and ideals? How did it come to be dominated by the hardline economic rationalists? If honourable members think I am wrong, I ask them to listen to the following quotation:

> The honourable member would not know. I was speaking about industrial peace. It is a pity that it seems such a war-like subject. There is a question that should be posed on this matter, and it is as follows — do we in this Parliament regard industrial peace as a problem for all of us, or do we divide ourselves into two groups — those who want it and those who do not want it? Is it a problem for all of us, because if it is, then we in this house must be astute not to encourage the peace-breakers! Let me say to those who have an association with the great trade unions of Australia, that the trade unions have not only powers — great powers, proper powers — but also responsibilities, great responsibilities, to a community that has given them great powers. That, after all, is the social law of life. A government's duty is to cooperate with trade unionism, and it is the duty of trade unionism to cooperate

> with government. That cooperative traffic must run both ways.

That quotation was from Robert Menzies, as reported in *Hansard* of 14 March 1950. Shame on the Liberal Party!

I have already said that the bill will go down because it is the only thing the opposition can cling to in the hope it will gain some skerrick of credibility with its constituent base. But in my view it will be a day of shame when that happens. I commend the bill to the house.

Hon. B. C. BOARDMAN (Chelsea) — Prior to the contribution of the Honourable Bob Smith I thought Chelsea Province was represented by two members. I am confused by what has just occurred because from time to time as I drive from Frankston, where my house and electorate office are based, up the Nepean Highway I drive past an office that bears the sign 'Honourable Bob Smith, MLC, member for Chelsea Province'. I have often thought, 'There is an office of a member of Parliament, although not many people in the electorate would know or see him. He is supposed to be paid by the taxpayers of Victoria to represent his constituents'.

The core constituency that would be affected by the introduction and implications of the bill is the people who live and work in the electorate of Springvale that forms part of Chelsea Province. Why did an honourable member for Chelsea Province, Mr Bob Smith, who is supposed to represent the electorate, make no reference to his electorate during his contribution?

I was about to commend Mr Smith. I recall a sultry Saturday afternoon in December last year when Mr Smith and I attended the Springvale Indochinese Mutual Business Association (SIMBA) offices in Springvale to discuss the bill. He represented the Minister for Industrial Relations. Representatives of the Textile Clothing and Footwear Union of Australia and other unions attended the forum organised and conducted by SIMBA. Also present were many contributors from the outworking industry and community groups.

I commend Mr Smith for the way he behaved on that day. He was passionate and believed in what he was saying, albeit he was extraordinarily misdirected. However, he behaved in a reasonable and democratic manner. I thought the results of that meeting would have been the basis of Mr Smith's contribution to the debate on the bill, because a number of community members at the forum said they would be affected by the legislation and its implications. It perhaps comes as no surprise that Mr Smith would completely isolate himself from his community and use this opportunity to confirm where his ideology, commitment and beliefs belong — that is, with the trade union movement.

Hon. R. F. Smith interjected.

Hon. B. C. BOARDMAN — Mr Smith went into some history, so I will, too. The introduction of the bill came as no surprise to the opposition. I refer to an article written by Professor Ron McCallum in the *Australian Financial Review* of 17 December 1999. All honourable members know who Professor McCallum is. He is the independent umpire or honest broker, as the Minister for Industrial Relations would say, hired by the government to chair the review into industrial relations in Victoria. The article states:

> I think that other Labor Australian states may follow Queensland's lead and enable self-employed persons to be classified as employees for the purpose of industrial legislation. I am certain that the abandonment of the continuing employment on a large scale will usher in a legislative response that will be far more restrictive to commerce than our current laws which are centred upon resilient contracts of employment.

Even last December Professor McCallum unfortunately was going against the grain of commercial enterprise and fair employment agreements as they should exist in Australia by propagating his misguided, ideological, irresponsible response to the *Australian Financial Review*.

Professor McCallum is the chair of the Australian Council for Industrial Relations Research and Training based at Sydney University. In its 1998 publication *Australia at Work* it publicises a number of protocols and philosophical ideals in which it believes and to which it subscribes, including:

> … Regulate working time, setting minimum and maximum working hours.
>
> Regulate the number of people who can attend work at businesses.
>
> Regulate the amount of overtime.
>
> Increase leisure time.

How could the Minister for Industrial Relations, when she first announced to the house some months ago that she was embarking upon an independent review of industrial relations in Victoria, possibly justify that appointment as being impartial and independent when clearly the individual who was given the job of chairing the review was not impartial, had definite philosophical objectives and wanted to ensure that the policy and protocols he was promoting in many forums and his

own organisation formed the basis of state-based industrial policy?

In addition, we must remember what was happening in Queensland when the Beattie government introduced its state-based industrial relations system. I refer to an article by Stephen Long in the *Australian Financial Review* of 10 December 1999. It concerns a shearer named Barry Hammond who was harangued, to use a term Mr President used recently, harassed and victimised by the Australian Workers Union because he wanted to have his own shearing employment flexibility and to contract himself where he thought it necessary and appropriate. The article states:

> Barry Hammond spent six days in Charleville jail in 1992 for defying the courts and breaching award restrictions against shearing on a Sunday. Now, the north Queensland shearing contractor is at the centre of a test case that will define the future shape of industrial relations.
>
> The Australian Workers Union —

a union the Honourable Bob Smith may have once belonged to —

> led by Queensland union powerbroker Bill Ludwig, has applied to have subcontractor shearers engaged by labour hire companies deemed to be employees under radical new provisions of the state's industrial law.

So, quite clearly even back in 1999 what was occurring in Queensland is exactly what the Bracks government is trying to advocate and promote in Victoria.

Mr Bob Smith quoted extensively from the former great Liberal Prime Minister and father of the Liberal Party, Robert Menzies, on industrial peace. However, by advocating this bill, the type of industrial peace Mr Smith is promoting is industrial peace by litigation, unfair conciliation and union-dominated work forces.

In her long-winded promotion of the bill, the Minister for Industrial Relations asserted that the power of entry provisions in the bill are identical to those in the federal Workplace Relations Act. Under the heading 'Power of entry and inspection', clause 153 of the Fair Employment Bill states:

> (1) A tribunal official may exercise a power under this section only if a member of the Tribunal or the registrar considers it necessary to do so for the purposes of, or in connection with —
>
> (a) a proceeding in the Tribunal; or
>
> (b) the exercise of any other powers or the performance of any other functions under this Act.
>
> (2) A tribunal official may, during working hours —
>
> (a) enter a workplace; and
>
> (b) inspect any work, material, machinery …

and the clause continues. In the minister's promotion of this provision she referred to the provisions in the Fair Employment Bill being identical to those in the federal Workplace Relations Act. I do not think that is the case, because section 285A in division 11A of the Workplace Relations Act headed 'Entry and inspection of premises etc. by organisations' states:

> (1) A Registrar may, on application by an organisation in accordance with the regulations, issue to an officer or employee of the organisation a permit in the form prescribed for the purposes of this section.

There are five sections in the federal act that go through a detailed and exhaustive list of requirements that need to be adhered to before a permit can be ordered and executed. In this bill there are two clauses that provide when a permit can be ordered but do not go to the detail of the restrictions and conditions under which a permit can be executed. Section 285D(2) of the federal act states:

> A person is only entitled to enter premises, and exercise powers, under section 285B or 285C if the person has given the occupier of the premises at least 24 hours notice of the person's intention to do so.

So where are the similarities in the Fair Employment Bill to provisions in the federal Workplace Relations Act about powers of entry and inspection by officers? Quite clearly they do not exist. The minister's own rhetoric and justification is wrong because under the federal act what is required before a permit can be executed is 24 hours notice to the occupiers to inform them that they are being targeted and will receive a visit. Under the Fair Employment Bill no such protection exists.

Honourable members interjecting.

Hon. B. C. BOARDMAN — I am quoting directly from the act, and I challenge any government member to get a copy of the bill and a copy of the federal Workplace Relations Act and try to prove me wrong, because quite clearly they cannot. They have not read their own legislation, and the minister, who continually refers to the federal act, does not understand the provisions to which she refers.

Instead of providing protection to people being targeted and victimised by unions and officials who are going to enter their premises, the Fair Employment Bill imposes penalties on them if they do not comply with the provisions of the act. If they refuse entry to or unduly delay a tribunal official entering a workplace or fail to answer a question without reasonable excuse or wilfully give false information or make a false statement to a

tribunal official, the penalty is 60 units. So a union bully can enter a workplace and the protection is quite clearly on the union bully. Under the bill protection is not afforded to the person who has been targeted and is being victimised.

I do not know how the minister in this forum, or in any other forum, can claim that her bill has the same powers of entry and the same provisions as those in the federal act; quite clearly that is not correct. The bill clearly and aggressively continues to pull normal commercial contracts within the powers of the proposed new tribunal by means including controlling transactions between corporations. The bill aims to remove competition, incentive and flexibility and to make Victorian workplaces uncompetitive.

The government wants an inflexible work force. It wants a work force working for the same rates of pay and conditions and doing the same jobs, therefore making competition between industries non-existent. It does not, as the government claims, isolate or protect government-favoured sectional industries from the provisions of the bill, as has been asserted by the minister.

Over recent years manufacturing industries have experienced probably the greatest decline in union membership renewals of any sector, so the government decided it wanted to promote manufacturing industries with industry association packages. The bill therefore provides a great opportunity to give power and influence to the manufacturing unions to boost their memberships. That is what the bill is about — it is not about helping the industries and making them internationally and domestically competitive. It is all about a grab for membership on the part of the unions. I challenge the minister and any government member to demonstrate how the bill can provide any better worker protection mechanisms, because it does not.

I turn to local issues, and I would do what Mr Bob Smith did not — I would refer to my electorate, because not only am I proud and passionate about being an honourable member for Chelsea Province, but I regard myself as a strong advocate for the people there. I turn to a document prepared by a group that promotes itself as the outworkers coalition. It produced a document entitled 'Outworkers speak out', and if any government member had bothered to read this document they might have a greater understanding and better comprehension of how the industry works. The document states:

> Most outworkers in Victoria obtain work from small clothing manufacturers. Manufacturing is concentrated in Springvale, Dandenong, Clayton and Noble Park in south-eastern Melbourne and in Brunswick and surrounding areas in inner northern Melbourne.
>
> …
>
> A typical outworker operation is headed by 'mum'. While her husband is at work and the children are at school, she would perform her tasks. Usually, the tasks are done at a leisurely pace. A normal daily routine would be making breakfast, getting the children ready for school and dropping them off there. She would also have to perform other household duties such as shopping, cleaning and cooking et cetera. She would start work around 10.30 a.m. and would make lunch at noon for herself or her children who are too young to go to school. Then she would resume work until it is time to pick up her children from school. Then, the family dinner needs to be prepared. After dinner she would resume her work and her husband may help her until late at night. While she is sewing she would probably be playing a video of a soap opera in her language to make her work less tedious.

On the surface that situation sounds reasonable and I suspect all honourable members would agree that that is a compassionate and believable case put forward by outworkers in general, but it goes on to talk about the issues. The document refers to the benefits of being an outworker and states:

> Certainly, being independent contractors has its perks. Outworkers are outworkers by choice … They fully understand the competitiveness of the industry and in manufacturing we are losing to cheap imports. They believe that being an outworker has many benefits that outweigh those of being a factory worker …

This is not propaganda; it is not made up. The information comes from the outworkers. The benefits include flexibility of hours, being their own boss, having their own business, having their own workplace set-ups, financial freedom and financial equality. A paragraph entitled 'Financial equation' states:

> A person with a full-time job doing packing and cleaning would clear around $400 for a 38-hour week. Assuming this person is a family person with two children, the cost of child care and after-school hour activity is approximately $200. The net left over is $200. Assuming that an average outworker can earn $12 per hour and the total weekly input by husband and wife is 50 hours then they gross $600. There is no child-care cost. Travelling to and from the factory is not tax deductible, while travelling that is business related is fully tax deductible.

Outworkers perform their duties in the sanctity of their own homes, and that will be exploited by the provisions of the bill. Those people are able to take good care of their children. It is fundamental to them that they should have an influence over their children to ensure they are getting the right level of parental care. It is a way of life and the family can be involved if they think it is necessary. This is independence; it is a choice outworkers have made themselves. They want to be outworkers.

I refer to a case study of a Mrs C, who lives in a large house in Clayton. She said she and her husband own another house, which is being rented. They have three children — two were born in the camps in Thailand and one was born in Australia. She admits they are growing up very fast. The two eldest children go to university while the youngest is entering high school this year. Mrs C's daily routine consists of getting up around 8.00 a.m. She drops off her youngest child at school and comes home to do some household chores for about an hour. Her work starts between 10.30 a.m. and 11.00 a.m. She has a quick lunch at noon. While she works the television set is turned on. Most of the time the video is playing; otherwise she is content with midday soapies.

At 3.30 p.m. she goes to school to pick up her youngest son. If he has after-school activities she attends to that, just as she did when her other children were younger. She then comes home to prepare dinner for the family. At about 7.30 p.m. or 8.00 p.m. she commences work again. This time her husband helps. They work until about 11.00 p.m. or midnight. Her children hardly ever help her. She said that she would appreciate it very much if they would just clean up their own mess and study hard. The main point she makes is that by being at home she has the opportunity to look after her children. She says that she is financially better off than working in the factory because she does not have to pay for child care.

I visited some of these outworkers, spoke to them at forums and got to know some of them personally. I know other honourable members have had similar experiences. Not one person I visited has any great concerns, except that the bill might be implemented. I cannot fathom how the Bracks government can justify its supposed sincerity and compassion when the bill will target people who themselves have come from exploited, totalitarian and dictatorial regimes that removed flexibility and made their lives a living hell. That is why these people came to this country, but, through the bill, the government wants to put that system in place. It wants the union bovver boys to come into people's homes asking questions. If they do not answer the questions they get fined.

The government wants the union heavies going into factories telling people who are not members of the union that they have to sign up or they will hassle them until they do. That is the type of environment and regime this government wants to introduce. That is the regime many of these outworkers have escaped from. They do not want that. They have come to Australia because they like the lifestyle, the flexibility and the freedom of choice. Under the so-called Fair Employment Bill all that will be removed and their livelihoods will be denied.

Consultation was a key part of the contributions of honourable members who have contributed to the debate. The minister produced a propaganda document probably compiled by members of some Labor Party committee who would not know what was put in front of them. I give honourable members an example of the type of consultation this minister has undertaken throughout Victoria. I learnt through a local journalist of a forum of outworkers in the Springvale area in my electorate. I found out subsequent to the forum that only 11 people turned up. Of those 11 people, 2 or 3 were ministerial staff, a couple were Labor members of Parliament, 3 were members of the textile clothing and footwear union and 2 or 3 were outworkers. I found out that the outworkers who attended the forum in Springvale were members of the Cambodian Association of Victoria. That surprised me because that association is nothing more than an ALP front. The founding president of the association and someone who still has significant influence in the association is none other than Hong Lim, the honourable member for Clayton in the other place. The current president of the association is a nephew of Youmorn Cmea, the ALP councillor who is now the elected mayor of the City of Greater Dandenong.

I do not know how anyone in the chamber could suggest it is an impartial group. It is not. The meeting was a stunt. No notification was given to the key community groups, including the Cambodian community of Victoria. No advertisements or press releases were issued in the local papers informing the community of a visit so genuine members of the community could give their views on the bill, and no notice was given to the media so journalists could attend and give an independent report and analysis of what occurred. Members of the media found out through the grapevine because word got out.

I conclude with two quick points. Like all Liberal and National party members of Parliament, I was surprised on 26 February to receive an email from Leigh Hubbard, the secretary of the Victorian Trades Hall Council, referring to research conducted by Sweeney Research on small business attitudes to industrial relations in Victoria. I have a copy of the executive summary. I thank Mr Hubbard for sending that document to me because it is amusing reading. Mr Hubbard said that the survey demonstrates overwhelming support for both the principles behind the Fair Employment Bill and the bill itself. I refer to the last page of the survey which states:

> Only one-third (39 per cent) of small business sector employers are aware that the Victorian government is considering amendments to laws to ensure minimum conditions of employment apply to low-paid workers.

One-third of the small business sector employers that Sweeney Research surveyed demonstrated an awareness of the amendments, so how can the secretary of the Victorian Trades Hall Council say they overwhelmingly supported the bill? I am sure many of my colleagues will refer to the survey in their contributions, but many of the questions were misleading and did not ask anything about the bill.

I now refer to a genuine survey that I and my colleague, the Honourable Wendy Smith, were criticised for in a news release dated 29 January entitled 'Bracks government rejects survey claims'. It states in part:

> Miss Gould said a survey distributed to businesses by Liberal MPs including Wendy Smith and Cameron Boardman, showed the opposition's lack of understanding of the bill.

I have a copy of the infamous survey that has got up the nose of the Bracks government. It has caused the Minister for Industrial Relations to issue a press release condemning two Liberal backbench members. It has got up her nose because it is accurate and fair and reflects overwhelmingly the responses that I and I am sure other honourable members have received condemning the bill, the lack of consultation and the way the government has handled industrial relations in this state. They all agree that costs are going up. They believe it is scandalous and shameful that the government has not informed them of the changes proposed in this bill. I challenge government members to go through the survey responses one by one, and I have more than 600 of them. If they do they will discover why the legislation is bad, why it should be condemned, why it will be defeated, and why the Victorian public, particularly the small business sector, is getting sick and tired of the way this government is running the state. Not only is the legislation shameful, but government members who support the bill deserve to be condemned.

Hon. S. M. NGUYEN (Melbourne West) — I am delighted to speak on the Fair Employment Bill. The contributions so far have listed the arguments for and against the bill, but, as Mr Bob Smith said, the bill has many good principles.

The bill supports the rights of workers and supports employment and future jobs in Australia. The other side of politics is very negative about the bill because it is anti-union and does not believe in protecting Victorian workers' rights.

Hon. C. A. Furletti — Say what you mean, not what you have been told to say.

Hon. S. M. NGUYEN — This is not what I have been told, it is what I know. I know many people in the community who need the legislation to help them cope with the workplace every day. It is okay for opposition members because they know how to deal with issues. They can stand up and speak for themselves and protect themselves, but other people cannot do that and they need someone or some legislation to protect them.

Workers may be called into the office to speak to their employer. The employer has the right to tell the workers what to do. Workers are told they have to work or get out. They are told that there are many people outside who want their jobs. Workers have to say yes to anything the boss says and yes to anything the boss wants them to sign. Not everyone can stand up and say they disagree with what is contained in their contracts. Many workers do not have the guts to stand up and say those things. They rely on the minimum wages and conditions produced by the state or federal government so that they can tell the boss that they will go to see the lawyers or the unions to protect themselves.

For many years I worked as a labourer. I worked in a factory and I know that many times I had no say in my job. Everything was done by the foreman and the leading hand and they controlled every person on the floor. If we did not meet their standards or quotas, they put us off.

Workers should have the right to know what their duties are. The bill is about giving everyone the same benefits. Workers should know that every person working on the floor is equal and if you work you have the same standard. Enterprise bargaining sets up everything. It is very hard for people to know if they are doing a good job or not doing a good job. People try to work hard to please the boss, but the boss is never happy. The boss wants the workers working harder and doing more and more every day.

Many honourable members do not understand about outworkers. I have listened to previous speakers and they made me upset and angry because they know nothing about outworkers. I have been in this country for more than 20 years and I have seen many outworkers. They know they have been ripped off for many years but they have no choice because they cannot find other jobs.

The lowest job is working in the garment industry at home. People say those people are contractors. Can you believe that contractors get $2 an hour to work in

Australia? This is Australia, not a Third-World country. It is not Indonesia, Vietnam or the Philippines. People think it is a good way to work. It is not a good way to work apart from people who work at home to look after the children so that they do not have to send their children to child care. That is good if they are receiving good wages, holidays, superannuation and annual leave. But they receive nothing. They have to buy their own machines, they have to buy overlockers and they have to pay for the electricity.

Sometimes outworkers ask their primary school-aged children to stay at home to assist with the finishing of garments. It is not good for them to stay at home and work on garments. A lot of contractors ask people to finish a job in a short time so they have to work into the night and the early morning. Sometimes they do not have time to cook for themselves or for their children.

A lot of those things have happened in Australia. It happens in areas such as Springvale. It happens everywhere. It happens because if people refuse to take a garment there is someone else to do the garment for that price. I remember a couple of years ago the cost of a garment was $6 or $7 an hour. Now 20 years later it has gone down from $7 to $2. If someone refuses to take a garment there is always someone else to take it. Why? Because any newly arrived immigrant in Australia has to wait two years to receive any benefit. What do they do for those two years? They have to do everything and anything to earn incomes. They work on farms and they work in backyards. They will do anything to earn money. They cannot sit down and wait for two years to receive benefits.

The system has to change to help such people. If we want to improve their conditions we have to look at what is wrong. If workers had a better choice I am sure they would quit those jobs. However, there is no alternative. They do not want to sit down and do nothing while having to pay rent and living expenses. They have to do something to earn incomes.

When companies send garments to people the price must be controlled to make sure the people who make the garments know the price they should receive. At the moment there is very little support. No-one can tell them what they are doing and how much money they should receive. There is no assistance outside to help them to confront the boss. If they confront the boss what do they get? They get nothing; they get no jobs. If they want to keep working they just keep quiet and get on with the work.

I am sure the system will upset some employers because some have been using people over many years. They know the government will charge them because they have been breaking the law and that they will be penalised. They know they will no longer benefit from doing that because people will be watching them.

There has been consultation on the bill. The minister and community organisations have organised discussions in local communities. I should like to mention some of the meetings that were organised by the Vietnamese community in Victoria. People came along to those meetings and told their stories. They want the government to provide stronger penalties. A Vietnamese talkback program on SBS radio invited people who were working as outworkers to ring up and discuss the issue. Afterwards the Vietnamese community made a formal submission to the minister outlining those people's concerns. I have a copy of that submission. It calls on the minister to take action and endorses and supports the government's proposal. The Vietnamese community did that because it is trying to stop people ripping off outworkers. It is a long letter. I shall pass it on to honourable members who are interested in seeing what people are really concerned about.

Despite some honourable members protesting about people being pro-union or anti-union, the bottom line is that as members of Parliament we are here today to see what we can do to improve the situation for the community. Some honourable members have protested that this bill will help the unions come back, but the unions will not come back because of this bill. Unions have their own principles and can campaign for themselves. They do not need Parliament to help them come in the back door to recruit members. Opposition members are trying to use the union movement as an excuse to stop the bill being passed, and to tell the community it is for union hacks and is being totally steered by the unions. I do not think that is the case.

At the meetings I attended the unions never became involved or told people what to say. Unions never had their members at such meetings or asked members to stand up and control the meetings. The meetings I went to were attended by people who had been through an experience, who wanted to see what the government could do to help them, and who wanted to obtain information.

Hon. M. T. Luckins — Why aren't they joining the union?

Hon. S. M. NGUYEN — They can be members, but that does not mean they have to be members of a union. They know they can contact lawyers — people who understand the law — or a union. That is a choice

for the workers. They do not have to use a union if they do not trust it or if they do not believe in unionism. If their employer is breaking the law they can decide to go to a lawyer. They know whom to go to. This bill will help 200 000 outworkers who are presently not protected under federal awards. Today has been a long day. In conclusion, the bill is important for Victorian outworkers and also for the — —

Hon. Bill Forwood — Unions.

Hon. S. M. NGUYEN — Not for the unions. It is important for Victorians that the bill be passed. I ask members on the opposition side to think about how to protect their constituents who are workers. I support the bill.

Debate adjourned on motion of Hon. W. I. SMITH (Silvan).

Debate adjourned until next day.

PARLIAMENTARY PRECINCTS BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. M. GOULD (Minister for Industrial Relations).

STATUTE LAW AMENDMENT (AUTHORISED DEPOSIT-TAKING INSTITUTIONS) BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. C. C. BROAD (Minister for Energy and Resources) on motion of Hon. M. M. Gould.

ADJOURNMENT

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

That the house do now adjourn.

Victims of Crime Assistance Tribunal

Hon. P. R. HALL (Gippsland) — The matter I raise with the Minister for Small Business, who is the representative in this place of the Attorney-General, is urgent and concerns the Victims of Crime Assistance Tribunal. I wrote to the Attorney-General on 11 December last year seeking his urgent assistance concerning a constituent of mine who resides in Metung in East Gippsland. I received an interim response from the Attorney-General dated 14 December but have heard nothing since on this issue. Last month I issued a reminder notice on the issue.

The original correspondence outlined the concerns of my constituent, who was a victim of sexual assault. I do not wish to elaborate on the details of her case here, but she was admitted to the victims assistance program, and as such she was automatically entitled to 10 counselling sessions with a psychologist. After five sessions it became apparent that she would require more than the 10 sessions. In September of last year she made application to the tribunal to extend the number of counselling sessions that she could receive under the program.

On 14 December last year, even though her application was submitted in September, the tribunal hearing date had not been set. The tribunal hearing date was set and a hearing took place in the middle of March. Despite being informed that it would be a decision hearing, it turned out to be only a directions meeting. My constituent's lawyer received $300 for 10 minutes work at that directions meeting, which directed that my constituent undertake a further psychiatric assessment of her condition, which in turn would require a further three visits to a psychiatrist in Melbourne.

Each visit involves a 4½-hour one-way trip from Metung to Melbourne with a friend or via public transport because my constituent is too traumatised to drive herself. The cost for this delay is being met by the victims assistance program. Given that my constituent in the first place made an appeal to have 10 further consultations with a psychologist, the cost of the extra bureaucratic process far outweighs what she applied for in the first place.

I was not surprised to receive a letter from the Austen Centre for Therapy dated 26 March, which was sent to all members of Parliament, concerning the victims counselling scheme. The letter from Gary McMullen, director, specialist in counselling psychology, outlined that he believed the program was closed and that nobody was receiving counselling services.

Will the minister direct the urgent attention of the Attorney-General to the operation of the victims assistance program, and in particular to the Victims of Crime Assistance Tribunal? These people deserve

more. Will the minister show compassion and give them what they deserve?

Electricity: contestability

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Energy and Resources on power prices and retail contestability. I read in the *Knox Journal* of 14 February that the mayor of the City of Knox had complained that the state government had failed to deliver savings in public lighting costs. She said the state government was guilty of not having delivered savings of up to 15 per cent to the local government sector and that the right of contestability had been available to heavy users of electricity in the private sector for a number of years, reaping them savings of up to 15 per cent.

The mayor of Knox, Cr Jenny Moore, said the council had paid more than $1 million a year for public lighting and fell well within the heavy user category. Cr Moore has blamed the Office of the Regulator-General for failing to implement contestability for local government, and stated:

> They were aware of the deadline for five years, but due to bureaucratic bungling they have failed to meet it.
>
> Unfortunately, this bungling has potentially cost the ratepayers of Knox a lot of money.

Fifteen per cent on $1 million worth of lighting is a lot of money. Is the mayor of Knox correct when she says that the Office of the Regulator-General has failed and bungled in providing local government in Victoria with savings that other heavy industry is entitled to? Will the minister comment on government policy about providing retail contestability and discounts for power to the public sector, in particular the local government sector, in Victoria?

Petrol: substitution

Hon. E. C. CARBINES (Geelong) — I raise a matter with the Minister for Consumer Affairs. In light of a question asked during question time today by the Honourable Wendy Smith about petrol adulteration by Liberty Oil, will the minister inform the house whether Liberty Oil has been using ethanol for the purpose of excise avoidance?

Gippsland: community development officers

Hon. K. M. SMITH (South Eastern) — I direct to the Minister for Energy and Resources for the attention of the Minister for State and Regional Development in the other place a matter of concern to the people in South and West Gippsland about rural community development officers.

In the March 2001 edition of *Rural and Regional Victoria* there was an article about rural community development officers being appointed to cover nine areas throughout rural Victoria. It stated that one person, Coral Love, had been appointed at Bairnsdale to cover central and East Gippsland. One would have thought with the concerns raised in a report about South Gippsland and the concern of people in that area it would have been a prime target area for the location of a rural community development officer.

Will the minister inform me as quickly as possible when somebody will be appointed to an area to cover South and West Gippsland, and when that person is appointed will the minister ensure that they are based in an area such as Korumburra, Leongatha or Wonthaggi so they will be in touch with the community and can assist the people there?

Deledio Reserve, Dunolly

Hon. R. A. BEST (North Western) — I raise with the Minister for Energy and Resources for the attention of the Minister for Environment and Conservation the matter of Deledio Reserve.

The Dunolly committee of management of the Deledio Reserve has been advised by the Department of Natural Resources and Environment that part of the area that makes up the reserve is to be passed off to a person to develop grapevines. If this were to happen it would mean a water supply being made available for that purpose from the dredge hole that is part of the Deledio Reserve. That would mean not only a loss of water to the reserve but that any future expansion of the reserve would be jeopardised. The committee of management would lose a grant it recently received from the Minister for Sport and Recreation for the upgrade of the cricket oval at the reserve that has enhanced the whole area.

The Central Goldfields Shire Council has supported the committee of management of the reserve in trying to protect that parcel of land. However, the department is insisting on divesting its powers over the land to a private operator to plant 5 acres of grapes, which would seem inadequate to support a financially viable commercial operation.

Will the minister examine the work that has been done by the people involved at the reserve to ensure that the land is preserved for their future use and that an opportunity is provided to develop it as a community

reserve so that its future use associated with sporting pursuits within the Dunolly area can be assured?

Watery Gully Reserve, Wattle Glen

Hon. BILL FORWOOD (Templestowe) — I ask the Minister for Energy and Resources to refer to the Minister for Environment and Conservation in the other place an issue that has been brought to my attention by Mary McDonald of the Nillumbik Ratepayers Association concerning the Watery Gully Reserve.

In March last year a committee of management was appointed by the Department of Natural Resources and Environment (DNRE) to manage the reserve. Apparently one of the responsibilities of that committee is to issue licences to property owners who currently cross the reserve to access their land. Three ratepayers who live in the area have been crossing the reserve for a considerable period and no-one has asked them to get a licence to do so until now.

The three ratepayers were invited to a meeting at which they were apparently told they would get licences for three years and that fees would be attached, but no-one knows how much the fees will be. These people have had habitual use of that particular route to access their properties and all of a sudden there has been a change in the way things are done.

A number of issues have been raised with me by various people, including Mary McDonald, Mrs Anne Stoneman and Ms June English. In particular, there is concern about how fees will be set and about the reporting requirements. A DNRE officer, Jill Garvey, reputedly said to them, 'We would like it to report, but there are hundreds of these committees and it is all too hard'.

These people have significant concerns about access to properties they have held for a very long time being taken away in a rather strange way. I ask the minister to inquire into what is going on and get back to me so that I can put their concerns to rest.

Frawley Road, Hallam

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I refer the Minister for Ports, representing the Minister for Transport in the other place, to the work of the Frawley Road Action Group headed by Mr Douglas Black, who is a resident of Hallam. The action group is committed to improving traffic conditions on Frawley Road.

For the information of honourable members who are not aware, Frawley Road runs parallel to the Princes Highway in the Dandenong–Hallam area, between Doveton Avenue and Hallam Road. The problem is that during the evening peak hour it can take roughly 40 minutes to travel the parallel stretch of Princes Highway and a similar time in the morning peak hour. As a consequence, traffic is diverting off the Princes Highway onto Frawley Road, which is a residential street. Frawley Road is now carrying in the order of 11 000 vehicles per day, with significant congestion during peak hours.

The Frawley Road Action Group is committed to improving the situation in relation to traffic flow on Frawley Road and has two options to do so. Because it is a council road the first is to lobby the council, , to put restrictive devices on Frawley Road. It recently had a win in getting a speed limit of 50 kilometres an hour imposed on Frawley Road and a roundabout has been installed. However, the only way to slow down the traffic on Frawley Road is to make traffic travelling down the parallel section of the Princes Highway travel at the same speed, and that is not an ideal outcome.

The best outcome for the action group would be improvements to the Princes Highway, particularly at the freeway overpass, where three lanes reduce to two lanes and where the five or six sets of traffic lights generally delay and break up the traffic flow. Simple measures like improving the sequencing of traffic lights should improve the situation.

Last August, Douglas Black, the chairman of the Frawley Road Action Group, wrote to the Minister for Transport seeking his input on this matter. On 11 September the minister's office wrote back to Mr Black saying that he would receive a response as soon as possible. Some seven months later the Minister for Transport is yet to respond to the action group.

Last week, the action group held a public meeting to which the local members of Parliament were invited. Robert Dean, the honourable member for Berwick in the other place, attended; I attended, representing Mr Lucas, who could not attend; and the shadow minister in the other place, Geoff Leigh, attended. John Pandazopoulos, the Minister for Major Projects and Tourism, as the representative of the electorate of Dandenong, was also invited. Not only did he not attend, he did not even send an apology, demonstrating that the government has scant regard for the work of the action group.

I ask the minister to respond to the letter after seven months, start delivering to the action group and start delivering to my constituents.

Member for East Yarra Province: conference attendance

Hon. D. G. HADDEN (Ballarat) — I raise an important issue with the Minister for Industrial Relations in her capacity as Leader of the Government. As the deputy chairperson and a member of the Law Reform Committee of the Parliament, I am a strong supporter of the committee system vetting government legislation and proposals and providing advice to the Parliament as appropriate.

My attention has been drawn to a conference of public accounts committees from across Australia which was held recently in Canberra. I understand New Zealand, South Africa and Hong Kong were also represented. Despite having all costs paid for participation in that conference, including air fares, accommodation and registration fees, one Victorian committee member who was listed to attend did not do so. I understand the total cost for this person's failure to participate was in the order of $1000. Will the government request that the honourable member involved repay the expenses thrown away?

Hon. B. C. Boardman — On a point of order, Mr Deputy President, I seek your clarification on how this issue comes under the administration of the government. Clearly committee work does not come under the administration of the government. The committees are committees of the Parliament of Victoria and they have their own chairpersons and executive officers. I seek your clarification on how this matter can be brought to the government's attention for information and action.

The DEPUTY PRESIDENT — Order! Funding for committees is drawn from the Parliament under the auspices of the Premier, and they thus involve government funds. There is no point of order.

Hon. D. G. HADDEN — Will the government ask the member involved to repay the expenses thrown away?

Hon. M. A. Birrell — On a point of order, Mr Deputy President, there is no entitlement for any honourable member to attack and impugn a member in that manner in this house other than by substantive motion. If the honourable member wishes to do so — we would be thrilled to entertain her — she can. However, she has no opportunity to ask someone to take action and impugn the honourable member in that way.

Ms Hadden has called on the minister to respond to her accusation. She is not asking about a matter of fact; she is making an accusation about the use of money. She has no entitlement to do so and should be asked to withdraw.

Hon. R. F. Smith — On the point of order, Mr Deputy President, if the honourable member concerned has a problem with what has been said in this house he has a right to raise it in his own defence. It is inappropriate for someone to raise that concern on his behalf.

The DEPUTY PRESIDENT — Order! I have listened intently to the Honourable Dianne Hadden's request. I understand she asked for an investigation in the earlier part of her question and then referred to a repayment of moneys, which is not within the rules of this place. I rule her adjournment matter out of order.

Albury-Wodonga bypass

Hon. W. R. BAXTER (North Eastern) — I direct a matter to the attention of the Leader of the Government for referral to the Premier. The house will recall that this day a fortnight ago I spoke in favourable terms during the adjournment debate about the joint cabinet meeting between Victoria and New South Wales scheduled for the following Monday in Albury-Wodonga. I particularly asked that there be some statesmanlike decisions made about the Albury-Wodonga bypass.

Not surprisingly, no such statesmanlike stances were adopted by either Mr Bracks or Mr Carr. However, I was greatly disappointed to hear the Premier of Victoria allege on ABC radio that morning that in putting $70 million on the table to build an internal relief route for Albury-Wodonga, the federal minister was cost shifting and that the federal government should be responsible for both the external freeway and the internal relief route. He claimed that they were both the responsibilities of the federal government.

The Premier was either grossly misrepresenting the situation or he is entirely mistaken and does not understand the road funding regime in this country. When Wangaratta and Benalla were bypassed, those parts of the former Hume Highway that passed through the central business districts of those cities reverted to state responsibility. Clearly the same situation will apply in Albury-Wodonga. Notwithstanding that, the federal government has made $70 million available to assist the states to build a relief route.

I ask that the Premier either correct the misrepresentation that was made on the radio or

acquaint himself more properly with the road funding regime in this country and put out a clarifying statement.

Frankston: mayor

Hon. B. C. BOARDMAN (Chelsea) — Through the Leader of the Government I make a request of the Premier. I direct to the Premier's attention an article that appeared yesterday in the *Flyer* entitled 'Mark's the top citizen'. The *Flyer* does not enjoy the same level of editorial professionalism as other Frankston newspapers.

Hon. J. M. Madden interjected.

Hon. B. C. BOARDMAN — I am happy to table the article if the Minister for Sport and Recreation wants to ask such a stupid question.

Honourable members interjecting.

Hon. B. C. BOARDMAN — It appears at page 3. It is about the re-election of Cr Mark Conroy. Honourable members all know that he is the Labor-endorsed candidate for the federal electorate of Dunkley. Apparently he is on the payroll of the office of the Honourable Bob Smith, although no-one has seen him work there for one day — but then again no-one has ever actually seen the Honourable Bob Smith work there for one day! Cr Conroy makes a mockery of the position of the mayor and of local government. He is quoted in the article as saying:

> Obviously, I can't juggle both the federal election campaign for Dunkley and the mayoralty but realistically the election won't be called for a long way off yet.

An ALP-endorsed candidate is using the numbers of his spineless, insipid ALP colleagues to be re-elected mayor in an election year. It is an unprecedented position. It shows contempt for the council and the municipality he represents. The article states further:

> State Labor MP for Frankston East, Mr Matt Viney, said that in coming months he would work with Cr Conroy as his federal election campaign manager.

Mr Viney is not only the member for Frankston East in the other place, elected by the people of Victoria and on the parliamentary payroll, but he is also the parliamentary secretary to the Minister for Health, which one would consider to be an intensive and demanding position for which certain protocols must be met. Yet Mr Viney, along with Cr Conroy, demonstrates his contempt for Victoria and the Frankston East community. My request is simple. Will the Premier grant Mr Viney his wish and ensure that he becomes the federal campaign manager for the ALP, but also ensure that by doing so he is stood down immediately? I give notice that the Liberal Party will closely scrutinise the matter.

Magistrates Court: interlocutory applications

Hon. R. H. BOWDEN (South Eastern) — I direct a matter to the attention of the Minister for Small Business in her capacity as the representative of the Attorney-General. I suggest to honourable members that the maintenance of the credibility and the efficiency of the Magistrates Court system is extremely important to us all. It has been brought to my attention by several members of the legal profession in my electorate that it is necessary for all interlocutory applications in the suburban magistrates courts, including the Frankston and Dromana courts, to be heard at the Melbourne Magistrates Court.

It is causing great inconvenience and adding costs to litigation. It is inconvenient for litigants and practitioners. It is adding significant costs to small cases and many of the cases required to be heard in suburban magistrates courts are by their nature quite small. The need to add expense by going to Melbourne is of some concern. It assumes that the magistrates who do not sit in Melbourne are not capable of dealing with such applications. I would not agree with that. Importantly, it is suggested that there may seem to be an empire-building element in the management area of the central Melbourne Magistrates Court.

Will the Attorney-General where applicable return the hearing of interlocutory matters to suburban courts as soon as possible?

Libraries: funding

Hon. E. J. POWELL (North Eastern) — The matter I raise with the Minister for Energy and Resources, representing the Minister for Local Government, is an important issue of library funding in regional Victoria. A number of representatives from libraries have approached me about the issue. I refer, for example, to an article in the Wangaratta *Chronicle* of 23 March headed 'City library battles lack of funding'. It states:

> Staff cuts, reduced opening hours and a lack of resources is what Wangaratta's library employees are fearing.
>
> The library, together with all public libraries in the state, has been battling a lack of funding issue, which began with the introduction of the Bracks government.
>
> Chief executive officer of High Country Library Corporation, Elaine Richmond, said the Bracks … government has

> shunned country public libraries at a time when libraries are struggling to meet increasing wage costs and greater community expectations in relation book stocks and technology.

Ms Richmond is quoted as saying further that during the last two years of the Kennett government core funding was actually increased. The article continues:

> However, when the Bracks government came in, the first round of core state funding was decreased by 4.2 per cent.

The article states that Ms Richmond said that:

> … pre-election the Bracks government committed to allocate $2 million to regional libraries.
>
> However, the libraries across the state are still waiting for this funding to be forthcoming.

Country communities rely on their libraries for all sorts of things, not just borrowing books. Sometimes they house the only computers that people in isolated communities can access. Will the minister honour the government's commitment to allocate $2 million to regional libraries and immediately release the funding to reduce the burden on local government, which will have to increase its contributions so that regional libraries can continue to survive and service their communities?

Youth: Vietnamese leadership training

Hon. S. M. NGUYEN (Melbourne West) — I raise a matter for the attention of the Minister for Youth Affairs. On the weekend I was approached by a number of Vietnamese community organisations in Melbourne. As this is National Youth Week, the meeting I had with them was about the future of young people in Victoria.

The outcome of the meeting is that the community wants to organise leadership training of young people, from high school level to the community youth group level. As all honourable members know, young people who have left high school early are sometimes involved in bad and unhealthy activities such as alcohol and drug consumption and so on.

Leadership training aims to assist young people to learn how to deal with moving from school to society, an issue they often face. The training will bring together students from many schools, young people living in Melbourne, parents, and paid and unpaid experienced youth workers. They will work together with young people over a weekend discussing many such issues.

The organising committee is chaired by the Vietnamese Alumni Students Association in Victoria and works in conjunction with other groups such as the Vietnamese Community Association, the Vietnamese Melbourne Lions Club and the Vietnamese Teachers Association.

The committee would like to invite the Office for Youth and the education department to assist it in organising a leadership training camp for young people.

I am sure the training camp would be one of the first, and would give young people more skills in both how to say no when pressured by someone who asks them to take drugs or engage in criminal activities, and how to help their friends and other young people who have similar pressures placed on them. Will the minister advise what he can do about the proposal?

Australian Formula One Grand Prix

Hon. ANDREA COOTE (Monash) — I raise through the Minister for Sport and Recreation a matter for the attention of the Minister for Major Projects and Tourism in the other place.

I remind the chamber that when in opposition the honourable member for Albert Park in the other place, who is now the Minister for Health, was a vehement critic of the Albert Park grand prix. However, he was been remarkably silent on Albert Park since becoming a member of the government.

I refer to an article in the this morning's *Age* entitled 'Distrust shown in park body'. In the pitch of Albert Park fever, and to placate the constituency of the honourable member for Albert Park, the Minister for Major Projects and Tourism — apparently the Minister for Health had spoken to him — has established yet another Labor government advisory committee, which is designed to look at the mechanics for maintaining an appropriate balance between the needs of the Australian Grand Prix Corporation and of the public, while maximising the benefit and minimising any inconvenience as a result of the event.

When will this latest committee report be brought down? Will the minister guarantee that he will act on any recommendations to come from the review?

Nichols Point Primary School

Hon. B. W. BISHOP (North Western) — My concern is directed to the Minister for Sport and Recreation as the representative in this place of the Minister for Education and relates to Nichols Point Primary School, which is located south of Mildura. I have received a letter from Rod Robinson, the school's executive officer and excellent principal.

The school, which has excellent staff and a group of interested parents, has experienced a solid increase in student numbers since 1990 — from 148 to 290. The present facility accommodates 270 children but has major deficiencies and is inadequate in size. Many representations have been made over the years to Department of Education, Employment and Training officials in an attempt to have the facilities upgraded. I have visited the school many times and have observed the dramatic increase in student numbers that has led to the addition of many portable classrooms at the site, significantly limiting the school's potential growth. The new housing developments around Sunraysia reflect the growth of the area.

The continuing popularity of the school creates the problems I am raising tonight. The play areas are overcrowded, increasing the risk of accidents and student conflict. Lunchtime has been reduced to 45 minutes to help overcome accidents and conflict in the grounds. To reduce congestion, the older children have the use of an adjoining oval, placing them at risk in an unfenced area that is difficult to supervise. It is estimated that the total floor space is 66 per cent of what it should be. The working areas are therefore cramped, leading to staff and student frustration.

Given that the preferred solution is a new school as an extension of the existing site, will the minister advise when a new school will be built?

Motorcycles: safety

Hon. ANDREW BRIDESON (Waverley) — I raise with the Minister for Industrial Relations as the representative of the Premier in another place a road safety issue — motorcycle safety. Perhaps the minister can take it on board for her own attention. To date, this year 47 motorcycle deaths have occurred on Victorian roads, representing an increase of 27 per cent on this time last year. In addition, eight cyclists have been killed on the roads.

It is incumbent on all ministers to promote road safety at every possible opportunity, yet last year the Minister for Sport and Recreation was photographed on the steps of Parliament House promoting a bicycle event while not wearing a helmet. I also refer to a photograph of the Minister for Major Projects and Tourism that appeared in the Kilmore *Free Press* of 28 January last. He is shown sitting on a motorcycle, not wearing a helmet. He was publicising the Easter event at Broadford, but he was sending the wrong message to motorcyclists. I would like the Premier to establish a policy that all ministers wear the correct gear and promote road safety when they engage in publicity stunts.

Hon. G. D. Romanes interjected.

Hon. ANDREW BRIDESON — He should have adopted the same attitude as the Minister for Youth Affairs and worn the appropriate gear.

Beaches: Hampton and Sandringham

Hon. C. A. STRONG (Higinbotham) — I raise an issue with the Minister for Energy and Resources as the representative of the Minister for Environment and Conservation in the other place. The minister will be glad to know my concern is not with the Hampton tea-house but with erosion on the foreshore at Hampton, close to the tea-house. There is considerable erosion on the cliffs overlooking Hampton beach, and for some years the sand cliffs have been collapsing onto the beach.

I draw the minister's attention to the fact that a high concentration of Hampton and Sandringham residents are very much concerned with the environment and with the conservation of the local area. I refer to the *Ratepayer*, a newsletter of the Bayside Ratepayers Association. The autumn edition deals with the erosion at Hampton and Sandringham beaches. It states — and these are not my words:

> Council to its credit has been responsive to concerns from association members raised since last August, but it appears that the state government's lack of prompt action is inconsistent with all the trumpeting it goes on with about its commitment to environmental matters. Rest assured that if minister Garbutt's superannuation was disappearing as fast as the Sandringham beach, she would have instituted remedial action long ago.

That illustrates the frustration being experienced by the people in the Sandringham and Hampton area. I ask the minister to deal with this important issue quickly, because Sandringham beach is gradually disappearing.

Liquor: licences

Hon. M. T. LUCKINS (Waverley) — In question time and during the adjournment debate on the last day of sitting I asked the Minister for Small Business whether she had received the legal advice sought from the Victorian Government Solicitor's Office on the implications of the Woolworths purchase of Liberty Liquor. This purchase breached the 8 per cent cap on liquor licences held by Woolworths. On what date did the minister receive the legal advice in question? I seek a specific answer to a specific question.

Waverley Park

Hon. N. B. LUCAS (Eumemmerring) — I raise a matter about Waverley Park for the attention of the Minister for Sport and Recreation. This morning on radio 3AW Premier Bracks said that Labor had tried to have AFL matches played at Waverley. He also said that the minister was responsible for negotiations. Mr Bracks stated:

> We have to admit we have lost on the scheduling of AFL games at Waverley.

It is a fact that Waverley is now a wasteland of vandalised buildings. Many fittings have been removed and sold. According to 3AW even the goalposts have gone and are evidently now located at the Williamstown Football Club.

Given the Labor Party's promise prior to the last election, the suggestion from the Minister for Gaming of compulsory acquisition, and now 18 months later the Premier's admission that Labor has lost on its promise to schedule AFL games at Waverley Park, will the minister finally admit that Labor has failed, that the Minister for Gaming misled the community and that the minister has failed to deliver on his dodgy promise?

Electromagnetic fields

Hon. B. N. ATKINSON (Koonung) — I refer the Minister for Energy and Resources to the recent media coverage of scientific reports on high-voltage powerlines and the dangers of electromagnetic fields and their link with illnesses, in particular childhood leukaemia. On previous occasions the minister has told the house that she has a watching brief on those scientific studies to see whether the information presented can be verified and whether high-voltage powerlines are a danger to the community.

The most recent report from Britain by Dr Richard Doll last month is one of the most authoritative that has been released so far. I also refer the minister to the fact that in the eastern suburbs the government has a commitment to extend the Eastern Freeway and to build the Scoresby freeway. Given that the reservation for those two freeways currently carries high-voltage transmission lines and towers, will the minister consider in the interests of public safety acting to ensure that those powerlines are placed underground as part of the freeway work to ensure the safety of people in those areas?

HIH Insurance: liquidation

Hon. C. A. FURLETTI (Templestowe) — I raise with the Minister for Small Business a matter that has been raised with me. It is of grave concern to a registered builder who has a one-man small business and finds himself in a very awkward position through no fault of his own. I raise the matter on behalf of numerous other builders who find themselves similarly affected by the collapse and provisional liquidation of the HIH Insurance group.

I am sure the minister is aware of the provisions of division 3 of part 9 of the Building Act relating to requirements on building practitioners to have the requisite insurance cover and the creation of an offence if a building practitioner works without that insurance. Division 1 of part 11 of the same act provides for the suspension of registration as a building practitioner if insurance ceases. That leads to the consequential inability to enforce contractual rights and could lead to builders being in breach of their own contracts.

What will the minister do as a matter of urgency to ensure that genuine builders are protected from prosecution and civil liability or loss arising from the failure of their insurers? Will the government legislate urgently to clarify the uncertainty that currently exists with domestic building contracts?

Land tax: small business

Hon. W. I. SMITH (Silvan) — I refer the Minister for Small Business to an email that a constituent sent me about the Labor government's proposed 2.89 per cent land tax. The email states that if allowed to pass the flat land tax the government is consulting on will kill small business in Victoria. The email states:

> I am writing to you regarding the proposed flat land tax of 2.89 per cent on business land. I do not believe that a government could be so stupid as to impose such a heavy financial burden on small business!
>
> …
>
> If, for example, I am renting a property for $365 per week, and the unimproved value of that property is $192 000, then that additional cost to my business from that tax alone will be in the order of $106 per week! This is of course not including council and water rates et cetera, which are also usually payable by the tenant.
>
> Could you please explain to me where the initial $106 is to come from?
>
> Does the business owner decrease his wage by $106 per week?
>
> Does the landlord decrease his wage by $106?

Maybe members of the government would be willing to decrease their wages by $106 per week to help?

Obviously the minister would not answer that part of the email, but I ask: does the minister support the introduction of the land tax, which will push many small businesses to the wall?

Tambo Valley: land use

Hon. PHILIP DAVIS (Gippsland) — I raise a matter for the attention of the Minister for Energy and Resources as the representative of the Minister for Environment and Conservation in the other place. It concerns the Tambo Valley land use consultancy. Concern has been expressed to me by residents of Tambo Valley about continuing delays in implementing the recommendations for future options for the area contained in the Tambo Valley land use consultancy, an initiative undertaken subsequent to the June 1998 floods.

The area involved in the study is the Tambo Valley from Tambo Crossing north to Omeo and east to Benambra, which was severely affected by the floods that occurred in East Gippsland in June 1998. Prior to the floods the area was affected by drought, low commodity prices and ovine Johne's disease. The study area has also been deeply affected by the closure of the timber mill at Swifts Creek and the base metals mine at Benambra, as well as commodity price trends in the rural sector.

This initiative aimed to deal with particular difficulties in a rural region with a target outcome of mid-1999. Regrettably, due to the 1999 election and the incoming government the completion of the study was deferred. It was not completed and handed to the government until October last year. That report, which has been renamed the *North East Gippsland Environmental and Land Use Consultancy*, is now sitting with the Minister for Environment and Conservation. It was carried out under the aegis of Arup Environmental and Planning consultants, and it begs the question: since it is now two and a half years since the launch of that process, what are the outcomes? The industry report cost in the order of $250 000. The region, which has been severely depressed by a significant series of adverse environmental and economic conditions, is looking for some action on the part of the government. The government seems not to want to address the recommendations in the report.

Will the minister ask that action be taken and that the Minister for Environment and Conservation advise the Tambo Valley community and me when the government will respond?

Toxic waste: transport

Hon. J. W. G. ROSS (Higinbotham) — I direct a matter to the attention of the Minister for Energy and Resources as the representative of the Minister for Environment and Conservation in the other place. The matter relates to the transport of toxic waste through my electorate. Honourable members will recall that in opposition the Labor Party scuttled proposals by the previous government for prescribed waste facilities at Werribee and subsequently the Niddrie quarry site. Only two toxic waste sites are available in the metropolitan area. The Tullamarine facility takes 70 000 tonnes of prescribed waste each year and will cease to operate in December. A logjam will result for disposal of toxic waste across the Melbourne metropolitan area.

Next year the only facility for prescribed waste in the metropolitan area will be at Lyndhurst, on the border of my electorate. I understand its life will be extended for approximately 20 years. About two years ago the South Eastern Regional Waste Management Group expressed concern that if Lyndhurst remains the only prescribed waste facility in Melbourne traffic flows through south-eastern municipalities will become untenable. The area now faces the reality of at least 16 000 truck journeys carrying toxic waste along South, Warrigal, Lower Dandenong, and Governor and Greens roads, all of which traverse my electorate.

The risks of accidents are proportional to the distances travelled, and it is unreasonable to expect the roads in my electorate to service the whole of Melbourne for toxic waste transportation. I ask the minister what she intends to do to protect the health of my constituents from vehicle accidents involving toxic waste.

Hon. Bill Forwood — I raise a point of order, Mr Deputy President, regarding the contribution of Mrs Carbines. It is a longstanding rule in this house that no honourable member can put words into another member's mouth or distort the words that other members have said. In her contribution tonight, Mrs Carbines started by referring to a question asked during question time by Ms Wendy Smith, and then went on to suggest that Ms Smith had mentioned in her question that the fuel had been adulterated — the words of Mrs Carbines — and that the purpose of the adulteration was to avoid excise.

In fact, the question asked today by Ms Smith, firstly, referred to mixture, and secondly, had nothing to do with excise. I suggest Mrs Carbines should reword her adjournment matter to take away the imputations that she has put in Ms Smith's mouth.

Hon. T. C. Theophanous — On the point of order, Mr Deputy President, my understanding of the rules of the house is that if a member feels she has been misquoted or misinterpreted it is up to the member to take a point of order, either at the time the matter occurs or at an appropriate time, and tell the house what the nature of that misinterpretation might be. Where the member is present in the house and is capable of making such a point of order — —

Hon. C. A. Strong — Are you making this up? Quote the standing orders.

Hon. T. C. Theophanous — No, I am not. I remember the President making a similar ruling when I sought to take a point of order. The point of order is not capable of being taken by Mr Forwood, but if Ms Smith claims she has been misrepresented, under standing orders she has the capacity to raise a point of order.

Hon. Bill Forwood — Further on the point of order, Mr Deputy President, as is sometimes the case, Mr Theophanous is nearly right. At the time Mrs Carbines was raising the issue Ms Smith was engaged in conversation with another honourable member and the chamber was very noisy. I heard Mrs Carbines raise the issue and I raised it with Ms Smith and followed it through. In those circumstances, anyone can raise a point of order. It does not need to be the person involved.

Hon. T. C. Theophanous — Further on the point of order, Mr Deputy President, I know this is a fine point and I understand the issues raised by Mr Forwood, but Ms Smith has not claimed to be misrepresented and the standing orders make it clear that unless she does it is inappropriate for it to be dealt with in the way Mr Forwood would like it to be dealt with.

Hon. W. I. Smith — On the point of order, Mr Deputy President, I agree with what Mr Forwood has said. I did not hear the comments made by Mrs Carbines, but if I did I would have taken a point of order.

The DEPUTY PRESIDENT — Order! I understand the thrust of the point of order and the debate relative to it. Mr Theophanous is right when he says that honourable members are well aware that points of order should be raised when the issue arises. I find it difficult to remember exactly what the Honourable Wendy Smith said at question time, but I have some recollection of what the Honourable Elaine Carbines said during the adjournment debate. My judgment is that the prescriptive and precise record will be in *Hansard* tomorrow, so the Honourable Wendy Smith will have the opportunity to raise the issue then.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Bill Baxter asked me to refer to the Premier an issue about Albury-Wodonga. I will do that, and ask the Premier to respond in due course.

The Honourable Cameron Boardman also raised for the attention of the Premier a matter about Cr Mark Conroy, who is standing for election for the House of Representatives seat of Dunkley. I will ask the Premier to respond to the honourable member in the usual matter.

The Honourable Andrew Brideson raised for the attention of the Premier an issue about motorcycle helmets. I will refer that matter to the Premier and ask him to respond in the usual manner.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Andrew Olexander raised with me the issue of power prices and public lighting, and referred to the determination on this matter of the Office of the Regulator-General. He asked me about government policy.

I have recently met with the Municipal Association of Victoria to listen to its views on these matters. I appreciate the concerns of councils about having a share in the benefits of retail competition and about lower network prices, and I am aware of the view that large power users have been benefiting for some time in line with the introduction of retail competition under the previous government.

Essentially, the request made by the MAV and a number of councils is that the determination of the Regulator-General for the period 2001 to 2005 be revisited to focus on charges and delivery standards for the distribution network, regarding public lighting in particular. I have not agreed to make that request of the Regulator-General because the priority of the government is that councils should have access to retail competition regarding public lighting at the earliest opportunity. The government believes that opportunity can be delivered by the middle of this year. An examination under the procedures which the Office of the Regulator-General must follow would take a considerable period and delay that access. I have therefore indicated to the MAV and councils that I am confident they will have access to competition in relation to public lighting by the middle of this year,

which will meet their concerns about having access to competition at the earliest opportunity.

Clearly councils will have some considerable market power in terms of negotiations with retailers for their business, and they are looking forward to taking advantage of that opportunity.

Hon. A. P. Olexander — On a point of order, Mr Deputy President, my question to the minister was in two parts. I believe the minister has answered the second part of my question adequately. The second part of my question was: what is the government's policy towards the access to retail contestability discounts for electricity for the local government sector?

The first part of my question related to specific allegations made by the mayor of the City of Knox, Cr Jenny Moore, that the Office of the Regulator-General had bungled the introduction of transitional pricing for electricity and contestability in Victoria for the local government sector. The minister has not addressed the first part of my question in the slightest way and I ask you, Mr Deputy President, to consider my submission that she should address the first part of my question, which is the core part of it.

The DEPUTY PRESIDENT — Order! It is not question time; it is the adjournment debate. The minister has concluded her answer. However, if the honourable member wishes to raise the matter again during the adjournment debate he would obviously have to slant it slightly differently but would be welcome to do so at the next time of meeting.

Hon. C. C. BROAD — There are a number of other matters that were raised with me which I think I should address. The Honourable Ken Smith requested the Minister for State and Regional Development to provide information about the appointment of a person to cover south and west Gippsland and the location of such a position. I will refer that matter to the minister.

The Honourable Ron Best requested the Minister for Environment and Conservation to examine proposals for the use of the Deledio Reserve, with a view to preserving opportunities for that reserve. I will pass that request to the minister.

The Honourable Bill Forwood raised a matter for the Minister for Environment and Conservation about access via the Watery Gully Reserve by land-holders. I will refer that matter to the minister.

The Honourable Gordon Rich-Phillips asked the Minister for Transport to respond to the Frawley Road Action Group on matters that he has raised. I will refer that matter to the Minister for Transport.

The Honourable Jeanette Powell requested the Minister for Local Government to allocate $2 million in funding to local government for regional libraries. I will refer that matter to the Minister for Local Government.

The Honourable Chris Strong asked the Minister for Environment and Conservation to address the erosion of the foreshore at Sandringham, not far from Hampton. I will refer that matter to the minister.

The Honourable Bruce Atkinson raised the matter of electromagnetic radiation and referred to the recent report by the advisory group on non-ionising radiation in the United Kingdom. In view of that report, the honourable member asked that consideration be given to undergrounding high-voltage powerlines associated with freeway reservations. As I indicated to the house on a previous occasion, the relevant agency that has the primary carriage of both monitoring and analysing the studies and providing advice to the government is the Radiation Advisory Committee in the Department of Human Services. The committee will be advising both me and other ministers of any implications arising from those studies.

Hon. N. B. Lucas — When?

Hon. C. C. BROAD — It is an ongoing role.

The Honourable Philip Davis requested the Minister for Environment and Conservation to provide a response about the Tambo Valley land use consultancy to him and the local community. I will refer that matter to the minister.

The Honourable John Ross requested the Minister for Environment and Conservation to take action in relation to the transport of prescribed waste. I will refer that matter to the minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Peter Hall raised a matter for the Attorney-General about the Victims of Crimes Assistance Tribunal and one of his constituents from Metung and the problems she has had in accessing extension of counselling services following the trauma she has been through. I will certainly raise that with the minister for his attention.

The Honourable Elaine Carbines referred to Liberty Oil and the Honourable Wendy Smith referred to potential petrol adulteration. Liberty Oil has been openly putting ethanol in its petrol on a trial basis. It publicised that by

putting out a press release stating that it was doing it on the basis that it will reduce greenhouse emissions.

In fact, the federal government is looking at introducing legislation that will set a limit of up to 10 per cent of ethanol being allowed to be utilised in providing petrol. It is a common practice in other countries where higher levels are being utilised. Ethanol can be produced from grain or from sugar so it is a renewable source and it should be promoted. The federal government has granted BP Queensland $8.8 million to establish an ethanol reduction operation.

Hon. Bill Forwood — Should consumers be told?

Hon. M. R. THOMSON — It was an open press statement. It is certainly well within the legal requirement and the federal government's bill will allow for up to 10 per cent to be provided. Most people would be aware that petrol is a blended substance now.

The question raised by the Honourable Wendy Smith cast aspersions on Liberty Oil and whether it was acting appropriately. It was certainly very open in issuing the press release about ethanol.

The Honourable Ron Bowden raised a question for the Attorney-General about the Magistrates Court system whereby interlocutory applications can be heard only in the Melbourne Magistrates Court. He asked that they be able to be heard in the suburban courts. I will pass that on to the minister for his direct response.

The Honourable Maree Luckins raised the question of Woolworths and legal advice about it acquiring additional licences. I have now received that advice and the government is considering it.

Hon. M. T. Luckins — On a point of order, Mr Deputy President, my question was very specific. I used the word 'specific' twice in my question. I asked the minister what date she actually received the legal advice and I ask her to answer the question.

The DEPUTY PRESIDENT — Order! On the point of order, the minister is proceeding with her response, and I am sure she will get to the issue shortly.

Hon. M. R. THOMSON — I have finished on that.

The Honourable Carlo Furletti raised the matter of a builder who was registered with the HIH Insurance group. In relation to builders who have been insured with HIH, we must remember that the insurance scheme is a private insurance scheme that was established under the previous government to deal with home warranty insurance. The two insurers currently working in the sector — the Housing Industry Association and Dexta — are working with the building industry to provide cover for builders for new homes and also to have run-off cover for existing homes. I suggest the builder should contact them in relation to that.

The Honourable Wendy Smith raised the question of land tax and also my support for its introduction. As I have said previously in this house, the Harvey report was an independent report that made recommendations to the government about a number of tax issues. It was decided that it was best that business be broadly consulted. The government has undertaken those consultations and will consider them when determining its position.

It is important that we understand the effect that tax may have on everyone who has to live with those decisions. Unlike the federal government the Victorian government took that seriously. Those concerns will be taken into account in the government's decision-making process.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the matter raised by the Honourable Sang Nguyen about the potential for a community leadership program for younger members of the Vietnamese community, I would be happy to work with the organising committee to see the type of support the Office for Youth might provide.

In regard to the matter raised by the Honourable Andrea Coote about community consultation around the grand prix, I shall refer that matter to the Minister for Major Projects and Tourism in the other place, who is responsible for major events.

In regard to the matter raised by the Honourable Barry Bishop regarding the growth of the Nichols Point Primary School and associated issues, I shall refer that to the Minister for Education in the other place.

In relation to the matter raised by the Honourable Neil Lucas, who asked about the scheduling of the Australian Football League games at Waverley Park, as I have mentioned in this house on many occasions, the government's commitment was to fight for the retention of football at Waverley Park.

Hon. N. B. Lucas — AFL!

Hon. J. M. MADDEN — Yes, AFL football at Waverley Park. The AFL has continued to disallow AFL games at Waverley Park. Although we have continually advocated the playing of AFL games at Waverley, that final decision rests with the AFL and no

doubt the AFL is working through or considering its options for the site at Waverley Park.

Motion agreed to.

House adjourned 11.43 p.m.